

CONNECTICUT SITING COUNCIL

APPLICATION OF CELLCO PARTNERSHIP)
d/b/a VERIZON WIRELESS TO THE) DOCKET NO. 448
CONNECTICUT SITING COUNCIL FOR A)
CERTIFICATE OF ENVIRONMENTAL) JULY 11, 2014
COMPATIBILITY AND PUBLIC NEED)
FOR THE CONSTRUCTION MAINTENANCE)
AND OPERATION OF A TELE-)
COMMUNICATIONS FACILITY LOCATED)
AT ORANGE TAX ASSESSOR MAP 77,)
BLOCK 3, LOT 1, 831 DERBY MILFORD)
ROAD, ORANGE, CT)

APPLICATION OF ALBERT SUBBLOIE, JACQUELINE BARBARA,
GLENN MACINNES, AND JILL MACINNES TO INTERVENE
UNDER C.G.S. §§ 22a-19, 4-177a, 16-50g AND 16-50n

Pursuant to Connecticut General Statutes §§ 22a-19, 4-177a, 16-50g and 16-50n, ALBERT SUBBLOIE of 908 Rainbow Trail, Orange, CT, JACQUELINE BARBARA of 908 Rainbow Trail, Orange, CT, GLENN MACINNES of 905 Rainbow Trail, Orange, CT, and JILL MACINNES of 905 Rainbow Trail, Orange, CT (hereinafter the “Proposed Intervenors”) hereby move and petition the Connecticut Siting Council to be party intervenors in the above application by Cellco Partnership d/b/a Verizon Wireless (hereinafter “Verizon”) for certificate of Environmental Compatibility and Public Need for the construction and maintenance of a telecommunications facility located at Orange Tax Assessor Map 77, Block 3, Lot 1, 831 Derby Milford Road, Orange, CT (hereinafter the “Application”). The Proposed Intervenors represent that their participation is in the interests of justice and the environment and that their participation will not impair the orderly conduct of the proceeding.

In support of this request, the Proposed Intervenors state the following:

1. The names and address of the Proposed Intervenors are as follows:

ALBERT SUBBLOIE, JACQUELINE BARBARA, GLENN MACINNES, AND
JILL MACINNES

c/o Mario F. Coppola, Esq. and Mark Kovack, Esq.

Berchem, Moses, and Devlin, P.C.

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2. The Proposed Intervenors have concerns for the public need to construct a telecommunications facility at property located at Orange Tax Assessor Map 77, Block 3, Lot 1, 831 Derby Milford Road, Orange, CT (hereinafter the "Property"). The Property consists of approximately 34.6 acres of land which is currently classified as farm land, and exempt from taxation pursuant to C.G.S. § 12-107c. The telecommunications facility which Verizon proposes in the Application consists of a 100-foot self-supporting monopole telecommunications tower with up to fifteen (15) panel-type antennas, and a 12 ft. by 30 ft. shelter near the base of the tower which will enclose a diesel-fueled back-up generator (hereinafter the "Cell Tower"). Verizon estimates that the Cell Tower will have an overall height of approximately 103 ft. above ground level.

3. The construction and existence of Verizon's Cell Tower will have a severe negative impact on this very sensitive environmental area, public water sources, inland wetlands, scenic vistas, neighboring property values and the general character and harmony of the surrounding neighborhood. Pursuant to C.G.S. §§ 22a-19, 16-50n, 16-50g and 4-177a, the Proposed Intervenors have a direct interest in the proceedings which will be specifically and substantially affected as they live in close proximity to the Property. The Proposed Intervenors

seek to intervene in the above proceedings for the purpose of submitting testimony, briefs and other evidence relevant to the Connecticut Siting Council's consideration of Docket 448.

4. Verizon's Cell Tower fails to meet the requirements of local regulations of the Town of Orange, including the Town Plan of Conservation and Development, in a way which fundamentally harms the general welfare of the community.

5. The Proposed Intervenors hereby present this verified pleading, pursuant to C.G.S. § 22a-19, for the purpose of asserting that evidence and testimony shall be presented in order to demonstrate that the activity proposed by Verizon for the Property is likely to unreasonably harm the public trust in the air, water or other natural resources of the State of Connecticut because, if granted, Verizon's Cell Tower will unreasonably impact inland wetlands, public water sources, neighboring property values and the visual quality of the environment in a residential area.

6. The Proposed Intervenors seek to present evidence and testimony that will demonstrate that the severe environmental impact from Verizon's Cell Tower could be reasonably mitigated by the use of alternate locations.

7. The Proposed Intervenors seek to present evidence and testimony that will demonstrate that there are reasonable and prudent alternatives to the Verizon Cell Tower, such as other telecommunications equipment and technology, which Verizon could implement in the area to achieve their reasonable coverage needs instead of the construction and maintenance of the proposed Cell Tower.

8. The Proposed Intervenors seek to present evidence and testimony that will demonstrate that pursuant to C.G.S. § 16-50g, any need for adequate and reliable public utility service that will be fulfilled by the Verizon Cell Tower will be significantly outweighed by the

need to protect the environment and ecology of the State and to minimize damage to scenic, historic and recreational values.

9. The Connecticut Siting Council should be aware of the statutory requirements that apply to interventions pursuant to C.G.S. § 22a-19, also known as the Connecticut Environmental Protection Act (hereinafter “EPA”). Section 22a-19(a) provides that any person “may intervene as a party on the filing of a verified pleading asserting that the proceeding or action for judicial review involves conduct which has, or which is reasonably likely to have, the effect of unreasonably polluting, impairing or destroying the public trust in the air, water or other natural resources of the state.” Section 22a-19(b) provides that the Connecticut Siting Council “shall consider the alleged unreasonable pollution, impairment or destruction of the public trust in the air, water or other natural resources of the state and no conduct shall be authorized or approved which does, or is reasonably likely to, have such effect as long as, considering all relevant surrounding circumstances and facts, there is a feasible and prudent alternative consistent with the reasonable requirements of the public health, safety and welfare.”

