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November 4, 2003

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th S.W.
Washington, D.C. 20554

Re: Ex Parte Comment By Allegory
WT 02-55

One cannot read the Consensus Plan without being struck with strange admiration for both the authors and its adherents, both willing and coerced. The manner by which all involved have devised their biased strategy for dealing with interference at 800 MHz is combined with a well waged campaign for public acquiescence that is grand in scale and deft in diversion. The Commission might be impressed by the political acuity the plan represents and might ignore the alleged nabobs who oppose, claiming it unworkable, unenforceable and inequitable. The Consensus Plan is specifically crafted to avoid easy dismissal by logic or law, because it relies on the agency's acceptance of its proponents' actions as that force of nature which demands voraciousness to be satisfied at all costs.

Consider the wide-eyed excuse for illegal operation upon which the plan rests. With innocense feigned to perfection, the drafters have fully veneered over the destructive nature of their own chosen course, to produce unauthorized emissions of electromagnetic energy which, although fully destructive of legitimate operations, is nonetheless touted as an unavoidable, natural consequence of either physics or business. Its chief proponent, Nextel, with the admirable skill of a highly paid conjurer, entices its audience to focus only on those parts of its act which enable misdirection and, thus, allow it to perform the greatest illusion. Nextel might actually cause the agency to ignore the company's long and recorded history as the greatest scofflaw of all statutes designed to assure that operations are without electrical interference, and reward Nextel for its recalcitrance to boot. For those persons who still are suffering the magnetism of Nextel's playing Mesmer, I offer this simple tale as illustrative of Nextel's position leading up to and including this matter.

The Shooter's Tale

“How can I be found to have violated any public obligation?” the shooter asks himself. “The first death of a neighbor was an obvious accident for which the family of the deceased did not make suit, thus it was obviously performed with their permission. I was awed by the devastation of the deed, but was buoyed by the knowledge that I had first reviewed carefully my papers, which appropriately included a gun permit.”

Having not been called to task by the local constable, I was provided an opportunity to appreciate the pecuniary results of the accidental slaying. I noted that the widow was without means to maintain the adjacent property of the deceased neighbor. I approached her and after assuring her that I forgave my neighbor for having stood too close to our respective boundaries and having further failed to have adequately protected himself against my shell. Finally, in an act of supreme generosity of spirit, I forgave both the dead neighbor and his widow for allowing gunsmiths to produce my weapon in such a hazardous fashion.

To assure that no further harm would come from my future use of firearms, I accepted the deed to the widow's land to allow her to move her belongings to another part of the county. Since I have always exhibited a weakness for charity, I lent the widow the use of a wagon at an extremely reasonable rate, to assist her in the pilgrimage. Despite the temporary loss of profit from the wagon, my gesture was rewarded with the satisfaction of having done this small right.

With the addition of my neighbor's land as further capital, I was able to obtain the necessary financing for the construction of a crude, but enjoyable shooting range. The bank loan used was listed as a valuable asset by the local banker, who reported that the township was enjoying an economic uptick by increased investment in local real property. I was naturally pleased by my contribution to the local economy.

I invited my fellow residents of the township to come and enjoy the pleasures of shooting at my range, which some enjoyed at a fair and reasonable prices. Most specifically, I invited the local constable to see the efficient nature of my design. He admired its construction, but questioned the length of the course, noting that a shell's travels might still exceed the distance to the border of my property. I noted carefully his failure to direct me to alter the range in any fashion and accepted graciously his tacit acquiescence in my design.

When another neighbor was felled by an errant shot, I became concerned. If neighbors were going to blithely wander to the edges of their property, without appropriate regard for my shooting range, then the inevitable deaths would become a distraction to my patrons. Although the victim's cry had an only momentary effect on the aim of my patron, the subsequent wailing of the widow that followed was nearly cause for a momentary suspension of business. Such delays to my enterprise arising from the neighbors' irresponsible acts might cause difficulties for me. More troubling was the potential harm to my reputation which might be unnecessarily besmirched by the public caterwauling of another bereaved widow.

