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Moderator: Ronnie Wauls
January 24, 2018
12:10 am CT

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What we are trying to do is to figure out, excuse me, how we can have an efficient process while complying with all of the laws and regulations that apply to us as well as to our applicants. As you may know, we followed up after we started that rulemaking process with some informational phone calls with (Tribal Nation). We've had a number of in-person visits to various places including our chairman taking some trips last summer and his staff, our staff, reaching out to have some conversations with interested Tribal Nations.

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Suzanne Tetreault: Oh, sorry. Collocations on twilight towers. Yes. The towers themselves they're already there. The document that's eventually issued will be issued by the advisory council on historic preservation. We would potentially make a request to them based on the comments we received to issue a program comment and they would ultimately make that decision.

And they've got guidance on their website explaining the program comments if anyone wants more about that. So, for today we're happy to discuss any topics related to Tribal - the Tribal role in the section 106 process that is you saw with the questions that we identified in the invitation email. We're hoping to focus on two particular areas. One is twilight towers, if we have some time, I think we'll get to that towards the end of the conversation, but if there's - if you all would like to discuss twilight towers, we can do that.

The other is that we wanted to focus on some of the questions that the commission has asked about the tribal role in the section 106 process. And we're trying to focus some discussion on a couple issues which I'll go into a little more detail. Roughly we - there are the type of information that's made available to tribes when they're contacted. How to address the question of fees either upfront fees or fees for consultants.

And the timeline for addressing instances in which a tribe that has received a contact through TCNS that's not responded to it. We'll try to divide up our time if we can amongst those issues, but I'm not going to be entirely rigid if there's more interest in discussing one than another. I don't want to cut off the discussions. And as you should know, I think we have got another call that's scheduled for February 5th.

That one will not be recorded, but we'll be raising the - an opportunity to discuss the same issues. So, if for some reason there's something you want to say, we'll do everything we can to get everyone into the phone call today while we're recording. But there will also be another opportunity if you think about, have other things you want to raise with us, we'll be able to do that again in another week or so. That being said, let me see if you all have any questions or comments before we launch into the specific topic and then we can start going through them.

Anne Edwards: This is Anne Edwards with Muscogee Creek Nation and I just wanted to make the comment that, although I'm participating in today's phone call Muscogee Creek Nation does not recognize this as tribal consultation even though you said you were making every effort possible to include tribes. My participation today does not consent that this is tribal consultation. I just wanted to make that clear.

Suzanne Tetreault: Thank you. We understand.

Kellie Lewis: This is Kellie Lewis with Kiowa Tribe and we agree with the Muscogee Creek stance on that. This is not recognized as official consultation with us either. Thank you.

((Crosstalk))

Female 2: Sorry. Go ahead (Chesta).

(Chesta): Sorry. I just said Pechanga also concurs in that.

Allison Daniels: This is Allison Daniels for Forest County Potawatomi Nation also concurs with this not being government consultation.

Elizabeth Toombs: Good Afternoon. Elizabeth Toombs with the Cherokee Nation. The Cherokee Nation also concurs with the Muscogee Creek Nation.

Patricia Garcia-Plotkin: Patricia Garcia-Plotkin with Agua Caliente Band of Cahuilla Indians. This is not tribal consultation. This is not government to government consultation. And we are merely on the phone for gathering information only.

Kim Penrod: Kim Penrod Delaware Nation. We concur with the other tribes. This is information sharing only. This is not meaningful government to government consultation today.

Gwen Terrapin: Gwen Terrapin, Cherokee Nation. We concur with Creek Nation.

Melinda Young: This is Melinda Young Lac du Flambeau Band of Lake Superior Chippewa Indians. This is not tribal, excuse me, government to government consultation.

Michael Blackwolf: This is Michael Blackwolf for Belknap Indian Community Tribal Historic Preservation office and we concur with all the previous statements from the other tribes.

Tracy Wind: This is Tracy Wind Assistant THPO for the Citizen Potawatomi Nation and we concur with the other tribes. Thank you.

Patrick Baird: This is Patrick Baird with Nez Perce Tribe and we also do not think this is government consultation.

Virgil Edwards: This is Blackfeet. We concur with the other tribes, this is not government to government consultation. Merely information sharing. Thank you.

Gary LaFranier: This is Gary LaFranier with Northern Cheyenne Nation. We concur with all of the tribes as well.

Matt Reed: This is Matt Reed with Pawnee Nation. We concur with other statements.

Martina Callahan: This is Martina Callahan with Comanche Nation. We concur with everyone as well.

Carol Butler: This is Carol Butler with the Sac and Fox Nation. We concur with the other tribes that this is not government to government consultation.

Rhonda Hayworth: This is Rhonda Hayworth with Ottawa Tribe and we agree also. We never even got the first email about this consultation. So, it can't be government to government without a formal invitation.

Diane Teeman: This is Diane Teeman with the Burns Paiute Tribes Culture and Heritage department and we concur that this is not a movement consultation.

Johnathan Windy Boy: This is Johnathan Windy Boy with the Chippewa Creek Tribal of Tribe and Historic Preservation officer. And I also concur that I'm not considering this a government consultation for a couple reasons. One for notice and I want to make it clear also that no contractor can do section 106 from my tribe.

Erin Cummings: This is Erin Cummings for the Kaw Nation. We concur with everyone else. This is not government to government consultation.

Suzanne Tetreault: This is Suzanne Tetreault. Thank you all again. I respect your views on that and hopefully, the call will still be of interest and useful to you for what

we can accomplish. And with that, why don't I dive into the first issue. Which is the information that's provided for the section 106 process.

Some of you may have been on one of the earlier calls, I apologize to the extent that this might be somewhat repetitive for you. In the process - in the record in our proceedings, we have heard industry participants say it takes a long time for us to get responses from the Tribal Nations, but we understand in response to that, a number of Tribal Nations have told us that they don't - that you all don't get complete information. And there's a question over when the sort of process starts for the review because you may not have gotten as much information as you needed upfront in order to do that. One of the things we asked about when we started our rulemaking process was whether ensuring that the Tribal Nations get the form 620 or 621 that's submitted to the SHPO would be useful. And asked about what might be the best way to get equivalent information to the tribes in the instances where the SHPO doesn't participate in the review.

And so there is no form 620/621 provided. Do you all have anything you would like to share or ask about whether requiring the form 620/621 to be provided to the Tribal Nations would allay your concerns about whether you're getting enough information upfront?

((Crosstalk))

Kellie Lewis: This is Kellie Lewis...

Anne Edwards: This is Anne Edwards with the Muscogee Creek Nation. And I just want to give an example of how I work with the ECA on small-cell projects and they were not sending me enough information on the small cells in order for me to complete a review. And the reviews were not requiring a SHPO clearance or

anything. So, the 620/621 forms were not being sent. And I couldn't provide reviews for them at first.

But Dina Bazzill and I had worked out on following projects that they would create a cover letter, mobility was requiring them to send one letter in addition to that cover letter, they would create just a small paragraph of all of the information I need for each tower or node that they were sending. And so, as long - I mean they don't have to send the 620/621 forms but as long as they include all of the information on the project if it's just in the cover letter, that comes from the 620/621 as far as we know. I need latitude, longitude. I need address, you know, or close to - where it's close to. I need all of the information that comes on the 620/621 forms. And so that was helpful and that did help expedite the process for me to be able to do responses.

Kellie Lewis: This is Kellie Lewis with the Kiowa Tribe. And I wholeheartedly again agree with Muscogee Creek Nation. We - that information is vital to us. Another thing too that's concerning to me, is that companies aren't looking at the information that we submit in - within TCNS.

