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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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**FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of)
)
Amendment of Part 90 of the Commission's Rules)
and Policies for Applications and Licensing of Low)
Power Operations in the Private Land Mobile)
Radio 450-470 MHz Band)

WT Docket No. 01-146

**COMMENTS
OF
THE LAND MOBILE COMMUNICATIONS COUNCIL**

Respectfully Submitted,

Land Mobile Communications Council

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Date: October 12, 2001

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SUMMARY

The Land Mobile Communications Council (“LMCC”), pursuant to Section 1.415 of the Commission’s Rules, 47 C.F.R. § 1.415, hereby respectfully submits its Comments in the above-captioned proceeding.

LMCC is concerned that the continued use of TPO as the measurement of maximum power will significantly limit the availability of viable spectrum, decrease the effectiveness of the frequency coordination process, and lead to mis-utilization of the band as envisioned by LMCC. Therefore, LMCC’s recommendations for each Frequency Group will be consistent with the purpose of the low power rules while ensuring maximum user flexibility.

LMCC recommends that the Commission have a maximum limitation for Group A, B and C frequencies of both five watts TPO and six watts ERP. Creation of this dual rule will permit users to decide individually whether they wish to meet the maximum power limitation through the use of higher gain antennas or higher power radios.

In paragraph 16 of the NPRM, the Commission has requested suggestions as to the definition of the Top 100 urban areas for use in conjunction with 40 of the channel pairs in Group A. Although there are several potential candidate listings, LMCC recommends that the Commission utilize the list already a part of 47 C.F.R. §90.741.

In order to minimize interference between voice and non-voice systems, LMCC believes it is unwise to permit mobile-only data on Group A frequencies. However, the Commission should still permit base/mobile data on a primary basis when coordinated, and continue to permit secondary fixed point-to-point telemetry.

LMCC requests that the Commission permit primary base/mobile data or primary fixed point-to-point data or telemetry on Group B frequencies. The Commission should also permit continuous transmissions of data on Group B frequencies, provided such operation has been coordinated as such. Mobile only data should be prohibited.

LMCC requests that the Commission retain the paired channel proposal as submitted. Retention of the paired channel portion of the LMCC's proposal is critical, since in some geographic areas a frequency pair will be used for high power operation, while in other areas the same frequency pair may be utilized for low power operation. There is no harm in maintaining the channels as paired, and flexibility on the part of users will not decrease with the designations included in the Commission's Rules.

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The Land Mobile Communications Council ("LMCC"), pursuant to Section 1.415 of the Commission's Rules, 47 C.F.R. § 1.415, hereby respectfully submits its Comments in the above-captioned proceeding.¹

I. INTRODUCTION

The LMCC is a non-profit association of organizations representing virtually all users of land mobile radio systems, providers of land mobile services, and manufacturers of land mobile radio equipment. The LMCC acts with the consensus, and on behalf, of the vast majority of public safety, business, industrial, private, commercial and land transportation radio users on several frequency bands regulated by the FCC. Key to these operations are those bands included in the so-called "Refarming" proceeding. LMCC has been an active participant in all phases of this complex and extended proceeding; the efficient use of the refarmed bands is of paramount importance to the LMCC and its members. Membership includes the following organizations:

¹ 66 FR 47435 (Sept. 12, 2001).

- Aeronautical Radio, Inc. (ARINC)
- American Association of State Highway and Transportation Officials (AASHTO)
- American Automobile Association (AAA)
- American Mobile Telecommunications Association, Inc. (AMTA)
- American Petroleum Institute (API)
- Association of American Railroads (AAR)
- Association of Public Safety Communications Officials-International, Inc. (APCO)
- Central Station Alarm Association (CSAA)
- Forest Industries Telecommunications (FIT)
- Forestry-Conservation Communications Association (FCCA)
- Industrial Telecommunications Association, Inc. (ITA)
- Intelligent Transportation Society of America, Inc. (ITSA)
- International Association of Fire Chiefs (IAFC)
- International Association of Fish and Wildlife Agencies (IAFWA)
- International Municipal Signal Association (IMSA)
- Manufacturers Radio Frequency Advisory Committee (MRFAC)
- National Association of State Foresters (NASF)
- Personal Communications Industry Association (PCIA)
- Taxicab, Limousine & Paratransit Association (TLPA)
- Telecommunications Industry Association (TIA)
- United Telecom Council (UTC)

