PATRICK LEAHY
VERMONT

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COMMITTEES:
AGRICULTURE, NUTRITION, AND FORESTRY
APPROPRIATIONS
JUDICIARY

United States Senate
WASHINGTON, DC 20510-4502

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of:

Reply comments regarding procedures for Reviewing Requests for Relief from certain State and Local Regulations; (WT Docket No. 97-192) — WT Docket No. 97-197

Comments on Preemption of State and Local Zoning and Land Use Restrictions on the Siting, Placement and Construction of Broadcast Station Transmission Facilities; — MM Docket No. 97-182

# THE COMMENTS OF SENATOR PATRICK LEAHY

## I. INTRODUCTION

I am one of five Senators who voted against the Telecommunications Act of 1996. One of my fears was that states and local communities would lose control over the location and construction of communications towers. I wish I had been wrong.

Under that Act, the will and voices of Vermont towns are muted, and when big, unsightly towers are proposed, towns no longer can say no. It is unfortunate that the Telecommunications Act received 91 votes. That Act also prohibits towns and cities from having stricter health and safety standards regarding the environmental effects of radio frequency emissions.

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The Act provides that no state or local government can prohibit the provision of personal wireless services nor can they regulate wireless facilities regarding health effects "to the extent that such facilities comply with the Federal Communications Commission's regulations . . . ."

The State of Vermont -- from Governor Howard Dean to the Vermont Environmental Board, local zoning officials, mayors and citizens -- are all concerned that they are losing control over the siting, design and construction of telecommunications towers and related facilities.

I do not want Vermont turned into a giant pincushion with 200-foot towers indiscriminately sprouting on every mountain and in every valley. Vermonters should be able to determine where these towers are located and have the ability to insist on co-location of towers and other reasonable requirements.

Vermont enacted its landmark legislation, called Act 250 (Title 10, Chap. 151, of Vermont's Land Use and Development Law), to carefully establish procedures to balance the interests of development with the interests of the environment, health and safety, resource conservation and the protection of Vermont's natural beauty.

The proposals under consideration will interfere with the operation of Act 250 and take away local community and state control over development. Make no mistake -- I am for progress, but I am not for ill-considered progress at the expense of Vermont families and homeowners.

## 2. PREEMPTION FOR DIGITAL TELEVISION TOWERS (MM Doc. 97-182)

The National Association of Broadcasters (NAB) and the Association for Maximum Service Television (petitioners) point out that conversion to the new digital TV will require 1,000 new or upgraded towers nationwide. Also, because of increased weight and needed structure changes, a number of FM broadcast stations which have co-located their FM antennas on TV towers will be forced to relocate to other towers or locations.

Petitioners request in this proposal that state or local governments have no control over the location of towers if based on the environmental or health effects of radio frequency emissions if the emissions do not exceed FCC rules. Petitioners also propose that "any state or local government decision denying a request [to locate a tower] be in writing, supported by substantial evidence, and delivered to all applicants within 5 days."

Your docket raised a number of questions. "Should federal regulation preempt local regulation intended for aesthetic purposes?"

The answer is: absolutely not. The backbone of Vermont's beauty is its Green Mountains surrounded by magnificent views and valleys, rivers and streams. Vermonters do not want scenic vistas destroyed by giant towers bristling with all manner of antennas and bright lights.

When I step out my front door in Middlesex, I never cease to enjoy the magnificent view. I am sure all Vermonters feel the same way I do about the scenic wonders of our state. We want to move with care to avoid the indiscriminate placement of towers that would jeopardize one of our state's most precious assets.

I recognize that it is important that Vermont not be left out of technological advances but that is the whole point of having an Act 250 process. Vermont communities and the state of Vermont must have a role in deciding where these towers are going to go and must be able to take into account the protection of Vermont's scenic beauty. Indeed, by requiring the companies to work with Vermont towns, acceptable alternative locations could be suggested. This would be much better than allowing any company to just come in willy-nilly and plop down towers next to our backyards.

Your federal regulations should be carefully designed to permit Vermont, and states with laws like Act 250, to control where these towers are located. Regional planning is also important since knowing the proposed locations of other towers will help improve the decision-making process.

