



YUROK TRIBE



December 11, 2020

California Broadband Council
1325 J Street
Suite 1600
Sacramento, CA 95814-2928

Re: Yurok Tribe Comments on California Broadband Council's Draft Broadband for All Action Plan.

Aiy-ye-kwee'

The Yurok Tribe applauds the creation of Executive Order N-73-20 and its inclusion of tribal governments and appreciates this opportunity to provide comments on the California Broadband for All Action Plan

Background

The Yurok Tribe is a sovereign nation and federally recognized Tribe, the largest within California with over 6,000 enrolled members. The modern Yurok Tribe government is organized under the Yurok Constitution to, in part, "provide for the health, education, economy, and social wellbeing of our members and future members" and to ensure "peace, harmony, and protection of individual human rights among our members and among others who may come within the jurisdiction of our tribal government." Ensuring adequate services—including internet and phone services—is part of the Yurok Tribe's responsibility.

The Yurok Tribe owns and operates Yurok Connect, a Wireless Internet Service Provider ("WISP"), that provides services to Yurok Reservation residents within Del Norte and Humboldt counties. Currently, Yurok Connect is reliant on a major provider's infrastructure through our purchase of their backhaul services to provide internet to Yurok Reservation residents that would otherwise be unserved.

Availability: Speed and Reliability

The Yurok Tribe supports the Executive Order N-73-20 goal of pursuing a minimum broadband speed of 100 Mbps. Currently, Yurok Reservation residents do not receive speeds beyond 10/1 Mbps and the Yurok Tribe encourages prioritization of rural tribal communities. Alternatively, the Yurok Tribe recommends temporary measures to increase speeds to 25 Mbps until the 100 Mbps is available.

Affordability

The Yurok Tribe recommends implementing reasonable price limits for reselling bandwidth to tribal governments and tribal WISPs, including low-income requirements for Tribes with fewer resources and/or tribal WISPs that serve low-income communities. Currently, it is our understanding that Yurok Connect pays approximately ten times more for bandwidth than an average consumer. While consumer and business pricing differences are expected, there are larger contexts to consider. For example, in response to the pandemic, the Yurok Tribe suspended Yurok Connect payments for customers to alleviate the financial burdens many are facing while ensuring access to crucial internet service that keeps students, remote workers, essential services, and access to health and safety updates uninterrupted. Having a low-income threshold for Yurok Connect and similarly situated tribal providers would allow for the purchase of bandwidth at lower prices, which would then allow for internet services to be provided at lower costs for tribal members and residents of reservations.

Further the Yurok Tribe recommends requiring transparency, standardization, reliability, and good faith contractual dealings from the few large internet service providers. Left unchecked, broadband monopolies are further widening the broadband and digital literacy gap in rural tribal communities. As an example, the Yurok Tribe, through Yurok Connect, purchases bandwidth from the local major provider and resells the bandwidth at an affordable price to Yurok Reservation residents that provider will not serve. However, service is frequently down and the provider's response time to service tickets is often well beyond contractual limits, and there is no recourse. Our communications and requests are frequently ignored. While arbitration or litigation to the terms of the contract may alleviate some of the issues in the short term, the risk of alienating the company with a monopoly on key broadband infrastructure in the area is too great. The provider has already threatened the Yurok Tribe with removal of resources.¹

California's Broadband Action Plan should ensure that tribal sovereignty is respected, there is adequate oversight of monopoly providers, and rural tribal governments are not held captive by providers, especially when those providers are subsidized by the state of California.

Devices and Digital Literacy

Access to devices and digital literacy resources is crucial. However, for the Yurok Tribe, sufficient bandwidth to actually utilize the devices is the biggest hurdle. Students don't have bandwidth to use the devices for distance learning, which means Yurok Reservation students and residents have increased barriers to developing technological skills, which widens the digital literacy gap and negatively impacts student outcomes. The Yurok Tribe has found that rural

¹ For example, a local provider appropriately applied for, and received, a permit from the Yurok Tribe's Cultural Resources department for construction activities in Yurok's territory. However, the provider failed to comply with the terms of the permit by failing to have a cultural monitor on site during construction. When this oversight was brought to the provider's attention, they threatened "if you are going to try and push blame on us we can simply allocate these funds to build elsewhere and not provision this area with increased bandwidth."

youth have lower education outcomes and believe lack of accessible internet is a contributing factor.

Data

Tribal governments should have more access to broadband data. The Yurok Tribe recommends requiring relevant state agencies and large internet service providers to provide the following information to tribal governments:

- Locations of all broadband and telecommunications infrastructure on tribal lands, including inventory of equipment capabilities;
- Changes that may allow for increase in speeds and capabilities;
- Any proposed projects and changes that may impact tribal land and tribal citizens;
- Notice and consent for construction and maintenance work on tribal lands; and
- Accurate information related to outages, including the cause and expected repair times.