They're sending things - I mean we're in the process - we're already off-sided our complex and our complex is moving a lot of the programs around. And so mail, we have our own box. And our mail these companies aren't paying attention to the instructions within TCNS and they're sending our mail to other places when it specifically states where to send it. They're not updating their databases.

And so that's slowing us down. That and not getting all of the requested information as - and that information within TCNS. And when that's not followed - when that is followed, I'm going to say that we're some of the most efficient. Our tribes. Our Historic Preservation Office.

We're pretty efficient. And we have a, you know, we have our system down and we're pretty good being within the 30 days. But that doesn't happen when we don't get the information that we need or when the instructions just simply aren't followed by the company. They need to cooperate with us also and do that. That's what TCNS is set up for. To help us both. And when that happens it goes off without a hitch.

Rhonda Hayworth: This is Rhonda Hayworth with Ottawa Tribe. And our biggest problem is we get mail for other tribes from them. Addressed to them and they send to us instead. And then they expect us to send it on to them and we constantly get mail for other tribes. We're constantly getting notices from the FCC that we didn't respond. And we can show that we have responded to them. They go oh we missed it. So, they're not checking their information and then they're blaming it on us that we're not doing our jobs right.

Ivy Smith: This was Ivy Smith with the Kiowa Tribe. And that brings up something that I've noticed as well. We get items that are not addressed to our tribe or even for those of us who charge a fee for our reviews, we're getting checks made out to other tribes.

Now part of this makes me wonder if trying to make other tribes aware of how little or how much other tribes are charging when that confidential information anyway. So, that the fact that they're sending us things that don't belong to us or sometimes for projects that are not even within our area of interest, makes me wonder how much of information - how much attention they're paying to the information they're sending us. And how much of our confidential business information is going to other tribes?

Matt Reed: This is Matt Reed with Pawnee Nation. I just wanted to kind of reiterate what's already been said. I've had several problems with companies that are either not sending correct map coordinates that don't collaborate with the addresses or with photographs that they're submitting, or they do not submit the required information that we ask them to submit during their consultations. So, the only problem as far as on our end is with the companies not with anything that we do.

Susan Bachor: This is Susan Bachor from the Delaware Tribe (Oklahoma). I can concur with everything that's been said so far because I've experienced all of it. Everything that has just been said as an example has happened to us with this process.

Allison Daniels: This is Allison Daniels from Forest County Potawatomi Community and we've also been having the same problems that previous tribes have also expressed. We have very detailed instructions and what we expect to be sent to us to complete our review. And a lot of the times we won't even get form 620 or 621. We just don't get the information. A lot of times they send us checks for places that we do not charge for. Sending us checks for other tribes. Sending information that has nothing to deal with a project that we are working on. Confidentiality issues also.

Melinda Young: This is Melinda Young with the Lac du Flambeau THPO. We've had some of the similar situations. I think, for the most part, we're pretty efficient in our process. A couple of issues we did have was we have received an email from one of our consultants, who we had worked with for many, many years and the tone was actually kind of threatening.

They were claiming we hadn't responded. They were going to report and so forth. What had happened was they had a turnover in staff there. And so

myself and my assistant found the original response and forwarded everything to them and let them know that we had in fact, responded within the timeframe necessary.

And then, of course, we did finally receive apology back, but that was one instance of that. And I had heard other remarks of tribes receiving letters and such of other tribes. We have actually received - like it would be addressed to us, but the contents inside would be to a neighboring tribe and the check. So, fortunately, we have a relationship with our neighboring tribe, we would just forward that back and forth.

And it doesn't happen too often, but that goes to what others have mentioned, that that is like confidential information that is being shared with other tribes. So, that's a little concerning. And the other issue is, we don't really have any other issue with receiving information that we're requesting. There have been instances where we would only receive a map project location and we would just send a quick email to the company and let them know this is what we need, and then they email it right to us.

Ivy Smith: This is Ivy Smith with the Kiowa Tribe again. Very much what the last representative was speaking about, when we received something in the mail, we do a lot of - we get a lot of our information from these companies digitally. We're able to do that. We have the infrastructure to do that, but sometimes when they send a check that's just a blank check, we reply to the information that was emailed to us.

So, if there's another consultant from that same company who is listed as a contact point and we send it to them, we'll get notified and they'll say, the company will say they haven't received your response when they say they sent it to the person that was indicated to us. So, sometimes some of their internal

issues and their turnover seems led on us is the tribe like we had done something that we're not supposed to. When in fact, we're responding to the point of contact we were given.

Patrick Baird: This is Patrick Baird with the Nez Perce Tribe and we've had issues with project components changing project details, changing project names, changing consult - environmental consultants about projects, changing power locations, and you know, and providing no real follow-up about how to keep track of any of this stuff and then being blamed because we're not responding to exactly the right thing even though we are trying very hard to keep track of what they're doing and party information to keep changing. And, you know, like we got some projects that are teaching us like three or four different times with we different proponents and project numbers, and projects that cancel and restarted. So, we, you know, we need almost consistency from the industry to keep these things straight.

Susan Bachor: I would also like to comment. This is Susan Bachor again from the Delaware Tribe (Oklahoma). I would like to also comment that the 30-day period, I would like that to be better described on what the 30-day response here is because I do not think it's to include weekends within those 30 days because well, it - who works on weekends?

(Unintelligible) government offices sure do not. And it's unfair to expect us to also have it within a 30-day period when especially over, Christmas New Year's; when people shut down, offices shut down. This detail needs to be defined better, this 30-day period and when that 30-day period begins.

Allison Daniels: This is Allison Daniels from Forest County Potawatomi. I'd also like to make a comment on that for the shot clock, I believe that the rules need to be made clear. The 30-days shouldn't start from when they sent information. 30-days

shot action start from when we receive the sufficient amount of information to complete our review.

And a lot of consultants have been saying that we're not making the time frame because it's passed the 30-days that they've sent it, but we haven't even received enough information to even begin the review. We don't have exact coordinates. We don't have good maps. I don't know how they expect us to complete a review without the complete information and then still use the shot clock against us.

Ebru Ozdil: Hello. This is Ebru Ozdil. I'm a planning specialist for the Pechanga Band of Mission Indians and I concur with a lot of comments. We have very specific requests that we put it on the TCNS website, but the information we receive is never consistent. And once I receive a TCNS notices for the project, it takes a lot longer than 30-days for me to receive the information from the consultants for us to review and comment on.

Johnathan Windy Boy: This is Jonathan Windy Boy with the Chippewa Cree Tribal Historic Preservation office. I have a couple points, but before I start I'd like to ask a question. Okay. At the beginning, you heard everybody say that this is not a consultation, but listening to a lot of comments that was - that I'm listening to concerns about the whole process, is this being recorded and also being considered as the consultation process for FCC?

Suzanne Tetreault: So, actually let me repeat, which I wanted to do periodically through the call. We are recording the call today and transcribing it, and we plan to put a transcript into the public record, the official record of the proceeding. That means two things. It means number one, it is officially part of what's before us that we are required by law to consider and it also means that other parties

who are interested in these issues can look at the - will be able to look at the transcript as well.

Johnathan Windy Boy: Well, I guess, you know, getting back to the points, you know, with what the other tribes are expressing is valid and that's one of the things that we're experiencing too as well as needing the 620 and the 621 plus all of the cultural resource reports as well. And, you know, when I mentioned about this not being considered a consultation process even though that I'm recognized as my tribes Chippewa officer and my resolution by the tribe, I feel - I kind of feel uncomfortable as far as making official statements into the records without having one of my elective tribal leaders sitting in the room making these because I'd sure hate to have this thing come back and bite me you know where. We're making comments on the behalf of the tribe and I'm sure that's probably how the rest of my colleagues on the phone feel as well. So, I just wanted to make that, if this is being recorded, I want to make that clear foremost that that's the reason why - or that's one of the reasons why I am not considering this government consultation because I have no elected new tribal leader in the room on the call with me.

