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8 Attorney for Petitioner

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **IN AND FOR THE COUNTY OF SONOMA**

11
12 EMF SAFETY NETWORK, and DOES 1
13 through 5, inclusive,

CASE NUMBER SCV 250976

14 Petitioners,
15 v.

16 CITY OF SEBASTOPOL, and DOES 7
17 through 10, inclusive,

**AMENDED PETITION FOR
WRIT OF MANDATE**

18 Respondents.

[CEQA]

19 _____/
20 CROWN CASTLE GT COMPANY LLC;
21 GTE MOBILNET OF CALIFORNIA LIMITED
22 PARTNERSHIP, A CALIFORNIA LIMITED
23 PARTNERSHIP D/B/A VERIZON
24 WIRELESS; and DOES 11 through 15,
25 inclusive,

26 Real Parties in Interest.
27 _____/
28

1 Petitioner alleges:

2 **I. INTRODUCTION**

3 1. Petitioner EMF Safety Network brings this mandamus action
4 challenging the decisions by City of Sebastopol's (City) approval of a use Permit
5 to install additional panel antennas on a monopole at a telecommunications
6 facility (the project) in violation of the California Environmental Quality Act
7 (CEQA) and Sebastopol's Telecommunication Ordinance.
8

9 The City abused its discretion and failed to act in the manner required by
10 law by approving the project on a Class 1 exemption, CEQA Guidelines (14 Cal.
11 Code Regs.), § 15301 and in violation of the Telecommunication Ordinance.
12

13 Petitioners request a peremptory writ of mandate in the first instance
14 ordering the City to set aside its approvals of the project and to comply with all
15 provisions of CEQA, including the preparation of an initial study or EIR, and other
16 applicable laws including the Telecommunication Ordinance prior to further
17 consideration of the project.
18

19 **II. JURISDICTION AND VENUE**

20 2. This Court has jurisdiction under, among other laws, sections 21168
21 and/or 21168.5 of the Public Resources Code and sections 1094.5 and/or 1085
22 of the Code of Civil Procedure. Respondent and the project are located in the
23 City of Sebastopol.
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1 **III. PARTIES**

2 3. Petitioner EMF Safety Network is a sponsored project of the Ecological
3 Options Network (EON) a California not-for-profit organization, whose purposes
4 include advocating for environmental protections and promoting education and
5 science-based precautions for electromagnetic frequency (EMF) and radio
6 frequency (RF) technologies in the City of Sebastopol, County of Sonoma, and
7 throughout the nation. EMF Safety Network is composed of persons whose
8 interests will be severely injured if the approval of the project is not set aside
9 pending full compliance with CEQA and all other applicable laws. The members
10 of EMF Safety Network utilize and enjoy the City's, County of Sonoma's and the
11 State of California's environment and natural resources and bring this petition on
12 behalf of all others similarly situated who are too numerous to be named and
13 brought before this Court as petitioners. As an organization composed of
14 residents and property owners within the City and County of Sonoma, EMF
15 Safety Network is within the class of persons beneficially interested in and
16 aggrieved by the acts of respondent as alleged below. EMF Safety Network
17 participated in the administrative processes relative to this project and objected
18 to the project and lack of environmental review.

19 20 21 22 23 24 4. Respondent City of Sebastopol is a city duly organized under the laws
25 of the State of California and is the lead agency under CEQA for the project.

26 27 28 5. Respondents Does 7 through 10 are sued under fictitious names. Their
true names and capacities are unknown to petitioner. When true names and

1 capacities are ascertained, petitioner will amend this petition to assert them.
2 Petitioner is informed and believes and thereon alleges that each of the
3 fictitiously named respondents is responsible in some manner for the
4 occurrences herein alleged, and that the damages as herein alleged were
5 proximately caused by their conduct.
6

7 6. Real Party in Interest Crown Castle GT Company LLC (Crown Castle)
8 is the owner of the telecommunications facility and the applicant for the project.
9

10 7. Real Party in Interest GTE Mobilnet of California Limited Partnership, a
11 California Limited Partnership d/b/a Verizon Wireless (Verizon) is listed in the
12 administrative record as a co-applicant for the project. Crown Castle is identified
13 as the agent for Verizon.
14

15 8. Real Parties in Interest Does 11 through 15 are sued under fictitious
16 names. Their true names and capacities are unknown to petitioner. When true
17 names and capacities are ascertained, petitioner will amend this petition to
18 assert them. Petitioner is informed and believes and thereon alleges that each
19 of the fictitiously named real parties in interest have an interest in some manner
20 as a necessary party but not as an indispensable party.
21

22 **IV. GENERAL ALLEGATIONS**

23 9. Petitioner fully incorporates herein by reference paragraphs 1
24 through 8, above.
25

26 10. On July 25, 2011, Crown Castle submitted an application to install
27 additional panel antennas and/or replace antennas on an existing
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1 telecommunications tower located behind Sebastopol City Hall at 7120 Bodega
2 Avenue, Sebastopol, California.

3
4 11. On September 13, 2011, the Planning Commission conducted a
5 public hearing and approved the application by a 6-1 vote.

6 12. On September 21, 2011, the EMF Safety Network filed a timely appeal
7 fo the Planning Commission's actions.

8
9 13. On December 6, 2011, the City Council held a public hearing and, by
10 a 2-2 vote denied the appeal and upheld the Planning Commission's actions.

11 14. On December 7, 2011, the City filed a Notice of Exemption.

