



# Ottawa Tribe of Oklahoma

P.O. Box 110 Miami, OK 74355

March 15, 2018

Ex Parte Filing

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington DC

Dear Ms. Dortch:

The Ottawa Tribe of Oklahoma is located in Miami, Oklahoma and has been participating in the historic preservation review process with respect to wireless facilities deployment since 2005.

We have grave reservations regarding the Federal Communications Commission's claims to have conducted government-to-government consultation with Indian Tribes in advance of taking the action at issue here. It is certain that the record presented here, of bare dates and names of Nations and organizations, does not support the claim. Even were we to grant that the presented list of attendees at a particular meeting location is accurate in all cases, and that each attendee was given sufficient time to present his or her views, and that those views were actually taken in and considered, that would be a single conversation, not a full consultation process.

Tribal historic preservation review is vitally important to the whole of the process of historic preservation. Despite claims that any consultant can perform this work, and that the cheapest bidder can likely do it as well as anyone, this type of review requires familiarity with records that even the most earnest and diligent of non-Tribal consultants might not even have heard of. In some few instances, a simple check of modern location data vs. anthropological population data might be sufficient. Often,

however, Tribal records must also be consulted, and that information is kept by us for a reason. Looting and desecration of burial and other sacred sites is not consigned to the past. Denial of a reasonable fee to Tribes for historic preservation review is alarmingly short-sighted given that the Tribes have a unique interest, considerable knowledge, and the smallest pool of resources available to any standing group of participants in the historic preservation process. The fact that few of these construction projects have resulted in materially adverse effects is not evidence that the process is unnecessary, but, rather that the process is working as intended.

With respect to the claim that Tribal participation unduly burdens the review process, we hereby submit, appended to this letter, records of two incidents in the past four months in which the FCC had contacted the Ottawa Tribe of Oklahoma for supposed delinquency in addressing our duty to review and report. In both instances, the matter had already been properly addressed. Additionally, just since the beginning of this calendar year, 11 projects have been referred back to us as having undergone revisions significant enough to require our further review. These revisions are not due to Tribal input, but they will still require Tribal input, and we will need to draw on scant or nonexistent resources to do so in future.

Finally, the Ottawa Tribe of Oklahoma disagrees with the FCC's stated claim that it has the authority to redefine the meaning of the term "undertaking" under 36 C.F.R. Section 800. That term is defined in Section 800.16(y) and does not grant any agency the authority to later change it.

The Ottawa Tribe of Oklahoma remains willing to discuss with representatives of the FCC and of the telecommunications industry the issues that are described in the Second Report and Order. We do not oppose technological progress, but we do want to help ensure that historic preservation and Tribal sovereignty are respected in that process. To that end, we now urge the FCC not to proceed with this Second Report and Order.

Sincerely,



Ethel E. Cook

Chief

## LIST OF PROPOSED COMMUNICATIONS TOWERS

Requester: Environmental Corporation of America

Attn: Dina Bazzill, 1375 Union Hill Industrial Ct., Alpharetta, GA 30004, 770-667-2040

TCNS#: 158477 Initial Notification Date: 06/29/2017 Location: E Washington Street and N Alabama Street, Indianapolis, IN , Detailed Description of Project: 9INB000641-D, Proposed pole within disturbed right-of-way

TCNS#: 158478 Initial Notification Date: 06/29/2017 Location: Off N Senate Ave, Indianapolis, IN , Detailed Description of Project: 9INB000677-C, Proposed pole within disturbed right-of-way.

*11/15/2017*

*11/15/2017*

Requester: Verizon Wireless

Attn: Terracon Consultants Inc, 3535 Hoffman Road East, White Bear Lake, MN 55110, 651-894-6625

TCNS#: 163095 Initial Notification Date: 10/26/2017 Location: 295 10th Avenue, Granite Falls, MN , Detailed Description of Project: Installation of a replacement light pole in the parking lot of Granite Falls Municipal Hospital.