The FCC also asks "should the Commission preempt state and local restrictions regarding exposure to radio frequency emissions from broadcast transmission facilities?" The answer is no. States have a primary responsibility in protecting the health and safety of their citizens. While states should be reasonable in the exercise of that, power it should, nonetheless, remain their power.

I am certain some out-of-state drivers would prefer it if local Vermont villages could not impose speed limits on traffic -- but those limits protect Vermont families. Indeed portions of the FCC's August 25, 1997, second memorandum opinion and order discuss the concerns of

exposure to excessive radio frequency electromagnetic fields. Reasonable and more- protective state regulation, based on science, should be permitted under the final FCC rules.

## III. REPLY COMMENTS TO AUGUST 25, 1997, DOCKET (WT 97-197)

Note that most of my comments are also applicable to FCC dockets published on August 25 (WT 97-192, ET 93-62 and RM-8577) and the petition of the Cellular Telecommunications Industry Association (RM-8577) regarding preemption of local and state regulation of commercial mobile radio service transmitting facilities.

First, I want to make clear that I endorse the comments filed by the State of Vermont Environmental Board, supported in a letter to the Commission by Governor Dean, and the Vermont Planners Association. They have done an excellent job representing the views of Vermonters and they make a strong case for giving state and local governments more control over these important land use issues.

The Vermont Environment Board carefully lays out the history of Act 250 and explains how well this law has worked in both promoting business opportunities in Vermont and in protecting the environment and Vermont's natural beauty.

I agree with them that the FCC should not proceed with any further preemption of Vermont's Act 250 regarding wireless service facilities. They point out that for the period

January 1990 through 1995, there were a total of 66 permit applications for new or modified structures and that 58 applicants received permits and that only two applicants were denied.

Vermont's Act 250 is designed to stand in the way of development proposals only when the project is not in the best interests of Vermont's future.

Act 250's burden of proof to show compliance is very properly on the applicant. Also, the FCC should not attempt to control what evidence is admissible -- Act 250 carefully balances the needs of the developer and local communities.

Shifting the burden of proof to the community instead of imposing it on the company that wants to build the tower is wrongheaded. The developer has the data and resources to explain and justify its choice -- it should not be up to the state or local community to prove the negative. The Vermont Environmental Board also explains in its comments how this assumption that the developer is correct wrongly shifts the burden of proof to the party with the least evidence.

The Act 250 process which places the burden of going forward and producing evidence

on the applicant has worked very well in Vermont in most instances and should not be overturned by this Federal rule making.

For example, protection of Vermont's scenic beauty may require limiting construction on mountain peaks or on mountain slopes. Act 250 requires that an Act 250 permit be obtained for construction at an elevation of above 2,500 feet. Thus the applicant has the burden of demonstrating the need for the tower. This process has not inhibited growth and development in Vermont, and it instead has helped preserve Vermont for future generations.

As noted by the Vermont Environmental Board, the proposal:

> would interfere with legitimate fact finding by limiting the scope of what evidence may be introduced into the record. Such preemption is not warranted here in Vermont given Act 250's long standing regulation of issues related to communication and broadcast facilities, its sophisticated understanding of these issues, and the successful deployment of personal wireless services in Vermont.

For example, it may be especially important in some circumstances to consider the cumulative effects of successive multiple users on a tower located near recreational areas or schools. Vermont should be able to consider all sources of overlapping emissions.

## IV. SUMMARY

The FCC should not further preempt state and local laws related to personal wireless service facilities and digital television towers. Vermont citizens and communities should be able to participate in the important decisions affecting their families and their future. The location of large transmission towers can have significant effects on property values, health, enjoyment of one's home and the ability to sell one's home. The Telecommunications Act went too far toward preemption of local control and the proposed FCC implementation goes even farther.

Enclosed please find attachments to my comments forwarded to me by constituents. Please file these with my comments.

