

**MEMORANDUM OF AGREEMENT
AMONG
THE FEDERAL COMMUNICATIONS COMMISSION,
THE PENNSYLVANIA STATE HISTORIC PRESERVATION OFFICER,
AND CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS
REGARDING THE CONSTRUCTION OF A COMMUNICATIONS TOWER
IN HIGHLAND TOWNSHIP, ELK COUNTY, PENNSYLVANIA**

WHEREAS, Cellco Partnership d/b/a Verizon Wireless (Verizon Wireless) proposes to construct a wireless telecommunication “Facility” at 3218 Highland Road, Highland Township, Elk County, Pennsylvania (with coordinates of N 41° 35’ 34.57” and W78° 49’ 29.89”); and

WHEREAS, Verizon Wireless is a licensee of the Federal Communications Commission (“FCC”) and intends to use the Facility in connection with the provision of its licensed wireless telecommunications service; and

WHEREAS, the FCC has determined the construction of a Facility is a federal undertaking; and

WHEREAS, Verizon Wireless, pursuant to delegation from the FCC, initiated the National Historic Preservation Act (“NHPA”) Section 106 review for the Facility as required by the FCC rules, 47 C.F.R. 1.1307(a)(4); and

WHEREAS, Verizon Wireless has consulted with the Pennsylvania State Historic Preservation Officer (“Pennsylvania SHPO”), pursuant to the 2004 FCC *Nationwide Programmatic Agreement for Review of Effects on Historic Properties for Certain Undertakings Approved by the Federal Communications Commission* (NPA) and 36 C.F.R. Part 800 regulations implementing Section 106 of the NHPA, and has been invited to participate in this Memorandum of Agreement; and

WHEREAS, the FCC and the Pennsylvania SHPO has determined that Highland Farm (subject property) is the only historic property listed or eligible for listing in the National Register of Historic Places within the Area of Potential Effects (APEs) that would be adversely affected by the construction of the proposed Facility; and

WHEREAS, Verizon Wireless, consistent with the FCC’s requirements for environmental review, has considered and evaluated a number of alternative sites for locating the proposed Facility and has concluded that all of the sites considered either are unavailable for Verizon Wireless’ use or are unsatisfactory from a technical radio frequency perspective for the coverage needs of the communications system supported by the Facility; and

WHEREAS, members of the general public and other interested individuals and entities were afforded the opportunity to participate in and comment on this proceeding through placement of a legal notice in *The Kane Republican* on July 2, 2014, and by correspondence to the Elk County Planning Department, Highland Township (c/oTown Clerk), and Elk County Historical Society,

in letters dated June 30, 2014, to identify and comment on historic properties that may be effected by the proposed undertaking pursuant to Section V.C. of the FCC NPA, and no party responded to the invitation; and

WHEREAS, at the request of the Pennsylvania SHPO, the Penn State Cooperative Extension Association, Allegheny National Forest, and the Lumber Heritage Region were invited by correspondence dated May 27, 2015, to identify and comment on historic properties that may be effected by the proposed undertaking, pursuant to Section V.C. of the FCC NPA, and to seek input on methods for minimizing or mitigating any effects on historic properties. None of the additional parties asserted concerns, nor were they interested in further consultation on the proposed project; and

WHEREAS, Verizon Wireless has made a reasonable and good faith effort to identify and contact Indian tribes that might attach religious and cultural significance to historic properties within the APE through the FCC's Tower Construction Notification System, including the Delaware Nation, Absentee Shawnee Tribe of Indians of Oklahoma, Tonawanda Band of Seneca, the Tuscarora Nation, Keweenaw Bay Indian Community, Oneida Nation of Wisconsin, Seneca-Cayuga Tribe of Oklahoma, Eastern Shawnee Tribe of Oklahoma, Wyandotte Nation, Shawnee Tribe, Chippewa Cree Tribe of the Rocky Boy's Reservation, Seneca Nation of Indians, and Delaware Tribe of Indians. These communications resulted in either an affirmative response that no historic properties of religious or cultural significance would be affected by the undertaking or that the individual tribe was not interested in further pre-construction review; and

WHEREAS, in consultation with the Pennsylvania SHPO, it was determined that the construction of the Facility would have an adverse effect on Highland Farm; and

WHEREAS, the Advisory Council on Historic Preservation (ACHP) has declined to participate in the negotiation of this MOA; and

NOW THEREFORE, the FCC, the Pennsylvania SHPO, and Verizon Wireless (the "Parties") agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties, and together with the undersigned Consulting Parties, agree that these measures shall constitute full, complete and adequate mitigation measures under the NHPA and the implementing regulations of the Advisory Council on Historic Preservation (ACHP) and the FCC.

