



TABLE MOUNTAIN RANCHERIA

TRIBAL GOVERNMENT OFFICE

March 14, 2018

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

Leanne Walker-Grant
Tribal Chairperson

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Craig Martinez
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Matthew W. Jones
Tribal Council Member

Richard L. Jones
Tribal Council Member

RE: Table Mountain Rancheria of California's Opposition to draft Report and Order (WT 17-79)

Dear Chairman Pai and Members of the Commission:

Table Mountain Rancheria of California, a federally recognized Tribe (Tribe), writes to oppose the draft Second Report and Order In the Matter of Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment (Report and Order) released on March 1, 2018.

The draft Report and Order purports to administratively narrow the statutory obligations of the Federal Communications Commission (FCC) under the National Historic Preservation Act (NHPA) and National Environmental Policy Act (NEPA) and further, attempts to restrict tribal rights secured by those laws. The draft Order's approach will be detrimental to tribal governments, tribal cultural and historic resources and ultimately 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 legal obligation to do so. In response, Indian Country endorsed a tribal-industry approach under the Tower Construction Notification System. This approach facilitated a process whereby the telecommunications industry worked directly with tribal nations to address issues of concern making it unnecessary, in nearly all cases, for the FCC to engage in direct consultation. Conversely, the alternative outcome expected from the second Draft and Order, will result in tribal nations seeking direct consultations with the FCC on potentially hundreds of larger tower sites, a far slower process than the tribal-industry process.

At the core of the Tribe's concerns is the adherence of the Commission to its trust responsibility to tribal nations, not to the wireless industry. As offered, the draft Report and Order does not reflect this trust responsibility but rather, diminishes the Tribe's ability to protect our cultural and historic properties.

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For example, 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 the Tribe. Table Mountain Rancheria of California, along with the other four federally recognized Yokuts Tribes of California, Picayune Rancheria of the Chukchansi Indians, Santa Rosa Indian Community of the Santa Rosa Rancheria, California, Tule River Indian Tribe of the Tule River Reservation, along with the newly joined Tejon Indian Tribe (Tribes), formed a coalition on August 22, 2012 to address the rightful return and respectful reburial of our ancestral remains, Funerary Objects, Sacred Objects and Objects of Cultural Patrimony from federally funded institutions as required by the Native American Graves Protection and Repatriation Act (NAGPRA). The Yokuts NAGPRA Coalition (Coalition) also works cooperatively with federal, state and local agencies to minimize adverse effects on Yokuts cultural resources, sacred sites, cemeteries and burials and Traditional Cultural Properties. Consequently, the Tribe and the four Coalition Tribes, provided comment to the Federal Communications Commission on May 24, 2017 and requesting a response, although no response has been received to date.

Damage to our tribal cultural and historic properties is 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,



Leanne Walker-Grant
Tribal Chairperson