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VIA HAND DELIVERY

Re: PR Docket No. 92-235;
WT Docket No. 97-81;
ET Docket No. 95-18;
and IB Docket No. 98-172
NOTICE OF EX PARTE COMMUNICATION

Dear Ms. Salas:

Pursuant to Section 1.1206 of the Commission's Rules, this is to notify you that on October 26, 1998, representatives of the American Petroleum Institute (API) met with:

Paul Misener, Chief of Staff
Senior Legal Advisor to Commissioner Furchgott-Ruth;

Peter Tenhula
Legal Advisor to Commissioner Powell;

Dan Phythyon, Chief
Wireless Telecommunications Bureau;

D'wana Terry, Chief
Public Safety and Private Wireless Division;

Herb Zeiler, Deputy Chief
Public Safety and Private Wireless Division;

Dan Connors
Legal Advisor to Commissioner Ness;

Rosalind Allen, Deputy Chief
Wireless Telecommunications Bureau; and

Josh Roland, Legal Advisor
Wireless Telecommunications Bureau

The purpose of these meetings was to discuss API's position in the above-referenced proceedings. Representatives of API included Lee Gaspard, Shell Oil Company, the Radio Subcommittee Chairman; Bill Carter, Colorado Interstate Gas Company, the Microwave/Satellite Subcommittee Chairman; and Wayne Black and Peter Saari, Keller and Heckman LLP, counsel for the API Telecommunications Committee.

The substance of the discussion concerned unresolved spectrum refarming issues, Multiple Address System ("MAS") use in the 950 MHz area, incumbent rights in the 2.1 GHz spectrum, and usage of 18 GHz band by terrestrial users relocated from 1.8 GHz and 2.1 GHz bands, as more fully discussed in API's Comments and Reply Comments submitted in the respective proceedings.

A written presentation which summarizes the points addressed is attached to this notice. Two copies of the presentation are submitted for filing in each docket.

Please contact either of us should you have any questions concerning this matter.

Very truly yours,

Wayne V. Black
Peter A. Saari

Enclosures

cc: Mr. Paul Misener
Mr. Peter Tenhula
Mr. Dan Phythyon
Ms. D'wana Terry
Mr. Herb Zeiler
Mr. Dan Connors
Ms. Rosalind Allen
Mr. Josh Roland

American Petroleum Institute
Telecommunications Committee
Positions on Wireless Issues
Before the
Federal Communications Commission

1. Refarming (PR Docket No. 92-235)

Outstanding issues that should be resolved promptly:

- *Frequency Coordination.* API's pending Petition for Reconsideration seeks continued frequency coordination responsibility by the Petroleum Frequency Coordinating Committee to protect incumbent systems authorized on channels now available to a broad range of private and commercial applicants.

- *Low Power Offsets.* Licensees are handicapped in their ability to plan transition strategies without the FCC's endorsement of the LMCC low power channel plan.

2. Petition for Rule Making, Establishment of Public Service Pool in Bands Below 800 MHz

- In enacting the 1997 Budget Act, Congress clearly recognized the importance of protecting certain private radio services from the competitive bidding process, including pipelines, utilities, and railroads.

- Critical infrastructure industries (electric, gas and water utilities, petroleum and natural gas pipelines and railroads) face growing threats to communications systems which are vital to public safety and operations. API, along with UTC and AAR, believes the solution that best serves the public interest is the establishment of a "Public Service Pool," similar to the Public Safety Pool and Industrial/Business Pool, which would limit interference from new commercial licensees in the bands below 800 MHz.

- Frequency coordination for this pool should continue as it has in the past due to the critical nature of these industries and coordinators' knowledge of the industries' special communications needs.

- Allocation of frequencies should be based on current usage patterns, including those frequencies used exclusively by the Power, Petroleum, and Radio Services, and a proportion of shared frequencies, based on pre-refarming levels, as follows: 61% of the low band; 8% of the 70 MHz band; 52% of the high band, and 61% of the UHF frequencies.

- FCC should adopt protected service contours to reduce the risk of interference to incumbents' systems.

- The Commission needs to act immediately to protect systems of critical infrastructure industries from potential disruptions by granting the Emergency Request for Limited Licensing freeze filed by API and UTC that requests a limited freeze on the acceptance of applications for channels previously allocated to the Petroleum and Power Radio Services unless they have the concurrence of the PFCC or UTC coordinator or co- and adjacent channel users within a 70-mile radius of the proposed station.

3. Multiple Address Systems (WT Docket No. 97-81)

- The petroleum and gas industries use MAS in the 900 MHz band for remote monitoring of production wells and pipeline operations via supervisory control and data acquisition (SCADA) and related telemetry operations. These systems are critical to protect communities, workers, and the environment, and to ensure efficient operations in meeting the nation's energy needs.

- To meet current and projected spectrum demand, the FCC should allocate 20 MAS auction-exempt channels in the 932/941 MHz band for use in the critical infrastructure industries, and set aside the bands 928/952/956 MHz for critical infrastructure industries (CII), exempt from auction. Existing systems authorized

in the band 928/959 MHz must be grand fathered to prevent disruption and unnecessary relocation costs.

- Geographic licensing in private bands would be an inefficient use of spectrum; site-by-site licensing is essential.

4. 2.1 GHz (ET Docket No. 95-18)

- The 2.1 GHz band is vital to the petroleum and natural gas industries, as well as to other critical infrastructure industries and public safety agencies. Petroleum and gas industries use this spectrum for systems used to transport critical communications that support exploration, production, refining, and pipeline transportation activities.

- FCC should not deviate from established transition rules that permit co-primary sharing between MSS and terrestrial microwave licensees where feasible, and incumbent relocation where not. A similar transition process worked well for PCS entry into the 1850-1990 MHz band.

- The cost of relocation should be borne by MSS industry since it will profit from newly available spectrum. API members do not want to be in better or worse position as a result of transition -- the goal is to be made whole.

5. 18 GHz Band Segmentation (IB Docket No. 98-172)

- 18 GHz band is required by terrestrial users being relocated from 1.8 GHZ and 2.1 GHZ bands

- Band segmentation is far more favorable to terrestrial users sharing spectrum with blanket-licensed satellite earth stations.

- In bands where sharing will be permitted, coordination is essential. If sharing cannot be accomplished, incumbents must be reimbursed for relocation costs.

- FCC should be open to alternative band segmentation plans that have less impact on incumbent users