

# Johnston & Associates, LLC

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April 5, 2004

Ms. Marlene Dortch  
Secretary  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, DC 20554

Re: Notice of Ex Parte Presentations in Nationwide Programmatic Agreement proceeding, WT Docket No. 03-128; FCC 03-125.

Dear Ms. Dortch:

This letter summarizes a series of meetings held with FCC Commissioners and staff with regard to the above captioned proceeding. These meetings took place on the following dates and with the following participants:

**March 29, 2004**

**FCC Commissioner Kathleen Abernathy**

Jennifer Manner, Senior Counsel, Office of Commissioner Abernathy

Keller George, President, United South and Eastern Tribes, Inc.

James T. Martin, Exec. Dir, United South and Eastern Tribes, Inc.

Jackie Johnson, Executive Director, National Congress of American Indians

Adam Bailey, Legislative Associate, National Congress of American Indians

Gregory Smith, Johnston & Associates

Eric Tober, Johnston & Associates

Ken Carleton, Vice Chairman, USET Culture and Heritage Committee

**Sam Feder, Office of Commissioner Martin**

Keller George, President, United South and Eastern Tribes, Inc.

James T. Martin, Exec. Dir, United South and Eastern Tribes, Inc.

Jackie Johnson, Executive Director, National Congress of American Indians

Adam Bailey, Legislative Associate, National Congress of American Indians

Gregory Smith, Johnston & Associates

Eric Tober, Johnston & Associates

Ken Carleton, Vice Chairman, USET Culture and Heritage Committee

**Paul Margie, Office of Commissioner Copps**

Keller George, President, United South and Eastern Tribes, Inc.

James T. Martin, Exec. Dir, United South and Eastern Tribes, Inc.  
Jackie Johnson, Executive Director, National Congress of American Indians  
Adam Bailey, Legislative Associate, National Congress of American Indians  
Gregory Smith, Johnston & Associates  
Eric Tober, Johnston & Associates  
Ken Carleton, Vice Chairman, USET Culture and Heritage Committee

**April 2, 2004**

**FCC Commissioner Jonathan Adelstein**

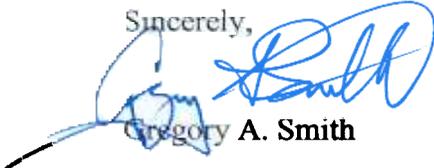
Barry Ohlson, Legal Advisor, Office of Commissioner Adelstein

James T. Martin, Executive Director, United South and Eastern Tribes, Inc.

Gregory Smith, Johnston & Associates

At these meetings, the representatives of the United South and Eastern Tribes, Inc. and the National Congress of American Indians expressed their strong support for keeping the tribal provisions within the Nationwide Programmatic Agreement. They also expressed the basis for their support for the draft Best Practices. Both USET and NCAI expressed their ongoing willingness to address practical problems for all parties, but made clear that if procedures are not adopted which address tribal concerns, they would be seeking full FCC compliance with the current Section 106 law and regulations. The tribal representatives explained why, for many sites, no survey would be needed noting, in particular, that if a survey has already been done (as with most new highway construction since 1985) or where the likelihood of tribal impact is essentially non-existent (such as cell towers inside of church steeples and other buildings), under the Best Practices in most cases a simple telephone call between an applicant and the appropriate tribal representative will be enough to resolve any issues.

If you have any questions regarding this matter, please feel free to call.

Sincerely,  
  
Gregory A. Smith