



Roger C. Sherman
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March 4, 2004

Via Electronic Submission

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

***Re: Notice of Ex Parte Communication
Nationwide Programmatic Agreement Regarding the
Section 106 National Historic Preservation Act Review
Process – WT Docket No. 03-128***

Dear Ms. Dortch:

This letter is to inform you that on this date, Sprint Senior Attorney Roger C. Sherman had a telephone conversation with Jeffrey Steinberg of the Spectrum & Competition Policy Division, Wireless Telecommunications Bureau regarding the above-referenced proceeding. At Mr. Steinberg's request, Mr. Sherman forwarded the attached e-mail containing proposed alternative language for the right-of-way exclusion.

Pursuant to Section 1.1206 of the Commission's rules, this letter is being electronically filed with your office. Please associate this letter with the file in the above-referenced proceeding.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Roger C. Sherman".

Roger C. Sherman

Attachment

cc: Jeffrey Steinberg

-----Original Message-----

From: Sherman, Roger C [CC]
Sent: Thursday, March 04, 2004 10:48 AM
To: 'jeffrey.steinberg@fcc.gov'
Subject: FW: Proposed Exclusions Language.doc

Mr. Steinberg:

Attached is the language you requested.

Regards,

Roger Sherman

-----Original Message-----

From: Sherman, Roger C [CC]
Sent: Wednesday, March 03, 2004 10:14 AM
To: 'Charlene Vaughn'; 'schamu@ncshpo.org'
Cc: John Fowler
Subject: FW: Proposed Exclusions Language.doc

Nancy/Charlene:

I drafted this quickly, but I think it gives you idea of what we hope to accomplish for limited type of project (as seen in photos I sent your way).

Again, this language is intended to say that if we are within 50 feet of an existing ROW (as specified by govt entity) and we are not adding structure substantially larger than what is already there, we do not need to go to the SHPO (although we do need to go to tribes). We do need to go to SHPO if the portion of the ROW on which we seek to put the facility is (1) on an historic property or (2) in an historic district

If you think there is basis for agreement here, I urge you to contact FCC immediately.

Let me know what you think,

Roger

Nancy/Charlene:

Here is what I propose (more or less) for the ROW issue we discussed.

To be inserted into exclusion section:

ROW Structures: State Historic Preservation Officer consultation is not required for Facilities that are constructed within 50 feet of a right-of-way designated by a government for the location of communications Towers or above-ground utility transmission lines and associated structures and equipment and in active use for such purpose, provided:

1. The proposed Facility is not substantially larger than already existing structures in the ROW. (Substantially larger will track the definition of "substantial increase" as defined in the Collocation Agreement)
2. The proposed Facility does not rest on a portion of the ROW that crosses an historic property or is within an historic district.

Tribal consultation is still required for Facilities that are constructed within 50 feet of a right-of-way as defined above.