I paced the floor of my study for hours trying to devise a method of appeasing the untidy emotions of the newly created executrix, while also concocting a plan to demonstrate conclusively that my range would be operated in a manner that would be fully promotional of the entire community. Having used what I recorded in my ledgers to be, at the least, a three-penny of shoe leather and more than modicum of the pile of a particular portion of the rug, a plan slowly emerged.

The problem was, I deduced, that the range was rectangular in shape, set in the familiar pattern of shooters at one end and targets at the other. Although comfortable in design and application, the result was a barrage of shells all exiting the property at a given point that have proven to be somewhat injurious to the local population who insisted on occupying a position beyond the targets.

I further noted that the rifles employed threw the shells beyond the target and likely could not be adjusted to end this effect, since the gunsmiths' art was focused on forward thrust, rather than adjustable length of trajectory. Also notable was the unlikely solution that my customers might be restrained to hit only the targets, which were reinforced to assure that shells did not travel further when a "hit" was scored. Some of my clients possessed powerful weapons but weak aims, happily coupled with a strong willingness to pay my fees.

I, therefore, concluded that the design of the range could be altered to provide reasonable protection to the neighbors. By redesigning its shape, from one of rectangular to one of a sweeping arc, the shooters would not be focusing shot and fire on a single, inadvertently deadly spot. Therefore, with the grateful assistance of the local banker, I secured the financing for the reconstruction of the range.

As goodness often produces economic reward from a grateful creator, the redesign of the range produced added benefits that were not originally conceived. The newly designed range could accommodate numerous additional patrons, all pointing their weapons in various directions and, thus, slinging shot across a nearly 360 degree trajectory. Unfortunately, despite the increased revenues which I rapidly enjoyed from shooting fees, the broad sweep of gun fire was not without nagging problems. Fully six more neighbors complained, having lost family members due to the continued unexplained penchant for persons' wandering in areas adjacent to my property.

To accommodate the neighbors, I offered to purchase each parcel which was condemned by gunfire. Admittedly, the amounts offered were not substantial. However, the reduction in price was fully justifiable given the fact that the tracts were unsuitable for use or habitation. One could not expect a premium. The widow Smith's argument to the contrary was publicly and successfully rebutted when I pointed out that she should not be allowed to employ a land transaction as a vehicle for extortion. To prove my point, I introduced an appraisal from a reputable firm that clearly stated, "the subject property is unsuitable for any use, including by native fauna, as the danger is constant and without known remedy." Her price, it was adjudged, was too high as reflecting the former status of her estate and, thus, her demand for more money was outrageous and evinced an evil intent to obtain an unfair purchase price.

She was further chastised for raising the issue of her dead husband who, as no longer living, was not entitled to any benefit from the transaction, was not residing on the property, and therefore, could not be deemed to be relevant for any purpose. His death was the result of a simple accident for which there was no known cure and which occurrence could not have transpired without his willing positioning along the track of the shooters pill. Further, it was known locally that Josiah Smith was an incautious man.

At bar, I pointed out that as he was already interned in the local cemetery, there was additionally no way to retrieve my property in the form of the shell lodged in Mr. Smith's now, buried chest. Although I was willing to forgive the Widow Smith's oversight in failing to respect the laws regarding the prompt return of personal property, I did note to the magistrate that her demand for an exorbitant land price evinced a furthering of her scheme to turn each event into an opportunity for financial gain. "Was it not enough," I pled, "that she confiscated my property without regard to its ownership for her own convenience and to lower the administrative costs of the estate? Do we now reward her for this act by allowing her to step farther beyond redemption by supporting her efforts to turn this unfortunate event into a means to extract unfair payment for land?" The logic was unassailable and my cause was won.

I collected the Smith property at my offered price, there being no other bidders, and bore no rancor toward the widow as I watched her wagon piled high with a century of family belongings head over the far hill toward another life. By the time that parcel was added to my growing estate, I had expanded the size of my lands and range by ten times. More importantly, the popularity of the range with shooters from beyond our township increased my revenues substantially and allowed for the construction of additional ranges upon the properties, designed carefully so that the inhabitants of one range would not be aiming along a line toward another of the ranges and its inhabitants.

