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**Irresponsible Deployment of 5G Cell Towers in Arizona**

**Second Notice of Maladministration, Malfeasance, Nonfeasance**

**Notice to Agent is Notice to Principal and Notice to Principal is Notice to Agent**

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, one of the People (as seen in Arizona Constitution Bill of Rights Article 2 Section 2) come to you as previously, being trustees of the People, so you may provide due care and remember your Oath which binds you. I make the following demands and claims:

**Arizona State Constitution Article 2 Section 2: Political Power; Purpose of Government**

“All political power is inherent in the people, and governments derive their just powers from the consent of the governed, and are established to protect and maintain individual rights.”

All state, county, and municipal governments and instrumentalities thereof must fulfill the requirements of their office, including careful adherence to Constitutional requirements**.** Penalties exist in several Arizona Titles for non-fulfillment of responsibilities. Title 38 Public Officers and Employees, indicates penalties and Title 13 Criminal Code indicates other penalties.

**Arizona State Constitution Article 3 Section 1: Distribution of Powers**

“The powers of the government of the state of Arizona shall be divided into three separate departments, the legislative, the executive, and the judicial; and, except as provided in this constitution, such departments shall be separate and distinct, and no one of such departments shall exercise the powers properly belonging to either of the others.”

There shall be no commingling of power or decision-making without transparency. **All agents, participating in decision making, will be held accountable to the People, for all decisions that are commingled, deleterious to the People, or have caused damage or harm in any way to the People. This notice is given to allow for all exercise of power against the People to cease and desist immediately.**

**Maxim of Law-** Suppression of the truth is equivalent to the expression (or suggestion) of what is false.

**Arizona State Constitution Article 2 Section 1: Fundamental Principles; Recurrence to**

“A frequent recurrence to fundamental principles is essential to the security of individual rights and the perpetuity of free government.”

Please note, it is my duty, as one of the People, to frequently remind and educate you, the elected servants and trustees of the people. Each one of you, given a position of trust by “We, the People,” **have failed to honor that trust**. You have not referred your actions and decisions to the United States and Arizona Constitutions, thus violating the security of individual rights and the perpetuity of free government.

**Maxim of Law-** The law requires, not conjecture, but certainty.

You have violated your Oath. You swore to uphold the Constitution of the United States and the Constitution and state statutes of the State of Arizona, bearing true faith and allegiance to the same, and to defend them against all enemies, foreign and domestic. You swore you would **faithfully, and impartially**, discharge the duties of your office according to the best of your ability so help you God. (**A.R.S.** [**§**](https://law.justia.com/codes/arizona/2016/title-15/section-15-117/index.html) **38-231 E.)**

Please note, as elected servants, you also agreed to the consequences of not upholding your oath. As clearly indicated in **A.R.S.** [**§**](https://law.justia.com/codes/arizona/2016/title-15/section-15-117/index.html) **38-231 C,** conspiracy to do violence to or overthrow governments is a class 4 felony. While your crimes may not be related to the physical overthrow of the government, they are violent to and directly impinge on the rights to public safety, privacy and property inherent to the residents in Arizona, whom you constitutionally swore to protect. In Arizona, Title 13 defines the Criminal Code. **A.R.S. § 13-101.** defines the legislated purposes of the Criminal Code, a few of which are indicated below.

**A.R.S. § 13-101. Purposes**

“It is declared that the public policy of this state and the general purposes of the provisions of this title are:

1. To proscribe conduct that unjustifiably and inexcusably **causes or threatens substantial harm to individual or public interests;**

5. To **insure the public safety** by preventing the commission of offenses through the deterrent influence of the sentences authorized;

6. To impose just and deserved punishment on those whose conduct threatens the public peace;”

You should know that **A.R.S. § 13-105** definitions apply as well-

**6.** "Conduct" means an act or omission and its accompanying culpable mental state.

**10.** "Culpable mental state" means intentionally, knowingly, recklessly or with criminal negligence as those terms are defined in this paragraph:

**(a) "Intentionally**" or "with the intent to" means, with respect to a result or to conduct described by a statute defining an offense, that a person's objective is to cause that result or to engage in that conduct.

**(b) "Knowingly**" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or believes that the person's conduct is of that nature or that the circumstance exists.  It does not require any knowledge of the unlawfulness of the act or omission.

**(c) "Recklessly**" means, with respect to a result or to a circumstance described by a statute defining an offense, that a person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that disregard of such risk constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation. A person who creates such a risk but who is unaware of such risk solely by reason of voluntary intoxication also acts recklessly with respect to such risk.

**(d) "Criminal negligence**" means, with respect to a result or to a circumstance described by a statute defining an offense, that a person fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

**16.** **"Economic loss"** means any loss incurred by a person as a result of the commission of an offense. Economic loss includes lost interest, lost earnings and other losses that would not have been incurred but for the offense. Economic loss does not include losses incurred by the convicted person, damages for pain and suffering, punitive damages or consequential damages.

