



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #MOH-17-027

TITLE: In Support of Tribal Section 106 Review of Wireless Infrastructure through the Federal Communications Commission

EXECUTIVE COMMITTEE

PRESIDENT
Brian Cladoosby
Swinomish Tribe

FIRST VICE-PRESIDENT
Fawn Sharp
Quinault Indian Nation

RECORDING SECRETARY
Aaron Payment
*Sault Ste. Marie Tribe of Chippewa
Indians of Michigan*

TREASURER
W. Ron Allen
Jamestown S'Klallam Tribe

REGIONAL VICE- PRESIDENTS

ALASKA
Jerry Isaac
Native Village of Tanacross

EASTERN OKLAHOMA
Joe Byrd
Cherokee Nation

GREAT PLAINS
Larry Wright
Ponca Tribe of Nebraska

MIDWEST
Roger Rader
Pokagon Band of Potawatomi

NORTHEAST
Lance Gumbs
Shinnecock Indian Nation

NORTHWEST
Mel Sheldon, Jr.
Tulalip Tribes

PACIFIC
Jack Potter, Jr.
Redding Rancheria

ROCKY MOUNTAIN
Darrin Old Coyote
Crow Nation

SOUTHEAST
Larry Townsend
Lumbee Tribe

SOUTHERN PLAINS
Liana Onnen
Prairie Band of Potawatomi Nation

SOUTHWEST
Joe Garcia
Ohkay Owingeh Pueblo

WESTERN
Bruce Ignacio
Ute Indian Tribe

EXECUTIVE DIRECTOR
Jacqueline Pata
Tlingit

NCAI HEADQUARTERS
1516 P Street, N.W.
Washington, DC 20005
202.466.7767
202.466.7797 fax
www.ncai.org

WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, federal agencies are required by federal law to consult with Indian tribes and Native Hawaiian organizations as part of the Section 106 process established pursuant to the National Historic Preservation Act (NHPA) in any case in which a proposed federal or federally-assisted undertaking, including wireless infrastructure, may affect a historic property that the tribe or NHO regards as holding religious and cultural importance; and

WHEREAS, the NHPA Section 106 process, as implemented through regulations issued by the Advisory Council on Historic Preservation, establishes significant procedural rights for tribes, but most tribes have limited resources that they can devote to exercising these rights; and

WHEREAS, costs associated with compliance with federal environmental and cultural resource laws generally should be treated as part of the cost of a project, whether the proponent of a project is a government agency or a nonfederal entity that receives federal funding or is otherwise subject to federal permitting, licensing or other approval authority; and

WHEREAS, the Federal Communications Commission established the Tower Construction Notification System to allow for Tribes and Tribal Historic Preservation Officers to review the impacts of wireless infrastructure development on historical and cultural properties; and

WHEREAS, the Federal Communications Commission identified Best Practices for working with Tribal Governments for the Section 106 Review in 2004, where it set forth standards for compensating Tribes for Section 106 Review; and

WHEREAS, the Federal Communications Commission has a trust responsibility to Tribes in addition to its statutory requirement to consider the effects of federal wireless undertakings on historical and cultural properties; and

WHEREAS, the Federal Communications Commission is considering streamlining Tribal involvement in the Section 106 Review regarding wireless infrastructure and small cell technology; and

WHEREAS, the NCAI has established its support for compensation to Tribes for Section 106 Consultation in Resolution SD-02-019.

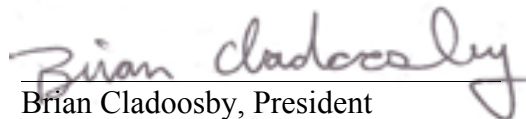
NOW THEREFORE BE IT RESOLVED, that the National Congress of American Indians (NCAI) supports the following principles: all future modifications of the Tower Construction Notification System should ensure Tribal Section 106 review of wireless infrastructure for sites that require any ground disturbance, are disturb ground in Rights of Way or require collocations on towers that did not previously undergo Tribal Section 106 Review. The FCC should recognize individual Tribes' inherent, sovereign right to determine, for themselves and by themselves, their own areas of historic and cultural interest, and to determine their own applications requirements. Furthermore, the FCC should recognize that individual Tribes, as individual sovereign nations, have the right to monitor proposed sites in efforts to protect cultural and historic properties. The FCC should continue to recognize Tribes as paid contractors for reviewing wireless infrastructure applications; and

BE IT FURTHER RESOLVED, that NCAI urges the Federal Communications Commission to actively and meaningfully consult with Tribal Governments on all further changes to the Tower Construction Notification System and matters involving the Commission's Section 106 obligations to protect historic and cultural properties; and

BE IT FINALLY RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2017 Midyear Session of the National Congress of American Indians, held at the Mohegan Sun Convention Center, June 12 to June 15, 2017, with a quorum present.


Brian Cladoosby, President

ATTEST:


Aaron Payment, Recording Secretary