To assure harmonious relations with my neighbors, I discussed with other range owners the problem of persons curiously examining our operations to their ultimate demise. We decided that greater cooperation was required to deal with these occasional distractions to business. Thus, we drafted a Best Range Operations Guide, which called for a full examination of each incident of unplanned interference with life, which methods would be employed to collect data, devise methods of improved safety, encourage greater cooperation from the mutually responsible families of the victims, and work together to improve the operation of the ranges by making helpful suggestions regarding such things as the location of roads, homes, horses, children, and glass objects in relation to the flight of bullets. The work was deemed necessary and advantageous to all in reducing the interference created by the conflicting use of the shooting range and those persons on neighboring plots who did not exhibit the dedication to economic advantage which we range owners nobly demonstrated through our willingness to invest capital in our land.

With my business booming, I was quite happy to show it off to all types of persons who were invited to enjoy a day's shoot. Extolling the virtue of my design which relieved the problem of concentration and naturally attendant harm to a single area, the nearly attentive local safety officer recommended some form of standardization based on the circular aim of my efforts. Modesty aside, I saw the appropriateness of such a move which would assure that all ranges would be similarly made safe by avoidance of the production of concentrated fire.

The county board consisted of an odd collection of nobodies, nearly somebodies, and a smattering of were somebodies. I knew them all personally and had even entertained a few at my range, where

over brandy we might discuss politics ranging from the high cost of cemetery care in the public repository, to the failure of government to regulate the quality of ammunition to assure a truer shot. When talk wandered into land prices, I was able to confide that the value of my real property kept rising in step with the increased revenues enjoyed from my range. "I would expect," I said, "that any prudent investor in the commercial advantages of land ownership would do well in the county, provided one chose a sensible application for use of land." The grunts of approval to this logic and the diligence which I had shown in developing my range property were noted at each occasion.

When a board member would leave his post, I offered them a position with my enterprise. In truth, board membership did not prepare these persons for the rigors of commerce and their contributions to my enterprise were negligible. However, I considered it nearly sinful to allow these former public servants to have to rely on the dole, and worse, to set them upon our community without direction, thus risking that economic mischief that is the inevitable byproduct of too much acclaim and too little acumen. I admit that my public mindedness was, again, at play with my hard earned business receipts, but I tolerated the paltry return on investment that such offers of employment reaped.

In fairness and truth (two ideals to which I have shown constant fealty, if not felicity) my long association with board members did provide a level of access to those considerations of policy and law entertained by the forum. Often I was privy to considerations which had not yet become public and further, I was sometimes able to cause such considerations to be commenced in the first instance. My admission of this ability may be deemed vanity, of sorts, but I conclude that I am merely reporting my status for the purpose of continuing this description of material events.

It was via this access that I first floated the idea of a standard code for the operation of shooting ranges. The initial talks were quite informal, but the importance of the idea to me was so great that I pursued each board member and did not consider the cost of the above average port required to assure an attentive audience. Although some of the board members expressed full disinterest as they could not discern any advantage to them from devoting additional energy beyond that which was required to move about the eating utensils at my table, other members considered carefully my proposal.

To each member I described the danger which is involved in the operation of a shooting range and the need to reduce the effects of commerce upon the local population. I explained with detail the unwillingness of gunsmiths to address the problem in rifle design. I noted the number of former township residents who might be alive today if such steps had been taken sooner. In fact, as the entity whose range had lowered the population of tax paying citizens by the greatest amount due to the success of my enterprise, I easily declared that my level of expertise on the subject was unparalleled. Impressed with the sincerity of my effort, some of the board members urged me to consider the issue more broadly and propose a greater land use plan.

Given the daunting size that the land use plan was likely to occupy upon my desk, I opted to seek assistance from my personal advisor and confidant, Mister Fuzziner. Although lacking physical stature and even more shrunken in his appreciation of the truth, Fuzziner had long been faithful to me and my business. Once I explained the situation regarding the board, he shook his head and mumbled, "they are easily the greatest collection of do-nothings in the whole of the county. However, they are mercifully malleable."

