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February 20, 1998

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

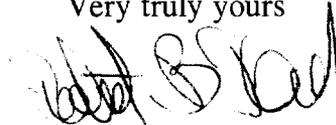
Re: **IB Docket No. 95-91**
GEN Docket No. 90-357
RM No. 8610 (DARS)

Dear Ms. Salas

Transmitted herewith, on behalf of Mt. Wilson FM Broadcasters, Inc., licensee of broadcast station KKGO-FM, Los Angeles, California, are original and nine (9) copies of the Supplement to Comments of Mt. Wilson FM Broadcasters, Inc. on Further Notice of Proposed Rulemaking.

Should you have any questions with respect to the above matter, please contact the undersigned.

Very truly yours



Robert B. Jacobi

Enclosures

cc: Valerie G. Schulte, Esq.
Lon Levin

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BEFORE THE

Federal Communications Commission

In the Matter of Establishment of Rules)
and Policies for the Digital Audio Radio)
Satellite Service in the 2310-2360 MHz)
Frequency Band)

IB Docket No. 95-91
GEN Docket No. 90-357
RM No. 8610

SUPPLEMENT TO COMMENTS OF MT. WILSON FM BROADCASTERS, INC. ON FURTHER NOTICE OF PROPOSED RULEMAKING

Mt. Wilson FM Broadcasters, Inc. (hereinafter "Mt. Wilson") submits these further supplemental Comments in the above-captioned proceeding. Mt. Wilson recognizes that it is unusual to file supplemental comments at this stage of the proceeding, but it is impelled to take this course in light of the unusual, if not startling, matters which have come to light while the matter is still pending before the Commission. Very disturbing questions have been raised about the most basic decisions which the Commission has already reached. It is most important, in light of the matters which have now come to light, that in this phase of the proceeding on satellite DARS that the Commission adopt rules for this service which clearly require that the frequency spectrum allocated to satellite DARS be entirely used for a satellite aural service, and not in part for a terrestrial service. In support of its position, Mt. Wilson states:

REQUEST FOR RULE CHANGE

1. Mt. Wilson respectfully requests that the rules governing the satellite DARS service, which are still under consideration in this proceeding, be amended to require that all frequency authorizations issued in that service be utilized for satellite DARS broadcasts, and that any spectrum not so utilized be returned so that the Commission may put them to other use. The reasons for this request are set forth below in Mt. Wilson's comments on proposals which have been made for use of terrestrial transmitters as an adjunct to the satellite service.

PERVERSION OF TERRESTRIAL REPEATER CONCEPT

2. The satellite DARS authorizations which have been issued by the Commission were intended to create a new service-- a service which would enhance or broaden, and possibly compete with, but not replace the terrestrial audio service now available. That current audio service has been available to most American radio listeners with increasing penetration and increasing improvement in sound reception for the last eighty years. There is not the slightest suggestion that the Commission intended that satellite DARS would replace the existing audio system, with the concomitant hardship on the listening public which replacement of the existing system would entail both in material costs and disruption, as well as attention to local needs of the communities and areas of the United States. (see NPRM ¶'s 21, 33).

3. In the Report and Order in this proceeding and in the NPRM, the Commission recognized that the satellite DARS service and the terrestrial audio services are completely different services, and that it is the Commission's purpose to protect the existing terrestrial audio service. It also expressly recognized that in the future, digital audio service would be provided by the existing terrestrial services (see NPRM, ¶ 19). The intent of the Commission was clear--digital service was to be provided by satellite until such time as it would be provided by all the audio services, including the present terrestrial services, after

which it might be received either by satellite or terrestrially from existing terrestrial audio stations. Recent revelations, however, have made clear that the original representations concerning the purpose and function of the proposed terrestrial transmitters for the satellite DARS service made by its proponents did not comply with this objective, and were misleading at best, and disingenuous at worst.