*We got this on  
Dec 27th*

### LEGEND:

- \* - Notification numbers are assigned by the Commission staff for sites where initial contact was not made through TCNS.

**From:** cethel@cablone.net

**Sent:** Friday, March 9, 2018 11:22 AM

**To:** 'Charles Ulrey'

**Subject:** FW: TCNS#'s 157851, 158478, 158480, 158485, 158487, 158489, 159147, 159955, 157858, 159957, 158488, 158486, 158483, 159958, 158477

**From:** cethel@cablone.net <cethel@cablone.net>

**Sent:** Wednesday, January 3, 2018 10:55 AM

**To:** 'TCNShelp' <TCNShelp@fcc.gov>

**Cc:** 'dina.bazzill@eca-usa.com' <dina.bazzill@eca-usa.com>

**Subject:** FW: TCNS#'s 157851, 158478, 158480, 158485, 158487, 158489, 159147, 159955, 157858, 159957, 158488, 158486, 158483, 159958, 158477

Good Morning to all:

Attached is documentation for TCNS#'s 158477 & 158478.

If we can be of anymore, please let us know.

Thank you,

Chief Ethel E. Cook

13 S. 69 A.

PO BOX 110

Miami, OK. 74354

(O) 918-540-1536

© 918-961-0980

[cethel@cablone.net](mailto:cethel@cablone.net)

Website: [www.ottawatribe.org](http://www.ottawatribe.org)

**From:** [cethel@cablone.net](mailto:cethel@cablone.net) [<mailto:cethel@cablone.net>]

**Sent:** Wednesday, November 15, 2017 12:59 PM

**To:** [mobilitetcns@eca-usa.com](mailto:mobilitetcns@eca-usa.com)

**Subject:** TCNS#'s 157851, 158478, 158480, 158485, 158487, 158489, 159147, 159955, 157858, 159957, 158488, 158486, 158483, 159958, 158477

Dina,

Here you go.

Thank you,



Chief Ethel E. Cook

13 S. 69 A.

PO BOX 110

Miami, OK. 74354

(O) 918-540-1536

© 918-961-0980

[cethel@cablone.net](mailto:cethel@cablone.net)

Website: [www.ottawatribes.org](http://www.ottawatribes.org)



OTTAWA TRIBE OF OKLAHOMA  
HISTORIC PRESERVATION DEPARTMENT  
P.O. Box 110  
Miami, Oklahoma 74355

FACSIMILE COVER PAGE

TO: Dina M. Bazzill

FROM: CHERYL STAFFORD

FIRM/AGENCY: ECA

DATE/TIME: 11/15/17

FAX NUMBER: \_\_\_\_\_

NO. OF PAGES, INCLUDING COVER: 1

PHONE NUMBER: 770-667-2040

MEMO: 157851, 158478, 158480, 158485, 158487,  
158489, 159147, 159955, 157858, 159957, 158488,  
158486, 158483, 159958, 158477

MESSAGE: THE OTTAWA TRIBE OF OKLAHOMA CONCURS THAT NO KNOWN HISTORIC PROPERTIES WILL BE NEGATIVELY IMPACTED BY CONSTRUCTION OF THIS TOWER SITE OR SITES (SEE MEMO LINE ABOVE FOR TCNS NUMBER OR NUMBERS). OUR RESEARCH AND REVIEW EFFORTS DO NOT REVEAL ANY ISSUES CURRENTLY KNOWN TO BE OF CONCERN TO US AT THIS TOWER LOCATION OR LOCATIONS.

IN THE EVENT THAT ARCHAEOLOGICAL MATERIALS – INCLUDING HUMAN REMAINS – ARE ENCOUNTERED LATER DURING CONSTRUCTION, USE, OR MAINTENANCE OF THIS TOWER LOCATION OR LOCATIONS, PLEASE RE-NOTIFY US AT THAT TIME, AS WE WOULD LIKE TO RESUME CONSULTATION UNDER SUCH A CIRCUMSTANCE.

