



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News media information 202 / 418-0500
Fax-On-Demand 202 / 418-2830
Internet: <http://www.fcc.gov>
[ftp.fcc.gov](ftp://ftp.fcc.gov)

DA 99-1211
Released: June 25, 1999

CORRECTED VERSION*

FCC TO SEEK COMMENTS ON A LETTER FROM THE ADVISORY COUNCIL ON HISTORIC PRESERVATION RELATING TO COMMUNICATIONS TRANSMISSION FACILITIES LOCATED AT LOOKOUT MOUNTAIN, CO

On May 27, 1999, the FCC adopted and released a Memorandum Opinion And Order (the "MO&O") in the Matter of Canyon Area Residents for the Environment for Review of Action Taken Under Delegated Authority on a Petition for an Environmental Impact Statement. The MO&O affirmed a letter ruling dated October 9, 1998, by the Chief of the Office of Engineering & Technology, which found that the communications facilities on Lookout Mountain, Colorado complied with the FCC's radiofrequency ("RF") radiation health and safety standards, and, *inter alia*, rejected arguments that the communications transmission tower proposed by the Lake Cedar Group may significantly affect the environment.

The MO&O characterized Lookout Mountain as an established "antenna farm," an area that for many years has been the location for transmitting towers used by many radio and television broadcast stations licensed to the Denver area. The MO&O explained that under the FCC's environmental rules, the location of communications facilities in an antenna farm is "environmentally preferable to new construction," is generally encouraged and is categorically excluded from the FCC's environmental processing requirements. The MO&O further found that the record did not establish that the location of the proposed transmission tower in an established antenna farm, which ordinarily would be categorically excluded from environmental processing requirements, would significantly affect historic properties such that the FCC would be required to "take into account" the tower's impact on such properties and afford the Advisory Council on Historic Preservation ("Advisory Council") a "reasonable opportunity to comment." *See* 16 U.S.C. § 470f; *see also* 47 C.F.R. § 1.1307(c).

* **The Office of Engineering & Technology inadvertently released the wrong version of this Public Notice on June 23, 1999. The version previously released is rescinded. This is the correct version.**

On June 3, 1999, the Advisory Council wrote the Commission. A copy of the Council's letter is attached to this Public Notice. According to the Advisory Council, the proposed construction of the transmissions tower and maintenance facility associated therewith “may have the potential to affect historic properties, in particular, the Lariat Trail Scenic Mountain Drive, Lookout Mountain Park, and the Charles Boettcher Summer Home, all of which are listed in the National register of Historic Places.” The Council asked the Commission to review the matter and solicit the views of other parties who have expressed an interest in the proposed undertaking.

In recognition of our obligation to consider the effects of the proposed communications tower on historic properties and in furtherance of Section 1.1307(c) of our rules, we are notifying the parties who have expressed an interest in this proceeding that we will treat the Council's letter as a Petition for Reconsideration of that portion of the MO&O which addresses historic preservation concerns.

Interested parties may file comments on the issues raised by the Council's letter on or before July 23, 1999, and reply comments on or before August 9, 1999. The local government of Denver, Colorado may also file comments.

For additional information contact Robert Cleveland, at (202) 418-2422, Rclevela@FCC.GOV.

Advisory Council On Historic Preservation

The Old Post Office Building
1100 Pennsylvania Avenue, NW, #809
Washington, DC 20004

Reply to: 12136 West Bayaud Avenue, #330
Lakewood, Colorado 80226

June 3, 1999

Ms. Ava Berland
Office of the General Counsel
Federal Communications Commission
1919 M Street NW, Room 616
Washington, DC 20554

REF: *HOTV facility on Lookout Mountain, Golden, CO*

Dear Ms. Berland:

It has come to our attention that the Lake Cedar Group, LLP, is seeking approval by your agency to install an 850 ft tower and 32,500 square ft maintenance facility on Lookout Mountain, CO. We also understand that the Colorado State Historic Preservation Office (SHPO) contacted you by letter dated February 9, 1999, regarding compliance with Section 106 of the National Historic Preservation Act. Although the Lake Cedar Group is proposing to construct the tower upon your approval, it remains the responsibility of FCC to ensure that historic properties are considered under Section 106, in accordance with the Council's implementing regulations, *36 CFR Part 800*.

We agree with the Colorado SHPO's position that the proposed construction of such a large tower and associated maintenance facility may have the potential to affect historic properties, in particular, the Lariat Trail Scenic Mountain Drive, Lookout Mountain Park, and the Charles Boettcher Summer Home, all of which are listed in the National Register of Historic Places. We ask, therefore, that you please investigate this matter to determine if FCC's involvement in this project requires the comments of the Council and what, if any, steps FCC has taken to meet its responsibilities under Section 106. In addition, we strongly urge you to consult with other parties who have expressed an interest in the proposed undertaking and to provide the Council with a copy of your response to the Colorado SHPO's request for additional information about the project. In particular, we recommend that you involve the citizen group known as Canyon Area Residents for the Environment (CARE) and the project applicant, Cedar Lake Group, LLP, in the consultation process.

We look forward to working with you on this project. You may contact Jane Crisler in our Denver office at (303) 969-5110 to discuss this matter further. Thank you for your continued cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read 'DKlima', with a large, stylized flourish extending from the end.

Don L. Klima
Director
Office of Planning and Review