12 15. This petition is timely filed on January 11, 2012. Petitioner complied
13 with section 21167.5 of the Public Resources Code by serving a Notice of
14 Commencement of Action on the County and with section 21167.7 of the Public
15 Resources Code by serving a copy of this petition on the Office of the Attorney
16 General of the State of California.

17
18 16. Petitioner has no plain, speedy, and adequate remedy in the ordinary
19 course of law. If the project remains approved, construction may proceed with
20 immediate, severe, and irreparable harm to the environment and to petitioner
21 due to environmental degradation and the failure of the City to follow the laws in
22 its approval process. The City has the capacity to correct its violations of law but
23 has failed and refused to do so.
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1 **V. CAUSE OF ACTION FOR VIOLATIONS OF THE**
2 **CALIFORNIA ENVIRONMENTAL QUALITY ACT**

3 17. Petitioner fully incorporates herein by reference paragraphs 9 through
4 16, above.

5 18. The City abused its discretion and failed to act in the manner required
6 by law by approving the project based on a Class 1 exemption, CEQA
7 Guidelines (14 Cal. Code Regs.), § 15301, because

8 a. there is substantial evidence in the record that the exemption does
9 not apply in that the project, which will add an undisclosed increase in output of
10 power (watts) and new radio frequencies to support the 3rd generation mobile
11 telecommunications (G) network and the 4G network and enhance the capacity
12 of the site to handle increased levels of both voice and data transmission (and
13 possibly increase the range of signals), does not consist of the operation, repair,
14 maintenance, permitting, leasing, licensing, or minor alteration of existing public
15 or private structures, facilities, mechanical equipment, or topographical features
16 involving negligible or no expansion of use beyond that existing at the time of the
17 lead agency's determination; and

18 b. the project description is inadequate relative to, among other things,
19 whether it involves three new antennas in addition to the three current antennas
20 or whether it involves replacement of the three current antennas with six new
21 antennas.

22 19. The City abused its discretion and failed to act in the manner
23 required by law by approving the project based on an exemption because there
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1 is a fair argument based on substantial evidence in the record that the project
2 may cause environmental impacts and, thus, is excepted from the exemption.
3

4 20. There is substantial evidence in the record to support the conclusion
5 that, and a reasonable possibility that, the project will have significant impacts on
6 the environment due to unusual circumstances related to, among other things,
7 biological resources based its proximity to the Laguna, an internationally
8 recognized wetlands; negative aesthetic impacts; hazards and hazardous
9 materials; and mandatory findings of significance.
10

11 21. The City abused its discretion and failed to act in the manner required
12 by law by making findings that are not supported by substantial evidence in the
13 record.
14

15 **VI. CAUSE OF ACTION FOR VIOLATIONS OF THE**
16 **TELECOMMUNICATIONS ORDINANCE**

17 22. Petitioner fully incorporates herein by reference paragraphs 17
18 through 21, above.

19 23. The City abused its discretion and failed to act in the manner
20 required by law by approving the project in violation of Sebastopol's
21 Telecommunication Ordinance in that, among other things, the project is
22 proposed to be sited such that its presence threatens the health and safety of
23 migratory birds and/or in a way that creates negative visual impacts.
24

25 WHEREFORE, petitioner prays:

26 1. That the Court issue a Peremptory Writ of Mandate, ordering
27 respondent to set aside and void its approvals of the project and to comply with
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1 all provisions of CEQA, the Telecommunication Ordinance, and other applicable
2 laws prior to further consideration of the project.

3
4 2. That the Court issue an administrative stay order, temporary restraining
5 order, and/or preliminary injunction enjoining the City and/or Crown and/or
6 Verizon and their subcontractors, agents, employees, heirs, assigns, or
7 representatives from engaging in any physical or irreversible actions or decisions
8 in furtherance of the project pending this action.

9
10 3. That the Court issue a permanent stay against the City and/or Crown
11 and/or Verizon enjoining them and their subcontractors, agents, employees,
12 heirs, assigns, or representatives from engaging in any activity connected with
13 the project unless and until this Court finds that the project is in full compliance
14 with CEQA, the Telecommunication Ordinance, and other applicable laws.

15
16 4. For costs of suit and attorneys' fees herein; and

17 5. For other and further relief as the Court may deem proper.
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19 Dated: February 17, 2012

Law Office of Rose M. Zoia

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Rose M. Zoia
Attorney for Petitioner

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VERIFICATION

I am a member of petitioner and have read the Petition for Writ of Mandate and know its contents. The matters stated in it are true and correct based on my knowledge, except as to the matters which are stated therein on information and belief and as to those matters, I believe them to be true.

I declare under penalty of perjury that the above is true and correct.

Executed this 17th day of February 2012, at Sebastopol, California.

Sandi Maurer
Sandi Maurer

PROOF OF SERVICE

I am a citizen of the United States and a resident of the County of Sonoma. I am over the age of eighteen years and not a party to the within entitled action. My business address is 50 Old Courthouse Square, Suite 401, Santa Rosa, California 95404.

On February 17, 2012, I served one true copy of

AMENDED PETITION FOR WRIT OF MANDATE

by mailing via USPS, first-class, postage pre-paid, to the persons and addresses listed below and by emailing to the persons and email addresses listed below:

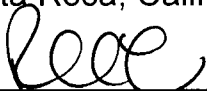
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*Counsel for Real Party in Interest GTE
Mobilnet of California Limited
Partnership, a California limited
partnership d/b/a Verizon Wireless*

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 17, 2012, at Santa Rosa, California.



Rose M. Zoia