



436 14th Street, Suite 1205, Oakland, CA 94612 | (510) 955-1081 | patrick@brblawgroup.com

November 14, 2023

Uploaded to FFA Objection Portal

Robert Osborn
Communications Division Director
California Public Utilities Commission
505 Van Ness Ave.
San Francisco, CA 94102

**Re: The Siskiyou Telephone Company / Golden Bear Broadband LLC:
Objection to Golden State Connect Authority's "GSCA Siskiyou County
Broadband Network" Federal Funding Account Project**

Dear Director Osborn:

Pursuant to the “objections” process outlined in Decision (“D.”) 22-04-055, Appendix A, Rule 12 and consistent with the instructions provided on the California Public Utilities Commission’s (“Commission”) “Guidelines for Submitting Federal Funding Account (FFA) Objection Data” posted on the Commission’s website, The Siskiyou Telephone Company (“Siskiyou”) and its Internet Service Provider (“ISP”) affiliate, Golden Bear Broadband LLC (“Golden Bear”) hereby submit these objections to Golden State Connect Authority’s (“GSCA”) proposed Federal Funding Account (“FFA”) grant project in Siskiyou County, through which GSCA seeks more than \$46 million to serve approximately 3400 households that it alleges are unserved.¹ A portion of this GSCA Siskiyou County Broadband Network (“GSCA-Siskiyou”) project includes 142 households in the Fort Jones area, a rural community that Siskiyou has dutifully served for 100 years, and where Golden Bear already provides ubiquitous Digital Subscriber Line (“DSL”) service and Fiber To The Premise (“FTTP”) at speeds varying from 10 Mbps to 1 Gbps download - Megabits per second (“Mbps”)/Gigabits per second (“Gbps”) and 1 Mbps to 1 Gbps upload speeds. Building on its long history of investments in this area supported in part by federal and state high-cost programs, Siskiyou has now presented a competing FFA grant application to further upgrade all of these locations to at least 100/20 Mbps by installing a full FTTP architecture—the Siskiyou Telephone Last Mile Project (“Siskiyou-Last Mile”). The existence of this “competing application” alone disqualifies the GSCA-Siskiyou from “ministerial” consideration under the Commission’s FFA rules, and militates against its

¹ The GSCA-Siskiyou project is summarized at the following link:

<https://broadbandportal.cpuc.ca.gov/s/gms-application/a0K3d000002Wf5BEAS/gsca-siskiyou-county-broadband-network>

adoption.² Rather than endorsing a pure overbuild project in Fort Jones by an unproven, uncertificated provider who will have to build a network from scratch with no experience constructing or serving in the area, the Commission should deny at least the Fort Jones portion of the grant proposal and instead honor Siskiyou’s longstanding commitment to western Siskiyou County by granting the Siskiyou-Last Mile project.

The FFA rules direct prospective challengers to focus on “error[s] of fact, or policy or statutory requirement[s].”³ There are three compelling policy reasons to reject the Fort Jones component of the GSCA project, or, if the Fort Jones area cannot be parsed out and eliminated, reject the project in its entirety:

First, on the same day as GSCA’s proposal, Siskiyou made its own proposal to serve the *exact same households* along with some additional census blocks with FTTP connections, enabling Gigabit-level symmetrical speeds to each location.⁴ This “competing application” in itself means that the GSCA-Siskiyou project cannot be adopted ministerially, and would instead require a Commission resolution to proceed.⁵ However, Siskiyou’s fiber project in Fort Jones also constitutes an “existing federal or state funding commitment” within the language of the “Final Rule” from the United States Department of the Treasury.⁶ The imperative for non-duplicative projects is a “policy requirement” that should discourage government-subsidized overbuilding when the existing provider stands ready and willing to make the necessary investment.⁷ In this case, Siskiyou has made its commitment specific and enforceable by applying for FFA funding in every single location in the Fort Jones portion of GSCA’s target service area. Siskiyou’s construction timelines, milestones, and deployment protocols were detailed in the Siskiyou-Last Mile application, and they are summarized in the project summary prepared by the Communications Division.⁸ Siskiyou is poised to execute expeditiously on this project, and it has already taken tangible steps to move the project forward—it is fully engineered, the target areas are staked, the necessary permits have been obtained, and Siskiyou is ready to proceed with construction in the second quarter of 2024. GSCA cannot make any of these representations, as it has no existing facilities in the area and no history of service in Siskiyou County.

Second, granting the GSCA-Siskiyou project as to the Fort Jones area would undermine prior state and federal policy commitments to support rural telephone companies and compromise critical funding which Siskiyou has relied to support its existing network

² D.22-04-005, Appendix A, Rule 13(5) (to qualify for “ministerial review,” there must “be no competing applications for the same project area in the same application period.”).

