

## A Big, Fat Goose-egg

There's an old saying that you should be careful what you ask for, since you might get it ... and not like the results. And that appears to be exactly what happened with the ARRL's heavily-promoted campaign for a federal study aimed at prompting Congress to address the issue of private land use regulations (better known as CC&Rs, or Covenants, Conditions and Restrictions) that severely limit or prohibit amateur radio antenna installations.

The League invested a huge amount of political and financial capital in its ultimately successful campaign to get Congress to mandate a study on the value of amateur radio emergency communications and to make recommendations on removing impediments—specifically including CC&Rs—to “enhanced amateur radio service communications.” The study mandate was included in a bill enacted earlier this year and the report was issued on August 20. What the League got: a big, fat, goose-egg.

Not only did the FCC *not* recommend Congressional action on CC&Rs (see summary in News on page 2), it didn't even go along with the ARRL's proposal for federal credentialing of trained hams to ease access to major disaster areas when amateurs are coming from out of state to help. Granted, the League initially wanted the study to be conducted by the Department of Homeland Security (which includes FEMA, the Federal Emergency Management Agency), since the FCC has stated several times in the past 25 years that it does not feel it is necessary to extend its limited pre-emption of restrictive state and local antenna ordinances to cover CC&Rs. But amateur radio is under the purview of the FCC and Congress doesn't like telling one federal agency to tread on the turf of another. So the language that became law put the study in the hands of the FCC, in consultation with DHS.

The result is exactly what any long-time observer could have predicted: Nothing. Nada. Zilch. The FCC was not about to say, “We know what we've said consistently for the past 25 years but now we're going to reverse ourselves.” DHS wasn't about to tell the FCC to do that, either. End result: Lip service to the value of amateur radio in emergencies and a tepid recommendation that DHS work with state and local officials to better integrate amateur radio into emergency response plans. It was a total waste of ARRL members' money and of taxpayers' money. And it could have been predicted from the start. In fact, we did predict it, in this space, back in 2009.<sup>1</sup>

Study bills generally are a waste of time and money, especially when the study is framed in such a way that the results will almost certainly tell you what you already know—amateur radio is of great value in emergencies and disasters—and leave open the recommendations (watch what you ask for...). Plus, by tying CC&Rs to emergency capabilities, the League practically guaranteed this outcome from the start. The fact is that, despite the very real impediments imposed by CC&Rs on tens of thousands of hams, they generally do not compromise our ability to provide emergency communica-

tions. Part one of the study demonstrates that. When all else fails, ham radio comes through ... even with restrictive CC&Rs.

We feel the League's time and money would have been better spent tackling the issue head-on and using an argument that would resonate well in many quarters of Congress and would draw us outside allies. And outside allies are needed if you're going to do battle with the deep pockets of developers' trade associations.

Put simply, CC&Rs are un-American. People subject to them are denied a host of individual freedoms, there is little to no due process in dealing with homeowner boards, fines are unregulated, and if you refuse to pay, they can force you to move. Plus, the mandatory fees imposed/changed at will are tantamount to taxes (and the government doesn't get a cut!), and the FCC's argument that CC&Rs are private contracts entered into voluntarily is specious. These are not contracts subject to negotiation in the traditional sense—you either accept them as they are or live somewhere else. And in more and more communities, “somewhere else” means nothing more than trading one set of restrictions on your freedoms for another. We believe the League could have gotten much more traction out of this approach. Now, though, the cause of trying to impose the rule of reason onto CC&Rs has been dealt a huge setback and it will be years before we can hope to begin trying again. Meanwhile, they're having goose-egg omelets in Newington.

### In This Issue...

This is our second annual Emergency Communications Special. Once again—no government studies needed—we are showcasing how hams are helping their fellow citizens and using innovative technology to improve their emergency communications capabilities. This month's emcomm features include a report on amateurs in New York City using ham radio “infrastructure” on the internet to supplement traditional communications support for a public service event, the value of strong community ties in helping your club best serve your hometown, and a unique method of supporting a quick-install/uninstall temporary HF vertical.

Our emcomm-related columns this month include a report in “Public Service” on two hams helping a sailor in trouble in the Atlantic; a primer on getting started as an emcomm volunteer in “Learning Curve,” and a look in “Magic in the Sky” at the “preparedness” part of emergency preparedness.

Other columns of particular note this month include “Riley's Rambblings” on “Success Through Failure” and a look in “Digital Connection” at the differences between D-STAR and the new amateur digital voice mode being introduced by Yaesu. Overall, we've got a fascinating issue with something for everyone, so dig in and enjoy!

73, Rich W2VU

### Note

1. See: <<http://hamcall.net/cqcgj/?res=l&yr=2009&mo=07&pg=010>>

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