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July 17, 2000

RECEIVED
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: TV Table of Allotments
Cheney, Washington
Pelican Broadcasting Company, Inc.

Dear Ms. Salas:

On behalf of Pelican Broadcasting Company, Inc., there is transmitted herewith and filed an original and four copies of its "Amendment to Petition for Rulemaking" in the above-captioned matter.

Should any questions arise with regard to the enclosure, kindly communicate directly with the undersigned counsel.

Very truly yours,

KAYE, SCHOLER, FIERMAN, HAYS & HANDLER, LLP

By: _____

Bruce A. Eisen

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BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

RECEIVED
JUL 17 2000
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of Section 73.606(b))
TV Table of Allotments)
TV Broadcast Stations)
(Cheney, Washington))

MM Docket No. _____
RM No. _____

To: Chief, Allocations Branch

AMENDMENT TO
PETITION FOR RULEMAKING

Pelican Broadcasting Company, Inc. ("Pelican"), by counsel, and pursuant to Section 1.401 of the Commission's rules and Public Notice, DA 99-2605 (released November 22, 1999) ("Mass Media Bureau Announces Window Filing Opportunity for Certain Pending Applications and Allotment Petitions for New Analog TV Stations") ("Window Filing Notice"), hereby amends its Petition for Rulemaking, filed July 23, 1996, requesting the allotment of Channel 45 to Cheney, Washington, as that community's first local television service. Pelican amends its pending rulemaking petition to request that the Commission institute a rulemaking proceeding to amend Section 73.606(b) of the Commission's rules by allotting Channel 54 in lieu of Channel 45 at Cheney. Accordingly, Pelican proposes to amend Section 73.606(b) of the Commission's rules as follows:

1 On March 9, 2000, the Commission extended the window filing period until July 15, 2000. See Public Notice, 15 FCC Rcd 4974 (2000) ("Window Filing Opportunity For Certain Pending Applications and Allotment Petitions For New Analog TV Stations Extended to July 15, 2000").

<u>City</u>	<u>Present</u>	<u>Channel No.</u>	<u>Proposed</u>
Cheney, Washington	- - -		54

In support of this request, Pelican states the following:

As stated above, Pelican currently has pending a rulemaking petition requesting the allotment of Channel 45 to Cheney, Washington, which would provide the community with its first local television service.² However, as demonstrated in the attached engineering statement of Pete Myrl Warren, the proposed allotment of Channel 45 at Cheney would cause interference to a co-channel DTV allotment at Coeur d'Alene, Idaho. *See* Engineering Statement, Exhibit RM-1. Accordingly, Pelican seeks to amend its pending rulemaking petition pursuant to the *Window Filing Notice*, and requests that the FCC amend the TV Table of Allotments by allotting Channel 54 in lieu of Channel 45 at Cheney.

As demonstrated in Mr. Warren's attached engineering statement, from the allotment reference point,³ the proposed allotment of Channel 54 at Cheney complies with the minimum distance separation requirements with respect to all NTSC and DTV allotments, and would not cause interference to any NTSC, DTV or Class A LPTV station. *See* Engineering Statement, pp. 1-2 and Exhibits RM-2 and RM-3. The proposed allotment would enable a new full-service television

² Pelican also filed an accompanying application for a new television station to operate on Channel 45 at Cheney. The application was filed on July 23, 1996.

³ The reference coordinates of the proposed allotment are North Latitude: 47° 48' 48"; West Longitude: 117° 30' 41". These coordinates reflect Pelican's proposed transmitter site, which is located at the Lookout Mountain Communications site. The owner of the proposed transmitter site, Aaron L. Lowe, has indicated that the site will be made available in the event this petition is granted and Channel 54 is allotted to Cheney.

station to commence operation from the proposed transmitter site with 5,000 kilowatts omnidirectional effective radiated power at an antenna height of 367 meters above average terrain without adversely affecting any other television station. The proposed Channel 54 NTSC facility would provide a new television service to 493,760 people in the Cheney area, and would provide an 80 dBu contour over the entire community of Cheney. *See* Engineering Statement, p. 1.