³ D.22-04-005, Appendix A, Rule 12.

⁴ See *Siskiyou-Last Mile Project Summary*, available at this link:

<https://broadbandportal.cpuc.ca.gov/s/gms-application/a0K3d000002SrFcEAK/siskiyou-telephone-last-mile-project>

⁵ D.22-04-005, Appendix A, Rule 13.

⁶ See 31 C.F.R., Part 35, 87 Fed. Reg. 18 (the Treasury’s “Final Rule” governing the FFA program).

⁷ D.22-04-005, Appendix A, Rule 12.

⁸ See n. 4, *supra*.

investments, without which Siskiyou would not be in a position to take the next step in the network evolution through its Siskiyou-Last Mile FFA proposal. For the past 20 years, Siskiyou has been expanding and improving the broadband capabilities of its network by pushing fiber further from its central offices toward customer locations. In the Fort Jones area, Siskiyou already has fiber either to the "curb" or to the "node," which positions Siskiyou to focus on the final pieces of the FTTP connection, including the installation of fiber drops. These existing investments were made possible in part through Siskiyou's participation in the California High Cost Fund A ("CHCF-A") program, which recognizes the need for "the deployment of broadband-capable facilities" to be included in "rate base" for "small independent telephone corporations" like Siskiyou.⁹ In keeping with this directive, Siskiyou's rate base currently includes over \$4.5M in fiber investments in the Fort Jones exchange, and without those investments, Siskiyou would not be in a reasonable position to deliver FTTP. Similarly, federal high-cost programs encourage broadband deployment and support fiber investments, including the High Cost Loop Support ("HCLS") and Connect America Fund-Broadband Loop Support ("CAF-BLS") components of the federal "Universal Service Fund" or "Connect America Fund" federal high-cost support mechanisms. California and federal ratepayers have been helping support Siskiyou's infrastructure evolution for decades, and it would be fiscally irresponsible to now duplicate this support by allocating funding to an entirely new provider who would have to build an entirely new network, this time using FFA monies.

Third, GSCA's application presents significant feasibility and budgeting concerns given that it is a startup operation with no experience designing or executing on projects in western Siskiyou County. As Siskiyou is well aware from its operations in the area for more than a century, Siskiyou County presents a complex and diverse set of concerns, including tribal interests, forest service land, extreme weather, steep canyons, dense trees, wildfires, idiosyncratic environmental review and permitting issues, and many other factors that make construction, maintenance and operations in the area challenging and unique. GSCA is a startup joint venture backed by the Rural County Representatives of California ("RCRC"), a trade association of rural counties. It has no apparent experience developing specific project budgets or negotiating easements or obtaining permits or performing any of the many tasks that would be necessary to execute on the proposed grant. It is also unclear how GSCA will be able to reasonably obtain middle mile access in this area, something that Siskiyou has already secured. In fact, Siskiyou is working closely with the state-run middle mile and is participating in construction of these facilities in the area, so Siskiyou will be well positioned to interconnect with the state middle mile to leverage the state's existing infrastructure commitments to bring FTTP to the area. Moreover, GSCA does not appear to be a certificated telecommunications provider at either the state or federal level, so it has no current authority through which it could provide voice service. Similarly, it has not made any showing as to how it could comply with the requirements of D.20-08-011, the decision adopted in the CHCF-A rulemaking to govern proposals by Competitive Local Exchange Carriers ("CLECs") to provide voice service in territories served by Small LECs. GSCA's association with "Utopia" does not appear to resolve these concerns. While the FFA is a broadband grant program, the inability to provide voice is a

⁹ Pub. Util. Code § 275.6(c)(6).

major limitation on customers' use of any FFA-funded network, especially in rural areas where voice service continues to fulfill a critical public safety function.

GSCA's failure to satisfy policy requirements in these important areas justifies rejection of the project as a whole. These concerns are heightened in the Fort Jones area, where the Commission has a more attractive option to award the FFA grant to Siskiyou, a provider with a longstanding record of leveraging state and federal support to deploy infrastructure in one of the more rural and high-cost areas in the state. If, alternatively, the Commission is inclined to preserve GSCA's consideration in other areas of Siskiyou Country, it could require GSCA to recompute its GSCA-Siskiyou project without the Fort Jones area and award the Fort Jones portion to Siskiyou.