II. BACKGROUND

On June 15, 1995, the Commission adopted a *Report and Order* in PR Docket No. 92-235, to promote more efficient use of the private land mobile radio (PLMR) spectrum below 512 MHz.² Under the rules adopted, channels in the 450-470 MHz band that were 12.5 kHz removed from regularly-assignable channels and reserved for low power operation under former Section 90.267 of the rules (“12.5 kHz offset channels”), were reclassified as regularly assignable channels available for high power operation. In making this change, however, the Commission recognized the continuing need for low power channels and tasked the Part 90 frequency coordinators with devising a low power plan through industry consensus.

² See, Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them and Examination of Exclusivity and Frequency Assignment Policies of the Private Land Mobile Radio Services, PR Docket No. 92-235, *Report and Order*, 10 FCC Rcd 10076 (1995).

On March 12, 1997, the Commission adopted a *Second Report and Order* in the Refarming proceeding that consolidated the twenty PLMR services into two pools – a Public Safety Pool and an Industrial/Business Pool.³ In consolidating the PLMR services, the Commission pointed out the importance of low power channels and gave the frequency coordinators until October 17, 1997, to develop a consensus plan for low power operations in the two pools.

On June 4, 1997, LMCC submitted a plan for low power and full power operations on the 12.5 kHz offset channels in the 450-470 MHz band (“Consensus Plan”). LMCC asked the Commission to endorse the Consensus Plan.⁴

The Consensus Plan submitted by LMCC included amongst its recommendations a request that certain frequencies have an ERP limitation higher than the 2 watt limitation ordinarily imposed by Section 90.267, but lower than the typical “full power” station in the band. Other LMCC recommendations address antenna height restrictions, geographic-use restrictions, and frequency coordination requirements. The Commission stated that it believed that implementing the Consensus Plan, as submitted, would require changes to the Commission’s Rules, and therefore the plan did not appear to constitute the type of Consensus Plan originally envisioned by the Commission. The LMCC subsequently modified its plan. The “modified” Consensus Plan, submitted August 21, 1997, reserves 104 of the current 12.5 kHz offset channel pairs (and channel pairs 6.25 kHz directly above and below these channel pairs) specifically for

³ See, Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them and Examination of Exclusivity and Frequency Assignment Policies of the Private Land Mobile Radio Services, PR Docket No. 92-235, *Second Report and Order*, 12 FCC Rcd 14307 (1997).

⁴ See, Letter dated June 4, 1997, from Larry Miller, President, LMCC to Daniel Phythyon, Acting Chief, Wireless Telecommunications Bureau, Federal Communications Commission.

low power operation – ninety (90) channel pairs in the Industrial/Business Pool and fourteen (14) channel pairs in the Public Safety Pool.

On June 29, 2000, the Commission accepted LMCC's modified low power Consensus Plan. The Commission pledged to license only low power operations on the specified frequencies pursuant to Section 90.267 of the Commission's Rules. The Commission required that each frequency coordinator maintain a current listing of frequencies designated for low power operation and make it available to the public upon request. As noted in the Refarming proceeding, the coordinators, by consensus, may change this list in the future.⁵

On September 11, 2000, LMCC submitted a Petition for Rule Making, which addressed those issues with regard to the Low Power Pool channels which the Commission initially believed were outside the scope of the proceeding. In response, on July 24, 2001, the Commission issued a Notice of Proposed Rule Making, which for the most part is consistent with LMCC's request. LMCC responds herein to that NPRM.⁶

III. COMMENTS

A. Power Designations

In LMCC's Petition, LMCC requested that the Commission utilize Effective Radiated Power ("ERP") as the measurement tool for defining maximum power for these frequencies. It is LMCC's position that ERP is the best and most efficient measurement available for frequency coordinators to determine the impact that implementation of a system will have on co-channel

⁵ Such changes will become effective thirty (30) days after notification to the Wireless Telecommunications Bureau, by letter, of the planned changes.