STIPULATIONS

The FCC, through coordination with Verizon Wireless, will ensure that the following measures are carried out:

I. DESIGN

- a. The proposed facility will include a 300-foot tall self supporting lattice tower with 12 antennas mounted with a centerline height of 295 feet above ground level. The tower will have a nine foot tall lightning rod attached to the top bringing the total overall height to 309 feet above ground level. In accordance with Federal Aviation

- Administration regulations, the anticipated lighting application is medium intensity dual red/white strobes; and
- b. The radio equipment will be installed within the outdoor equipment cabinets located within the ground level equipment compound; and
 - c. Verizon Wireless will make the Facility available for the future placement of antennas and associated equipment for public safety broadband service, as legislated in Section 6206 of the Middle Class Tax Relief Act, to the extent that space on the Facility is available for use and the structural integrity of the proposed tower allows; and

II. MITIGATION

Based on consultation between the Pennsylvania SHPO, EBI Consulting, and Verizon Wireless regarding mitigation for the effects of the tower, Verizon Wireless will fund research and analysis of agricultural census data for Highland, Millstone and Spring Creek Townships from the 1880 Federal Census Manuscripts, posted on Pennsylvania SHPO's website. The analysis will include calculations of the data averages for each of the identified agricultural information categories for the townships. The averages data will be posted on Pennsylvania SHPO's website by Pennsylvania SHPO staff at http://www.portal.state.pa.us/portal/server.pt/community/tabulated_census_data/2894 for future consultants to use in their analysis of the eligibility of other farmsteads within Highland, Millstone and Spring Creek Townships, permitting comparison of individual farmsteads to others within the township, determining if the farmstead is representative of historic farmsteads of the era or an exceptional example.

- a. The draft of the Excel spreadsheet will be submitted to Pennsylvania SHPO for their review within 3 weeks of the FCC's issuance of the FONSI.
- b. The average data will be provided to Pennsylvania SHPO electronically in a Microsoft Excel spreadsheet.
- c. Pennsylvania SHPO will have 30 days to review the documentation and concur it is sufficient or to request additional information or revisions. Any edits will be re-submitted to Pennsylvania SHPO within a reasonable time period depending on the complexity of the edit request.
- d. Pennsylvania SHPO will post the tabulated census averages for the Townships within 6 months of the receipt of the final Excel spreadsheet that incorporates Pennsylvania SHPO's revision requests (if any are requested).

III. INADVERTENT DISCOVERY

If presumed human remains are encountered during construction of the telecommunications facility, all activities with a potential to disturb the remains shall cease. Local law enforcement, the County Coroner, the Pennsylvania SHPO and Native American Tribes shall be notified. The County Coroner shall determine if the remains are of forensic interest. Verizon Wireless, or their representative, will initiate further consultation with the Pennsylvania SHPO and the FCC to determine the appropriate steps for removal and final disposition of remains and associated objects.

Further, Mr. Stephen G. DelSordo, Federal Preservation Officer, FCC shall be notified of the discovery. Project construction work shall not recommence until the remains, and any associated objects, are removed and commencement is authorized by the FCC.

IV. MONITORING AND REPORTING

After the stipulations are executed and the Facility constructed, Verizon Wireless shall provide all Parties to this Memorandum of Agreement a summary report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in Verizon Wireless' efforts to carry out the terms of this Memorandum of Agreement.

V. REMOVAL

In the event Verizon Wireless or its successor(s) abandons the Facility and associated facilities described herein, Verizon Wireless or its successor(s) shall disassemble the Facility and associated facilities and notify the Pennsylvania SHPO accordingly.

VI. DISPUTE RESOLUTION

Should the Pennsylvania SHPO, Verizon Wireless, or any Consulting Party who has signed this Memorandum of Agreement have a dispute about the implementation of this Memorandum of Agreement, they may request mediation of said dispute by the FCC. If the FCC determines that the dispute cannot be resolved, the FCC shall request further comments or recommendations of the ACHP concerning the dispute pursuant to 36 C.F.R. Part 800. Any ACHP comment provided in response to such a request will be taken into account by the FCC in accordance with 36 C.F.R. Part 800 with reference only to the subject of the dispute. The FCC's responsibility to carry out all actions under this Memorandum of Agreement that are not the subject of the dispute will remain unchanged.

VII. ENFORCEMENT

Failure to carry out the terms of this Memorandum of Agreement will require that the FCC again request the comments of the ACHP, in accordance with 36 C.F.R. Part 800. If the terms of this

Memorandum of Agreement are not implemented, the FCC shall provide the ACHP with the opportunity to comment on the effects and mitigation alternatives.

VIII. OTHER REQUIREMENTS

Verizon Wireless will file with the FCC an application and environmental assessment within thirty (30) days of the effective date of this Memorandum of Agreement. Execution of this Memorandum of Agreement and implementation of its terms evidence that the FCC has afforded the ACHP a reasonable opportunity to comment on the proposed Facility and that the FCC has taken into account the effects of this undertaking on historic properties. This Memorandum of Agreement shall be effective upon notice from the FCC that all Parties have agreed to and signed this Memorandum of Agreement.

IX. DURATION

This Memorandum of Agreement shall be effective upon notice from the FCC that all Parties have agreed to and signed this Memorandum of Agreement. This Memorandum of Agreement shall be null and void if the terms of the Memorandum of Agreement are not carried out within five (5) years from the date of its execution, unless the signatories agree in writing to an extension for carrying out its terms.

FEDERAL COMMUNICATIONS COMMISSION

By:  Date: 7/21/16
Mr. Dan Abeyta, Esq.
Assistant Chief Spectrum and Competition Policy Division
Wireless Telecommunications Bureau

CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS

By: 
Mauricio Aguilar
Director Network Field Engineering

Date: 06/30/2016

THE PENNSYLVANIA STATE HISTORIC PRESERVATION OFFICER

By: Andrea L. MacDonald Date: 5/23/2014
Andrea L. MacDonald
Deputy State Historic Preservation Officer