The proposed allotment of Channel 54 to Cheney would promote the objectives of Section 307(b) of the Communications Act of providing a fair, efficient and equitable distribution of television broadcast stations among the various states and communities. 47 U.S.C. §307(b). *See National Broadcasting Co. v. U.S.*, 319 U.S. 190, 217 (1943) (describing goal of Communications Act to "secure the maximum benefits of radio to all the people of the United States"); *FCC v. Allentown Broadcasting Co.*, 349 U.S. 358, 359-62 (1955) (describing goal of Section 307(b) to "secure local means of expression"). In addition, the proposed allotment would promote the second television allotment priority established in the *Sixth Report and Order* in Docket Nos. 8736 and 8975, 41 FCC 148, 167 (1952), of providing each community with at least one television broadcast station. Furthermore, the proposed allotment would promote the emergence of new networks such as The WB Television Network, the United Paramount Network, and the Paxson Network by providing an additional broadcast outlet in a top 100 television market⁴ with which to establish a primary affiliation, and thereby bring a new network service to the residents of Cheney and the surrounding area.

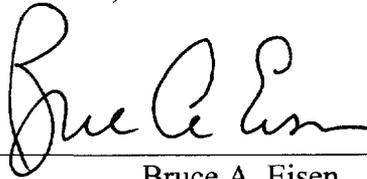
⁴ The Spokane market currently is the 78th television market. *See Broadcasting & Cable*, p. 246 (2000).

In light of the above, Pelican requests that the Commission amend the TV Table of Allotments by allotting Channel 54 to Cheney, Washington, as the community's first local television service. In the event Channel 54 is allotted to Cheney, Pelican will amend its pending application (or submit a new application) in accordance with the Report and Order issued in this proceeding to specify the new channel, and modify its technical proposal as necessary so that the proposed Channel 54 NTSC facility will not cause harmful interference to any other television station. In the event its application is granted, Pelican will promptly construct and operate the new NTSC facility.

WHEREFORE, in light of the foregoing, Pelican Broadcasting Company, Inc. respectfully requests that the Commission GRANT this amended petition for rulemaking, AMEND the TV Table of Allotments, and ALLOT Channel 54 to Cheney, Washington, as the community's first local television service.

Respectfully submitted,

PELICAN BROADCASTING
COMPANY, INC.

By: 
Bruce A. Eisen

Its Counsel

Kaye, Scholer, Fierman, Hays
& Handler, L.L.P.
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Suite 1100
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(202) 682-3500

July 17, 2000

WES, INC.
6200 Valeria Ln.
El Paso, TX 79912

505-589-2224

**ENGINEERING EXHIBIT
PETITION TO MODIFY THE TABLE OF
ALLOTMENTS TO SPECIFY A
DISPLACEMENT CHANNEL TO
SUBSTITUTE FOR CHENEY, WA
CHANNEL 45**

June 23, 2000

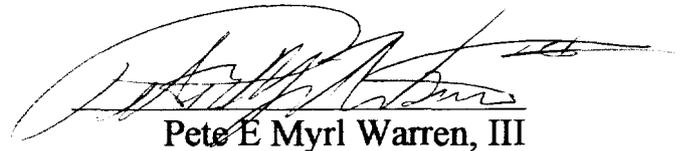
ENGINEERING STATEMENT

Wes, Inc.

DECLARATION

I, Pete E Myrl Warren, III, declare and state that I am a Certified Broadcast Engineer, by the National Association of Radio and Television Engineers, and my qualifications are a matter of record with the Federal Communications Commission, and that I am an engineer in the firm of Wes, Inc., and that the firm has been retained to prepare an engineering statement on behalf of Pelican Broadcasting Company, Inc.

All facts contained herein are true to my knowledge except where stated to be on information or belief, and as to those facts, I believe them to be true. All Exhibits were prepared by me or under my supervision. I declare under penalty of perjury that the foregoing is true and correct.



Pete E Myrl Warren, III

Executed on the 23rd day of June 2000

Narrative Statement

I. GENERAL

This engineering report has been prepared on behalf of Pelican Broadcasting Company, Inc. in support of its request for a displacement channel (Channel 54) for its pending application for Channel 45 in Cheney, WA

II. ENGINEERING DISCUSSION

The applicant originally applied for a construction permit for channel 45 in Cheney, WA. The applicant is precluded from going on channel 45 due to interference to Coeur D'Alene as outlined in Exhibit RM-1

The applicant proposes the same site as its original application for C.P.