⁶ LMCC notes that the Association of American Railroads (AAR) generally supports the LMCC position set forth in these comments and will be filing comments of its own in this proceeding. The American Petroleum Institute (API) does not support the filing of these comments and is submitting its own comments in this proceeding.

and adjacent channel users. LMCC requested that low power frequencies have a power limitation related to ERP, which is a change from the current limitation of 2 watts output power.

The Commission has proposed to amend LMCC's request by specifying the use of Transmitter Output Power ("TPO") for mobile units. It is the Commission's position that the use of ERP in this context may actually decrease the usable level of power, since the utilization of "gain-adding" antennas on two watt mobile systems could result in an ERP of greater than five watts.

LMCC is concerned that the continued use of TPO as the measurement of maximum power will significantly limit the availability of viable spectrum, decrease the effectiveness of the frequency coordination process, and lead to mis-utilization of the band as envisioned by LMCC. Specifically, LMCC is already aware of applicants for the current Low Power Pool frequencies who have submitted applications for 2 watt mobile units, and claimed that they can achieve 50 watts ERP. If true, this subverts the intention of the LMCC proposal, which is to create spectrum solely dedicated to low power devices which will minimize interference and permit maximum frequency re-use.

However, LMCC understands the Commission's concerns and wishes to attempt to permit the types of uses envisioned by both the LMCC and the Commission. LMCC's research indicates that the maximum ERP achievable with a two watt mobile unit and a gain antenna typically available on the market at the present time is six watts ERP. Therefore, LMCC's recommendations for each Frequency Group will be consistent with the purpose of the low power rules while ensuring maximum user flexibility.

B. Group A Frequencies

LMCC recommends that the Commission have a maximum limitation for Group A frequencies of both five watts TPO and six watts ERP. Creation of this dual rule will permit users to decide individually whether they wish to meet the maximum power limitation through the use of higher gain antennas or higher power radios. In this manner, user flexibility is maximized, while maintaining the integrity and purpose of the allocation.⁷

LMCC has proposed that 457.5375 MHz be included in the Group A frequencies. However, the Commission notes that this frequency is presently reserved for dockside cargo operations. The Commission properly relates the difficulties that would be associated with LMCC's proposed allocation. As a result of these difficulties, LMCC recommends dropping 457.5375 MHz from Group A. LMCC does not recommend a substitute frequency. Since frequency advisory committees have been trying to coordinate applications consistent with the LMCC Proposal since the LMCC Petition was filed, selection of a different frequency will only lead to additional cases of high power systems already licensed on low power frequencies. As such, LMCC believes there are no suitable alternative frequencies.

In paragraph 16 of the NPRM, the Commission has requested suggestions as to the definition of the Top 100 urban areas for use in conjunction with 40 of the channel pairs in Group A. Although there are several potential candidate listings, LMCC recommends that the Commission utilize the list already a part of 47 C.F.R. §90.741. This list has been recently used for the 220-222 MHz band and because the list is 100 cities instead of some smaller list, the

⁷ LMCC agrees with the Commission proposal to limit fixed operation to twenty watts ERP for Group A frequencies.

impact of changes in some of the smaller cities falling off or coming on any Top 100 list is fairly minimal.

The Commission has also requested comment on difficulties that may arise with coordination of systems near the fifty-mile radius circle. The Commission is properly concerned with high power systems on one side of the circle conflicting with low power systems on the other side of the circle. It is LMCC's view that the definition of whether a system is within or outside of the circle should be determined by the location of the fixed station (for high power stations) and center of the operating area for low power mobile systems. From that point, the frequency coordination process can address most of the interference issues between high and low power systems, as well as coordination procedures for handling requests for systems near the radius. LMCC is concerned that any additional rule-based definition may hinder coordinator and industry flexibility to adapt to user requirements and future equipment advances.

In Paragraph 18 of the NPRM, the Commission's requests comment on the viability of secondary telemetry operation on Group A frequencies. In the past, telemetry has been permitted on 450-470 MHz frequencies on a secondary basis pursuant to 47 C.F.R. §90.35(c)(30). Because of the growth of non-voice operations, LMCC believes that it is appropriate at this juncture to discuss the appropriate use of telemetry and other non-voice operation on shared frequencies.