"So is putty," I replied. "But it rarely stands for much."

“Well, in this case,” he sneered, “we shall turn pudding into hard candy and enjoy the sweetness of it all.”

Fuzziner’s assistance having been secured, I awaited the fruits of his labor by returning to the range and going over the books. I noted that although the number of patrons had leveled off to some degree, the amount of ammunition expended by each was showing a dramatic increase. I listed this within my column of “bullets of use” and made a note that stated that the range capacity should be observed to assure that rifle re-use, combined with bullet access, should not be ignored and cause patrons to have to queue while awaiting an open shooting position. Range competition throughout the county was increasing and I was attempting to stay atop the game.

During the weeks I waited for Fuzziner’s promised project, the issue of standardized range design became increasingly muddled. On a Thursday, a troop of the local militia was marching down the river road toward its practice ground, armed with only wooden rifles. The arms of wood were employed because the county had not allocated funds to provide real guns to the militia. (A fiscally responsible move, in my opinion, as it assured that the county would not burden diligent merchants like me with unnecessary taxes.) However, the occasion of this faux preparedness exercise was to result unfortunately.

The river road passes within a hundred paces of the edge of my range. Given the healthy demand for shooting time that I was faithfully servicing on that Thursday, the combination of events proved a greater bother than usual, as three of the militiamen were injured, one fatally. Upon hearing of the incident, it was apparent that despite the obvious foolishness exhibited by the militia, some blame for reducing the number of persons readied for defense would fall upon me. And, as expected, the local journal that circulated the following week called into stark question the operation of the range. The article was plainly biased, failing to note that the militia had not signaled its approach to the range. The item also did not provide any positive points regarding the public service rendered by the range to its patrons. I, thus, made a mental note to see the publisher and explain the merits of my advertising.

Fearing their precarious positions before the civic trough, two of the county board members called upon me to express their concern about the matter. I calmed them and pointed to the fact that one of the men killed actually lived on property adjacent to the range. Thus, I noted, he likely would have been destroyed by a private act of foolishness upon his own property, had the incident not taken place. “The hand of God,” I intoned, “was prepared to smite him on the road or in his vegetable garden among his turnips. No man is to blame for Providence. The fact that most of the militiamen survived unscathed is sure proof of this fact, for only those chosen were taken and the rest are the wiser for the experience.”

The board members looked nervously at me and declared, “we will expect that your promised land use plan will point a way toward avoiding such problems in the future. If not, you may not count on our support.” This display of limited, but undeniable spine, was not lost on me. Nor was it lost on Fuzziner.

“The plan I have for you is bold, will cost you some of your profits, and will be unsteadily received by the lower members of the township,” said Fuzziner. “However, if adopted it will make you margins in fine excess of your investment.”

“You will propose that the board condemn all lands around the range for a distance of three leagues and place the land in trust. You will be the beneficiary of the trust following your performance of the following. You will trade the county two parcels, the one over near the rendering plant that you acquired two years ago at the tax auction and the other parcel that lays at the foothills of the Blue Mountains near the edge of the county.”

“Persons living within the condemned parcels will be forced to move to the Blue Mountain site and will be given a parcel of equal size to claim. The parcel near the rendering plant will be given to the local militia as a training site. To facilitate the transaction and sweeten the pot, you will offer the cost of wagons and drovers to assist the move of surrounding residents and you will finance the cost of the militia’s rifles to replace the wooden ones now employed.”

I thought the plan had promise and immediately recognized that the value of the land condemned would provide a contiguous plot to me, thus increasing the total value of my estate. Besides, the condemned parcels included water rights, whereas the Blue Mountain site had little in the way of streams unless the rain flowed down the mountains, which happened at irregular times.

And although the rendering plant site was large and water fed, the odor from the plant and the waste in the stream, made it a questionable place for development. I had already made inquiry with my patrons about creating a second range there and most stated that they did not choose to spend hard earned money to shoot down wind from the plant. Thus, my purchase had not amounted to much up to this time, but the plan might change all that.

