

March 22: USET SPF Alert: FCC Votes to Restrict Tribal Cultural Review, FCC Tribal Task Force Opportunity

Dear USET SPF Board of Directors, DC Tribal Reps, and Culture & Heritage Committee,

This afternoon, despite objections from Tribal Nations, Congress, two of its own commissioners, the historic preservation community, localities, and other stakeholders, **the Federal Communications Commission (FCC) voted 3-2 to approve its wireless Report and Order to exempt “small” wireless facilities from the National Historic Preservation Act (NHPA) and the National Environmental Policy Act, as well as eliminate Tribal fees for initial historic preservation assessments.** A recording of the proceeding will soon be posted on the FCC website [here](#) [linked]. USET SPF has continued to voice its strong opposition to the Order and issued a [statement](#) [linked] condemning its approval soon after the vote. In the glaring absence of a commitment on the part of FCC to genuine consultation and mitigation of concerns, Indian Country is now forced to explore other means of preventing the implementation of this shameful Order.

In light of this action, it is more important than ever that Tribal Nations have a voice at the FCC, as the agency continues to move forward with items that have implications for Indian Country. To that end, we wanted to bring to your attention a [notice](#) [linked] issued by the **FCC seeking nominations for Tribal government representatives to serve on its Native Nations Communications Task Force.** The Task Force’s mission is, “to make recommendations to the Commission on communications-related issues that affect Tribal interests.” Among other items, the Task Force will consider:

- (i) executing the Commission’s Tribal Consultation policy;
- (ii) identifying barriers to broadband deployment that are unique to Tribal lands;
- (iii) ensuring Tribal concerns are considered in all Commission proceedings related to broadband and other Commission undertakings that affect Tribal interests regarding communications services and facilities.

USET SPF strongly encourages members of our Board of Directors to consider serving as our regional representative to the Task Force. We are seeking both a primary and an alternate for USET SPF nomination. Interested parties should reply to me at this email by COB, March 27th, so that we may begin assembling materials for the March 31st application deadline.

We thank you for your attention to this information, as we continue to impress upon the FCC the need to uphold trust and treaty obligations, as well as federal historic preservation and environmental law.

Thank you,

Liz Malerba ~ *Citizen of the Mohegan Tribe*

Director of Policy and Legislative Affairs

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From: Liz Malerba

Sent: Wednesday, March 21, 2018 5:22 PM

Subject: USET SPF Alert: Strong Tribal Opposition to FCC Streamlining of Cultural Reviews --Vote Tomorrow

Dear USET SPF Board of Directors, DC Tribal Reps, and Culture & Heritage Committee,

The Federal Communications Commission (FCC) is scheduled to vote tomorrow, March 22nd, beginning at 9:30 am ET[webcast portal linked] on its draft Report and Order [linked] proposing to restrict Tribal cultural reviews of proposed wireless deployment under Section 106 of the National Historic Preservation Act.

The draft Report and Order:

(1) Concludes that small wireless facilities do not qualify as "undertakings" or "major federal actions", thereby circumventing the protections of the National Historic Preservation Act (NHPA) and National Environmental Policy Act (NEPA);

(2) Eliminates Tribal fees for initial historic preservation assessments (which often number in the hundreds per month) by Tribal governments, encouraging industry to exclusively rely on its own consultants whose understanding of Tribal culture is limited, rather than access the unique expertise of

Tribal Nations with regard to impacts on their own cultural areas; and

(3) Mischaracterizes the extent of formal consultation carried out prior to the release of the draft Report and Order by including listening sessions, briefings, and other meetings that are not true consultations.

Earlier today, FCC Commissioner Mignon Clyburn urged her colleagues [statement linked] to delay the vote, "until the potential adverse impact of these proposed rules on Tribal Nations, historic sites, and the natural environment are fully addressed." We will continue to monitor the FCC proceeding and will provide additional comment, should the vote occur.

In the meantime, and for your general awareness, we wanted to provide you with recent related comments, articles, and statements in reference to the draft Report and Order:

[USET SPF-NCAI Joint Comments to FCC on Draft Report and Order](#)

[House Letter to FCC Signed by Ruiz, Pallone, and Eshoo](#)

[Senate Letter to FCC Signed by Udall, Cantwell, Smith, and Rep. Ruiz](#)

[USET SPF Statement on Commissioner Clyburn's Recommendation to Delay Vote](#)

[Law 360 Article: Tribal Groups Blast FCC Plan To Ease Wireless Buildout](#)

Thank you,

Liz Malerba ~ Mohegan Tribe

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