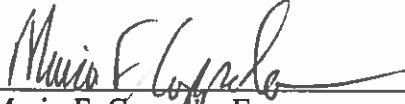
“The purpose of the EPA is to give private citizens a voice in ensuring that the air, water and other natural resources of the state remain protected, preserved and enhanced, and to provide them with an adequate remedy to protect the air, water and other natural resources from unreasonable pollution, impairment or destruction.” (Internal quotation marks and citations omitted); Avalon Bay Communities, Inc. v. Coning Commission of the Town of Stratford, 87 Conn. App. 537, 547 (2005); *see also*, Branhaven Plaza, LLC v. Inland Wetlands Commission of Town of Branford, 251 Conn. 269, 276 (1999). The Connecticut Courts have consistently held that a plaintiff seeking to assert a claim under C.G.S. § 22a-19 merely needs to articulate a colorable claim of unreasonable pollution, impairment or destruction of the environment. Finley

v. Inland Wetlands Commission of Town of Orange, 289 Conn. 12, 35 (2008); Windels v. Environmental Protection Commission, 284 Conn. 268, 289-90 (2007). “Statutes such as the EPA are remedial in nature and should be liberally construed to accomplish their purpose.” Avalon Bay Communities, Inc., 87 Conn. App. at 548; *see also*, Keeney v. Fairfield Resources, Inc., 41 Conn App. 120, 132-33 (1996).

“Section 22a-19(a) makes intervention a matter of right once a verified pleading is filed complying with the statute, whether or not those allegations ultimately prove to be unfounded.” Avalon Bay Communities, Inc., 87 Conn. App. at 543; *see also*, Polymer Resources, Ltd. V. Keeney, 23 Conn. App. 340, 348-49 (1993) (“[Section] 22a-19[a] compels a trial court to permit intervention in an administrative proceeding or judicial review of such a proceeding by a party seeking to raise environmental issues upon the filing of a verified complaint. The statute is therefore not discretionary.”). The one who files a verified pleading under § 22a-19 becomes a party to the administrative proceeding upon doing so and that person then has statutory standing to appeal for the limited purpose of raising environmental issues. Mystic Marineline Aquarium v. Gill, 175 Conn. 483, 490 (1978). Upon the filing of the verified pleading, the Proposed Intervenor becomes parties with statutory standing to appeal, and that right to appeal is independent of any other party. Mystic Marineline Aquarium, 175 Conn. at 499-500. Even the denial of an application to intervene under § 22a-19 may be appealed by filing an original appeal for improper denial of intervenor status. CT Post Limited Partnership v. New Haven City Planning Commission, Conn. Sup. 2000 WL 1161131 (July 21, 2000, Downey, J.).

For the above stated reasons, the Proposed Intervenors respectfully request that their application for intervenor status, pursuant to C.G.S. §§ 22a-19, 16-50n and 4-177a, be granted by this Honorable Connecticut Siting Council.

**RESPECTFULLY SUBMITTED BY:
ALBERT SUBBLOIE, JACQUELINE BARBARA, GLENN
MACINNES, AND JILL MACINNES**

BY: 
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Their Attorneys

PLEASE ENTER THE APPEARANCE OF:
Mario F. Coppola, Esq. and Mark Kovack, Esq.
Berchem, Moses & Devlin, P.C.
1221 Post Road East
Westport, CT 06880
FOR THE PROPOSED INTERVENORS

The Proposed Intervenors request copies of all filings made in the course of this Petition 1010 to date and from this date forward via regular U.S. Mail.


VERIFICATION

I, ALBERT SUBBLOIE, duly sworn, hereby verify that the above application is true and accurate to the best of my knowledge and belief.



ALBERT SUBBLOIE

Sworn and subscribed before me this 10th day of July, 2014.




Mario F. Coppola, Esq.
Commissioner of Superior Court

I, JACQUELINE BARBARA, duly sworn, hereby verify that the above application is true and accurate to the best of my knowledge and belief.



JACQUELINE BARBARA

Sworn and subscribed before me this 10th day of July, 2014.




Mario F. Coppola, Esq.
Commissioner of Superior Court

I, GLENN MACINNES, duly sworn, hereby verify that the above application is true and accurate to the best of my knowledge and belief.



GLENN MACINNES

Sworn and subscribed before me this 10th day of July, 2014.




Mario F. Coppola, Esq.
Commissioner of Superior Court

I, JILL MACINNES, duly sworn, hereby verify that the above application is true and accurate to the best of my knowledge and belief.



JILL MACINNES

Sworn and subscribed before me this 10th day of July, 2014.



Mario F. Coppola, Esq.
Commissioner of Superior Court

CERTIFICATE OF SERVICE

This is to certify that on the above date a true copy of the foregoing has been sent by U.S.

Mail, first-class, postage pre-paid, to the following parties of record:

Melanie Bachman, Esq., Executive Director, Connecticut Siting Council, 10 Franklin Sq., New Britain, CT 06051 (1 original, 15 copies, plus 1 electronic)

Cellco Partnership d/b/a Verizon Wireless, Kenneth Baldwin, Esq.; Robinson & Cole, 280 Trumbull Street, Hartford, CT 06103



Mario F. Coppola, Esq.