Section 2.1 of the Commission's Rules defines telemetry as "[t]he use of telecommunication for automatic indicating or recording measurements at a distance from the measuring instrument." There is no definition in the Commission's Rules for mobile data, however non-voice communications are defined in Section 90.231 as including "secondary signaling, telemetry, radio teleprinter, radiofacsimile, automatic vehicle monitoring (AVM),

radio call box, relay, vehicular repeater, and control station operations.” Base/mobile non-voice communications are permitted on a primary basis on frequencies subject to frequency coordination requirements pursuant to Section 90.233 of the Commission’s Rules. Section 90.235 provides for fixed non-voice communications on a secondary basis.

While telemetry operations have not in the past usually been a problem on 450-470 MHz frequencies, lately there has been an increase in implementation of mobile telemetry systems on voice channels. Some of these devices have been implemented without the aid of monitoring equipment, causing interference to voice users. Discovering the source of this interference often has been difficult, because many of the devices are not located at a permanent position, and may be licensed for an area of operation instead of a specific set of coordinates. Further, it is expected that non-voice operations will become an ever-increasing portion of the land mobile landscape. Therefore, in order to minimize interference between voice and non-voice systems, LMCC believes it is unwise to permit mobile-only data on Group A frequencies. However, the Commission should still permit base/mobile data on a primary basis when coordinated, and continue to permit secondary fixed point-to-point telemetry.

C. Group B Frequencies⁸

LMCC recommends that the Commission have a maximum limitation for Group B frequencies of both five watts TPO and six watts ERP. Creation of this dual rule will permit users to decide individually whether they wish to meet the maximum power limitation through the use of higher gain antennas or higher power radios. In this manner, user flexibility is maximized, while maintaining the integrity and purpose of the allocation.

⁸ UTC abstains from this portion of LMCC’s comments and will be filing comments of its own in this proceeding.

LMCC has attempted to accommodate the expanded use of telemetry and base/mobile data by setting aside ten Group B frequencies specifically for this purpose. The Commission has generally agreed with this proposal, and has asked whether continuous data transmission should be permitted on the Group B frequencies. LMCC recognizes that the transmission of continuous data requires a protected service area (“PSA”), and the Commission’s Rules do not presently accommodate 150 MHz or 450-470 MHz single channel PSAs, either data or voice. However, there are numerous spectrum efficient technologies becoming available for both data and voice communications which can be accommodated in a single 12.5 kHz channel.⁹ LMCC believes that a PSA should only be permitted in those situations where the licensee is employing spectrally efficient data or voice technology. In order to facilitate the introduction of efficient “single channel” technology in the 450-470 MHz band, LMCC is presently developing guidelines which could be incorporated into the Commission’s Rules (or utilized as coordinator guidelines without rule change) which would permit single channel PSAs, and LMCC will present that proposal to the Commission as soon as the work has been completed.

In expectation that LMCC will be able to develop these guidelines, LMCC requests that the Commission permit primary base/mobile data or primary fixed point-to-point data or telemetry on Group B frequencies. The Commission should also permit continuous transmissions of data on Group B frequencies, provided such operation has been coordinated as such.¹⁰ Mobile only data should be prohibited.

⁹ LMCC continues to support the eventual elimination of new 150 MHz and 450 MHz licenses authorizing wideband (i.e. 20 kHz) operation. See, LMCC Reply Comments in WT Docket No. 99-87, filed April 2, 2001.

¹⁰ The requirement for coordination as a continuous data flow system would permit the frequency advisory committee to utilize whatever rules and/or coordination guidelines developed at a later date with regard to PSAs.

As a general rule, Group B frequencies should be utilized for data or telemetry only. However, LMCC does support secondary voice operations on Group B frequencies provided that the voice operations relate to the licensee's utilization of the channel for telemetry and/or data. In other words, the Commission should permit users with telemetry or data needs to utilize the same Group B frequency for their voice communications that are necessary in conjunction with the telemetry or data use (provided that it is recognized that the voice operations are secondary). In this manner, users will not need to license multiple channels.