THE OTTAWA TRIBE OF OKLAHOMA TAKES THIS OPPORTUNITY TO EXPRESS ITS CONCERNS THAT TELECOMMUNICATIONS TOWERS CAN HAVE A POTENTIALLY DESTRUCTIVE IMPACT ON BATS AND BIRDS, ESPECIALLY MIGRATORY BIRDS. IMPACTED BIRDS AND BATS COULD INCLUDE SPECIES THAT ARE LISTED AS THREATENED OR ENDANGERED BY BOTH STATES AND THE FEDERAL GOVERNMENT. THE OTTAWA TRIBE STRONGLY SUGGESTS THAT THIS/THESE TOWER/TOWERS BE CONSTRUCTED IN ACCORDANCE WITH THE GUIDELINES AVAILABLE FROM THE US FISH AND WILDLIFE SERVICE IN ORDER TO REDUCE THE ADVERSE EFFECTS OF TELECOMMUNICATIONS TOWERS ON BIRDS AND BATS. THESE GUIDELINES MAY BE FOUND AT:

[WWW.FWS.GOV/MIGRATORYBIRDS/ISSUES/TOWERS/COMTOW.HTML](http://WWW.FWS.GOV/MIGRATORYBIRDS/ISSUES/TOWERS/COMTOW.HTML)

PLEASE DO NOT HESITATE TO CALL US FOR ADDITIONAL COMMENT.

CHERYL STAFFORD

CHERYL STAFFORD, HISTORIC PRESERVATION OFFICE

\*\*\*AS OF JUNE 1, 2016 CELL TOWER REVIEW FEES WILL BE \*\*\*  
500.00 FOR NEW TOWERS AND 200.00 FOR CO-LOCATIONS.

If you have difficulty receiving this fax, please contact us at 918-540-1536.  
The contents of this fax may contain confidential information, please distribute only to addressees.

### LIST OF PROPOSED COMMUNICATIONS TOWERS

Requester: Environmental Corporation of America

Attn: Dina Bazzill, 1375 Union Hill Industrial Court; Suite A, Alpharetta, GA 30004,  
770-667-2040

✓ TCNS#: 145312 Initial Notification Date: 11/03/2016 Location: Off 8th Street SW, Altoona,  
IA , Detailed Description of Project: 9IAB000218-DM90XS592B, Proposed pole within disturbed  
right-of-way 5-2-17

✓ TCNS#: 145646 Initial Notification Date: 11/10/2016 Location: Off W Locust Street,  
Davenport, IA , Detailed Description of Project: 9IAB000390-DM90XS349A, Proposed pole  
within disturbed right-of-way 5-2-17

✓ TCNS#: 145700 Initial Notification Date: 11/10/2016 Location: Off S Sheldon Avenue, Ames,  
IA , Detailed Description of Project: 9IAB000066-DM90XS135B, Proposed pole within disturbed  
right-of-way 5-2-17

✓ TCNS#: 145730 Initial Notification Date: 11/10/2016 Location: Off 79th Street, Justice, IL  
, Detailed Description of Project: 9ILB003618-CH90XSDA1G, Proposed pole within disturbed  
right-of-way 5-2-17

Requester: Environmental Corporation of America

Attn: Dina M Bazzill, 1375 Union Hill Industrial Court, Suite A, Alpharetta, GA 30004,  
770-667-2040

TCNS#: 143060 Initial Notification Date: 09/22/2016 Location: Off US Hwy 31, Franklin, IN  
, Detailed Description of Project: 9INB001070/IN90XS683B 5-10-17

TCNS#: 143070 Initial Notification Date: 09/22/2016 Location: Off N Kirk Road, Batavia, IL  
, Detailed Description of Project: 9ILB004068/CH90XSHO3B 5-10-17

#### LEGEND:

- \* - Notification numbers are assigned by the Commission staff for sites where initial contact was not made through TCNS.

