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TOWN OF HULETT

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RECEIVED
OCT 30 1997
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

October 27, 1997

Office of the Secretary
Federal Communications Commission
Washington, DC 20554

Dear Commissioners:

We are very concerned about the implications of the proposed rule making 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 strongly object to the proposed rule, as written, for the following reasons.

Existing state and local zoning and land use regulations will be usurped. An "accelerated schedule for construction of DTV transmission facilities", as indicated in your commission's Fifth Report and Order in the DTV proceeding, is not sufficient reason nor cause to authorize circumvention of local and state jurisdiction. We disagree with the Commission's assertion that it has legal authority to such preemption because it is, supposedly, "pursuing an objective within the scope of its Congressionally delegated authority and non-federal regulation stands as an obstacle to the accomplishment and execution of that objective."

The proposed rule making purports that state and local regulation of tower siting and construction give rise to an "array of obstacles." We see those same regulations very differently; rather than the source of obstacles, they are the necessary result of our right to protect local and state interests and resources.

Also, there is no specific information provided in the rule making to define how a regulation might "unreasonably prohibit or delay the DTV roll-out and other ongoing broadcast transmission facilities construction," and, therefore, warrant preemption by the Commission. It appears that the Commission is still seeking to define "those circumstances in which it may be necessary to preempt state and local regulations in order to achieve the benefits of a rapid roll-out of DTV." Such vague authority to preempt existing regulation is unacceptable.

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Unfair restrictions and limitations will be placed on our community's economic growth and development by the proposed rule making. For example, for the past two years, Hulett has jumped over a myriad of hurdles in the planning of a municipal airport facility. The entire process has been held up unnecessarily with numerous delays, especially obstacles erected at the federal level. We fear that the proposed rule making will effectively prevent our airport from becoming a reality. The time and monetary resources already invested in the development of the airport are substantial and to lose that investment would severely impact our small community. The potential impacts of the Commission's policy to put federal objectives ahead of our local needs will be devastating.

Impacts to existing communication infrastructure are not adequately considered. Systems that are already in place and have operated within our area will be forced to react to proposed changes. Representatives of existing communication infrastructure should have been active participants in the planning process.

We are very concerned about your proposed policy addressing subsequent radio frequency emissions interference with other telecommunications signals and consumer electronics devices. We ask that the Commission's "exclusive jurisdiction" in this area be tempered by the very real, day-to-day experiences and challenges that Hulett's residents and businesses may face because of the new system.

The proposed rule allots insufficient time periods for state and local governments to respond to requests for approval of the placement, construction or modification of broadcast transmission facilities. Our Crook County Board of Commissioners meets once a month for a two-day session. The Hulett Town Council also meets on a monthly basis. Since failure to respond within the required time limit results in a request being automatically granted, response time becomes of paramount importance. Your expectation of a well-informed, official response within twenty-one to forty-five days (depending upon the nature of the request, of course) is unrealistic and unfair.

Please consider the concerns we have expressed here. At this time, we request that you extend the comment period deadline of October 30, 1997, for the Notice of Proposed Rule Making. We ask that you provide our town, other communities, businesses and individuals nationwide an adequate time frame in which to comment further on specific impacts to them.

Sincerely,

Winifred Bush

Winifred Bush
Mayor

cc - Richard Spaeth, WYDOT
Crook County Commissioners
Senator Craig Thomas
Senator Mike Enzi
Representative Barbara Cubin