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rzoia@sbcglobal.net

Attorney for Petitioner

**COPY**

**ENDORSED  
FILED**

**JAN 11 2012**

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SONOMA**

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

EMF SAFETY NETWORK, and DOES 1  
through 5, inclusive,

CASE NUMBER SW ~~250978~~

Petitioners,

v.

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

**PETITION FOR WRIT OF  
MANDATE**

Respondents.

[CEQA]

\_\_\_\_\_  
CROWN CASTLE GT COMPANY LLC;  
CROWN INTERNATIONAL; VERIZON;  
VERIZON WIRELESS; and DOES 11  
through 15, inclusive,

Real Parties in Interest.  
\_\_\_\_\_

**BY FAX**

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).  
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.  
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  
16 other applicable laws prior to further consideration of the project.  
17

18 **II. JURISDICTION AND VENUE**

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

24 **III. PARTIES**

25 3. Petitioner EMF Safety Network is a sponsored project of the Ecological  
26 Options Network (EON) a California not-for-profit organization, whose purposes  
27 include advocating for environmental protections and promoting education and  
28

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

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18  
19 4. Respondent City of Sebastopol is a city duly organized under the laws  
20 of the State of California and is the lead agency under CEQA for the project.

21 5. Respondents Does 7 through 10 are sued under fictitious names. Their  
22 true names and capacities are unknown to petitioner. When true names and  
23 capacities are ascertained, petitioner will amend this petition to assert them.  
24  
25 Petitioner is informed and believes and thereon alleges that each of the  
26 fictitiously named respondents is responsible in some manner for the  
27 occurrences herein alleged, and that the damages as herein alleged were  
28 proximately caused by their conduct.



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

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

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

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

11           16. Petitioner has no plain, speedy, and adequate remedy in the ordinary  
12 course of law. If the project remains approved, construction may proceed with  
13 immediate, severe, and irreparable harm to the environment and to petitioner  
14 due to environmental degradation and the failure of the City to follow the laws in  
15 its approval process. The City has the capacity to correct its violations of law but  
16 has failed and refused to do so.

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21                           **V. CAUSE OF ACTION FOR VIOLATIONS OF THE**  
22                           **CALIFORNIA ENVIRONMENTAL QUALITY ACT**

23           17. Petitioner fully incorporates herein by reference paragraphs 9 through  
24 16, above.

25           18. The City abused its discretion and failed to act in the manner required  
26 by law by approving the project based on a Class 1 exemption, CEQA  
27  
28

1 Guidelines (14 Cal. Code Regs.), § 15301, because there is substantial  
2 evidence in the record that the exemption does not apply.

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

8  
9 20. The City abused its discretion and failed to act in the manner required  
10 by law by making findings that are not supported by substantial evidence in the  
11 record.

12  
13 WHEREFORE, petitioner prays:

14  
15 1. That the Court issue a Peremptory Writ of Mandate, ordering  
16 respondent to set aside and void its approvals of the project and to comply with  
17 all provisions of CEQA and other applicable laws prior to further consideration of  
18 the project.

19  
20 2. That the Court issue an administrative stay order, temporary restraining  
21 order, and/or preliminary injunction enjoining the City and/or Crown and/or  
22 Verizon and their subcontractors, agents, employees, heirs, assigns, or  
23 representatives from engaging in any physical or irreversible actions or decisions  
24 in furtherance of the project pending this action.

25  
26 3. That the Court issue a permanent stay against the City and/or Crown  
27 and/or Verizon enjoining them and their subcontractors, agents, employees,  
28 heirs, assigns, or representatives from engaging in any activity connected with

1 the project unless and until this Court finds that the project is in full compliance  
2 with CEQA and other applicable laws.

3  
4 4. For costs of suit and attorneys' fees herein; and

5 5. For other and further relief as the Court may deem proper.

6 Dated: January 11, 2012

Law Office of Rose M. Zoia

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8 

Rose M. Zoia  
Attorney for Petitioners

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11  
12 **VERIFICATION**

13  
14 I am a member of petitioner and have read the Petition for Writ of Mandate  
15 and know its contents. The matters stated in it are true and correct based on my  
16 knowledge, except as to the matters which are stated therein on information and  
17 belief and as to those matters, I believe them to be true.

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

19  
20 Executed this 11<sup>th</sup> day of January 2011, at Sebastopol, California.

21  
22   
23 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 January 11, 2012, I served one true copy of

### PETITION FOR WRIT OF MANDATE

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

City Clerk  
City of Sebastopol  
7120 Bodega Avenue  
Sebastopol CA 95473  
*Respondent*

Larry McLaughlin  
City Attorney  
7120 Bodega Avenue  
Sebastopol CA 95473  
*Counsel for Respondent*

Larry McLaughlin  
City Attorney  
2455 Bennett Valley Road  
Santa Rosa CA 95404  
*Counsel for Respondent*

Joseph M. Parker  
Shustak Frost & Partners  
401 West A Street, Ste. 2330  
San Diego CA 92101-7914  
*Counsel for Real Party in Interest Crown  
Castle GT Company LLC/Crown  
International*

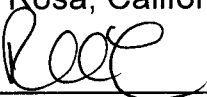
Crown Castle GT Company LLC  
C T Corporation System, Agent for  
Service of Process  
510 Bering Sr. Ste. 500  
Houston TX 77057  
*Real Party in Interest*

Verizon/Verizon Wireless  
C T Corporation System, Agent for  
Service of Process  
818 W Seventh St  
Los Angeles CA 90017

Sally Magnani Knox  
Deputy Attorney General  
State of California  
Department of Justice  
P. O. Box 944255  
Sacramento CA 94244-2550

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

Executed on January 11, 2012, at Santa Rosa, California.

  
\_\_\_\_\_  
Rose M. Zoia