To assist your review of this objection, I am attaching three documents. First, attached herewith as **Attachment A** is a map depicting the extent of the overlap between the GSCA-Siskiyou project and the Siskiyou-Last Mile. As shown herein, here is a 100% correlation between the projects in the Fort Jones area. **Attachment B** includes a map of Siskiyou's fiber distribution facilities as they exist today. This document should help illustrate the good work that Siskiyou has done in the past 20 years to properly utilize state and federal support to put its network in a position to efficiently install FTTP. This map shows extensive fiber already in a mature network, which is a stark comparison to GSCA's circumstances, which reflect a nascent operation. **Attachment C** reflects a series of speed tests at locations in the Fort Jones exchange where full FTTP connections do exist. Naturally, these locations are separate from the locations targeted through the Siskiyou and GSCA grants because they are already served at 25/3 or higher, but the information illustrates that Siskiyou can deliver on its commitment to achieve 100/20 or higher once fiber drops are connected. **Attachment D** contains a list of account numbers from Golden Bear in the Fort Jones area, demonstrating that Golden Bear is already an established ISP in the area where GSCA is proposing to facilitate an entirely new market entry. Finally, **Attachment E** provides 10 sample bills in locations proposed to be served by GSCA's project, confirming the legitimacy of Golden Bear's presence in the area. As noted in Attachment D, Golden Bear has far more customers in this area than 10, but the sample bills should provide a reasonable sense of the types of services that customers are currently purchasing in that community. The bills have been redacted to protect Customer Proprietary Network Information ("CPNI") and confidential subscriber information pertaining to the telephone elements of the bill, in keeping with Public Utilities Code Section 2891 and 47 C.F.R. Section 222. Should you require additional information in connection with these objections, Siskiyou and Golden Bear stand ready to provide it.

Please note that the materials provided in Attachment B through E are confidential and subject to the protections of Public Utilities Code Section 583 and General Order ("G.O.") 66-D. The fiber facilities map, the speed test results, and the account numbers in Attachments B, C, and D constitute trade secrets within the meaning of Civil Code Section 3426.1(d) and Evidence Code Section 1060, which are incorporated into the California Public Records Act ("CPRA") through Government Code Section 7927.705. These materials constitute a "pattern" and/or "compilation" that derives economic value from not being generally known to the public or to

competitors, and Siskiyou and Golden Bear implement reasonable measures to maintain this information as confidential. See Civ. Code § 3426.1(d); Cal. Evid. Code § 1060. Siskiyou has invested significant engineering time, regulatory resources, and management involvement to compile this information. If publicly disclosed, Siskiyou's and/or Golden Bear's competitors could leverage this information to make targeted deployment, marketing, and operational decisions to Siskiyou's and/or Golden Bear's detriment. For the same reasons, this information is subject to protection under the CPRA balancing test, which protects information where "on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record." Gov. Code § 7922.000; *International Federation of Professional and Technical Engineers, Local 21, AFL-CIO v. Superior Court*, 42 Cal. 4th 319, 329 (2007).

The facilities maps in Attachment B also implicate critical infrastructure, and are subject to protection under federal law and the public release of this sensitive location-specific information would threaten the security of Siskiyou's network and public safety. See 6 C.F.R. § 29.2 (defining critical infrastructure information as "information not customarily in the public domain and related to the security of critical infrastructure or protected systems"); 6 U.S.C. § 671(5)(B) (defining protected systems to include communications networks); Gov. Code § 7927.705 (expressly protects "records" whose "disclosure" is "exempted or prohibited pursuant to federal or state law."). Federal law contains significant protections for critical infrastructure. See 6 U.S.C. § 673(a);¹⁰ 6 C.F.R. § 29.1, *et seq.* Attachment b includes information pertaining to the precise location of telecommunications network infrastructure and facilities that is critical to public safety and connectivity in the area served by Siskiyou that could facilitate an attack or "interference, compromise, or incapacitation" of the network. See 6 C.F.R. § 29.2(b). Siskiyou maintains this information as confidential and it is not customarily in the public domain. Public disclosure of this information could allow a bad actor to attack, compromise or physically or electronically incapacitate a facility providing critical communications and emergency services, as well as make public the potential vulnerabilities of a facility providing these services. Therefore, the CPRA balancing test also supports protection of these materials. Gov. Code § 7922.000.