**From:** cethel@cableone.net  
**Sent:** Friday, March 9, 2018 11:19 AM  
**To:** 'Charles Ulrey'  
**Subject:** FW: Attached is 3 pages of approvals

**From:** Jill Springer <Jill.Springer@fcc.gov>  
**Sent:** Monday, December 11, 2017 4:47 PM  
**To:** cethel@cableone.net  
**Cc:** TCNShelp <TCNShelp@fcc.gov>  
**Subject:** FW: Attached is 3 pages of approvals

Thank you!

Jill A. Springer  
Acting Federal Preservation Officer  
Competition and Infrastructure Policy Division  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554  
202.418.1345 (o)  
202.763.8221 (m)  
[jill.springer@fcc.gov](mailto:jill.springer@fcc.gov)

**From:** cethel@cableone.net [<mailto:cethel@cableone.net>]  
**Sent:** Monday, December 11, 2017 5:45 PM  
**To:** Jill Springer <Jill.Springer@fcc.gov>  
**Cc:** [Tribal.notify@eca-usa.com](mailto:Tribal.notify@eca-usa.com)  
**Subject:** FW: Attached is 3 pages of approvals

Jill and Dana,

Attached is the approval; back on May 10, 20107 for TCNS#'s 143060 & 143070, they are on the last page of the scan.

If we can be of anymore help, please let us know.

Thank you,

Chief Ethel E. Cook  
13 S. 69 A.  
PO BOX 110  
Miami, OK. 74354  
(O) 918-540-1536



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[cethel@cablone.net](mailto:cethel@cablone.net)

Website: [www.ottawatribe.org](http://www.ottawatribe.org)

**From:** Ethel Cook [<mailto:cethel@cablone.net>]

**Sent:** Wednesday, May 10, 2017 5:37 PM

**To:** [mobilitietcns@eca-usa.com](mailto:mobilitietcns@eca-usa.com)

**Subject:** Attached is 3 pages of approvals

Dina,

Attached you will find (3) pages of approvals. If you need anything let us know.

Thank you,

**Chief Ethel E. Cook**

**Ottawa Tribe of Oklahoma**

**13 S 69 A/PO Box 110**

**Miami, OK 74355**

**e-mail:** [cethel@cablone.net](mailto:cethel@cablone.net)

**Office:** 918-540-1536

**Toll Free:** 877-540-1536

**Cell:** 918-961-0980

**Fax#:** 918-542-3214

**Website:** [www.OttawaTribe.org](http://www.OttawaTribe.org)



OTTAWA TRIBE OF OKLAHOMA  
HISTORIC PRESERVATION DEPARTMENT  
P.O. Box 110  
Miami, Oklahoma 74355

FACSIMILE COVER PAGE

TO: Dina M. Bazzill FROM: CHERYL STAFFORD  
FIRM/AGENCY: ECA DATE/TIME: 5/10/17  
FAX NUMBER: \_\_\_\_\_ NO. OF PAGES, INCLUDING COVER: 1  
PHONE NUMBER: 770-667-2040 MEMO: All attached TCNS #'s  
X III are approved

**MESSAGE:** THE OTTAWA TRIBE OF OKLAHOMA CONCURS THAT NO KNOWN HISTORIC PROPERTIES WILL BE NEGATIVELY IMPACTED BY CONSTRUCTION OF THIS TOWER SITE OR SITES (SEE MEMO LINE ABOVE FOR TCNS NUMBER OR NUMBERS). OUR RESEARCH AND REVIEW EFFORTS DO NOT REVEAL ANY ISSUES CURRENTLY KNOWN TO BE OF CONCERN TO US AT THIS TOWER LOCATION OR LOCATIONS.

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PLEASE DO NOT HESITATE TO CALL US FOR ADDITIONAL COMMENT.

CHERYL STAFFORD

CHERYL STAFFORD, HISTORIC PRESERVATION OFFICE

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**\*\*\*AS OF JUNE 1, 2016 CELL TOWER REVIEW FEES WILL BE \*\*\***  
**500.00 FOR NEW TOWERS AND 200.00 FOR CO-LOCATIONS.**

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