

October 09, 2024

51 Wireless
c/o Jared Kearsley
4930 Pacific Street
Rocklin, CA 95677

**RE: Application CUP23-0009/Bowman Telecommunications Facility
Assessor's Parcel Number 121-040-026-000**

Dear New Cingular Wireless PCS, LLC d/b/a AT&T Mobility,

The above-referenced permit application (“Application”) was filed with the County of El Dorado (“County”) on March 29, 2023. Federal law requires the County to take final action on the application within specified deadlines (also known as the “shot clock”) unless the deadline for final action is extended by mutual consent. Accordingly, in order to allow time for review of the Application site and to conduct a hearing on the Application, the County and the applicant desire to extend the applicable time period for review under the federal Telecommunications Act for the Application to **February 06, 2025**, to accommodate discretionary approvals and appeal period related to the Application. If an appeal is filed, the County and applicant agree to extend the deadline an additional 45 days to account for the appeal. When countersigned, this letter will confirm an agreement between the County and the applicant to so extend the applicable time period for review. Such extension shall be deemed to be retroactive to prior to the expiration of any such time periods.

The federal Telecommunications Act requires that local governments act on wireless siting applications “within a reasonable period of time.” (See 47 U.S.C. § 332(c)(7)(B)(ii).) In a 2009 declaratory ruling, the Federal Communications Commission established a legal presumption that a local government has violated this requirement if it takes longer than 90 days to act on an application to collocate a wireless facility or 150 days to act on a request to install a wireless facility, plus the number of days it takes an applicant to respond to a notice of incomplete application provided within the first 30 days following the application date. (See *In Re: Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review, Etc.*, FCC 09-99 (FCC Nov. 18, 2009) (“2009 Ruling”).) In 2018, the Federal Communications Commission codified this shot clock in Final Rule subsection 1.6003(c)(1)(iv). (See FCC Final Rule, § 1.6003(c)(1)(iv) [“The following are the presumptively reasonable periods of time for action on applications seeking authorization for deployments . . . Construction of new facilities other than small wireless facilities: 150 days.”]; see also *In the Matter of Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, FCC-CIRC1809-02 (FCC Sept. 5, 2018), ¶¶ 134-135 (“2018 Order”).)

Despite imposition of shot clocks, the FCC recognizes the value of “cooperation between parties to reach mutually agreed upon solutions,” including agreement to toll the running of shot clocks to allow the “parties to resolve disagreements in a collaborative, instead of adversarial, setting.” (2018 Order, ¶ 127; accord 2009 Ruling, ¶ 49; see also Cal. Gov. Code, § 65964.1(a)(1).) Final Rule subsection 1.6003(d)(1) expressly provides for tolling of a shot clock for “[t]he period of time established by written agreement of the applicant and the siting authority.” (FCC Final Rule, § 1.6003(d)(1).)

In order to allow the County to act on the Application without either party risking the loss of important rights, the parties agree that the time period within which the County may act on the Application and all related approvals under both California and Federal law shall be extended through **February 06, 2025**, and that no limitations period for any claim of unreasonable or unlawful delay in processing the Application shall commence to run before said date. The parties further agree that for any application not submitted or subject to a proper incomplete notice as of the date of this tolling agreement, such as a building permit application, the date provided for in this tolling agreement shall be extended for such application or applications by the number of days the shot clock would have been tolled under Final Rule subsections 1.6003(d)(2) and 1.6003(d)(3) for an incomplete application. If the County has not acted on the Application and other related approvals by said date, this Agreement shall not be construed as an admission by the County that such failure to act is unreasonable or unlawful, nor shall it be construed to waive or otherwise impair the applicant's rights with respect to any such claim.

If you agree, this letter agreement may be executed in counterparts, and scanned or facsimile signatures shall be deemed equivalent to original signatures. Please return a countersigned copy to me at your earliest convenience.

Best Regards,

Jon Philip Mijat, Associate Planner

ACCEPTED AND AGREED TO:

By: *Jon Mijat*

Printed Name: Jon Philip Mijat

Title: Associate Planner

ACCEPTED AND AGREED TO:

By: *Nels Olson*

Printed Name: Nels Olson

Title: Associate Director -Network