In short, the Yurok Tribe would like more information and sooner. The Yurok Tribe is often the last to know, or completely kept in the dark, when crucial decisions impacting broadband access occur. Frequent outages, planned and unplanned, are not communicated to the Yurok Tribe or Yurok Connect, this lack of information impedes government functions and holds our work force captive, without the information needed to mitigate the impacts of the outages.

Finally, as a sovereign nation, the Yurok Tribe would like to see respect for tribal sovereignty and tribal data sovereignty incorporated into the Broadband Action Plan. Specifically, the Tribe is particularly concerned with any sharing of information necessary to protect cultural resources. Tribes should be able to work cooperatively with providers on broadband deployment in a way that safeguards environmental and cultural resources to limit negative impacts while also limiting the type of sensitive information shared in the process. This information will also help the Yurok Tribe plan its own deployments and better predict and manage the staff time needed to aid or oversee work conducted on the Yurok Reservation.

Other Recommendations

The Yurok Tribe recommends increased funding for tribal technical assistance grants, broader scope for tribal technical assistance grants, and changes to the reimbursement model for these funds as many Tribes do not have the ability to front the costs of these projects. We also recommend more funding specifically for rural Tribes to account for the unique challenges faced by rural communities. Lastly, it is important to respect tribal sovereignty and conduct meaningful government-to-government consultation related to funding regulations that may be in conflict with the practical realities of tribal governance.

The Yurok Tribe has appreciated and benefited from the work of many tribal liaisons and encourages maintaining and expanding these positions and programs. For example, the CPUC tribal liaison and telecommunications specialists assisting with broadband expansion plans as they relate to a local CASF project have been incredibly helpful. More specifically, having a local

partner, such as Karen Eckersly of the CPUC, with agency expertise, understanding of the local region and issues, and understanding of state and national resource for Tribes has been invaluable.

One of the major issues facing the Yurok Tribe, and likely other rural Tribes and governments, is the dearth of qualified individuals willing to work in rural areas. We often must hire and train an individual from the ground up and have difficulty finding appropriate trainings to support our staff in learning the skills necessary to complete the job. The Yurok Tribe recommends the creation of a curriculum for Tribes to train telecommunication and broadband workers to fill the many positions needed to successfully deploy and manage a tribal WISP and have the knowledge needed to effectively partner with the major providers in a way that ensures protection of tribal interests and informed decisions by tribal leaders. Additionally, the Yurok Tribe recommends creating a resource center for rural Tribes that identifies quality training opportunities, funding opportunities, and scholarships for tribal employees to participate.

The dearth of training has been a two-way street with internet providers. The Yurok Tribe recommends the creation or centralization of training and resources that will educate the major providers on tribal law, environmental issues, cultural resources, and how to better consult and collaborate with tribal governments. For example, cultural and environmental impacts are a valid reason for adjusting, but not cancelling, broadband and other telecommunication infrastructure projects on tribal lands. Formal consultation should occur for any plans that will impact a Tribe's reservation and ancestral land. Currently, the Yurok Tribe does not know of a formal process for being informed of any planned broadband construction or maintenance. If there is a formal process, it must be followed and/or advertised better, as we often have no notice unless Yurok Tribe employees happen upon construction activities. Whenever a provider, or California agency, conducts any ground disturbance on reservation and or ancestral lands, they need to consult with Tribes to ensure cultural resources are not harmed and to develop opportunities to collaborate with tribal WISPs. An example of potential collaborations includes the opportunity for the Tribe to lay its own conduit in the same trench at the same time as a major provider.

The Yurok Tribe recommends creating and/or heightening standards for minimum quality of service of large carriers while accommodating the needs and resources of local WISPs that are working to improve things for the local community.

The Yurok Tribe recommends a tribal right of first refusal whenever a company or agency sells off infrastructure and other telecoms resources within their tribal lands. Further, we recommend tribal priority for funding to provide actual meaningful infrastructure and broadband to rural tribal communities. Currently, the large providers have a monopoly on access to meaningful funds, yet year after year fail to create more infrastructure, bandwidth, or access. Providers have done the bare minimum, claiming modest improvements across their entire portfolio, while leaving less profitable rural areas behind. The reality seems to be that the actual work of providing broadband access to the Yurok Tribe and Yurok Reservation has been punted from provider to provider and the Yurok Tribe and Yurok Connect are placed on unequal footing, blocked from accessing funding and resource that can be used to actually address the problem.

The Yurok Tribe supports the Public Advocates Office's recommendations related to backup power in broadband networks.

While these comments include many recommendations, and a few frustrations, the Yurok Tribe is pleased to see attention on the broadband issue and appreciates the efforts of the California Broadband Council to include Tribes in the creation of the California State Broadband Action Plan. We look forward to seeing the final plan and future collaborations that will improve broadband access for the Yurok Tribe.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph L. James". The signature is fluid and cursive, with a large initial "J" and "L".

Joseph L. James
Chairperson, Yurok Tribe