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Sent via email:

Leon Jackler
Senior Counsel
Wireless Telecommunications Bureau
Federal Communications Commission
Leon.Jackler@fcc.gov

Cc via email:

Jill Springer
Georgios Leris
Paul D'Ari
Federal Communications Commission
Jill.Springer@fcc.gov
Georgios.Leris@fcc.gov
Paul.Dari@fcc.gov

Robert Vitanza
Assistant VP & Senior Legal Counsel
AT&T
RV4902@att.com

**Petition for Environmental Review of AT&T proposed commercial cell tower
(ASR # forthcoming; IDL lease #M700086), Sawtooth National Recreation Area,
Custer County, Idaho**

Dear Mr. Jackler:

On behalf of the Sawtooth Interpretive & Historical Association (SIHA) and the Idaho Conservation League (ICL), I am submitting to the FCC this Petition for Environmental Review of the proposed AT&T commercial cell tower (ASR# forthcoming), located at 10N 13E Section 36, Boise Meridian, in Custer County, Idaho.

The proposed location is a small Idaho state endowment land parcel near the Sawtooth Fish Hatchery on a ridge overlooking Redfish Lake, within the larger boundaries of the Sawtooth National Recreation Area (SNRA) and the Central Idaho Dark Sky Reserve.

This Petition for Environmental Review is submitted pursuant to the Federal Communication Commission's (FCC) rules for environmental review, which provide that any interested persons may petition for environmental review under the National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321 *et seq.*, of any proposed system cell tower that may pose significant environmental impacts (or for which alternative proposals should be examined) which may be otherwise categorically excluded from NEPA review. 47 C.F.R. 1.1307(c).

The proposed tower was initially slated to be part of the Nationwide Public Safety Broadband Network ("NPSBN"), managed by FirstNet, an independent federal authority within the U.S. Department of Commerce. In July 2020, SIHA and ICL petitioned FirstNet for Environmental Review. The 2020 Petition, and its attachments are enclosed. In 2021, AT&T prepared an Alternatives Analysis and Mitigation Proposal due to the adverse effect the proposed tower would have on the National Register of Historic Places-eligible Red Fish Lodge Complex. That analysis, as well as ICL's related comments are enclosed.

We understand that AT&T is now pursuing the proposed cell tower for commercial purposes and therefore now seeks approval of the cell tower from the FCC.

The proposed cell tower requires full NEPA analysis instead of approval using a categorical exclusion, because: (1) it does not qualify for approval using a categorical exclusion; and (2) even it otherwise qualifies for approval using a categorical exclusion, it may have significant impacts on the human environment.

FCC NEPA regulations categorically exclude some new tower builds from undergoing an Environmental Assessment. *See* 47 C.F.R. § 1.1306(a). Under specified circumstances, however, the regulations recognize the new tower may significantly affect the environment and thus requires an Environmental Assessment. 47 C.F.R. § 1.1307(a). Two of those circumstance requiring an Environmental Assessment are present here: "Facilities that may affect districts, sites, buildings, structures or objects, significant in American history, architecture, archeology, engineering or culture, that are listed, or are eligible for listing, in the National Register of Historic Places (*see* 54 U.S.C. 300308; 36 CFR parts 60 and 800), and that are subject to review pursuant to section 1.1320 and have been determined through that review process to have adverse effects on identified historic properties," 47 C.F.R. § 1.1307(a)(4); and "Facilities whose construction will involve significant change in surface features (e.g., wetland fill, deforestation or water diversion)," 47 C.F.R. § 1.1307(a)(7).

As shown in AT&T's Alternatives Analysis and Mitigation proposal, and in ICL's comments, the cell tower will affect the NRHP-eligible Red Fish Lake Lodge Complex, making the tower ineligible for categorical exclusion under 47 C.F.R. § 1.1307(a)(4).

The tower is also ineligible for categorical exclusion because its construction will involve significant change in surface features under 47 C.F.R. § 1.1307(a)(6). Congress established the SNRA 50 years ago "to assure the preservation and protection of the natural, scenic, historic, pastoral, and fish and wildlife values and to provide for the enhanced recreation values associated therewith." 86 Statute 612, Public Law 92-400 (Aug. 22, 1972). Constructing a tall

tower, about 100 feet of which would be visible above the SNRA tree canopy, is a significant change in surface features to this unique area.

Even if it otherwise qualifies for categorical exclusion, if the FCC determines a facility “may have a significant environmental impact,” it shall nevertheless require the applicant to submit an Environmental Assessment. 47 C.F.R. § 1.1307(d). Due to the unique circumstances and characteristics of the proposed cell tower site and its surroundings—including the site’s prominent location in the popular SNRA, location in the Central Idaho Dark Sky Reserve, and proximity to popular, listed historic sites at Redfish Lake—AT&T’s proposed cell tower “may” have significant impacts on the human environment and, therefore, requires preparation of at least an Environmental Assessment, if not an Environmental Impact Statement (EIS). *See* 40 C.F.R. 1501.6(a) (agency may avoid preparing EIS only if it finds project “will not have significant effects”). Due to these potentially significant effects, and because better alternatives may exist to minimize visual and other impacts of the proposed tower while providing commercial cell coverage for residents and visitors to the area, Petitioners request that full and public environmental analysis be undertaken.

For these reasons, Petitioners respectfully request that: (1) no categorical exclusion be applied to the project; (2) an environmental assessment and, if necessary, an EIS, be prepared, considering any and all reasonable alternatives (including co-location of equipment on the existing CusterTel tower at the site); and (3) public comment and hearings per 40 C.F.R. § 1506.6 be conducted.

The enclosed 2020 Petition to FirstNet (and its attachments) provides additional factual and legal background and support for this Petition and the requested relief.

Thank you for your consideration, and please do not hesitate to contact me if I can provide more information.

Sincerely,



Bryan Hurlbutt (Idaho State Bar # 8501)
Laurence (“Laird”) J. Lucas (Idaho State Bar # 4733)
ADVOCATES FOR THE WEST
P.O. Box 1612
Boise, ID 83701
(208) 342-7024
bhurlbutt@advocateswest.org
llucas@advocateswest.org

Attorneys for Petitioners

Enclosures:

- I. 2020 Petition to FirstNet (and all attachments)
- II. Environmental Corporation of America Apr. 30, 2021 Alternatives Analysis
- III. ICL Aug. 19, 2021 NHPA Comments