D. Group C Frequencies

LMCC recommends that the Commission have a maximum limitation for Group C frequencies of both five watts TPO and six watts ERP. Creation of this dual rule will permit users to decide individually whether they wish to meet the maximum power limitation through the use of higher gain antennas or higher power radios. In this manner, user flexibility is maximized, while maintaining the integrity and purpose of the allocation.

LMCC is opposed to the Commission's proposal to prohibit the non-coordinated use of Group C frequencies until the deadline for medical telemetry systems to vacate this spectrum. Systems on these channels will continue to be low power, a situation which has existed for many years. Thus, the possibility of interference from low power radios to medical telemetry devices will not increase. More importantly, however, LMCC is adamant that the Commission must adopt LMCC's proposal (with which the Commission has tentatively agreed) to require radios manufactured for the Group C frequencies to be capable of operation on only the Group C frequencies, and other "color dot" frequencies. This restriction is critical to reduce the incidences of unlicensed, uncoordinated use of other 150 MHz and 450-470 MHz spectrum.

With regard to four frequencies designated by LMCC for Group C (467.7625, 467.7875, 467.8125 and 467.8375 MHz), the Commission notes that these frequencies are presently reserved for dockside cargo operations. The Commission properly relates the difficulties that would be associated with LMCC's proposed allocation for this frequency. As a result of these difficulties, LMCC recommends dropping these four frequencies from Group C. LMCC does not recommend substitute frequencies. Since frequency advisory committees have been trying to coordinate applications consistent with the LMCC Proposal since the LMCC Petition was filed, selection of additional frequencies will only lead to additional cases of high power systems already licensed on low power frequencies. As such, LMCC believes there are no suitable alternative frequencies.

E. Group D Frequencies

As noted in the NPRM, LMCC proposes no changes to the current operating rules for Group D frequencies which are reserved, for the most part, for central station alarm (CSA) operation. We reiterate here our support for this position, with one exception discussed below.

The Commission also notes in paragraph 27 of the NPRM that as part of the Refarming Second MO&O, it eliminated the requirement that stations on designated low power channels be licensed as mobile operations. LMCC wishes to reiterate that the need for frequency advisory committees to be able to accurately determine the nature and location of the existing licensee's operation (as well as that of the proposed system) is crucial to proper coordination and the reduction of interference.

Nevertheless, LMCC is aware that the primary use of Group D low power channels by the central station alarm industry is for fixed operations involving the transmission of alarm signals

from protected premises to the associated central station and transmission of interrogating signals to the protected premises. Because of the nature of central station alarm operations, requiring coordinates for each fixed transmitter would be an administrative burden on the central station alarm licensee and on the Commission, and could compromise the safety of the protected premises. Thus, central station alarm operations on the Group D frequencies should be licensed as fixed stations without providing geographical coordinates for each fixed transmitter. Instead, applicants should provide the frequency coordinator and the Commission with the coordinates of the center of the operating area and the radius around those coordinates in which the fixed stations may operate. Central station alarm operations on the Group D frequencies operating fixed transmitters that have narrow-banded to 12.5 kHz or less should also be entitled to primary status on the frequencies.

A further concern has developed that low power alarm transmitters would be subject to the provisions of FCC Rule Section 90.35(c)(64). This rule, originally adopted by the Commission on the adjacent high power channels, was carried over to the UHF offset frequencies in the refarming process, presumably because of the possibility of high power operations on the offsets. However, at the request of the frequency coordinators through LMCC, the Group D frequencies have all been designated as part of the low power pool. Section 90.35(c)(64) imposes severe restrictions on alarm signaling by limiting the message length and repetition rate to very low levels. Since the Group D frequencies will be restricted to low power operations only, imposing these operating limitations on frequencies that the industry has used for many years without such restrictions is detrimental to operations which protect life and property. Accordingly, LMCC requests the Commission to modify Rule Section 90.267(a)(5) to

state that “operations on the Group D frequencies pursuant to this section shall not be subject to Rule Section 90.35(c)(64)”.

