

United States Senate
WASHINGTON, DC 20510-4105

<https://www.thune.senate.gov>

December 13, 2022

The Honorable Tom Vilsack
Secretary
U.S. Department of Agriculture
1400 Independence Avenue SW
Washington, D.C. 20250-1590

Dear Secretary Vilsack:

As you know, Congress has allocated billions of dollars to expand fixed and mobile broadband services. The deployment of these services can be unnecessarily burdensome and lengthy with multiple series of approvals. In an effort to boost the development and deployment of next-generation broadband services, I authored the MOBILE NOW Act, which was signed into law in 2018.

In MOBILE NOW, Congress instructed federal agencies, within 270 days of receiving an application, to grant or deny easements, rights-of-way, or leases on federal property to install, construct, modify, or maintain a communications facility installation. Additionally, the Agriculture Improvement Act of 2018 (2018 farm bill) required the U.S. Department of Agriculture (USDA) to streamline the process when reviewing applications to locate or modify communications facilities on U.S. Forest System (USFS) lands.

With billions of dollars set to be disbursed to deploy broadband services, it is imperative that federal agencies do not hinder the deployment of this infrastructure. Therefore, I write today to seek additional information about USDA's implementation of MOBILE NOW and the 2018 farm bill. Please provide responses to following questions as they relate to the USFS and Rural Utilities Service no later than Friday, January 13, 2023:

MOBILE NOW Specific Issues:

- 1) Has each agency adopted and been using the master common application for installing, constructing, modifying, or maintaining (i.e., siting) communications facilities on agency property or the master contract for the same as called for by Section 606 of MOBILE NOW? If not, what is used in its place for applications or contracts for siting communications facilities on agency property?
- 2) How many applications for siting did each agency receive in FY20, FY21, and thus far in FY22?

- 3) How many master contracts for siting communications facilities on agency property did each agency execute in FY20, FY21, and thus far in FY22? How many such contracts are currently pending with the agencies?
- 4) What policies, whether formal or informal or written or unwritten, does each agency follow for accepting an application for siting?
- 5) What instructions does each agency publish for the public on the application and the procedures for submitting applications? How do the agencies make the public aware of the applications and the procedures for submitting applications? What information does each agency make publicly available about the application and procedures for submitting applications?
- 6) Does the department have a single point of contact for gathering application information, requesting an application, or for submitting applications?
- 7) How does each agency process applications? Do the agencies receive digital applications, i.e., using electronic systems? Do the agencies use electronic systems to process, record, or otherwise manage applications? Do the agencies process applications in parallel or sequentially?
- 8) Does each agency impose conditions on the submission of an application in order to deem it as “received” to begin counting the 270-day processing period set forth in Section 606? When do the agencies interpret an application as “duly filed” under Section 606 and for what reasons might the agency consider an application not “duly filed?”
- 9) When does each agency begin counting days for the 270-day processing period for applications set forth in Section 606? Please list all the reasons each agency might not start counting the 270-day processing period immediately upon receiving an application. What was the average number of days for agencies to begin counting days for the 270-day processing period from the day upon which an applicant delivered its initial application for a site to the agency in FY20, FY21, and thus far in FY22.
- 10) How many and what percentage of siting applications received by each agency in FY20, FY21, and thus far in FY22 were processed within 270 days of the agency receiving the application as imposed by Section 606?
- 11) What was the average number of days for each agency to process siting applications in FY20, FY21, and thus far in FY22.
- 12) For any siting applications that were not processed within 270 days, what were the reasons for the delays?
- 13) Does each agency impose conditions or requirements when negotiating a siting contract before negotiating and processing a siting contract, including but not limited to any not

expressly set forth in the master contract, spectrum utilization studies, or other reviews or clearances? If so, please describe all potential conditions or requirements each agency has required an applicant to satisfy before executing a siting contract.

- 14) Are resource or staffing constraints of the agencies a cause for delays with processing siting applications and contracts?
- 15) Do communications siting applications or any other permit applications received by the agencies receive priority for processing over others? If so, which take priority and why? How does each agency prioritize applications that it receives?
- 16) How has each agency been implementing the fee provisions of Section 606 of MOBILE NOW, including the fee waiver process?
- 17) How are you ensuring that the fees under Section 606 are cost based?
- 18) How many fee waiver requests have you received and how many have been granted?

2018 farm bill specific issues:

- 1) In March 2022, the USFS issued a rule that charges new fees annually for fixed and wireless facilities.
 - a. How did the USFS determine the precise costs of each new fee?
 - b. How is the new fee expected to streamline the USFS's broadband permitting process?
 - c. What authorization did the 2018 farm bill provide the USFS to impose this fee?
 - d. Is the USFS considering any further rule or notices regarding the facilitation of communications infrastructure National Forest System lands?

Thank you for your attention to this important issue. I look forward to learning what progress has been made and your input regarding any additional actions that may be necessary to promote the deployment of broadband infrastructure.

Sincerely,



JOHN THUNE
United States Senator