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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 200554

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In the Matter of )  
 )  
Amendment of Section 73.202(b), )  
Table of Allotments, )  
FM Broadcast Stations )  
(Cal-Nev-Ari, Boulder City )  
and Las Vegas, Nevada) )

MM Docket No. 93-279

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AUG 21 1995

To: The Commission - Mail Stop 1170

APPLICATION FOR REVIEW

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

1. Richard W. Myers hereto requests that the full Commission review the action of the Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau, denying Mr. Myers' petition to allot FM Channel 285A to Cal-Nev-Ari, Nevada. This action was taken in the Report and Order in MM Docket No. 93-279, DA 95-1549, released July 17, 1995.

2. This is not a petition for reconsideration. It is an application for review. The Mass Media Bureau in this case mechanically applied various precedents without seeing the forest through the trees, resulting in an unreasonable outcome. The case must be resolved by officials who can take a step back and look at the whole picture and who have the authority to vary from past precedent and to establish new precedent, if necessary, to reach a rational result.

3. What happened here? The Bureau decided that a community of people in the desert, located more than 25 miles away from any

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other human enclave of comparable size,<sup>1/</sup> with no local transmission service either in their community or nearby, are not entitled to have a radio station. It has held that there are people who live nowhere and have no entitlement to any local transmission service. The testimony of two expert professional sociologists<sup>2/</sup> was rejected by government bureaucrats sitting in a big city over a thousand miles away, who claim to know better the nature of the people the sociologist studied. The admonition of an elected member of the United States Senate, who represents the people who want a radio station and pointed out to the Commission that it takes a lot less to make a "community" in rural Nevada than in the urban East, was ignored, because the Senator did not know he was supposed to serve other parties -- a deficiency that counsel for Mr. Myers cured as soon as he found out about it, with not a soul harmed as a result.<sup>3/</sup>

4. The fact that Cal-Nev-Ari is not a "Census Designated Place" simply cannot rationally stand as a reason for rejecting the Cal-Nev-Ari proposal, as the standard for being a Census

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<sup>1/</sup> See Mr. Myers's petition for rule making in this proceeding.

<sup>2/</sup> This testimony was submitted with Mr. Myers' initial comments, filed January 3, 1994.

<sup>3/</sup> Senator Harry Reid's letter of December 28, 1993, was clearly marked with the docket number when sent to the Commission and was submitted prior to the initial comment deadline. Rock 'N' Roll, Inc., the party who complained about the lack of service, obviously knew about the letter, because otherwise it could not have complained about it. Further, Mr. Myers served the letter on all parties on February 1, 1994, with his Supplemental Reply Comments. It is unconscionable to ignore the important views of a United States Senator in the absence of a scintilla of harm to any private party.

Designated Place is a population of 1,000 or more,<sup>4/</sup> and channels have been allotted to smaller communities, for example, Kindred, ND, population 569, in MM Docket No. 90-405.<sup>5/</sup>

5. The channel involved was not allotted elsewhere, nor would the allotment at Cal-Nev-Ari preclude any other allotment that anyone else has continues to pursue.<sup>6/</sup> How can that be fair? How can it be efficient? How can it be equitable? How can it comply with Section 307(b) of the Communications Act, which requires the Commission to follow all three of those principles in allotting radio frequencies?

6. Although Congress is actively pursuing the further deregulation of radio in currently pending legislation, the Commission says that the isolated people of Cal-Nev-Ari may have none of it. Is it any wonder that Mr. Myers does not understand the result? Indeed, this denial of a simple request by a citizen to build a radio station where there is none appears to be the kind of problem that the citizenry of the country was complaining about when it significantly changed the complexion of Congress in the 1994 election.

7. Mr. Myers would like to be told by Presidential appointees themselves, who are ultimately responsible for the policies established by the agency, that his voice must remain

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<sup>4/</sup> See Exhibit 1 to Mr. Myers' reply comments in this proceeding.

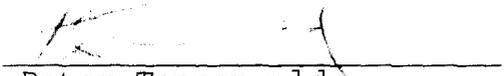
<sup>5/</sup> 7 FCC Rcd. 1996 (MM Bur. 1992).

<sup>6/</sup> Station KRRI(FM), Boulder City, Nevada, which initially filed a counterproposal, has since been sold by Rock "N" Roll, Inc.

silent in Cal-Nev-Ari before he gives up. No violence will be done to any precedent or any future proceeding if the Commission holds that where a community is as isolated as Cal-Nev-Ari, it is not necessary to be a Census Designated Place to have a local radio station. There need be no holding that the Bureau erred or applied precedent incorrectly. All it will take is a ruling that on the facts of this particular case, the judgment of local people should prevail, and the law must achieve a common sense result.

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Respectfully submitted,

  
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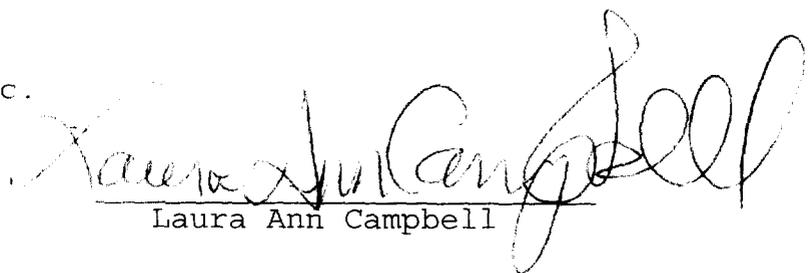
August 21, 1995

**CERTIFICATE OF SERVICE**

I, Laura Ann Campbell, do hereby certify that I have, this 21st day of August, 1995, caused to be sent by first class United States mail, postage prepaid, copies of the foregoing "Petition for Reconsideration" to the following:

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