Suzanne Tetreault: This is Suzanne Tetreault. I think we fully appreciate that some of you all are - would like a recorded call and transcribe the call and that some of you may be more comfortable if the call is not being recorded. And that's why we've offered both options. If there are things that you would like to express in a separate conversation that's not being recorded, I would really invite you to join us on the next call that's scheduled and take that opportunity as well.

We're not trying to discourage anybody from participating. We're trying to actually offer multiple ways of doing it in response to some of the concerns we've heard about whether conversations are recorded or not. So, I fully respect and understand what you're saying and I'm not going to assume that if

you don't say something on this call that it's not important. Anything else anyone would like to say on this topic?

Well, if it occurs to you later, I think we can squeeze it in. That's fine. Thank you all for sharing that information. I think that's very helpful, you know, we are cognizant of the fact that you can't very well respond if you don't have the information you need to respond. So, we did want to explore what would be useful and, you know, where that trouble spots might be.

Let me then move on to the next topic, which is fees for Tribal participation in the review process. Let me give you a little background and try to help you understand why we're asking the questions we're asking and then again, I'll invite you all to weigh in and tell us what you would like us to know. Number of factors have come together to make the fee issue of critical importance to this agency.

Part of it is simply the fact that there are a lot more deployments and there are going to be a lot more deployments of infrastructure in the future, as I said earlier, there may be ten or a hundred small antennas deployed when in the past somebody might have been putting up a single tower. In addition, as you know the process has evolved there have been more tribes participating and requesting fees for their participation than say 10 years ago. To some - for some tribes the amount of the fees they're requesting has increased. To impact on infrastructure deployment has reached the point where it's very significant.

Our concern is making sure that the country overall has access to the most up-to-date technologies and the most up-to-date services that can be provided with them within the context of making sure that we also satisfy our obligations under the Historic Preservation Act and any other laws that are

applying to us here. We've never really given guidance on whether it is - whether our applicants are required to pay tribal fees or not. The practice has developed and they've largely been paid, but we haven't weighed in on that. And so what we identified when we started this proceeding is that now may be the time that the Commission needs to say something about how we understand the process to work. What we understand to be the obligations of our applicants to pay fees.

And we understand, you know, we've heard a number of you express views that as a sovereign nation you are entitled to request fees. And we don't intend to question your authority as a sovereign nation. What we are looking at is under U.S law, under the Historic Preservation Act, and the FCC's rules, and our programmatic agreement, and the interpretations of the Advisory Council on historic preservation, what is required of our applicants.

And so we've looked - let me open the discussion, well on two things. They're sort of two types of fees as we think about it that are being charged. Some are what we often call upfront fees. The fees that are charged before the Tribal Nation will respond in any way to a submission that's been made. A fee for essentially participating in the process.

The other is the question of when a Tribal Nation should or must be hired as a consultant, or a contractor, or a monitor and paid to provide services in that capacity. And we're looking at both of those things. The ACHP has given guidance a number of times and I think it's fairly consistently has expressed two points. One there are circumstances in which a tribe is in fact acting like a contractor or consultant being asked by an applicant to provide specific information, or conduct a survey and do something specific.

In those instances, the ACHP says you would expect that the tribe would be compensated. At the same time though the ACHP says that no party in this section 106 process of tribes or other parties. No party is entitled to be paid for simply providing its views. We are trying to understand and give guidance on where the line is between those two things. And we are very interested in understanding how you think of where the line is between those two things, if you accept this premise what the ACHP says that applicants do not have to pay fees to people merely who are expressing their views, when would you say - what would you say distinguishes that from the instances in which you believe that fees do have to be paid? So, let me show...

Anne Edwards: Can you verify where...

(Unknown speaker): Oh, God. Where do we start?

Anne Edwards: I'm sorry. This is Anne of Muscogee Creek Nation. I have a problem where - with you saying paying for expressing our views. Could you clarify what you mean by that?

Suzanne Tetreault: You know, I think the ACHP guidance is, as I see it, talks about providing views, expressing opinions. I think there and, you know, I'm somewhat speaking for myself at the moment, you know, to try to be responsive to you. I understand them to be saying if you have invited a Tribal Nation to express a view on whether historic properties will be impacted, that is participation in the section 106 process, perhaps as sort of a tribal government and not a contractor service as opposed to if I have an applicant can come to you and say gee I don't know what's out there, I would like you to conduct a survey because I think you're very well qualified to do it. That seems to fall on the contractor's side of things. And to say to some extent, you know, I'm very

interested in what you all think is the dividing line between those two things. Given that the ACHP guidance is out there.

Anne Edwards: I think it's going to be important to comment. I think it was Kenny Wheeler from the Kaw Nation shared this on Monday's call. Is that qualifications is going to play an important role in expressing views because no one else out there is qualified to express views for the Muscogee Creek Nation except a Muscogee Creek citizen. And what qualifies me is that I was born into this tribe.

I was raised in culture and tradition and we've not lost our cultural traditions for years now. I mean many years. I mean, yes some of that's fading away, but for the most part, our culture is alive and thriving. And I kind of take offense at how that is put because I'm not giving my personal views, I am filled with knowledge of my tribes history and culture. It is a very rich knowledge. Very deep, very thorough and whether consultants or contractor, there's nobody who can fill my shoes to do that.

Suzanne Tetreault: Thank You. This is Suzanne. Can I - before just for take a moment to sort of go back to the question of what does it mean to provide views versus being a contractor. One way I think you can think about it is by comparison to the SHPO role in the process.

When the tribe or when the SHPO is provided with information and asked to respond, or invited to respond or comment on that information, that I think is what, you know, providing views. When you're - you as a tribe are being given the same opportunity as the SHPO other interested parties to weigh in as opposed to when you're being asked to find the information. If that makes sense.

Kellie Lewis: This is Kellie Lewis with the Kiowa tribe. First of all, this isn't an invitation. You're required - these companies are required to consult. So, this isn't, you know, it's not like oh here's an invitation. You guys are visitors to this. No, no, no. We are stakeholders in this. And we need to be treated and talked to as stakeholders.

Another thing too, y'all need to realize something that we have legislators. We all have inde- we're all responsible to independent sovereign nation. And that leadership, and those legislators, and those committees they determine these fees and how our programs operate. And they know that what they need to protect their resources.

And they have the right to set fees and to set guidelines and how to do that. And these - and just like Anne was saying, the Muscogee Creek Nation, they know how to best protect their resources. The Kiowa Tribe, we know how to best protect our resources. And for some other nation, the United States or another Indian nation or whatever to say that were not stakeholders or to minimize our involvement in it is offensive.

Female 1: I concur.

Nikio Williamson: Yes. This is Nikio Williamson with Nez Perce Tribe. I just want to make a comment in regards to the correct discussion. You know, we don't we don't require upfront fees for our participation, but we do believe that it's the responsibility of the component to carry the identification and evaluation process out in, you know, similar to the other tribes we believe that it's - we're the most appropriate ones to carry out that. We don't contract that type of stuff out.