While I was contemplating the exchange, Fuzziner explained the other elements of the plan which made adoption likely. He pointed out that the persons living in the condemned region were mostly common folk with little political capital to expend in a challenge. He further noted that some of the land was occupied by agencies of the township and county for public roadways. However, he pointed out, he believed that the council could be encouraged to show them that a single, useful parcel, even near the rendering plant, would provide to them more acreage.

“To pull this off,” he said in almost a whisper, “we must emphasize three things in our plan. First, that the operation of the range is a great benefit to the populace, run in a legal and taxable fashion, that satisfies the needs of the county. Second, that the size of your operations has benefitted the community and local commerce, owing to the large revenues, the attractiveness of the setting, and your selfless ability to reduce unemployment by reducing the rolls of employable persons, albeit via the occasional accident. Finally, and here’s the beauty, that something must be done to safeguard the community from the natural occurrence of gunshot and that your sacrifice in this matter should be viewed as selfless, patriotic, and a full solution to further problems.”

Although I fully understood the points being made by the crafty Fuzziner, I was harboring doubts about our ability to sell the package. “Won’t people recognize that I’m going to benefit from this exchange?” I asked.

“Says who?” fired back Fuzziner. “By my calculation, the amount of land that you are donating to the cause is, in fact, several hectares larger than what you will receive. Your willingness to provide wagons and drovers fully supplies compensation to those residents whose lack of foresight has placed

them in harm's way and who are a constant source of rebellious nattering to the board. Your donation of rifles to the militia, in addition to the parcel near the rendering plant, should be heralded for its public minded generosity. I would be surprised, therefore, if you are not nominated for a civic prize."

Fuzziner studied my face carefully and saw that although he was making headway in his increasingly attractive plan, I was not yet fully convinced. "You are concerned about the departed militiaman that ran into your patrons' shot?"

"Yes," I admitted. "It is bad business to be tangentially involved through one's business interests in the loss of a local agent, even one so poorly fated for which little might have saved."

The cobra-like smile that passed over Fuzziner's face was palpable and dark, but his eyes shined with a glee that one might mistake for divine rapture in another man. "I have taken the liberty of announcing your creation of the Leonard Watson Memorial Fund for the promotion of readiness by the local militia."

"Who, the duce, is Leonard Watson?" I immediately asked.

"The bugger who caught it."

"And what is this memorial fund?"

"It is whatever the constable wants it to be. He is to be the administrator of the fund, given full discretion in the use of your kind grant," explained Fuzziner. "And owing to your kind and noble act, the constable has become your strongest supporter and has rallied the local safety corps to your cause, nearly to a man."

With "huzzahs" and "well dones" given most sincerely, along with a sizable commission, I thanked Mister Fuzziner and continued on my way, repeating in my head the many other benefits of the plan explained by Fuzziner. They were, avoidance of annoying tangles from funeral processions that had increased; reduction of bothersome noise of the range's operations to local residents, by moving each adversely affected party to safe distance; the ability to expand operations to provide greater services to the county's deserving residents; providing for the logical use of county property by establishing a community on the nearly barren land near the Blue Mountains, while simultaneously finding some use for the parcel near the rendering plant; and on. Thus all would conclude that never would the board in history since or fore use its condemnation powers more rationally and to greater cause.

The plan presently rests before the board as it is studied and considered. Oddly, for unfathomable reasons which likely lie in the blackest portions of their ungrateful hearts, there are persons who oppose adoption of my plan. The widows of past victims have noisily condemned me in some circles, but since they are no longer occupants of land adjacent, their opinions cannot be found to stand for much.

A few of the militia appear still embittered by the effect of fate's hand upon the past Mister Watson, but this is mere emotion and their ardor will surely cool when the logic of the rendering plant and the delivery of the new rifles is in hand. Besides, I have already pledged to sell ammunition to them at nearly cost and the contract is forthcoming from the constable.