4. *Radio and Records from Bloomberg News*, in its issue of January 30, 1998, contains an article headed **AMRC Plans Terrestrial Service**. It reports that NAB Comments in another proceeding state that American Mobile Radio Corp. “* * * plan[s] to deploy approximately 1000 terrestrial repeaters, each with effective radiated power (ERP) of up to 10 kw” (by simple arithmetic, a total of ten million watts of terrestrial stations). It is also now clear that AMRC, which, as originally contemplated, would utilize the entire spectrum awarded to it for its satellite DARS service for providing satellite delivered programming, actually intends to utilize as little as half of the spectrum for that purpose, and the remainder to feed land based transmitters. It would appear that in the view of AMRC the “benefits” of digital audio transmissions cannot be attained by satellite transmission, but must utilize terrestrial transmission to reach many of the digital receivers in mobile units , as well as those in many homes. It was never contemplated by the Commission, or even suggested by its decisions in this proceeding, that terrestrial repeaters, rather than satellite transmissions, would become the primary means for reaching the American audience by the licensees of the satellite spectrum.

5. This perversion of a well-intentioned (although flawed) new service would almost surely have an extremely deleterious effect on the existing audio system. The satellite service, both as proposed and subsequently authorized, is a completely different service than it would now become if the AMRC proposal is allowed to become fact. Instead of being a new, dependent satellite service, it will become a hybrid which depends almost entirely on terrestrial stations to deliver the signal to the ultimate consumer. Instead of

creating and delivering new programming to radio listeners, it is likely to replace the old system, with more of the same programming, but almost certainly without the attention of existing stations to the particular needs of each of the communities and areas which they serve. It must be remembered that, unlike DTV and NTSC television, satellite DARS was not authorized ultimately to replace the current system, but will compete with it directly.

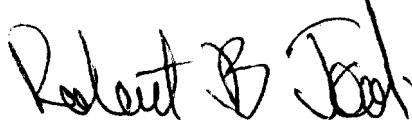
6. This is clearly not the intention of AMRC. In its case, half of the spectrum allocated for digital satellite service would be used for terrestrial service. The result might be a mind-boggling violation of the multiple ownership rules--a single licensee might have as many as twenty or twenty-five aural broadcast stations in a single community. The effect on the present terrestrial aural broadcast system could be devastating. When, as the Commission intends, all audio broadcasting will be digital, the present analog broadcasters will be virtually eliminated before they start. Under the AMRC proposal, they will confront an existing terrestrial digital system which has developed under the protection of the DARS authorizations. Any practical chance for competition will have been eliminated before the system gets under way.

7. At a time when the Commission is embarking on a study of the public interest obligations of Commission broadcast licensees, it would be unconscionable to allow the satellite DARS service, which has surely been misrepresented to the Commission, to

alter, without the most careful consideration, the basic tents of the "public interest" as it has existed for over sixty years. The rules must be clarified now to assure that this not happen.

Respectfully submitted

MT. WILSON FM BROADCASTERS, INC.

By:  _____

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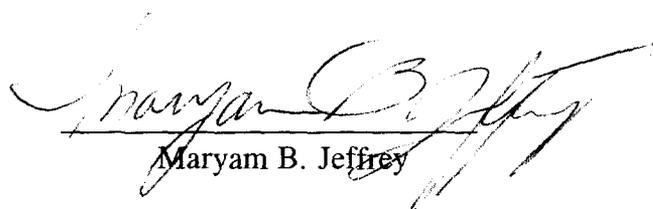
Date: February 20 ,1998

CERTIFICATE OF SERVICE

I, Maryam B. Jeffrey, hereby certify that on this 20th day of February, 1998 a copy of the foregoing SUPPLEMENT TO COMMENTS OF MT. WILSON FM BROADCASTERS, INC. ON FURTHER NOTICE OF PROPOSED RULEMAKING was mailed first-class U.S. mail, postage prepaid to the following:

Valerie G. Schulte, Esq.
National Association of Broadcasters
1771 N Street, N.W.
Washington, D.C. 20036-2891

Mr. Lon Levin
Vice President
American Mobile Radio Corporation
10802 Parkridge Boulevard
Reston, VA 20191


Maryam B. Jeffrey