Its stuff we handle ourselves and carry out that process ourselves. I guess the issue we have with the whole issue with the little fees is - well we have problems just when we have tribes that are located, you know, a thousand miles that have no connection to this area are asking for fees from, you know, from projects that are within - clearly within our reservation lands in our usual custom areas. So, that's some of the issues that we're having in this regard, but we do feel that we're the most appropriate entity to be carrying out a lot of this identification, especially when it comes to traditional cultural properties.

Suzanne Tetreault: Thank you. This is Suzanne again and I apologize for jumping in. I am not trying to sort of force you all to answer questions, but I'm trying - I like to throw something out there to see if it's helpful to you in the conversation. What one of the things - what we're attempting to understand and give guidance on is the ACHP appears to acknowledge that there are certain activities for which compensation is not required.

And people may disagree on what those activities are, but they do seem to have as their starting point. There are certain activities for which compensation is not required. If we're in your view misinterpreting or on the road to misinterpreting where that is, we are very interested in whether you have thoughts on where is the appropriate line. This is why we're asking these questions.

Ivy Smith: This is Ivy Smith with the Kiowa Tribe. On that note right there, my question is does - it's been phrased that no one that participants, no parties as part of the process are required to pay anyone else. Do these companies pay FCC to file these applications?

Suzanne Tetreault: There are filing fees for licensing and application fees, but not for the 106 process.

Ivy Smith: Okay. Well, the process included as part of - this is part of the process, the filing fees. Well, for us to protect resources for our individual tribes. For us to gather information and safe keep it because as you'll notice with many federal agencies, tribes not disclosed information they are not required to disclose. They won't do it to these agencies, why would they do it to these independent commercial contractors? We are trying to provide them with our information, our knowledge to protect resources at the same time not disclosing specific location were buried for obvious reasons. So, why should we not also be entitled to have a fee, so to speak, process?

Suzanne Tetreault: This is Suzanne. I would just come back again to the ACHP guidance, which acknowledges that there is not a required payment in all circumstances and we're trying to figure out and understand when that is.

Susan Bachor: This is Susan Bachor from the Delaware Tribe. Consultation as far as you're staying consultation as far as someone physically going out to this location and completing a survey. Well, the views that are, and I use views loosely, the knowledge that Tribes our supplying is something that is part a consultation and it is part of - it does require work and it does require background and it does research.

And the tribes have to pay for this. They have to pay somebody to do this research. So, regardless it is still part of consultation. There should not be a division as far as views and/or consultation. It is all consultation. You are asking for specific knowledge from these individual groups.

Johnathan Windy Boy: This is Jonathan Windy Boy. I have a comment you know as far as some of these fees and there's not a requirement for whatever. Why not? Because when the - at the end of the day when this requirement of section 106

consultation, the expectations of the tribes are to go out to a site, do pedestrian survey at our expense.

But yet you have all of these other fees that these companies that tack on to the consumer, but yet they have no - there's no recourse on behalf of consumer to question that. But here we are the tribes having this 106 as part of federal law as a requirement and we're being called in question why should the tribes have the ability to set these fees? It kind of makes - kind of makes no sense as far as some of the reasons of why the tribes should not be allowed to set fees as such as accordingly. Most of the time, you know, most of the tribes that are setting these fees for consultation, the monies that we charge is barely recuperating for the expenses that we have for per diem travel, motel and everything on our part. And you guys are expecting us to do it for free?

Suzanne Tetreault: This is Suzanne. I would just go back to - we acknowledge that ACHP guidance's sometimes it's appropriate to be paying for work that's being done and we're trying to discern where the dividing line is between yes you should be expected to pay and no you are not required to pay.

Susan Bachor: There shouldn't be a dividing line. If we are asked about our resources and we have to answer, which we are mandated to answer, then we should have the right to ask for fees. As far as the SHPO not charging and the SHPO knowledge and THPO knowledge or historic preservation knowledge is different.

And the rules that governed both of these bodies, the tribal bodies, and the SHPO bodies are different. So, they should not be held on same level. Just because the SHPO can give their opinion and not to have - not charge a fee does not mean that the tribes also should have to adhere to that same format.

Jeff Steinberg: I'm sorry just for the record, who was that speaking?

Susan Bachor: I'm sorry. Susan Bachor of Delaware Tribe.

Jeff Steinberg: Okay.

((Crosstalk))

Bambi Kraus: Question for the FCC, if you don't mind. So, with TCNS being created in 2004 and tribes have been charging fees basically since then, so at least a 10-year history if not closer to a 14-year history, what's different at the FCC that is requiring you now to ask the tribes to change the process?

Suzanne Tetreault: This is Suzanne. As I was suggesting earlier, the impact of the fees for a variety of reasons has become more significant than it was in the past to the point that we feel we have to take a look at it. As I said, partly it's a simple function of the fact that if you charge a fee for every deployment, the number of deployments is skyrocketing because the technology has changed so that you're putting out lots and lots of small cells; small antennas rather than just collocating some things on a large cell tower that you review once in the collocations that are excluded.

In addition, over time more tribes have charged fees and the areas of interest in which tribes are charging fees has been expanding - the amount of fees has been expanding. And I would say even since we started this proceeding last spring, we've seen that trend continuing, tribes expanding the area, increasing the fees, charging fees. So, it's the cumulative effect of it that has made it become more of an issue than it was previously.

Jeff Steinberg: Bambi this is Jeff Steinberg. I'm going to add a little bit here just because I've been doing this a lot longer than Suzanne has and I can speak to some of the historical aspects of your question. Yes. You know, as you observed there have been some tribes that have been charging fees pretty much since the beginning of TCNS.

And again I'm focusing, you know, the primary attention here on the ones that are, you know, per site across the board, you know, like... We have had these questions that we're raising now about the ACHP guidance. We've been debating these questions at the FCC all that time. It's not that this is the first time or the last two years is the first time people have questioned them. I think we've, you know, I don't - I can recall having some meetings certainly with representatives of individual tribes early on to talk about this.

I don't recall how much we raised it, you know, with NATHPO or at the broader level, but these are difficult issues and we've struggled with them. And at a point when there were not so many deployments going on, which is I think really the big factor, but also when the typical fees tended to be smaller and they were not at the current amount per site, it just was not the same kinds of impact. So, while these have been sort of in the back of our minds the whole time and sometimes even more than that, it's only within the last couple of years, I think, that, you know, that because of circumstances, there have been the same kind of imperative to address these issues that, you know, that have really been there all along.

And, so that's why it's, you know, sort of, I think that we're taking a very serious hard look and we respect everything you folks have to say, and are taking it into consideration. That's why, I think in the, you know, the why now, why within the last couple of years, so much.

Kellie Lewis: This is Kellie Lewis.

Anne Edwards: This is Anne Edwards with Muscogee Creek Nation, and I would just like to interject that, because of all the reasons that you just stated, Mr. Steinberg that, that is the very reason why industry needs to be brought to the table. Let's have some discussion face to face with them.

And the fact that they're continuously being left out, leaves a big part of this factor of negotiating fees off the table, just for the simple fact that they're not present. And they're not showing a presence other than, you know, through lawyers or private meetings with you, or whatever.

But they're not coming to the tribe. They're not all coming to the tribes. We haven't received a phone call from any one of the companies in industry. And, you know, I'm not reaching out to them. If they want to communicate with us, you know, well, come on. Let's, you know, let's sit down and have some discussions. But that hasn't happened.

And so, you know, I'm sitting here reading the ACHP's summary as to when payment is appropriate. And then it also says, that when an agency or applicant seeks information or documentation, that it would normally obtain from a professional contractor or consultant, not one or the other, either/or, then they should expect to pay for the worked product.

And so, if fees - I mean, I'm told everything will come by these companies that, you know, it's not the money, it's the time limit on getting the responses, you know, and currently I am having a hard time getting responses out on time, because I am just overwhelmed with projects.