Please note that failure to fulfill the responsibilities of your position as an agent of the People is addressed in the following Title 38 Statute;

[**A.R.S. § 38-443**](https://law.justia.com/citations.html) **Nonfeasance in public office; classification**

A public officer or person holding a position of public trust or employment who knowingly omits to perform any duty the performance of which is required of him by law is guilty of a class 2 misdemeanor unless special provision has been made for punishment of such omission.

You have been infringing on the freedoms guaranteed to me, one of the People. You are practicing discrimination, segregation and intimidation, insisting on depriving me of my rights under color of law. Please be aware that Section **242** of Title **18** makes it a crime for a person acting under color of any law to willfully deprive a person of a right or privilege protected by the Constitution or laws within the **United States**.

You, the Mayors and City Council members, and those incorrectly advising the Councils, have continually ignored and prevented any remedy related to ceasing the permitting and installation of Wireless Telecommunication Facilities (WTFs) (also known as heavy industrial equipment). You have become **negligent and complicit in perpetuating crimes of violence** upon the People whom you swore to protect, thereby violating your sworn Oath.

**Maxim of Law**- Your motive gives a name to your act.

You continue to act with **malfeasance, malconduct, and maladministration, as well as nonfeasance**.

Please note that when the Mayors and the City Councils adhere to advice from private agents, including but not limited to private bar Attorneys, from whom they receive advice contrary to the will of the People, the Mayors and the Councils are then responsible for acting against the will of the People. Private bar Attorneys acting in their own interests, and not the will of the People, are found to be enemies of the State.

As indicated in the recent **previous notice**, the stated purpose of the original Communications Act of 1934 47 U.S. Code [**§**](https://law.justia.com/codes/arizona/2016/title-15/section-15-117/index.html) 332 Mobile Services was “**(*1) Promote the safety of life and property***”.

In the more recent 1996 amendment, please note:

**1996 — SEC. 704. FACILITIES SITING; RADIO FREQUENCY EMISSION STANDARDS.**

***(a) National Wireless Telecommunications Siting Policy.****— Section 332(c) (47 U.S.C. 332(c)) is amended by adding at the end the following new paragraph:    (7)****Preservation of local zoning authority.****—*

***(A) General authority.****— Except as provided in this paragraph,****nothing in this Act shall limit or affect the authority of a State or local government****or instrumentality thereof over decisions regarding the****placement, construction, and modification****of personal wireless service facilities*.

Please note that the 1996 amended **National Wireless Telecommunications Siting Policy.** — Section 332(c) (47 U.S.C. 332(c)) guidance does **not change the original intent of the 1934 act to promote safety of life and property**.

**Maxim of Law- An amendment [to the original instrument] is not a repeal. [Fundamental principles are not annulled by amendment.]**

As was clearly indicated in the **previous notice**, the A.R.S. Title 9 requirements and expectations for city and town governments, not only allow for, but obligate elected government agents in cities and towns to actively participate with their residents in the decision-making process regarding WTFs. The elected agents and other instrumentalities, with the residents, are responsible to determine what is best for their city or town regarding placement, construction, modification and operation of WTFs.

You, the Mayors and the City Councils, have **failed to consider your many violations of Title 9 codes and directives, thus repeatedly violating your Oath and the intent of the law and Criminal Code governing your position.**

**Remember**, from **A.R.S. 9-276**, Additional powers of cities, the following guidance is given to cities:

**“16.** Define **nuisances and abate them**, and impose fines upon persons creating or continuing nuisances.

**18.** **Prohibit an offensive or unwholesome business** or establishment within two miles of the limits of the corporation.”

**Remember**, it is clearly indicated in the **HUD HOC Reference Guide,** Hazards & Nuisances: Overhead High Voltage Transmission Towers and Lines, **Chapter 1 Appraisal & Property Requirements Page 1-18f,** “The appraiser must indicate whether the dwelling or related property improvements is located within the easement serving a high-voltage transmission line, radio/TV transmission tower, cell phone tower, microwave relay dish or tower, or satellite dish (radio, TV cable, etc.)...

 2. If the dwelling and related property improvements are located outside the easement, the property is considered  eligible, and no further action is necessary. The appraiser, however, is instructed to note and comment on the **effect on marketability *resulting from the proximity to such site hazards and nuisances*.”**

You have ignored the very present nuisance factor of the WTFs as well as the hazard factor that results from the presence of towers in the vicinity of those entitled to **ADA or other** accommodations. Ignoring these significant issues has now put you in **violation of my civil rights**, those guaranteed in the United States Constitution and the Arizona State Constitution.

**United States Constitution Bill of Rights Amendment IX:**

“The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.”

**Arizona State Constitution Article 2 Section 4: Due Process of Law**

“No Person shall be deprived of life, liberty, or property without due process of law.”

**Maxim of Law-** An agent is a person authorized by another to act on his account and under his control.

Please note that you are agents, representing the People. Please note that your position as my agent is to do what I, one of the People, authorize and nothing more. As also indicated above, the HUD statement expressly indicates that WTFs damage the quiet enjoyment of my property, thus *depriving* me of my property, a clear violation of Arizona Constitution Article 2 Section 4.