In addition, the customer information in Attachments D and E implicates customer privacy, as release of this information could permit a bad actor to connect a customer's account information and/or personal information with the services that they purchase, which could

¹⁰ 6 U.S.C. Section 673(a)(1)(E) exempts critical infrastructure information from being "made available to any State or local law requiring disclosure of information or records." 6 U.S.C. § 673(a)(1)(E). The statute applies if the information is "provided to a State or local government or government agency," but it does not require in all cases that DHS be the conduit for the information to invoke the protection. See *New Part 4 of the Commission's Rules Concerning Disruptions to Commc'ns*, 19 FCC Rcd. 16830, 16853 (2004) ("Although some commenting parties have suggested that information in outage reports can only be protected from public disclosure if it is 'voluntarily' submitted to DHS directly, pursuant to statutory provisions concerning the "protection of voluntarily shared critical infrastructure information," this assertion is not correct."). This provision applies to the Commission's records through Government Code Section 7927.705.

facilitate social engineering schemes, consumer fraud, and/or identity theft. Although the Customer Proprietary Network Information and other confidential subscriber information regarding telephone services has been redacted in compliance with federal and state law, the balance of equities nevertheless strongly supports holding these customer-specific documents under seal. Gov. Code § 7922.000.

* * *

Please do not hesitate to contact me if you have questions about this submission or if we can supply additional information. I can be reached at 415-518-4813 and patrick@brblawgroup.com. You may also direct correspondence regarding this matter to Russell Elliott, Siskiyou's and Golden Bear's President, at 530-467-6120 or r.elliott@siskiyoutelephone.com.



Patrick M. Rosvall, Esq.
BRB Law LLP

Attorneys for The Siskiyou Telephone Company
and Golden Bear Broadband, LLC

cc: CASF Distribution List
federalaccount@cpuc.ca.gov
Barbara Hayes, Golden State Connect Authority
Siskiyou County Supervisors
Assembly Member Megan Dahle
Siskiyou County Economic Development

SWORN ATTESTATION
THE SISKIYOU TELEPHONE COMPANY / GOLDEN BEAR BROADBAND LLC
Objections to “GSCA Siskiyou County Broadband Network” Project
D.22-04-055 (FFA Objections)

November 14, 2023

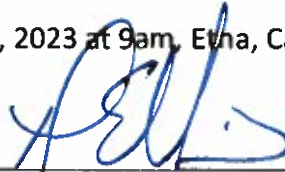
I, Russell Elliott, declare under penalty of perjury under the laws of the state of California, and pursuant to Rule 1.1 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”) as follows:

1. I am the President of The Siskiyou Telephone Company (“Siskiyou”) and its Internet Service Provider (“ISP”) affiliate, Golden Bear Broadband (“Golden Bear”), and I submit this declaration on behalf in support of Siskiyou’s and Golden Bear’s to an improper overbuild project that Golden State Connect Authority (“GSCA”) seeks to pursue in Siskiyou’s service territory in Siskiyou County through the Federal Funding Account (“FFA”) program. The project is identified as the “GSCA Siskiyou County Broadband Network” Project (“GSCA-Siskiyou”), and it overlaps with Siskiyou’s service territory in and around Fort Jones. It also includes several other areas in Siskiyou County that do not implicate Siskiyou or Golden Bear.
2. I have reviewed the contents of Siskiyou’s and Golden Bear’s objections to the GSCA-Siskiyou Project, and I am familiar with the statements made therein and the attachments provided with the objections. I hereby confirm that the matters stated therein are true and correct, except as to matters where I rely on information and belief, and as to those items, I am informed and believe that they are true and correct.
3. I hereby confirm that Siskiyou has extensive existing broadband-capable facilities that enable Golden Bear to provide broadband service to all of the customer locations in the GSCA-Siskiyou Project, at download speeds varying from 1 Gigabits per second (“Gbps”) to 10 Megabits per second (“Mbps”) and upload speeds of 1 Gigabits per second (“Gbps”) to 1 Mbps. In addition, Siskiyou submitted its own Federal Funding Account (“FFA”) grant proposal on September 29, 2023 to bring symmetrical speeds of 1 Gigabit to each of these locations. I attest that Siskiyou will be able to fully engineer and execute on its network upgrades in the Fort Jones area by no later than the date required by the FFA grant.
4. I further confirm that Siskiyou has existing fiber assets in its Commission-approved rate base in the Fort Jones area that are supported in part through the California High Cost Fund A (“CHCF-A”) program, as well as through funding from the federal High Cost Loop Support (“HCLS”) and Connect America Fund-Broadband Loop Support (“CAF-BLS”) programs and Siskiyou’s own funds.

5. With their objections, Siskiyou and Golden Bear are providing various supporting exhibits. Based on my review of the information provided by my staff and my review of the supporting materials, I am informed and believe that the customer location map, the facilities map, the "speed test" information, the customer account information, and the sample customer bills submitted in Attachments A through E are accurate and complete.