Kellie Lewis: This is Kellie Lewis, I'm sorry, I'm sorry.

Ann Edwards: That's okay. But my point is, is the ACHP office says that. But that doesn't seem like anything that you guys are focusing on. Whether we are consultant or contractor, it doesn't matter. They're asking for the same information that they would ask from another professional. So, they should expect to pay for the work that we do.

Kellie Lewis: Absolutely. And this is Kellie Lewis. I'm sorry. I didn't mean to interrupt. I think I have a delay in my phone here. I wonder if the, I wonder if anybody knows how to do anything about that.

But anyway, my - to that effect - another thing, these companies have (unintelligible) the rising cost of business to the consumers, and everything. Well, the cost of doing business, our business, and doing these reviews, and traveling, and doing all that, all of that stuff's getting expensive, too.

Everything is getting more expensive, and it's getting more expensive to run our programs the way that we need to. And so - and another thing, too, just as you said, Mr. Steinberg, we have many more deployments, many more deployments. Well that's more work for all of us, too.

That needs to be - you all need to consider that, too, that all of these projects, they're coming across our desk, too. Sometimes not the right projects, and that slows us down as well. So, and I totally agree. Industry needs to be at the table, face to face, with the tribes, if there is any hope of getting this settled, instead of pushing the FCC to do their bidding.

Danae Wilson: This is Danae Wilson with the Nez Perce Tribe. And I'd like to make two distinctions here. You're talking about small cell technologies, 5G technologies, where you're deploying multiple in a small geographic area.

For most rural reservations, 5G technology isn't even going to be implemented. So, tacking on this review process, and talking about fees, in terms of implementing small cell technologies, isn't even going to affect rural reservations. So, this 106 process review the premise we're doing this under, clearly is in favor of industry.

The other thing I think we need to keep in mind, too, is, many of these deployments are subsidized by the Federal government. They are either getting Phase Two funds, if they're a wire line company or they could potentially be getting mobility funds.

If they're already subsidized by the Federal government, and they're providing the service as a true subsidy, then the fees shouldn't even apply, because our...excuse me, the question of fees shouldn't even apply because they're getting paid by the Federal government to deploy.

Michael Blackwolf: This is Michael Blackwolf from Fort Belknap Indian community. THPO for the Fort Belknap Indian reservation. I would just like a quick clarification. I know both Suzanne and Jeff had stated earlier, basically you guys (unintelligible) impact of these fees triggered this. Can you guys further clarify and define the word, impact?

Suzanne Tetreault: This is Suzanne. All right. I think what we mean when we say, the impact of fee is, sort of, the cumulative effect of the fees when you multiply the numbers of antennas necessary to provide service that have to then undergo review, the number of tribes being paid, the amount being paid.

It becomes, in instances, a very significant portion of the cost of actually going out to provide service. Fees in the 106 process have now become a non-trivial amount (unintelligible) expense of the deployment.

Jeff Steinberg: What matters to us -- this is Jeff Steinberg -- as an agency is ultimately the impact that that has on service getting out to the American people, which is our statutory mission. We don't care, in and of itself, about a large company having to pay lots of money. It's the fact that ultimately it runs contrary to our statutory mission of getting service to the American people.

Allison Daniels: This is (Allison Daniels), from Forest County Potawatomi. Has the FCC ever taken into consideration when the industry is given these amounts of monies for the fees they're paying? Have they ever brought up the wrong checks that they're sending, checks they don't need to be sending, paying fees that they don't need to be paying, the checks that are returned?

Because, I know our tribe ourselves, we've sent back probably \$10,000 in checks in the last four or five months. Is that being reported also, or is that \$10,000 that they made the mistake of sending, still being considered as what they have to pay when they don't pay it in the end?

Suzanne Tetreault: This is Suzanne and I take your point. I will say, I believe we've seen this in our official record and some of your comments, and so, to the extent the companies were not aware of this before. Hopefully, they have become aware that they are making mistakes. But, I take your point. (Unintelligible) about that.

Michael Blackwolf: Suzanne, Michael Blackwolf, Fort Belknap, once again. Just really quick, this will just be for my own personal information but it will benefit others on the call. Can you give me an exact number of how many tribes are

participating in TCNS and how many of those tribes are actively charging fees?

Suzanne Tetreault: I do not -- this is Suzanne -- know off the top of my head, but someone else in the room may.

Jill Springer: Hi Michael, this is Jill Springer. We have been looking into that data, and based on the amount of tribes that are logging in, we can see that more than 200 tribes are actively checking their TCNS notices, that is over the past year, and we can see in the details that tribes provide, in terms of what they are instructing consultants, just under 100 of these tribes - I'm sorry, 85.

About 85 of the tribes note some kind of fee, or mentioned sending checks and give the instructions to contact them for an amount. And then we're aware from referrals or various other things of about another 10 tribes who do charge fees.

So, from our knowledge it would be about 95 tribes that we're aware of charging fees, and more than 200 tribes who are checking their TCNS notices on a fairly regular basis.

Ivy Smith: This is Ivy with the Kiowa tribe, and what I want to add onto what she just said, is that these companies are having a difficult time dealing with the, say 200 tribes that are participating. There are over 500, almost 600 federally recognized tribes in the United States who all have the statutory, the right to consultation.

So, even if, per se, no one charged more than \$100, if they had to take that into consideration, they need to. Because if we're getting problems with that now, imagine if more tribes, as we encourage more tribes to get involved, and

try to get involved with the TCNS process in the Section 106 review process, when these other tribes start getting more onboard, what are the issues and the complications going to be looking like, for having such an issue now with only approximately 200 tribes participating?

So, these are things that we have think through on our end, because we're not trying to make it harder for each other, and we're not trying to make it harder for these companies. We're trying to protect the tribes' rights, and we're trying to get the respect that we are due at Sovereign Tribal Nations by this industry that is for profit. And, like it was stated earlier, it's sometimes subsidized by government agencies.

Bambi Kraus: Sorry, this is Bambi. I had a comment and a question. The comment is, just demonstrating success of the Federal program, in terms of historic preservation.

So even though it may hurt the existing THPOs, it's always a great thing when more tribes start operating THPO programs. It's exciting. It's the fastest growing segment of historic preservation, what the tribes are doing on the ground. So, I'm sure the FCC wants to continue supporting another successful Federal program.

My question is, what options is the FCC considering in, when we're talking about fees, whether a tribe's consulting, or contracting, and the timing of it? What are - what options is the FCC considering?

Suzanne Tetreault: This is Suzanne. I mean, I think it's fair to say that all the things we ask questions about in the Notice of Proposed Rule Making, that started this process, are things that are under consideration.

And, I should have brought a copy with me, but I don't have it in front of me - are (things) we asked about. When should the - when are the applicants required to pay fees, and I think we asked also whether we should give any guidance on the amount of the fees, that they should be required to pay.

So, you know, do you have to pay, how much do you have to pay, when do you have to pay, for what things do you have to pay, which I think goes back to, you know, my point about the ACHP guidance and trying to understand if we, you know.

I appreciate that some of you, I think, disagree with the ACHP Guidance, but from our perspective, we're a Federal agency, they're a Federal agency. They are the experts that interpret the Historic Preservation Act, and the regulations under the Historic Preservation Act.

Until we really - we have to look to them for guidance, and understanding their guidance on when fees need to be paid. They have indicated that there are activities providing views, whatever, you know, that means, which is again what we're exploring.

But there are activities for which fees do not have to be paid, and there are activities for which a tribe, quite reasonably, can expect to be paid. And so, we're exploring and have on the table, giving additional guidance about where that dividing line is.