There have been numerous, repeated attempts to communicate with and instruct you as agents. There have been emails, letters, submitted ordinances, FOIA requests, and demands to cease and desist construction of the WTFs. All of these attempts have been unlawfully ignored or deprecated. Appropriate acknowledgements and/or actions have not been forthcoming.

**Maxim of Law-** What is done without consideration or reflection, upon better consideration we should revoke or undo.

Contrary to your assertions, the Title 9 law makes it quite possible, **should you choose to make the effort**, to correct your permitting actions to be in compliance with the will of the People.

I wish for all agents to show in the relevant job description and sworn Oath, where you were given authority, in your positions, to offer preferential treatment, inducements and emoluments to companies and corporations, thereby initiating, condoning and permitting discrimination against me as a member of “We, the People.” No federal or state authority permits you to overlook the safety and rights of those whom you are sworn to serve.

**The following actions are immediately required in order to address the irregularities, deviations and violations regarding the sWTFs in Tucson of which you have been repeatedly informed**:

1. **Immediately cease** **and desist** from approving permit applications for all Small Wireless Telecommunications Facilities (sWTFs).
2. **Immediately institute a moratorium** on placement, construction, modification, and operation of sWTFs in all communities until passage and approval of a new protective Wireless Telecommunications Ordinances.
3. **Include the People of each city or town** in deliberations and decision-making regarding all aspects of sWTFs (e.g., coding and zoning, minimizing their nuisance, proximity to schools and residential zones, noise, quiet enjoyment of our streets, homes and parks, preserving aesthetics and concealment of sWTFs, adopting alternatives, such as fiber-to-the-premises (FTTP), that protect public safety, privacy and property values).
4. **Enforce 47 U.S. Code § 324** that requires minimum power necessary. Regulate operations and protect public safety (A.R.S. § 9-592(k))by limiting effective radiated power (ERP) to the *minimum power necessary* to deliver personal wireless service (5 bars on a cell phone described by the telecom industry as approximately -85 dBm). Retrofit existing sWTFs to ensure **compliance** with code.
5. **Conduct periodic city-wide “Needs Test” and test, document, and publish Radio Frequency radiation exposure levels** to ensure compliance with applicable FCC exposure guidelines for personal wireless services, and allow comparison with protective standards.
6. **Require documentation** that a National Environmental Policy Act (NEPA) review has been completed before considering a sWTF permit application.
7. **Notify all property owners within 500 meters** (1640 ft) by certified mail of any newly received applications, newly approved permits, site or equipment modifications, installation start/end date, date of activation of the antennas and description of appeals process as required by **A.R.S. 9-500.12**.
8. **Provide appropriate ADA accommodations** for disabled individuals who have been diagnosed with electrosensitivity.
9. **Require liability insurance** to compensate for damage, injury, and protective mitigation made necessary by sWTFs.
10. Immediately disclose all conflicts of interest, providing full **financial transparency** of any and all funds, gifts, and arrangements related to sWTFs, including who provided any of the latter, how they were dispensed, to whom they were released and for what purpose.
11. Immediately **comply with all open meeting laws** facilitating guaranteed nondiscriminatory attendance with ample time for public comment.

**Arizona Constitution Article 2 Section 32**

“The provisions of this Constitution are ***MANDATORY*,** unless by express words they are declared to be otherwise.”

[emphasis added by undersigned]

You, as an agent of the People, are subject to having your actions restricted if those actions are inconsistent with protecting the People’s freedom. (Article 2 section 3b; Article 2 section 6; Article 2 section 12). Every failure on your part to protect these rights is a **breach of your trust indenture and Oath of office**, to which you swore.

You were given specified responsibilities by the People. You are considered to be acting in **maladministration, malconduct, malfeasance, and nonfeasance** done **in and with bad faith** to the People you serve, when these responsibilities are not fully and faithfully completed. Such maladministration, malconduct, malfeasance, and nonfeasance done in and with bad faith to the People may result in censure, fines, termination of services, or other negative consequences as indicated in **A.R.S.** [**§**](https://law.justia.com/codes/arizona/2016/title-15/section-15-117/index.html) **38-231 C,** [**A.R.S. § 38-443**](https://law.justia.com/citations.html) and portions of Title 13.

You, as trust indentured servants, have far overreached your authority in multiple areas of public life, thus endangering the rights and liberties reserved to “We, the People.” I now require that **you immediately cease and desist** from your unlawful activities as described. You will be held accountable **separately** for each unlawful activity in which you participate.

I wish to remind you that no trust indentured servant may impinge upon or in any way harm the People’s rights to their life, liberty or property. Any such action is a **direct violation of both the United States and Arizona Constitutions.**

Any trust indentured servants or instrumentalities denying these claims are true must rebut them in the form of a sworn affidavit under penalty of perjury. Any trust indentured servants or instrumentalities denying that these claims are true must rebut these claims point by point, by sworn affidavit, within (3) days (72 hours). Failure to respond means that by acquiescence you agree that all claims are true.

Autograph (write your name) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_      Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_