Respectfully submitted

Patrick Leahy

PATRICK LEAHY
U.S. Senator

October 22, 1997

RR 1 Box 1015
Craftsbury Common, VT 05827
October 24, 1997

Secretary, Federal Communications Commission
1919 M Street NW
Washington, DC 20554

To Whom it May Concern:

My name is Anne Molleur Hanson. I was born and raised in Vermont. As a private citizen who has lived in different parts of the U.S. and abroad, I have chosen to reside in my home state mainly because of the quality of life available here. Though job opportunities are meager in our corner of Vermont, most people who reside here are willing to sacrifice opportunity for economic prosperity for the privilege of living in an area whose quality of life and physical beauty more than make up for access to high-paying jobs and contemporary career benefits. Indeed, the beauty of our rural landscape is vital to much of our livelihood--jobs based on Vermont's seasonal tourist industry. People from all over the world travel to Vermont to experience this unique part of America, whose essence has been retained largely because of a State law, Act 250, which guides development in our state. Because of Act 250 and the local land use plans it has inspired, ours is a state which carefully considers the impacts of proposed development, especially development which may alter the character of an area. This proactive approach has helped our state retain a character which is unique even among the other New England states. It is an approach essential to the economic well-being of our primary industry, tourism.

In considering the above, I am alarmed at the recent and I would have to say aggressive attempts by the private businesses whose profits are based in the cell phone industry to cover with cell towers (200 are proposed state-wide) some of the most scenic assets in our state--undeveloped mountain tops. We as citizens are told by these businesses that their actions are mandated by the 1996 Telecommunications Act, that because universal cell phone service has been deemed "essential," they can, with no

regard for aesthetics, history, wilderness, health concerns or the basic desires of citizens as expressed through their local zoning boards and town plans, site these obtrusive towers where and when they please. Time and again in our state, the desires of local citizens regarding the siting of such towers have been preempted by a heavy-handed, extremely well-financed industry whose conduct resembles more that of a federal regulatory agency than of an industry purportedly regulated by a federal agency. I am gravely concerned that new regulations proposed under FCC 97-303 will further preempt the few review powers currently reserved for local and state entities under the 1996 Telecommunications Act regarding the siting of cell towers. Furthermore I feel that while this technology makes sense for some parts of our state, e.g. the interstate corridors, the topography of our state poses some natural limitations to this technology, short of the siting of hundreds of towers in each niche and cranny of Vermont, which would seriously imperil the aesthetic appeal of our rural state.

There are three paragraphs within proposed rule FCC 97-303 which I find of particular concern. The first, paragraph 127, references section 253 of the Act, and contains language which apparently renders null and void the power of our state laws (under Act 250) and local zoning boards to have a say in where cell towers will be sited. I find this language in violation of the self-determination rights of states and their citizens, and object to any further preemption of state and local rights to determine appropriate locations for cell towers. Currently Bell Atlantic/Nynex Mobile is attempting to site a cell tower on the most scenic, undeveloped mountain in my hometown, and is unwilling to consider any sites which may be more appropriate to its residents. This paragraph would enhance, not limit BANM's ability to say what goes where, and would enable their uncompromising approach,

Paragraph 141 likewise contains language which seems to limit the opportunity for private entities, seemingly including local and state land trust and Nature Conservancy properties, to have a say in where cell towers will be sited. Much of the scenic and wild land in our state is protected under trust and preserve covenants, and it is highly inappropriate for these covenants to be superseded or "reviewed" by the FCC. The

language in this paragraph intimates that the FCC apparently seeks a mandate to do both, and I object to this.

I am also concerned with verbiage in paragraph 150, which apparently would narrowly limit who could be considered a party with legal standing regarding placement of cell towers. I am offended that citizens in any way affected by siting of these towers will be disallowed to comment on or request relief on siting. Frankly, I feel that these decisions which so strongly impact our state should be decided at the state level within state guidelines like Act 250, and not arbited by an agency located hundreds of miles away.

As a citizen of the state of Vermont, I respectfully submit these comments, hoping that the Federal entity tasked with regulating the telecommunications industry will do so in the broader interests of citizens, rather than in the somewhat narrower interests of the businesses whose profits are derived from this industry.

Sincerely,

Anne Molleur Hanson

Anne Molleur Hanson

John M. Bagwell
PO Box 98
Adamant, VT 05640

October 24, 1997

By Telefax
(202) 224-3479

The Honorable Patrick Leahy
Russell Senate Office Building
Washington DC 20510

Re: WT Docket 97-192
MM Docket 97-182

Dear Senator Leahy:

I would like to take this opportunity to express my support of local control over the placement of telecommunications towers and voice my objection to the efforts now underway to take away that control. Please add my comments to those of my fellow Vermonters with respect to the captioned FCC proceedings.

