



# COUSHATTA TRIBE

## OF LOUISIANA

Office of the Tribal Chairman

March 15, 2018

The Coushatta Tribe of Louisiana is a federally-recognized Indian Tribe with trust and fee simple lands in Louisiana. The Coushatta Tribe also has an interest in its ancestral homelands, located primarily in the states of Tennessee, Alabama, Georgia, Mississippi, Arkansas, Texas and Florida.

The Coushatta Tribe's Historic Preservation Office (HPO) is entrusted with reviewing proposed construction projects for compliance with Section 106 of the National Historic Preservation Act. The HPO reviews approximately forty proposed construction projects per week. Construction projects associated with matters within the FCC's jurisdiction are submitted to the HPO for review through the FCC Tower Control Notification System (TCNS). The HPO also reviews numerous other federal undertakings, which reach the HPO through other federal departments, for possible adverse historic, cultural and/or religious effects.

Recently, the FCC aggregated 1,412 requests for review into a single request. As a result, the HPO was forced to review the potential adverse effects of 1,412 small cell installations in 1,412 different locations within the Crown Castle Houston Small Cell project. By aggregating these multiple installations as a single "undertaking," and requiring the HPO to conduct its review within a limited time period, the FCC effectively inundated the HPO with an untenable workload and effectively stripped the Tribe of its right to determine whether these small construction projects would impact sites that are culturally, religiously or historically significant to the Tribe.

Further, and along the same lines, on March 1, 2018, the FCC released FCC-CIRC1803-01, "Wireless Infrastructure Streamlining Report and Order," that defines what the FCC views as a federal "undertaking" under the National Historic Preservation Act and for purposes of analyzing Tribal Nation rights in the Federal-Tribal historic preservation process. The Report and Order would effectively permit the FCC to continue aggregating multiple construction projects into a single request for review, thereby forcing Indian tribes nationwide to meet untenable deadlines and – in effect – completely depriving them of their right to determine whether such projects might affect religiously, culturally or historically relevant sites.

These recent actions of the FCC, and its proposed Streamlining Order, are a matter of utmost concern to the Coushatta Tribe of Louisiana for the following reasons:

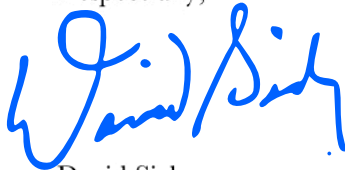
1. The FCC failed to conduct government-to-government consultation prior to issuing FCC-CIRC1803-01. The "Open House" style conference call-meetings to solicit tribal input were poorly advertised, with little or no advance notice, no agenda, and no meeting minutes provided. As a result, the Coushatta Tribal Chairman and Council were not able to attend

any of the sessions and were also not able to gather enough information to make informed decisions about the FCC's plans. The FCC failed to meet its consultation obligations and its actions should be reversed.

2. The FCC's failure to conduct true government-to-government consultations deprived the Coushatta Tribe of Louisiana of the opportunity to present information about our process for conducting TCNS reviews, including but not limited to Arc GIS mapping, document searches, archaeological consultation and tribal monitoring elements. This process is particularly crucial for a small Tribe like ours, which has always remained neutral and was never forcibly removed, thereby eliminating many of the federal and state database resources for "mapping" tribal locations.
3. The FCC's Order constitutes a unilateral decision to violate federal law and longstanding federal requirements. Further, the FCC's failure to conduct the required government-to-government consultations is an affront to tribal sovereignty. The FCC ignored the rights of Indian tribes to speak for themselves, represent their own interests, and conduct government-to-government consultations with federal agencies.
4. The proposed Order establishes a dangerous precedent by allowing a single federal agency – the FCC – to reinterpret the National Historic Preservation Act by unilaterally determining what constitutes an "undertaking," thereby bypassing or effectively eliminating the protections afforded to Tribes under that Act. The FCC lacked authority to do so. Permitting FCC-CIRC1803-01 to stand would create a dangerous precedent by which other federal agencies may freely recast federal law by re-interpreting its directives.

In the interests of maintaining our rights as a Sovereign Indian Tribe, the Coushatta Tribe of Louisiana is hereby registering our strongest possible opposition to WT Docket No. 17-79 and FCC-CIRC1803-01 in their entirety.

Respectfully,



David Sickey

Chairman