Michael Blackwolf: This is Michael Blackwolf, Fort Belknap, once again. If, and I know they are, but I'm just going to say, if the ACHP is such an integral spoke in this wheel of, tied up into this TCNS stuff, then why are they not involved with this call today?

Suzanne Tetreault: This is Suzanne. This is our rule-making process, and so, we have reached out to you all. If there's an interest in speaking with the ACHP, we're certainly happy to let them know that.

Anne Edwards: This is (Anne Muscogee Creek Nation. There's an interest for...to have industry at the table. Have you guys let them know that?

Suzanne Tetreault: Not entirely sure exactly what discussions we've had, but I know we have heard back from you all this week, and previously, and so, we'll discuss that with our bosses here, how to respond that.

Kellie Lewis: Can I ask why it wouldn't have been discussed already? They have industry brought to the table, and tribes have been asking to have industry brought to the table for months, and months, and months.

Suzanne Tetreault: This is Suzanne again. I wouldn't say that we've had no discussions, I guess. I would more accurately say we haven't decided how to proceed.

Jeff Steinberg: So, we will reiterate -- this is Jeff Steinberg -- to our management that this was asked again.

Suzanne Tetreault: Yes. Absolutely.

Bambi Kraus: So, this is, Bambi. Going back to the question about what are some options the FCC is considering. So, I'm very familiar with your NPRM, 55 pages, and -but just to try and move the discussion forward. So, are you considering saying the tribes can't charge fees? Are you saying tribes can only charge fees when - under certain conditions?

Suzanne Tetreault: They're among the questions we asked about. This is Suzanne.

(Bambi Kraus): The questions in the NPRM, or you're decided you're discussing...

((Crosstalk))

Suzanne Tetreault: The NPRM). Anything - this is Suzanne again. Anything that's in the NPRM, I think you can assume it's still on the table as some things we would consider doing.

Bambi Kraus: Okay. So, again, I'm familiar with that, but that, for example, that's not an option, to stop paying tribal fees altogether. So, if the FCC is considering that as an option, that's my question. Is the FCC considering that as an option?

Suzanne Tetreault: Well I think -- again this is Suzanne -- I would go back to my point that, the ACHP guidance suggests that there are some activities that do not require the payment of fees. And we're trying to identify what those are.

Bambi Kraus: My understanding of the ACHP guidance is that it's up to the Federal agency.

Suzanne Tetreault: In the sense that - could you expand on that?

Bambi Kraus: Well, I'm just saying that, they say that tribes - well, any consulting party can charge fees, but it's ultimately up to the Federal agency. That's my understanding. In a quick and dirty world.

Jeff Steinberg: This is Jeff. I think you are correct and no one is going to challenge that the ACHP Guidance does not say agencies are forbidden to pay fees, under any circumstances.

Bambi Kraus: Right.

Suzanne Tetreault: Yes. Anyone else?

Susan Bachor: It sounds - this is Susan Bachor from the Delaware tribe. It sounds to me they cannot come to a - they cannot have effective decision or a conversation on where that line between consultant and views lie, without having some definition from the ACHP on what exactly is considered a view as opposed to consultation. There's no lines here. There's no sure definition. So, we can't have an accurate conversation without having these things defined.

Virginia O'Boyle: Hello, this is Virginia O'Boyle, with Sisseton Wahpeton Oyate.

Suzanne Tetreault: Excuse me, Virginia, this is Suzanne.

Virginia O'Boyle: Yes?

Suzanne Tetreault: There's a very loud noise in the phone. And I'm not sure if it's coming from someone else's phone. If there's anybody who hasn't muted - thank you. Sorry about that Virginia. Please go ahead.

Virginia O'Boyle: Is that better?

Suzanne Tetreault: Yes.

Virginia O'Boyle: Okay. It may have been my headphones I was using to make sure we didn't get feedback. It seems like they are trying to define between when the THPO departments are doing consultation work, and trying to find out if we're just rubber-stamping some sort of opinion.

And, during a lot of these phone calls, I'm seeing every single THPO department processes these projects set to either their department rules, their tribal rules, and I don't know if they're looking for us to give examples of the type of work we're doing, to see if it qualifies as consultation work.

Because, for example, our THPO department houses, and it's beginning to digitize, a data base that's a unique database of our tribes' historic properties that are the properties important to our tribe, based on our history that we have. And, every time we're requesting information from these companies to give us the exact location of where they are going to put a - where they're putting a proposed project. We are looking at the SHPO records of all of the properties that the state already knows about and that are on file, we're cross referencing that with our database of what sites the tribe has that we know about that the SHPO doesn't know about.

And that we are the only ones that know that these properties are important to our tribe. And we also house archival material that we are geo-tagging to say where it came from. Geo-tagging elder histories, elder or histories, not geo tagging where they are talking about. And telling us about where things have happened historically, and have elder boards that know the oral histories.

And so I don't know if they - if these companies don't realize the work that we are doing on our end. And I don't know if we need to start, I guess, putting that information out there more. That there is a lot of important work we are doing.

It isn't just you are sending them back this formal letter which we are going to process yet there is a lot of work that is going on at our THPO department level that I don't think they realize what we are doing. And at our THPO department we are using a website to time stamp when the company is

sending us in their material. Because like your first question there, we aren't getting all the information sent to us right away.

And many of these companies will start emailing us and sending emails to the companies that are subcontracting from. Saying we submitted this information to the FCC's Tower Notification System back in October. How come you haven't sent us a formal letter of finding yet? And then we'll look into our Web site and they submitted their project to us one week ago with their maps, maybe they're 620, 621 forms, maybe they're archeological reviews of the site.

A lot of times they don't until we email them and ask for it again. But they're going off of that original date of when they submit their contractor's information of who the person is that we are supposed to contact for information and a legal location. And that's all that's on the tower notification system. There's nothing else for us to go off of. And so we can't even begin our project until - or begin processing their project until we receive all this information.

And statistically now that we have years of this work, we're not receiving this information from the companies for a month to three months on average. And so there is quite a bit of a lag between when the date that the project is submitted to the FCC Tower Notification System and when they actually send us the material.

We've had companies that will send us just the dot on the Google Earth Map and when we call them up and ask them for the archaeological reviews, they'll say there's snow on the ground we can't even get an archaeologist out there for maybe a few months. We just thought you'd want the information as soon as possible.

But then it is sitting in our website looking like we didn't get the work done. When really we're sitting there waiting on the rest of their information. And this happens, where I have to forward this information onto the FCC helpline it seems like a few times a week.

So we just wanted to let you know that we are doing consultation work. And we are definitely having difficult times getting hold of all the information from the companies to be able to begin that clock. Thank you.

Suzanne Tetreault: Thank you. This is Suzanne. We, you know, it's good to have this on the call because, you know, as I've said before and I'm sure repeating using this opportunity to repeat in case anybody else has joined us. We're recording it and we are going to put a transcript into the public record. Other interested parties, including industry will have the opportunity to know what concerns you all are expressing to us today.

And I know there is, you know, there is sort of a tension between giving an early notification that a project is coming along is not being the same thing as giving the full information which is really why we started with that first question about what would be sufficient information to actually do the review. So, we appreciate that problem.

Jonathan Windy Boy: Hello Suzanne, this is Jonathan Windy Boy again, Chippewa Cree Tribal THPO. I have a, you know, I want to back up a little bit about the comment that was made about the SHPOs not charging fees and all of that stuff. You know, it probably is so, but for the most part a lot of the work that we're doing as SHPOs are providing the information from all different perspective that they do not have to do the work.