The proposed wording of Rule Section 90.267(a)(5) also should be corrected to reflect that certain Group D frequency pairs (460/465.98125, 460/465.9875, 460/465.99375, 461/466.00625, 461/466.0125, 461/466.01875 MHz) are restricted to central station use throughout the country, while others are restricted to such use only in urban areas. The current wording suggests that all Group D frequencies are available for non-central station use outside of urban areas.

As noted above, LMCC does not believe that central station alarm operations on Group D frequencies should be required to provide geographical coordinates for each fixed transmitter. However, with regard to all other coordinated frequencies, LMCC believes that all systems licensed for any fixed operation must specify a set of coordinates for the location of the fixed station(s). Maximum spectrum efficiency can only be obtained where coordinators (and applicants making their own spectrum selections) have the maximum amount of information possible. There is no reason why fixed stations on non-central station frequencies cannot supply coordinate information, and such information should be required.

For mobile only systems, coordinate information is helpful for determining the focus of the area of operation of the system. For example, the utilization of a frequency with an existing user determined by a 25 mile radius of New York City (with an arbitrary set of coordinates chosen to determine the location of the ring) may be different than a 25 mile radius area of operation with a set of coordinates located at the user’s offices in a specific New York City

borough. Thus, while the Commission should not require coordinate information for mobile-only systems, the Commission should nevertheless encourage such information to be submitted.

F. Low Power Public Safety Pool

LMCC reiterates its support for adoption of a Low Power Public Safety Pool as proposed, including a maximum power of 5 watts TPO for all stations, a maximum antenna height of 6 meters (20 ft.) for any fixed stations, with site-specific and station class-specific coordination and licensing.

G. Codification Of Consensus Plan

LMCC recognizes and appreciates the value of the Commission's proposal to designate that coordinators may select specific frequencies for each group of low power channels, and not incorporate specific frequencies for each pool to the Rules. In doing so, the Commission would give frequency advisory committees flexibility to amend and revise the channel scheme over time to accommodate usage patterns without resorting to the lengthy process of a rule making proceeding.

However, LMCC is concerned such flexibility could also lead to pressure from applicants with spectrum desires inconsistent with the purpose of the pools to exert considerable pressure on coordinators to arbitrarily modify the pool scheme. Further, such lack of codification may negatively impact the willingness of legitimate users to expend the considerable funds necessary to construct high technology systems, for fear that the channel scheme could be amended arbitrarily and without consideration of the user's operation. When coupled with the 6.25 kHz channels, which can be expected to be utilized more extensively in the future, the LMCC Low Power Pool Plan has an appropriate number of channels in each pool to accommodate the

shifting utilization of spectrum which may occur. Also noting that some Group C frequencies may not even be available for several years, LMCC believes that the Commission's offer of flexibility is neither prudent or necessary. Therefore, LMCC requests that the Commission incorporate the Low Power Pool Plan into its Rules.

H. Channel Pairs

LMCC requests that the Commission retain the paired channel proposal as submitted. Retention of the paired channel portion of the LMCC's proposal is critical, since in some geographic areas a frequency pair will be used for high power operation, while in other areas the same frequency pair may be utilized for low power operation. There is no harm in maintaining the channels as paired, and flexibility on the part of users will not decrease with the designations included in the Commission's Rules.

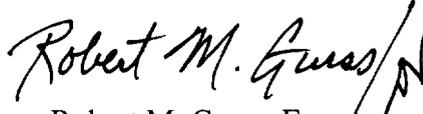
I. Grandfathering Issues

LMCC recognizes that there are some licensees that have been licensed for high power use over the past several years on the proposed low power pool frequencies. However, frequency advisory committees have made efforts since the original LMCC proposal was submitted, to avoid coordination of high power systems on those channels. Therefore, LMCC believes that the instances of non-conforming systems will be limited. For those high power systems which have been licensed on low power pool channels, LMCC proposes that the Commission grandfather their existing operations and parameters for five years or until the end of the license term, whichever is shorter, and automatic renewal of such licenses through the Universal Licensing System should be prevented.

IV. CONCLUSION

WHEREFORE, the premises considered, it is respectfully requested that the Commission act in accordance with the views expressed herein.

Respectfully Submitted,

A handwritten signature in black ink that reads "Robert M. Gurs" with a stylized flourish at the end.

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