Sincerely,

John M. Bagwell

**PUTNEY MOUNTAIN ASSOCIATION**

RR 3, Box 1410
Putney, VT 05346

Steve Anderson, President

802-387-5709

October 23, 1997

References: WT - Docket 97-192
MM - Docket 97-182

Office of the Secretary
Federal Communications Commission
Washington, D.C. 20554

Dear Sirs:

I am writing you in my capacity as President of the Putney Mountain Association, a group which has worked for fifty-one years to maintain the summit of Putney Mountain in its natural and unspoiled condition, open to the general public in all seasons, to enjoy and cherish. Our records indicate that many thousands of individuals, from young children in schools groups to octogenarians conducting annual Fall counts of migrating raptors, visit Putney Mountain every year.

My organization, which has well over two-hundred members, is very concerned that your proposed new regulations for siting cell-phone and digital television towers would preempt the authority of the State of Vermont to regulate the placement of such towers and transfer it to officials at the Federal level who we feel would be much less sensitive to the environmental and conservational concerns of Vermonters. Our legislature and administration have established an excellent record of balancing commercial and environmental concerns, and have in fact been leaders in this field. We see no need for Federal regulations which would in any way diminish Vermont's ability to determine the most appropriate sites for new communication towers.

We therefore would like to go on record as strongly opposing any changes in the present distribution of authority in this area between the states and the Federal government.

Sincerely yours,

Steve Anderson

Steve Anderson
President, Putney Mountain Association

HARDWICK
Town of Hardwick
P.O. Box 523 • Hardwick, VT 05843 • (802) 472-6120

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of
Procedures for Reviewing Requests for Relief From State and Local Regulations Pursuant to Section 332 (c)(7)(B)(V) of the Communications Act of 1934 — WT Docket No. 97-192

We, the Town of Hardwick Select Board, have grave concerns about the preemption of state and local land use laws relative to the siting of personal wiring facilities. Act 250 and local zoning regulations address the specific land use needs of our state and our community.

The agency's proposal states that "No state or local statute or regulation, or other local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service." Because of the grey terminology of this proposed rule, any action the Town of Hardwick may take to control the siting of facilities may "have the effect of prohibiting" a telecommunications service. This proposed rule makes it difficult for the Town to exercise its authority as a municipality.

The docket states that the FCC "would presume that personal wireless facilities will comply with our RF (radiofrequency) emissions guidelines. The state or local government would have the burden of overcoming this presumption by demonstrating that the facility in question does not or will not, in fact, comply with our RF guidelines". If a personal wireless service facility is sited in Hardwick, the Town lacks the financial and technical resources to determine whether or not the radiofrequency emissions from a facility would exceed the FCC guidelines.

Respectfully submitted,
Hardwick Select Board

Richard Brocke
Helmut Nottermann
M. Tod DeLaricheliere
Anne Batten
Sherry Lussier

cc: Senator James Jeffords
Senator Patrick Leahy
Congressman Bernard Sanders
Representative Paul Cillo
Senator Julius Canns
Senator Robert Ide
Governor Howard Dean

HARDWICK
founded 1791

**Town of Hardwick**

P.O. Box 523 • Hardwick, VT 05843 • (802) 472-6120

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of
Preemption of State and Local
Zoning and Land Use Restrictions on the Siting, Placement and Construction of Broadcast Station Transmission Facilities

MM Docket No. 97-182

We, the Town of Hardwick Select Board, are gravely concerned about the agency's proposed rules which would preempt state and local land use restrictions on the siting, placement and construction of broadcast station transmission facilities. Act 250 and local zoning regulations address the specific land use needs of our state and our community.

The new rule would require "that any state or local government decision denying a request be in writing, supported by substantial evidence and delivered to all applicants within 5 days." This is clearly an unrealistic time frame for towns which rely on citizens who volunteer for zoning boards and select boards.

The agency seeks additional information on the industry's assertion that local zoning regulation "stands as an obstacle to the implementation of the DTV conversion and to the institution and improvement of broadcast service generally". Act 250 and local zoning regulations have been enacted for the public good.

