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January 30, 2014

**VIA HAND DELIVERY AND ELECTRONIC FILING**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Re: Informal Opposition to Pending Applications

FCC File No 0006117437 – Mellicell, LLC  
FCC File No. 0006117069 – Skygold Technologies,

Dear Ms. Dortch:

In accordance with FCC Rule Section 1.41, the Enterprise Wireless Alliance (“EWA”) requests that the FCC immediately dismiss the above-referenced applications, certified by AAA, on the basis that the applicants are demonstrably ineligible for the frequencies proposed. EWA is an FCC-certified Frequency Advisory Committee authorized by the Commission to recommend Part 90 frequencies for use by qualified applicants and to deny coordination to applicants whose proposed use of frequencies does not meet the FCC rules. More broadly, the organization represents the interests of Industrial/Business entities who require access to Part 90 spectrum to satisfy eligible communications requirements. As such, EWA has an interest in ensuring that applications for Part 90 Industrial/Business frequencies, such as above-identified applications, comply with applicable FCC requirements.

The frequencies requested all are allocated under FCC Rule Section 90.617(c). That rule states the following:

The channels listed in Table 3 are available to applicants eligible in the Industrial/Business Pool of subpart C of this part but exclude Special Mobilized Radio Systems as defined in §90.603(c). These frequencies are available in non-border areas. **Specialized Mobile Radio (SMR) systems will not be authorized on these frequencies.<sup>1</sup>**

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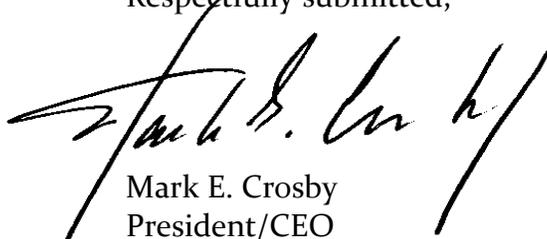
<sup>1</sup> 47 C.F.R. §90.617(c) (emphasis added).

Although these applications specify a YU, trunked Business Radio Service code, their responses to Question 41 on the Form 601 and to Question 2 on Schedule H make it clear that they intend to provide a commercial service, a service labeled SMR in the 900 MHz band. The applicants identify their regulatory status in Question 41 as “non-common carrier,” rather than “private, internal communications,” which would be correct for Industrial/Business eligible entities. This status is confirmed in their eligibility statements on Schedule H, in which they assert that the spectrum will be used to “provide wireless services to Part 90 eligibles,” the very definition of an SMR, rather than to meet private internal communications requirements.

Finally, according to EWA’s verification process, the application for file number 0006117437 fails the short space analysis against Modesto Irrigation (WNPA341) and does not include a waiver request or letter of consent from Modesto Irrigation, to support AAA’s certification.

For these reasons, EWA requests that the FCC dismiss these applications as ineligible for the requested frequencies<sup>2</sup>.

Respectfully submitted,



Mark E. Crosby  
President/CEO

MEC:

cc: Spectrum Networks  
Mellcell, Inc.  
Skygold Technologies, LLC  
Modesto Irrigation  
Richard Lorenz, AAA  
Scot Stone, FCC

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<sup>2</sup> The FCC may also wish to investigate party of interest issues as the control point locations for these applications are identical.



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### Non-docketed Pleadings

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## Confirmation

Thank you for your submission. Please make a note of your confirmation number: **15827**.

The following information was submitted with this Pleading:

### Type of Pleading

Opposition

### Dates

Entered Date: 01/30/2014

### Filer Information

Crosby, Mark E  
Enterprise Wireless Alliance  
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### Contact Information

### File Number(s)/Call Sign(s)

0006117069 File Number  
0006117437 File Number

### Attachment(s)

01/30/2014 Pleading EWA Opposition to Pending Applications EWA Informal Opposition Re 900 MHz Apps Group II 01-30-14.pd

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