Their work has been done over a course of - over the history. And I'll give you an example as to some of the departments under the federal government that are required to report to have a final report, they're being (us) and getting the tribal take on a particular site.

And then they have to in turn send their final report to get final approval through the state's historic preservation office. So that process is already done and whether they do their fees or whatever I don't think is an issue right now.

And the way I am understanding that, the first part of the call here is talked about was that the Super Bowl is right around the corner and I have a feeling that is kind of a eleventh and half bar that we need to provide something beforehand, before the Super Bowl does become an issue again. So I just wanted to make that comment as far as the SHPO and the Super Bowl.

Suzanne Tetreault: Thank you.

Emma Filestill: This is Emma Filestill, Fort Belknap Section 106 Coordinator. I have a, (I don't know), comment about industry. It would be really good if we might look at industry and looked at their numbers. How much they are paying to the tribe for these reviews on their polls. It would, you know, really give us a good idea of how much of their budget they're using for this.

Suzanne Tetreault: Thank you.

Michael LaRonge: Hello this is Michael LaRonge, the THPO for Forest County Potawatomi. I guess I would like to address the SHPO fee issue. SHPOs don't typically charge for reviews. However, SHPOs are independently funded so every

SHPO has their own budget, you know, in the federal budget they have their own line.

The THPO Program is funded out of a single pot which is not increased regularly no matter how many other THPOs are added. And so the work that the THPOs do is under-funded by definition.

The money we get is really a pittance compared to what the SHPO departments get and the amount of staff that they have to do their work. They are also looking at information provided. They don't do the archeology report generally, some do.

Generally, they receive that information from professionals who were paid for their work, and so they are literally just reviewing the recommendations of those professionals. They are not providing any additional viewpoints. They might dispute the findings of the paid professional, the contractor, but by and large they are not accessing additional information, which the tribes are.

So I guess it for me the whole SHPO fee is a non-starter. It doesn't make any sense to even make that argument. I just wanted that on record. Thank you.

Suzanne Tetreault: Thanks.

Jonathan Windy Boy: I want to thank you for that, the speaker who just spoke. Because that was a clear and straight answer and that's one thing that we are lacking here is straight answers from - not only from the FCC but also from industry. So, you know, that just proves a point right there about the lack of information being shared with us.

Amy Burnette: This is Amy Leech Lake Band of Ojibwe. I would also like to thank you very much for saying that.

Suzanne Tetreault: Anything more? Okay, this is Suzanne. Why don't we take up another topic and as before, I doubt that I'll need to foreclose you from coming back to this one.

One thing I just wanted to mention another of the issues that we are thinking about sort of sooner rather than later is looking at our process for how to handle a lack of response, a legitimate - and I understand there are some disputes over whether there has been a lack of response.

But instances in which in fact the company has put information about a project into TCNS and does not get a response. Right now, we we're using a process where we require after 30 days go by that the applicant make another attempt to contract the tribe and if they still get no response they come to us and then we give a third attempt.

We are looking at whether three attempts over that period of time is really necessary or whether or whether there may be room to shorten the time period if there's, you know, if there has been say potentially two attempts to reach the tribe as opposed to three. I just want to I realize this may not be as significant an issue as what we've just been talking about but invite you if you have any thoughts process to weigh in on them.

Anne Edwards: This is Anne Edwards with Muscogee Creek and I have a situation where I have I'm just overwhelmed with projects so it's not that I don't respond, I am just behind on responding. A lot of the companies that I work with know that I'm really good about responding.

However, I've been told that mobility is requiring their companies who are doing projects for them to once a project has reached its 30 days to go ahead and inform the TCNS notification system that the system I don't know, it just makes it sound like I haven't been communicating at all with these companies and so when I respond to the TCNS notification system I include everybody that I have already responded to an email and letting the know I'm just running behind.

If these projects become a priority, I ask them to let me know and I try to move them up ahead and get them out as quickly as possible. I'm the only one from my tribe and providing TCNS responses right now. Some of the other employees are helping as they can as their job allows them to help get the responses out to make it a little bit quicker.

But it's making it seem as if I don't want to respond at all, and I am not one of those tribes that will do that. I think it's bad customer service and I convey that to all the project managers that I have to deal with, but they insist on letting me know that now it's the process of these companies are saying, you know, once it's 30 days you notify TCNS and we'll push it through.

Every time I get a notice either from the company or from TCNS I have to stop and respond to those so that causes another delay I mean to the point sometimes where from some companies I'm getting so many status requests that I'm replying more to status requests than I am to the TCNS projects.

As far as tribes that aren't responding, I mean we've said this before, I think it bears repeating that all tribes who are running a TCNS program should not have to bear the responsibility of a simple few that are not responding at all, and I think that it's the responsibility of the FCC to contact the tribes that aren't responding at all directly.

And not - I don't know how you would say discipline all of the tribes across the board or whatever punish them or however take something away from all of the tribes simply because a handful of tribes aren't participating.

Suzanne Tetreault: Thank you.

Allison Daniels: This is Allison Daniels from Forest County Potawatomi again. I would like to point out a lot of things. Consultant companies aren't updating their contact information even though when we send the reply on TCNS we have the exact instructions, who to contact, where to send stuff, what we need. They're still contacting old contacts that they have in their system and the referring it to the FCC after they don't have a response, but they're not even contacting the correct person and if they were reading the information we send from the get go from TCNS a lot of that wouldn't be an issue.

Suzanne Tetreault: Thank you. That's useful to know. This is Suzanne. Anyone else?

Ebru Ozdil: Yes, this is Ebru Ozdil from Pechanga Cultural Resources. I think this goes hand in hand with the first you know discussion that we have about, you know, the comments proposed by (unintelligible) Communications undertakings. I think it goes hand in hand. We do not receive some of the notices that, you know, 30-day notices that we receive from a TCNS we don't receive the comments way later.

At the same time, we have several incidents that while we in consultation with the consultants doing site visits we have notices from you guys stating that, you know, this is the third notice, please submit your comments while we have the email correspondence going back and forth with the consultant and the industry and have a very detailed discussions about the location of the salt

tower and also the archeological report and the testing plans that they were going to have.

So, it is really frustrating when we have a detailed consultation, but meantime, you know, there's no that information doesn't relate to you and we got the emails from you guys. So, I think it's a work in process and it just needs to have a better procedures and, but so far we've really do, you know, appreciate the getting notices from you guys it's just sometimes it's really frustrating for the consultants to not relay that information to you guys or through the system that we are in consultation.

Suzanne Tetreault: Thank you.

Patrick Baird: So, this is Patrick Baird with Nez Perce Tribe and I guess one of the comments that I have for the whole conversation in general is that there's just a lot of really imprecise use of returns and language, and it's really not very helpful.

I mean consultation doesn't mean the same thing, you know, in all context, you know, and I think that all of us would benefit if we're a lot more precise with our use of language as well as with the regulations and exactly what they say rather than maybe how we would like to have them interpreted. Thank you.

Suzanne Tetreault: Anything further? Well, that case let me just turn back to Suzanne again turn to one final issue that was on our list. It may be premature for some of you to want to weigh in on this, but the twilight towers issue. As I mentioned earlier the official comments period is still opened on this so some of you may want to final official comments and maybe still thinking about what you want to say in those comments.

As you probably know, we issued a document seeking comment on a proposal to exclude co-locations on twilight towers from the section 106 review process in essentially the same way that we would that we have already excluded pre-2001 co-locations on pre-2001 towers from section 106 review.

