



**Mashpee Wampanoag Tribe**

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March 14, 2018

Secretary Marlene Dortch  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

RE: Mashpee Wampanoag Tribe's Opposition to draft Report and Order (WT 17-79)

Dear Chairman Pai and Members of the Commission:

We write to oppose the draft Report and Order released on March 1, 2018 that purports to narrow the obligations of the Federal Communications Commission (FCC) under the National Historic Preservation Act (NHPA) and National Environmental Policy Act (NEPA) and restricts tribal rights secured by those laws. The draft order's approach will be detrimental to tribal governments, tribal cultural and historic resources and do very little to encourage deployment of wireless service to areas, like ours, that need it most.

Fifteen years ago, the FCC stated that it was impractical for it to consult on thousands of existing, new and proposed cell sites, despite its obligation to do so. In response, Indian Country endorsed the Tower Construction Notification System as an elegant solution that facilitated the telecommunications industry working directly with tribal nations to address issues of concern so that it would be unnecessary in nearly all cases for the FCC to engage in consultation. The alternative, which will be the outcome if the current order is approved, is that tribal nations will demand direct consultations with the FCC on potentially hundreds of larger tower sites, a far slower process than the tribal-industry process.

The Commission has a trust responsibility to tribal nations, not to the wireless industry. The draft Report and Order does not reflect this trust responsibility and diminishes Mashpee Wampanoag Tribe's ability to protect our cultural and historic properties.

The draft Report and Order:

- (1) Concludes that small wireless facilities do not qualify as "undertakings" or "major federal actions", thereby circumventing the protections of NHPA and NEPA;
- (2) Eliminates tribal fees for initial historic preservation assessments (which often number in the hundreds per month) by tribal governments, encouraging industry to exclusively rely on its own consultants whose understanding of Native culture is limited, rather than access the unique expertise of tribal nations with regard to impacts on their own cultural areas; and
- (3) Mischaracterizes the extent of formal consultation carried out prior to the release of the draft Report and Order by including listening sessions, briefings and other meetings that are not true consultations.

Rolling back protections for tribal cultural and historic properties will have grave consequences for Mashpee Wampanoag Tribe.

The Mashpee Wampanoag Tribe's Historic Preservation Department is financially self-sustainable through funds obtained from the Section 106 and NHPA review processes. The Mashpee Wampanoag Tribe's Historic Preservation Department is a modest department of four Tribal staff, with various responsibilities associated with the Section 106 process.

Departmental roles and responsibilities include thoroughly conducting phase I A archaeological desktop reviews of each project location, the same as the archaeological consultants. The Tribal perspective offers alternative insights to parallels in the information. Over the years the Mashpee Wampanoag Tribe has actively been involved throughout the Section 106 process and has nurtured mutually respectful and professional relationships with the industry proponents as well as their respective consulting firms. The process to date has afforded our staff

opportunity to participate in archaeological reviews, intensive location surveys, site examinations and data recovery efforts. Archaeologist often solicit the Tribe's input on the interpretation of finds both during the field discussions with Tribal Cultural Resource Monitors and with Tribal Historic Preservation Officer's contributing to final reports.

Proposed FCC changes will be detrimental to the Mashpee Wampanoag Tribe's Historic Preservation Department and their efforts to preserve cultural and religious sites of significance. Advancements made relative to historic preservation by the U.S. Congress under 36 CFR 800 and all related amendments will be abolished if this Report and Order is ratified.

Once tribal cultural and historic properties are damaged, it is often irreversible. Therefore, like other tribes throughout the country, we will have no recourse if the deployment of wireless technology results in the destruction of our tribal cultural and historic properties. Accordingly, we ask that all Commissioners vote against adopting this draft Report and Order.

Sincerely,



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Jessie Baird, Vice-Chairwoman – Mashpee Wampanoag Tribe