Respectfully submitted,
Hardwick Select Board

Richard Brock

Richard Brock

Helmut Nottermann

M. Tod DeLarischeliere

Anne Batten

Sherry Lussier

cc: Senator James Jeffords
Senator Patrick Leahy
Congressman Bernard Sanders
Representative Paul Cillo
Senator Julius Canns
Senator Robert Ide
Governor Howard Dean

802-563-2235

INDIAN SUMMER FARM
CABOT, VERMONT
05647

October 23, 1997

WT Docket No. 97-192
MM Docket No. 97-182
ET Docket No. 93-62
RM-8577

Secretary, Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Dear Sir:

We are Ted and Norma Bermingham residents of Indian Summer Farm, Cabot, VT. for 35 years. During those years we have both been members of the Cabot Planning Commission.

We request that the FCC decline to further preempt state and local laws pertaining to wireless services facilities and all other broadcast facilities and sitings for competitive commercial reasons.

Any rule that is adopted by the FCC must not have authority over local and state zoning ordinances. Local participation in government is essential.

Our state depends on its pristene mountain views and we need assurances of undue adverse impacts on these sites.

We are also concerned about long-term, low level exposure to neighbors.

Very truly yours,

Ted Bermingham
William Edward Bermingham

Norma C. Bermingham
Norma C. Bermingham

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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| In the Matter of | ) | |
| | ) | |
| Procedures for Reviewing Requests for Relief From State and Local Regulations Pursuant to Section 332(c) (7) (B) (v) of the Communications Act of 1934 | ) | WT Docket No. 97-192 |
| Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation | ) | ET Docket No. 93-62 |
| Petition for Rulemaking of the Cellular Telecommunications Industry Association Concerning Amendment of the Commission's Rules to Preempt State and Local Regulation of Commercial Mobile Radio Service Transmitting Facilities | ) | RM-8577 |

SECOND MEMORANDUM OPINION AND ORDER
AND
NOTICE OF PROPOSED RULEMAKING

THE COMMENTS OF THE CABOT, VERMONT PLANNING COMMISSION
Cabot, Vermont 05647

On October 20, 1997, at a duly warned meeting of the Cabot Planning Commission, the above captioned matter was considered, and the following response is hereby submitted as authorized by the commission.

We request that the FCC decline to further preempt state and local laws pertaining to personal wireless services facilities and all other broadcast facilities and sitings.

No further preemption is warranted as evidenced by the successful deployment of personal wireless services in Vermont and around the country.

Instead of further preemption, the FCC should allocate from the billions of dollars it has received from license fees and auctions additional resources to education and training at the state and local level with regard to personal wireless service facilities.

The FCC should not anticipate that state and local land use authorities will fail to reasonably and faithfully carry out their obligations under federal law.

The FCC should not adopt any rules that would undermine local zoning requirements that an applicant demonstrate that its project complies with guidelines. The FCC provides localities with no mechanism to monitor facilities after their construction and even after future modifications. The FCC must not allow what would amount to a self-certification process.

Any rule which is adopted by the FCC must not hinder any citizen participation. The FCC should not create barriers to citizen participation, or the participation of the authority whose ruling is being challenged.

Dated at Cabot, Vermont this 20th day of October, 1997.

CABOT PLANNING COMMISSION

By: _____
Caleb Pilkin, Member

Before the

Federal Communications Commission

Washington, D.C. 20554

In the matter of:

WT Docket No. 97-192

MM Docket No. 97-182

ET Docket No. 93-62

RM-8577

Reply and Comment to Proposed Rulemaking

Dale and Janet Newton

Thistle Hill Neighborhood Alliance

Thistle Hill Road

Marshfield, VT 05658

We are Dale and Janet Newton, life-long residents of Vermont. We are teachers and owners of a diversified agricultural business. We built our farm and home in 1976. Our family has expanded over the years with our adopted children, and our farm has grown with pick-your-own raspberries and blueberries, maple sugaring, apple orchard and raising llamas. Our home and farm sit atop Thistle Hill in Cabot, Vermont. This hill was described in the 1984 fall issue of Vermont Life Magazine as one of the most pristine and grand places in the state, a place that attracts visitors from around the world. Though the comments were inspried by a visit to Thistle Hill Campground, the first privately owned campground in

Vermont, the same tourist and vistor patterns hold true of our farm.

