

**JOINT STATEMENT OF
CHAIRMAN MICHAEL K. POWELL
AND
COMMISSIONER JONATHAN S. ADELSTEIN**

Re: Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process; WT Docket No. 03-128

One of the Commission's critical responsibilities is to manage the expansion of communications infrastructure in a way that best preserves our nation's environmental and historical resources. The construction of communications towers and other infrastructure improvements is essential to the rapid deployment to the American public of ubiquitous, advanced and competitive communications services, as well as for public safety and homeland security. In traveling the country, wireless phone subscribers regularly ask us to do what we can to improve mobile wireless coverage, particularly in rural and underserved areas. That is why we have long supported the adoption of a Nationwide Programmatic Agreement.

The Commission has specific responsibilities under federal environmental statutes, including the National Environmental Policy Act¹ and the National Historic Preservation Act ("NHPA"),² among others, to evaluate carefully the impact of its actions on the quality of the human environment. For example, the Commission must consider the impact of its undertakings on historic properties, including those sites to which federally recognized Indian tribes (including Alaska Native Villages) and Native Hawaiian Organizations attach religious or cultural significance. Some have raised questions about the Commission's authority with respect to undertakings. We fully appreciate these inquiries; nevertheless, as discussed in the Programmatic Agreement, the Commission has long interpreted the construction of communications facilities by and for its licensees to constitute a federal undertaking for purposes of Section 106 of the NHPA.

The Commission has an ambitious environmental and historic preservation action plan to promote the timely deployment of necessary communications infrastructure while, at the same time, improving the Commission's ability to protect valuable historic and environmental resources. At the heart of that plan is the goal of developing a Nationwide Programmatic Agreement, among the Commission, the Advisory Council on Historic Preservation ("Advisory Council") and the National Conference of State Historic Preservation Officers ("National Conference"), designed to streamline and tailor the historic preservation review process, consistent with the Commission's responsibilities under the National Historic Preservation Act.

Today, we adopt the Nationwide Programmatic Agreement. The Nationwide Agreement, as authorized by Section 214 of the NHPA³ and the Advisory Council's rules,⁴ streamlines and tailors the Section 106 NHPA review process for communications towers and other Commission-

¹ 42 U.S.C. § 4321, *et seq.*

² 16 U.S.C. § 470, *et seq.*

³ *Id.*, § 470v.

⁴ *See* 36 C.F.R. § 800.14(b).

licensed facilities. At the same time, the Nationwide Agreement ensures continued protection of historic properties, including those to which federally recognized Indian tribes and Native Hawaiian Organizations attach religious or cultural significance.

In addition to adopting the Nationwide Programmatic Agreement, the Commission has recently taken other measures to improve its historic preservation review process, particularly with respect to federally recognized Indian tribes, Alaska Native Villages and Native Hawaiian Organizations. First, the Commission recently entered into a Memorandum of Understanding with the United South and Eastern Tribes (“USET”) committing to the development of best practices to guide tower constructors and USET members in consensually completing efficient and effective historic preservation review among themselves in lieu of government-to-government consultation. Second, the Commission has developed an electronic Tower Construction Notification System to facilitate identification of and appropriate initial contact with federally recognized Indian tribes and Native Hawaiian Organizations that may attach religious or cultural significance to historic properties within the geographic area of a proposed undertaking. This system permits each federally recognized Indian tribe and Native Hawaiian Organization to voluntarily identify, in a secure electronic fashion, the geographic areas in which historic properties of religious or cultural significance to that federally recognized Indian tribe or Native Hawaiian Organization may be located.

The Commission also continues to work with tribes through our successful Indian Telecommunications Initiatives (ITI), which are a series of interactive workshops among tribes, government agencies and industry addressing telecommunications issues facing Indian Country including one this past May in Rapid City, South Dakota. The goal is to encourage partnerships among these groups to improve telecommunications coverage in American Indian and Alaska Native communities. These initiatives will go a long way in ensuring federally recognized Indian tribes and Native Hawaiian Organizations can effectively participate in the historic preservation review that is required under the Nationwide Agreement, while preserving government-to-government consultation with federally recognized Indian tribes in those cases where voluntary resolution without government-to-government consultation is not possible.

The Nationwide Programmatic Agreement has been in every sense a collaborative effort, and would not have been possible without the devoted participation of many people both inside and outside the Commission. First, we are thankful to the Advisory Council and the National Conference for their understanding and perseverance, especially the hard work of their lead negotiators, Charlene Vaughn of the Advisory Council and Nancy Schamu of the National Conference. We look forward to the swift approval of the Nationwide Agreement by the Advisory Council and National Conference Boards so that the parties can proceed to signature. We also are grateful to representatives of Indian tribes, and especially USET, for the many hours they have spent with Commission staff educating us to their special needs and developing workable solutions. Finally, a range of other affected parties, including industry, historic preservation organizations, and cultural resources consultants, have made vital contributions through their participation in the Working Group, their comments, and meetings. Without the active participation, creativity, and good faith of all of the stakeholders, we could not have produced the rich and balanced document that we approve today.

It is our hope and goal that this Nationwide Agreement, together with the other initiatives discussed above, will be the springboard for increasingly fruitful ongoing relationships between the Commission and our partners, the Advisory Council and the National Conference, in preserving this Nation's historic heritage. Consistent with the spirit of this agreement, we will continue to move the Commission forward in improving the efficient and effective fulfillment of our historic preservation and other environmental responsibilities.

Lastly, we would like to thank the Wireless Telecommunications Bureau, Consumer and Governmental Affairs Bureau, Media Bureau, and Office of General Counsel for their dedication and the many months they spent to resolve the important issues addressed in this Agreement.