6. Based on the information provided with Siskiyou's and Golden Bear's objections, including Siskiyou's competing application to serve the same exact locations via its Fiber to the Premise ("FTTP") facilities, the Commission should deem the Fort Jones portion of the GSCA-Siskiyou project ineligible for FFA support and either reject the project in its entirety or require that it be adjusted to remove the pure overbuilding elements in the Fort Jones area that would not be in the public interest or consistent with the Commission's fiscal responsibilities in guiding the FFA grant program.

Executed this 14th day of November, 2023 at 9am, Etna, California

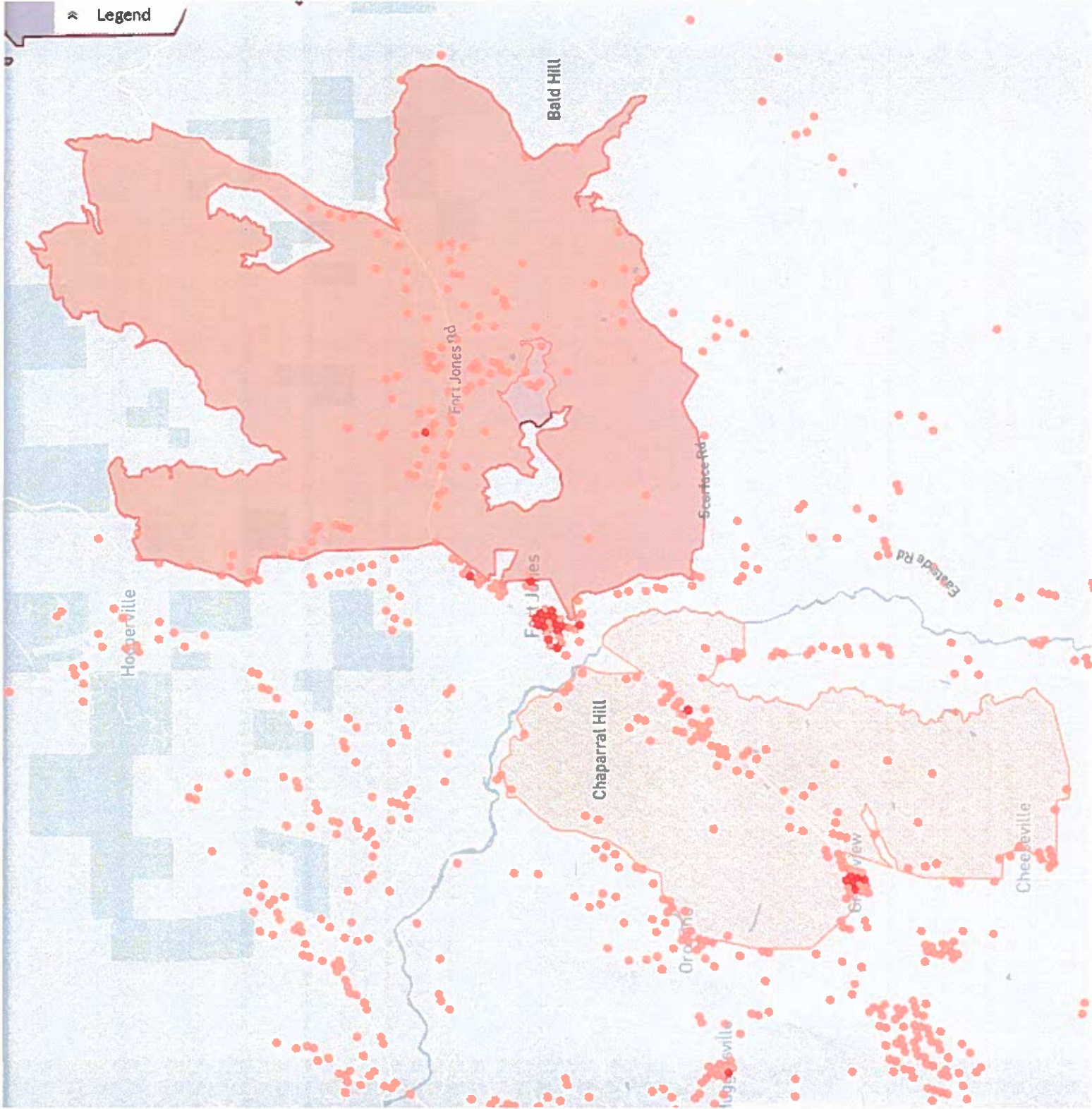


Russell Elliott

President
The Siskiyou Telephone Company
and Golden Bear Broadband

Attachments

Attachment A



A

Attachment B

Attachment C

Attachment D

Attachment E

Confidential; redacted entirely