



# National Association of Tower Erectors

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May 6, 2010

Mr. Austin Schlick  
General Counsel  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, D.C. 20554

Received & Inspected

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FCC Mail Room

Dear Mr. Schlick:

I am writing as Executive Director of the National Association of Tower Erectors to offer our congratulations for your diligence and leadership in promoting the series of meaningful discussions among the various communication industry organizations and the trio of environmental groups. These discussions, and the essential role you and your colleagues at the Federal Communications Commission played over the past several months, led to the compromise which I understand has now been submitted to you. As you know, we are signatories to both the Memorandum of Understanding and the accompanying letter, and we will certainly live up to the agreement reached – which as you well know is the culmination of many years of effort.

As you might suspect, our acceptance of these documents followed substantial discussion within our Legislative and Regulatory Committee and our Board of Directors. Our membership was also apprised of developments throughout the negotiations.

Our Association would be remiss, however, if we didn't at least express a concern regarding the process and the potential for future uncertainty. Our representative in Washington, Jim Goldwater, has been an active participant in the negotiations, both with STATIC (the Solving the Avian-Tower Interaction Committee) and with the most recent undertaking prompted by the court's decision and the subsequent initiative undertaken by the FCC.

As you well know, the Industry Coalition has consistently and forcefully maintained that there is insufficient research to warrant either mitigation steps or punitive action, despite assertions by the U.S. Fish and Wildlife Service and certain avian interests to the contrary. We continue to hold that view. Nevertheless, we joined in the negotiations because, quite simply, failure to do so could well have resulted in an excessive mandate that could have compromised the nation's economy, its homeland security, and our critical communications capabilities while costing a significant number of communications jobs and tower construction work.

Having said that, however, we are concerned that others might interpret our decision to both join in the negotiations and sign on to the MOU as a tacit acknowledgment that sufficient research exists. Moreover, we are fearful of what might happen when your agency issues the requisite interim standards or at the end of the nine-month period of relative peace outlined in the MOU, whichever comes first; others might then assert that, by virtue of our endorsement of the MOU, the Industry Coalition would by extension be amenable to further mitigation steps.

Absent appropriate and necessary research, it will be difficult to convince our members to accept additional voluntary steps. We understand that the FCC similarly seeks additional substantiation of the avian-tower matter.

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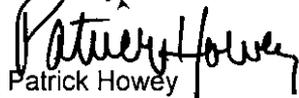
*"Providing a unified voice for the tower erection, maintenance and service industry."*

**Safety from the ground up!**

Mr. Austin Schlick  
May 6, 2010  
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Our purpose for providing this side letter was to go on record reiterating our concern with the state of research and the very real possibility that our signing the MOU would be used against us in the future. We entered the agreement willingly and in good faith, but not blindly.

Sincerely,

A handwritten signature in black ink that reads "Patrick Howey". The signature is written in a cursive style with a large, prominent "P" and "H".

Patrick Howey  
Executive Director