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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 SBA Communications Corporation, et al.,

10 Plaintiffs,

11 v.

12 County of Navajo, et al.,

13 Defendants.
14

No. CV-24-08230-PCT-DWL

ORDER

15 Pending before the Court are a pair of related motions: (1) a motion to intervene
16 filed by a group of putative intervenors (Doc. 34); and (2) a joint motion to stay the case,
17 pending finalization of a settlement agreement, filed by the existing parties (Doc. 35). For
18 the reasons that follow, the stay request is denied without prejudice due to the pendency of
19 the intervention request.

20 **RELEVANT BACKGROUND**

21 In November 2024, Defendants Navajo County and The Navajo County Board of
22 Supervisors (together, “the County”) denied a special use permit application filed by
23 Plaintiffs SBA Communications Corporation and SBA Towers X, LLC (together, “SBA”)
24 to construct a wireless carrier facility (“WCF”) along East Concho Highway in Snowflake,
25 Arizona. (Doc. 1 ¶¶ 1-4, 37-130; Doc. 18 at 2-3.) One of the concerns raised during the
26 hearings that preceded the denial decision was that the proposed WCF “would place an
27 undue burden on disabled individuals due to RF [radiofrequency] exposure.” (Doc. 1
28 ¶ 97.) During one hearing, “the opposition spoke almost exclusively of concerns regarding

1 RF emissions and its effect on themselves, their community, and the environment.” (*Id.*
 2 ¶ 57.) Nine speakers “explicitly discussed the adverse effect RF emissions from the tower
 3 would have either on their health or on the property values in the community because the
 4 houses are designed to avoid RF emissions and the proximity of the Proposed Tower would
 5 prevent the sale of the homes to people with EHS [electromagnetic hypersensitivity],
 6 thereby reducing the sale price of the homes.” (*Id.* ¶ 59.) “[T]he Denial letter lists public
 7 protest regarding ADA compliance as a reason for denying the Proposed Tower.” (*Id.*
 8 ¶ 119.)

9 On December 12, 2024, SBA initiated this action, which raises a challenge to the
 10 County’s denial of the application under the Federal Telecommunications Act of 1996. (*Id.*
 11 ¶ 5.)

12 On April 18, 2025, the parties filed the Rule 26(f) report. (Doc. 18.) In it, they did
 13 “not oppose[] referral of this matter to a settlement conference.” (*Id.* at 6.) Accordingly,
 14 on April 30, 2025, following the Rule 16 scheduling conference, the Court issued an order
 15 referring this matter to Magistrate Judge Rateau for a settlement conference. (Doc. 23.)

16 On August 25, 2025, the settlement conference began. (Doc. 33.) The parties did
 17 not reach a settlement but agreed to renew settlement negotiations on September 8, 2025.
 18 (*Id.*)

19 On September 4, 2025, a group of individuals filed a motion to intervene in this
 20 action. (Doc. 34.) It appears that some or all of the putative intervenors may be the same
 21 individuals who spoke in opposition to the proposed WCF during the hearings that
 22 preceded the County’s denial of SBA’s application, as the putative intervenors identify
 23 themselves as individuals with EHS who reside in a “RF radiation-free Community”
 24 located close to the proposed tower and whose home values “will undeniably, precipitously
 25 drop” if the proposed WCF is allowed to be constructed. (*Id.* at 4.) As noted, the complaint
 26 alleges that nine community members raised similar concerns during the hearings. (Doc.
 27 ¶¶ 57-59.) Among other things, the putative intervenors contend they should be allowed
 28 to intervene because “[l]awsuits like this one more often than not end in a settlement that

1 allows the plaintiff to construct the proposed tower, at the proposed location, with few or
2 no conditions. Municipalities like Navajo County often seek to avoid the continued expense
3 of litigation, and the inherent negative impact on their funds, and agree to approve the
4 application that they had previously denied in order to do so. Such a settlement would cause
5 irreparable harm to the Intervenor because they suffer from a disability—Electromagnetic
6 Hypersensitivity (EHS)—which will cause them to suffer debilitating symptoms if they are
7 exposed to levels of RF radiation otherwise considered to be safe for the general public.”
8 (Doc. 34 at 3.)

9 On September 8, 2025, the settlement conference resumed. (Doc. 36.) The resulting
10 minute entry from Judge Rateau provides: “A tentative settlement was reached. The
11 Navajo County Board of Supervisors must vote and approve the settlement, the parties will
12 be requesting that the District Court stay all deadlines until that vote. A meeting with the
13 Board of Supervisors will be scheduled within 14 days of the signing of all relevant
14 documents. If the Board of Supervisors does not approve the settlement agreement, the
15 parties will contact the District Court to establish a new case management order.” (*Id.*)

16 On September 9, 2025, the parties filed a joint motion to “stay all proceedings and
17 deadlines in this matter, while they formalize and obtain approval for a settlement between
18 the parties.” (Doc. 35.)

19 DISCUSSION

20 The parties’ joint motion to stay this case, so they can finalize their proposed
21 settlement, is premature in light of the intervention request, which specifically argues that
22 the putative intervenors should be allowed to join this action so they can prevent the parties
23 from settling the action in a manner that would injure them.

24 The Court, to be clear, takes no position on the merits of the intervention request.
25 The point is simply that granting the parties’ stay request right now would effectively result
26 in the denial of the intervention request. The better course of action is to allow the
27 intervention request to become fully briefed and then resolve it on the merits.

28 Accordingly,

IT IS ORDERED that:

Dated this 10th day of September, 2025.