

**FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554**

JUL 2 1993

**IN REPLY REFER TO:
1800B3-DCD**

Marion Community Radio, Inc.
814 Northeast 2nd Street
Ocala, FL 34470

MM 9497

Board of Regents of the University of Florida
2206 Weimer Hall, University of Florida
Gainesville, FL 32611

In re: NEW(FM); Crystal River, FL
Marion Community Radio, Inc.
BPED-930413MA

NEW(FM); Crystal River, FL
Board of Regents of the
University of Florida
BPED-930114MA

Dear Applicants:

A preliminary engineering review of the above-captioned applications reveals that the proposed facilities would result in prohibited contour overlap. Thus, the applications are considered to be mutually exclusive as they now stand. Grant of either of these applications would come only after a comparative hearing.

The policy of the Commission is to avoid sending educational applications to hearing, if at all possible, so that the substantial delays and expenses involved in the hearing can be avoided. This policy finds its underpinnings in the inability of many educational applicants to bear the costs (such as legal fees) that they would incur in prosecuting mutually exclusive applications through the hearing process.

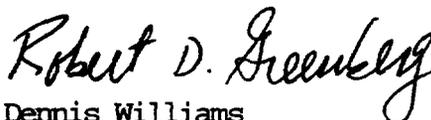
Accordingly, we are taking this opportunity to make you aware of your applications' mutual exclusivity. We will withhold further action with respect to the subject applications for a period of sixty (60) days so that you have an opportunity to evaluate the situation and take such steps as would remove the mutual exclusivity. Possible alternatives include frequency changes to increase the spectral separation of the proposed facilities. Share-time agreements between mutually exclusive educational applicants have also been employed to avoid designating their applications for hearing.

In addition, an engineering review of application BPED-930413MA filed by Marion Community Radio, Inc. ("Marion") reveals a discrepancy between the overall tower heights above ground level (AGL) and above mean sea level (AMSL) listed in the application and those listed in the database of our Support Services Branch (SSB). The application lists the overall tower height AGL as 92 meters (301.8 feet) and the overall tower height AMSL as 124 meters (406.8 feet), while the Support Services Branch database lists the overall tower heights AGL and AMSL as 97 meters (317.0 feet) and 129 meters (423 feet), respectively. Therefore, if the overall tower height is actually 92 meters, Marion must submit Form 7460-1 to the FAA for the 92 meter tower height. A copy of the determination (when available) must be submitted in order to facilitate processing of the application. If a determination has not been released, Marion must notify the Commission in writing of this fact and provide the status of any negotiations with the FAA. Conversely, if the overall tower height AGL is 97 meters, Marion must amend Section V-B, Items 7(a) (2) and 7(a) (3) of the application to specify the correct tower heights and submit a revised tower sketch.

Furthermore, review of application BPED-930114MA filed by the Board of Regents of the University of Florida ("Florida") reveals that the application is in violation of 47 C.F.R. § 73.3513, since it is signed by the general manager. Pursuant to 47 C.F.R. § 73.3513(a) (4), any filing submitted by a board or institution such as Florida must be signed by a member of the governing board. The members of the governing board of the Board of Regents of the University of Florida, who are authorized to sign any filings, are listed in Section II, Item 8 of the application. Therefore, Florida must amend page 23, the Certification Page, of the application to include a signature which complies with the provisions 47 C.F.R. § 73.3513. Please note that any future filings must be signed by an officer of the Board of Regents of the University of Florida.

In sum, we urge you to communicate with each other concerning the mutual exclusivity and, if possible, to amend your applications to remove the present conflict between them. Action on your applications will be deferred for 60 days, to allow you the opportunity to negotiate. If no response is received during this period, these applications will be designated for a comparative hearing. Please note that the required amendments to the subject applications must be filed within sixty days from the date of this letter.

Sincerely,



for
Dennis Williams
Chief, FM Branch
Audio Services Division
Mass Media Bureau

cc: Stephen C. Simpson
Rubin, Bednarek & Associates, Inc.
Swartz, Woods & Miller
Kessler and Gehman Associates, Inc.
D.L. Markley & Associates, Inc.