North Latitude: 47° 48' 48"

West Longitude: 117° 30' 41"

It is proposed to amend Section 73.606(b) of the Commission's rules, NTSC Table of Allotments, to allot Channel 54 (710-716 MHz) for the NTSC television operation of Pelican Broadcasting Company, Inc. As demonstrated below, the proposed Channel 54 NTSC operation at Cheney, Washington, **will not cause any harmful interference to any other analog NTSC or DTV station or allotments exceeding the Commission's guidelines.** Cheney, WA Channel 54 would provide additional service to a population of 493,760 people.

The proposed NTSC Channel 54 has site availability and can operate from the proposed antenna site with 5000 kW non-directional ERP and 367 meters HAAT without adversely impacting other TV operations. The proposed Channel 54 would serve all of Cheney, WA within its 80 dBu contour.

Analog NTSC TV Allocation Situation

The attached Exhibit RM-2 demonstrates that Channel 54, Cheney, WA, **is free of any short-spacings to any other NTSC stations.**

DTV Allocation Situation

There are no digital stations within the required 429 kilometer study distance that require study to determine whether or not they would cause or receive interference from the proposed channel 54 in Cheney, Washington, as outlined in exhibit RM-3.

III. Class A

There are no Class A LPTV requiring protection from this proposed Channel 54.

IV. Summary

The applicant must change channel from Channel 45 in Cheney, WA to channel 54 in order to avoid interference to digital television. On channel 54, Cheney is clear of all short-spacing to digital and NTSC stations and will not cause any interference to any digital or NTSC station.

**Exhibit RM-1
Cheney, WA**

June 23, 2000

by WES, Inc. Broadcast Consultants

Spacing study on previously applied for channel 45

Study Location:
Cheney, WA Channel 45

NTSC Study Station, Transmitter Coordinates: 47-48-48 N 117-30-41 W

Study distance: 429 km

NTSC TO DTV STUDY RESULTS

City of License	ST	Chan	Bearing	Distance	Req. Dist	Diff.
Coeur D'Alene	ID	45	98.81	59.29	244.60	-185.31
Kennewick	WA	44	212.97	226.63	88.50	138.13
Wenatchee	WA	46	255.11	211.82	88.50	123.32

Station is short-spaced to 1 stations.

**Exhibit RM-2
Cheney, WA**

June 23, 2000

by WES, Inc. Broadcast Consultants

Spacing study to NTSC TV on channel 54

***** TV CHANNEL SPACING STUDY *****

Job title: Cheney, WA

Latitude: 47 48 48

Channel: 54

Longitude: 117 30 41

Database file name: tv000117.edx

Reqd.

CH	Call	Record No.	City	ST	Z	STS	Bear.	Dist.	Dist.	Result
----	------	------------	------	----	---	-----	-------	-------	-------	--------

***** End of channel 54 study *****

**Exhibit RM-3
Cheney, WA**

June 23, 2000

by WES, Inc. Broadcast Consultants

Study Location:
Cheney, Wa Channel 54

NTSC Study Station, Transmitter Coordinates: 47-48-48 N 117-30-41 W

Study distance: 429 km

NTSC TO DTV STUDY RESULTS

City of License ST Chan Bearing Distance Req. Dist Diff.

Station is in the clear!

CERTIFICATE OF SERVICE

I, Toni Daluge, a secretary in the law firm of Kaye, Scholer, Fierman, Hays & Handler, L.L.P., hereby certify that on this 17th day of July, 2000, copies of the foregoing "Amendment to Petition for Rulemaking" were hand delivered to the following:

Mr. Roy J. Stewart
Chief, Mass Media Bureau
Federal Communications Commission
The Portals II, Room 2-C347
445 Twelfth Street, S.W.
Wash, DC 20554

Mr. Keith Larson
Assistant Chief, Engineering
Mass Media Bureau
Federal Communications Commission
The Portals II, Room 2-C420
445 Twelfth Street, S.W.
Wash, DC 20554