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November 19, 1992

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: MM Docket No. 92-3
RM-7874 and RM-7958

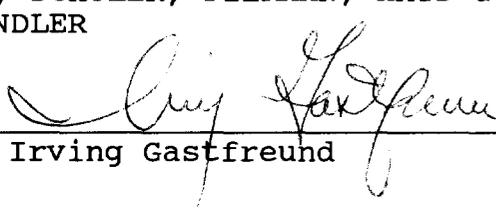
Dear Ms. Searcy:

Submitted herewith for filing, on behalf of our client, Schuyler H. Martin, permittee of Radio Station KPXA(FM), Sisters, Oregon, are an original and four copies of his Petition For Declaratory Ruling in the above-referenced proceeding.

Please direct any inquiries concerning this submission to the undersigned.

Respectfully submitted,

KAYE, SCHOLER, FIERMAN, HAYS &
HANDLER

By: 
Irving Gastfreund

Enclosures

DOC #12077544

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BEFORE THE
Federal Communications Commission

WASHINGTON, D.C. 20534

In the Matter of)
)
Amendment of Section 73.203(b)) MM Docket No. 92-3
Of The Commission's Rules) RM-7874 and
Table of Allotments) RM-7958
FM Broadcast Stations)
(Prineville and Sisters, Oregon))

TO: Chief, Mass Media Bureau

PETITION FOR DECLARATORY RULING

SCHUYLER H. MARTIN ("Martin"), permittee of Radio Station KPXA(FM), Sisters, Oregon, by his attorneys, hereby respectfully petitions the Mass Media Bureau to expeditiously issue a declaratory ruling that the Bureau's October 7, 1992 Report and Order, ___ FCC Rcd ___, DA 92-1276 (released October 7, 1992) in this proceeding remains in full force and effect and has not been stayed, pursuant to the automatic stay provisions of Section 1.420(f) of the Commission's Rules. In support whereof, it is shown as follows:

On October 7, 1992, the Allocations Branch of the Mass Media Bureau's Policy and Rules Division released its Report and Order in this proceeding in which it granted Martin's request to substitute Channel 281C1 for Channel 281A at Sisters, Oregon, and to modify Martin's construction permit for Radio Station KPXA(FM) to specify operations on Channel 281C1 in Sisters, Oregon. In granting this upgrade of the KPXA(FM) technical facilities, the Allocations Branch rejected certain contentions made by the licensees of certain radio stations operating in the Bend,

Oregon, area (hereinafter collectively referred to as "Petitioners").¹ On November 13, 1992, the Petitioners filed their Petition For Reconsideration in which they challenge the determinations made in the Bureau's October 7, 1992 Report and Order.

On November 19, 1992, Martin filed with the Commission a Motion To Strike, in which Martin demonstrated that the Petitioners' Petition For Reconsideration is untimely and therefore cannot be considered by the Commission on its purported "merits". In his Motion To Strike, Martin requested that the Bureau summarily strike the Petition For Reconsideration without consideration. Martin hereby incorporates by reference the entirety of his Motion To Strike.

Under Section 1.420(f) of the Commission's Rules, the effectiveness of the Bureau's Report and Order in this proceeding would have been automatically stayed by the timely filing of a petition for reconsideration. However, in light of the untimely

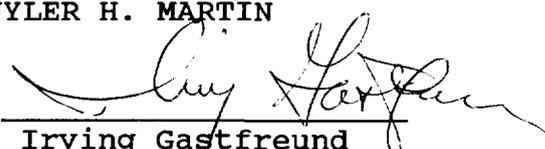
¹ The Petitioners included the following broadcast licensees: Central Oregon Broadcasting, Inc. (licensee of KBND, Bend, Oregon; and KLRR, Redmond, Oregon); Redmond Broadcast Group, Inc. (licensee of KPRB and KSJJ, Redmond, Oregon); Highlakes Broadcasting Company (licensee of KRCO and KIJK-FM, Prineville, Oregon; JJP Broadcasting, Inc. (licensee of KQAK, Bend, Oregon); Oak Broadcasting, Inc. (licensee of KGRL and KXIQ, Bend, Oregon); Sequoia Communications (licensee of KICE, Bend, Oregon); and The Confederated Tribes of the Warm Springs Reservation of Oregon (licensee of KTWS, Bend, Oregon; and KTWI, Warm Springs, Oregon).

nature of the Petitioners' Petition For Reconsideration, it is respectfully submitted that the automatic stay provision of Section 1.420(f) of the Rules does not apply to the October 7, 1992 Report and Order in this proceeding, and that, accordingly, that Report and Order remains in full force and effect.

In order to remove any uncertainty as to this conclusion, Martin hereby respectfully requests that the Bureau expeditiously issue a declaratory ruling that the effectiveness of the Report and Order in this proceeding has not been automatically stayed, pursuant to Section 1.420(f) of the Commission's Rules, by the filing of the Petitioners' Petition For Reconsideration. It is respectfully submitted that the public interest, convenience and necessity would best be served by expeditious issuance of such a declaratory ruling, since such Commission action would facilitate the earlier improvement of the technical facilities of Radio Station KPXA(FM) so that the station may be able to serve significant additional areas and populations.

Respectfully submitted,

SCHUYLER H. MARTIN

By: 
Irving Gastfreund

Kaye, Scholer, Fierman, Hays & Handler
901 15th Street, N.W.
Suite 1100
Washington, D.C. 20005
(202) 682-3526

His Attorneys

November 18, 1992

CERTIFICATE OF SERVICE

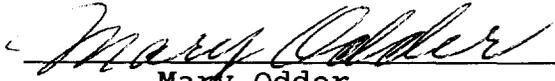
I, Mary Odder, a secretary with the law firm of Kaye, Scholer, Fierman, Hays & Handler, hereby certify that I have on this 19th day of November, 1992, sent copies of the foregoing "Petition For Declaratory Ruling" by First-Class U.S. Mail, postage prepaid, or via hand-delivery, as indicated below, to the following:

Roy J. Stewart, Esq. *
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Michael J. Ruger, Esq.*
Chief, Allocations
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Counsel to Danjon, Inc.


Mary Odder

*/ Via Hand-Delivery