Other ranges with but slightly better records in preserving the breath of their neighbors oppose my plan, promoting a baseless suggestion that the value and location of the land I might receive does not justify the condemnation and that other means for providing added safety of operation exist. This logic is absurd. No other means suggested by them would provide greater safety than the removal of the affected residents to a position of safety, far away.

One member of the board was evincing some small resistance. I reminded him of three important elements which I believe will pull him rightly into my camp. First, the operation of the range is in accord with law, permit, zoning and my commercial rights as a taxpaying member of local society, all of which has been acknowledged repeatedly by the council and thus, the board stands as the public symbol of the nagging problem and the appointed source of the cure. Second, the trade of property is being fully funded from my own pocket with the board spared the burden of any expense in wagons, drovers, rifles, purchase of property, etc. Thus, the board may take laurels in its solving of a problem without adverse impact on the public coffers. Finally, and in a manner which would make the coy subtlety of a virgin's touch seem overt, I have intimated in the most deniable manner, that a nay vote attaches to a man that does not harbor aspirations of greater position following his service on the board.

The only other notable opponent to my plan is the always troublesome Robert Henry. In a brazen manner which I refuse to even publicly acknowledge, he has questioned the legality of the plan and has suggested his own plan for the board's comparison. In his misguided manner, he has publicly stated that the root and cause of the problem lies in the manner by which my range is operated which he calls inherently unsafe. Henry has stated that the cause of the untimely ends of neighbors is, somehow, my fault and was fully preventable had I placed responsibility ahead of profits. Noting that this suggestion smacks of socialism, I discount any such notion as purely pandering to the smaller landowners who have not been blessed with my vision and willingness to invest in the commercial success of our county. Henry has vowed to take the matter to the magistrate for judicial determination in the event that the board sees reason and adopts my plan. The man has been a thorn in my meat for over a decade and, yet, he persists.

I am at odd's end in understanding this Henry. Although he appears a bright enough fellow, he is blind to progress. He does not appreciate my commercial sacrifices which have come at such a low cost to all, save a few unfortunate souls who have stood in the way of the range's well meaning shot. I have added considerably to local trade and commerce. My servants depend greatly on my range for their livelihood and their families are the better for it. The landowners who will be allowed to migrate will receive a fresh start and I am offering twice the amount of land to the earliest pilgrims. The constable praises my grant and gift of the rendering plant land, and speaks well of the rifles which will arrive immediately following the striking of the deal. And the local banker is nearly dancing with joy, preparing to make loans to the migrating landowners to build new homes in the mountains to complete the exciting new community which will be borne of the plan. Yet, Henry still opposes it all, climbing upon some self-constructed pulpit he names "equity, law, and justice."

What makes Robert Henry's position so puzzling, is that he is not directly affected one way or the other. I have never denied nor offered him a position, thus his interest is not pecuniary. He owns no land near mine, therefore, he is not at risk from the effects of shot or the whims of the board. Henry appears to have no reason (and I hasten to add, no basis) for his actions. Simply put, there is no profit to be gained by his interference in this matter. A man thus moved so indirectly must be presumed to

harbor a darkly secret motive for his position. I must discover what it is and expose it to bring ruin upon him. I will start with this idea he calls "equity," a foreign concept that is likely linked to agents fully alien to business. I will gauge his range, place him in my sights, and not bemoan the natural occurrence of a rain of invective loudly fired upon a man of such meager means. I will make of him an outcast as all cranks are destined to be.

I will do all of this as a service to the system of government and commerce which I have supported and enjoyed, and which in turns enjoys my acts of gratitude upon its servants. Because, as time has shown all repeatedly as surely as a rising sun, when the pocket cannot hold both profit and law, law must be cast out like annoying lint that clings to coin. I will voluntarily remove this annoyance in gratitude to free enterprise, and the marketplace will doubtless thank me for it.

Submitted to this docket with humble appreciation to Franklin, Swift, Thackeray, and Twain, whose unwitting assistance is noted, but whose talents have not been equaled herein.

Respectfully submitted,

Robert H. Schwaninger, Jr.