A key part of that proposal was though that if any one tribe or otherwise has a reason to believe that one of these twilight towers or co-location on it is causing or has caused an adverse effect on historic properties that can be brought to us and then that will be looked at. Is there anything anybody would like to weigh in with at this point?

Kellie Lewis: I do....

((Crosstalk))

Patrick Baird: So, this is Patrick Baird, Nez Perce Tribe. And one of my questions for that is how do we even find out about it if it doesn't go through any kind of compliance. I mean when the commissioner wrote the justification statement for that he said that no tribe or THPO or SHPO had ever gotten in terms of any impact to cultural resources from any of those twilight towers, which is blatantly false. So, and if you're not going to tell us about those co-locations, how do we tell you that those are causing a problem?

Suzanne Tetreault: So, I - this is Suzanne. I think the idea would be that if a tower is problematic it can be brought to our attention whether it's a twilight tower or not, you don't need to know it's a twilight tower or not you don't need to know that it's a twilight tower.

Patrick Baird: Well, again so this is Patrick Baird. And so, you know, so I guess I'm don't know how the FCC deals with a tower if there's no particular action under

review under section 106 or I mean even if we told you about a tower how do you deal with it if there's no if there's nothing that's companies doing that is up for review?

Suzanne Tetreault: I am turning somewhat to my colleagues to make sure I don't give you a wrong answer to this question. Just a moment.

Jeff Steinberg: Yeah, you want me to take it.

Suzanne Tetreault: Yeah.

Jeff Steinberg: Yeah, this is Jeff. I mean if - yeah, if a tower comes to our attention first of all and somebody says, you know, this tower is, you know, having is, you know, is a problem for this reason and we don't think it went through review or we don't know that it went through review we would contact the company at that point.

We would find out when was it built, did it go through review and if there is some basis for believing that there might be an adverse effect, you know, we would make case by case decisions on, you know, what is that reaches a threshold to - to look into, but the fact of that complaint being out there that has, you know, some specificity to it and again you know specific things can be brought to us in confidence as well.

Then, you know, the fact of having that out there would then under our current collocation agreement for a pre-2001 tower it would - it would - immediately they would know so that then co-locations would not be permitted on that tower without review until the complaint was resolved. Under this proposal the same thing that currently applies to the pre-2001 towers would also apply to the twilight towers.

Patrick Baird: But doesn't that raise questions about, you know, if the FCC doesn't know where all the twilight towers are and the tribes don't know and the industry apparently doesn't know either I mean, you know, it basically puts a huge (unintelligible) on tribes do a lot of leg work for industry and the federal government.

And to identify all these problems and to pursue them until they get resolved somehow with – with really no responsibility on the FCC or the or the industry to have any meaningful role other than to just put them just pretend that they don't know what's going on.

Jeff Steinberg: Thank you for that perspective.

Michael Blackwolf: Michael Blackwolf with Fort Belknap THPO once again. I just want to reiterate and support what Patrick just said there. I mean it's – it's very concerning at least from Fort Belknap perspective, and actually before I go any further I just want again state again that we do not consider this an actual government consultation because the deadline is still coming for official comments.

So I just wanted to say that before I continued, but it is concerning from Fort Belknap's perspective as to how can we be doing co-locating when in fact nobody, like Patrick said, federal agency industry tribes know what exact true numbers and where all these twilight towers are so that's very concerning to us, and that's something that FCC should take a little more responsibility and little bit more lead on in identifying these towers.

Suzanne Tetreault: Thank you. Anyone else?

Matt Reed: Yeah, I'll add something. This is Matt Reed with Pawnee Nation, and just like the previous two gentlemen just said I mean if you're relying on tribes to come and tell you the locations of these towers and what kind of impact that they've had up on our cultural resources, that's fine.

But you're really not going to like the fees that we have to charge then because many of my tribe many other tribes have been removed from where a lot of our jurisdiction lies so if you want me to drive from Nebraska or from Oklahoma up to Nebraska and Kansas and Colorado and all these other places to find these towers that's fine, but you're really going to complain about the charges and the fees that we charged at that time. That's all I would like to say. Thanks.

Suzanne Tetreault: Any additional thoughts on twilight towers?

Virginia O'Boyle: Yeah, this is Virginia O'Boyle with Sisseton Wahpeton Oyate again. I was wondering – you were saying that any of us THPO departments can bring this to your attention if their being excluded once they find a twilight tower and they want to do a co-location on it and they realize it's a twilight tower and they're giving you an exclusion from the THPOs where would we ever see that this even exists? Is it even going to show up on the tower notification system?

Suzanne Tetreault: The draft part, this is Suzanne the draft program comment does not call for putting the twilight towers through the TCNS. It is only draft (unintelligible) seeking comment on.

Virginia O'Boyle: Because this does happen with normal cell towers quite a bit where we would find out this happened right around Helena, Montana at our state capital. Where someone put out the cell tower and then realized that they did not

consult with the tribe. We went up there, and looked at it and on the mountain wall right behind the tower there were pictures painted on the wall we were able to find portions of lithic scatters, portions of rings right around the mountain that had been plowed up and they in those kind of situation we have recourse to complain about the company, and say that obviously they've destroyed something, we can't tell exactly because they've already plowed most of it up, but we have ways to be able to come in and bring this to the attention of the federal agency that is supposed to be overseeing this project, but in this case we would be setting a precedent for – for looking at projects that were built without (unintelligible) being able to look at them, and basically giving them clearance or exclusion. It just seems to set a very bad precedence. Thank you.

Suzanne Tetreault: Thank you. Last call on twilight towers. Okay, well since we've run through all our topics once and we still have sometime available if you want it let me just throw it open to does anyone have anything additional they'd like to go back to? Okay.

Bambi Kraus: Oh, this is Bambi I'm sorry I'm trying to monitor...

Suzanne Tetreault: It's okay go ahead.

Bambi Kraus: I'm sorry, I'm trying to monitor (unintelligible) conference. I have to monitor another conference call at the same time so actually wasn't able to hear the discussion before twilight towers so I'm not sure if you had a chance to discuss the consultant issue that we discussed on Monday.

Suzanne Tetreault: We did before we got to the twilight towers, we discussed fees and the notification process for the process for dealing with failures to respond.

Bambi Kraus: Okay.

Suzanne Tetreault: Anything else anyone would like to raise before we sign off? Or I'll just talk for another moment in case anybody changes their mind. Thank you all for joining us on this call. We have found it very helpful because I can only find speak for myself. I have found it very helpful to hear your perspectives directly on the phone like this and as I mentioned at the beginning again we have recorded this.

We are going to have a transcript and we are going to put that transcript into the public record so it will be available first of all for you all to review once we have put it there, and we will try actually to remember to notify you when we have done that so you'll know to look for it, and it will also be available to other parties and so I think you can view your expression of concern about your dealings with the industry and this call, and this is going to create a way to make those available directly to them to hear as well.

Do I hear any last requests to weigh in on anything? Well just...

Jonathan Windy Boy: Suzanne its Jonathan is there any more calls after this you said?

Suzanne Tetreault: This is Suzanne, there's another one on February 5, that one will not be recorded and transcribed.

Bambi Kraus: That was one of my questions to, and is there going to be an in-person meeting?

Suzanne Tetreault: We are looking at having an in-person meeting. We have not got time and date or date and place available yet. We're trying to work that out, but we do hope to schedule something in person as well.

Jonathan Windy Boy: Could you give us more than a 30-minute notice.

Suzanne Tetreault: We are doing our best to give you as much as possible. We appreciate that it's difficult to travel on short notice. Alright, if I hear nothing further I will thank you all and turn off the recording and sign off. Thank you everyone.

Thank you.

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