The Chippewa Cree Tribe of the Rocky Boy's Reservation

Phone: (406) 395-4478 or 4210 - Finance Office
(406) 395-4282 or 4321 - Business Committee

31 Agency Square
Box Elder, Montana 59521

June 24, 2016

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-B204
Washington, D.C., 20554
Via: ECFS

Dear Ms. Dortch,

RE: WT Docket No. 15-180 WTB Seeks Comment On Revising The Historic Preservation Review Process for Small Facility Deployments

In response to Docket 15-180, the Chippewa Cree Tribe of the Rocky Boy's Indian Reservation has reviewed and considered the implications of and underlying causes for the specific amendments proposed to the current Nationwide Programmatic Agreement for the Collocation of Wireless Antennas (Collocation Agreement). The Chippewa Cree Tribe opposes any change to the existing Nationwide Programmatic Agreement (NPA) for the Collocation of Wireless Antennas as described in the July 28, 2015 Section 106 Scoping Document.

BACKGROUND

The Chippewa Cree Tribe, like many federally-recognized tribes, has a documented history of traditional use and occupation across lands which today fall within multiple states. Colonial expansion and population growth in the eastern woodlands resulted in migration of the Chippewa or Ojibwa westward, in search of a secure location in which to raise their families and provide for their people. Oral history states that a prophecy followed by the grandfather of the modern reservation's namesake, Rocky Boy, directed the leaders of the ancestral band of Ojibwa to travel to the "backbone of the earth" to seek survival. This term is recognized as a traditional name for the Rocky Mountain range, synonyms of which are used not only by other Algonquian-speaking groups such as the Cree and Blackfoot, but also Salishan and Kootenai-speaking groups native to the region. Travel to this area from ancestral homelands in present-day Pennsylvania occurred over several generations, and resulted in settlement with Cree bands who also resided traditionally in the area. The combined Chippewa Cree Tribal Reservation is now one of seven American Indian reservations in the present-day State of Montana.

In order to address the historic preservation needs of the reservation community on both on- and off-reservation federal trust lands in addition to ancestral homelands across the federally-recognized historical range of the tribe, the Chippewa Cree Tribal Business Committee as the governing body of the Tribe established the Cultural Resources Preservation Department (CRPD) by resolution. CRPD houses the Tribal Historic Preservation Office (THPO) in addition to an Archaeology Department and Section 106 Compliance review staff. The Chippewa Cree CRPD has established a strong reputation within the national THPO community and amongst

federal agencies as an effective and innovative program. Not only does the CRPD meet the high-level of demand placed on THPO and tribal cultural resource programs to engage in federal consultation, but has exceeded expectations and risen to the standard of many industry partners by developing and utilizing an online consultation management database.

Through the Tribal 106 processing services website, the CRPD has responded to over 6,588 projects online since April 2014. Of these, 6,534 originated through the Tower Construction Notification System (TCNS) established to ensure telecommunications projects overseen by the FCC complied with Section 106 of the National Historic Preservation Act. The use of this service has allowed the CRPD to respond to consultation requests in a timely manner, facilitating the expedient deployment of new telecommunications systems. Within this process, the CRPD also provides transparency and accountability for tribal monitoring work by creating deliverables for industry representatives. This work is directly related to the vision of the CRPD to identify, preserve, protect, and interpret cultural historic resources that are integral to the existence of the Tribe in order to pass this knowledge to future generations.

COMMENTS

The Chippewa Cree Tribe opposes any potential changes to the Nationwide Programmatic Agreement for the Collocation of Wireless Antennas. The potential changes to the process would harm the work of the CRPD to identify cultural resources that are significant to the Tribe. As stated above in the background, the Chippewa Cree Tribe has a rich tradition that involved the migration across various states to the Tribe's current home in Montana.

The proposed amendments to the Collocation Agreement would have an adverse impact on the work of the Chippewa Cree CRPD. The existing requirements of the Collocation Agreement assume that existing structures were built without adverse effects to historic properties in the first place, which cannot be guaranteed in the case of any structure built prior to the creation of Section 106 and enforcement through the FCC's NPA. This is the same issue that surrounds the current stalemate over the "Twilight Towers" issue which is currently under discussion between industry representatives, Tribes, and the FCC.

The underlying issue associated with these proposed amendments is that any properties modified or structures constructed in the past would continue to be unaddressed by future modifications due to their exclusion. This allows any projects that were not required to be reviewed at the time of construction, but would now require review, to continue to be excluded and property to be sold or leased to create a profit without Section 106 compliance or consultation with Tribes. These Tribes are not mere stakeholders or concerned members of the public in the common sense, but sovereign political entities who have established federally-recognized areas of interest and hold legal responsibility to consult and respond to project notices in a government-to-government process.

There is an ongoing diversity issue present within the wording of the National Register for Historic Places (NRHP) criteria, which is largely understood to provide the definition of *historic properties* as discussed within 36 CFR 800.1(a). Specifically, historic architecture is given much more protection by the criteria than any other historic or cultural resource. The NRHP has a weakness when it comes to recognizing the significance of intangible heritage or Traditional Cultural Properties (TCPs) important to indigenous peoples. Many TCPs do not fit the wording of the NRHP criteria (i.e "work of a master," associated with the lives of "significant persons," typical of a type of construction, etc.). This narrow application of criteria for historic properties

ignores the ACHP handbook definition of tribal ancestral homelands and their inclusion and significance in the review process, which provides guidance in the definition of properties to which Section 106 applies beyond merely burial sites.

The specific changes listed under the proposed Exclusion Relating to Visible Small Wireless Antennas and Associated Equipment Deployments on Historic Properties or in Historic Districts (Stipulations VII.B, VII.C, and VII.D) are extremely particular and draw focus from the larger issue within the review process - that TCPs are not generally considered for their own merit and importance to tribal communities because the NRHP criteria are geared toward Euro-American properties and historic architecture, and indigenous people and populations in the past have been systematically ignored as "significant persons" in American history.

SUMMARY

The Chippewa Cree Tribe does not agree with the amendments proposed in the July 28, 2015 Section 106 Scoping document. The Tribe respectfully requests that meaningful consultation take place before any action is taken in response to the Section 106 Scoping document. The FCC has demonstrated during its interactions with the Chippewa Cree Tribe its respect for and commitment to uphold the principles of tribal sovereignty, self-determination, and self-government, as mandated by the November 6, 2000 Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments). The Chippewa Cree Tribe looks forward to future interactions with the FCC under the successful model of government-to-government relationships, and therefore asks for careful consideration of the effects any amendment of the existing Nationwide Programmatic Agreement for the Collocation of Wireless Antennas.

Sincerely,

Ken St Marks

Ken Blatt-St.Marks
Chairman, Chippewa Cree Tribe

CC: Darwin St. Clair, Jr., Chairman, Eastern Shoshone Tribe
Bambi Kraus, President, National Association of Tribal Historic Preservation Officers