We find ourselves thrust into the issues surrounding towers and communications facilities because we found out in May, 1997, that we were adjoining landowners to a proposed PWSF site. A company called RSA Limited Partnership, dba Bell Atlantic Nynex Mobile (now BAM) has leased a two-acre site from our next-door neighbors, Kenneth and Diana Klingler. This site is at the top of our maple sugaring woods, 400' from our house. The survey markers include guy anchor positions which are less than 50' from our property line. The plan shows that the access road and power lines would at some points be less than 20' from our lawn and perennial gardens on the south side of our house.

We have already been told to remove a substantial number of our maple tap lines from the neighbors' land, trees that have been tapped for over 15 years at their request. The entire site of this proposed facility is currently used as part of our sugaring operation, and would loom above our workplace (our woods) even on our side of the fence line.

Contrary to how the FCC describes information exchange and initial site inquires made by a prospective facilities owner described in FCC Fact Sheet #2, 9/17/96, this company signed a lease with these landowners, did initial studies and drew up simple plans prior to any notification to any adjoining land owners or any Cabot town officials. "...it is helpful for the wireless service provider to supply as much advanced information as possible about the nature of its service offerings and the 'big picture' plan

for service deployment." Our "notification" came when we were cleaning our maple pipeline in late May, 1997. We discovered that a site had been surveyed above our sugarhouse and on our land. Nails were driven into our trees, flagging attached to our lines and stakes driven into the ground. This trespass was done weeks earlier when this company was searching for a site with no prior notification to adjoing land owners. Although they chose our neighbors' site, to this day they have never directly contacted the three other adjoining land owners to this site.

Since June our lives have been dominated by attempting to learn about these facilities and to get a clear picture of the issues surrounding this technology. BAM has followed a course of no information, disinformation or outright bullying. Chris Ciolfi, land manager for BAM, told our group that, "We know there is oposition to our sites, and we take our plans as far as we can in secret." They applied for a zoning permit in Cabot when Cabot zoning required an application for a conditional use permit. When the zoning permit was denied on the same day of application, they did not apply for a CUP. Instead they filed an appeal of the zoning administrator's action, and they incorrectly appealed more than 15 days after the deadline for appeal had passed. Every time they have asked for a hearing before the town boards, they end up asking for a later date. Now they are putting the request for a hearing off to January, 1998.

We now connect these issues to the FCC's proposed rulemaking. At

the same time that BAM's representatives and lawyers have been stating in our town and other towns in the area (Hardwick, Middletown Springs, Williamstown) that Vermonbt towns and citizens are sufficiently represented and protected by current state and local laws and processes, they had already petitioned the FCC to remove state and local control. We now believe that this is the reason that BAM has put off their application and hearings in Cabot until January. Instead of dealing with us in a manner described by your own guidelines, in a manner safeguarded by the 1996 TCA which recognizes the authority of state and local goverments over the siting of PWSF and other types of communications facilities, this and other companies are seeking to take away state and local control.

You need to understand that this particular proposed site is not in and area described by the FCC in Fact Sheet #2 as "compatible with the proposed use." This includes "such as industrial zones, utility rights of way, and pre-existing structures." This proposed site is right in the middle of a residential neighborhood, a farm and tourist business, and on top of one of the most beautiful hills in this area, the only hilltop with homes anywhere near the summit. Even at this stage, the proposal has caused Rick Smith, an adjoining land owner and member of our group, to loose the buyers that he had for his home and 160 acres. (His home is west of the site and 400' away) .

This request by the communications companies to further preempt state and local authority over the siting of towers and facilities goes to

the heart of state's rights issues. We believe that the Constitution of the United States never envisioned nor did it provide for a form of Federalsim that would place control over local land use planning and zoning issues in the hands of a federal agency in Washington.

We request that the FCC decline to further preempt state and local laws pertaining to personal wireless services facilities and all other broadcast facilities and sitings.

Vermont's Act 250 has historically proven through the last 25 years that the path to economic prosperity is through balanced environmental protection, not the preemption of such protection.

Any further preemption will undermine Act 250 and local environmental protection.

No further preemption is warranted as evidenced by the successful deployment of personal wireless services in Vermont, and around the country. In a 1995 American Planning Association survey, it is noted that under current regulations 92% of applications for PWSF tower sites are given approval.

Instead of further preemption, the FCC should allocate funds from the billions of dollars it has received from license fees and auctions to additional resources for education and training at the state and local level with regard to personal wireless service facilities.

The FCC should not anticipate that state and local land use authorities will fail to reasonably and faithfully carry out their