

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of

Amendment of Section 73.202(b))
Table of Allotments)
FM Broadcast Stations)
(Ketchum, Idaho))

MM Docket No. 02-14
RM - 10358

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MAR 18 2002

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

COUNTERPROPOSAL

MILLCREEK BROADCASTING, L.L.C.

COMMUNITY WIRELESS OF PARK CITY, INC.

Lee J. Peltzman
Shainis & Peltzman, Chartered
1850 M Street, NW, Suite 240
Washington, DC 20036
(202) 293-0011

John Crigler
Garvey Schubert & Barer
1000 Potomac Street, NW
Fifth Floor, Flour Mill Building
Washington, DC 20007
(202) 965-7880

Mark N. Lipp
J. Thomas Nolan
Shook, Hardy & Bacon
600 14th Street, NW, Suite 800
Washington, DC 20005-2004
(202) 783-8400

Its counsel

Its counsel

GEORGE S. FLINN, JR.

Stephen C. Simpson, Esq.
Law Office of Stephen C. Simpson
1090 Vermont Avenue, NW, Suite 800
Washington, DC 20005
(202) 408-7035

His counsel

March 18, 2002

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TABLE OF CONTENTS

I. PRELIMINARY MATTERS 1

II. CONFLICT WITH THE NPRM..... 2

III. COMPLIANCE WITH THE COMMISSION’S RULES 3

 A. STATION KUUU, TOOELE TO SOUTH JORDAN, UTAH 3

 1. Technical Analysis 3

 2. Change in Community of License..... 3

 B. STATION KTCE, PAYSON, UTAH 10

 C. VACANT CHANNEL 221C3, WELLINGTON, UTAH..... 10

 D. VACANT CHANNEL 237C3, CASTLE DALE, UTAH..... 10

 E. STATION KPCW, CHANNEL 220A, PARK CITY, UTAH 10

 F. STATION KOHS, CHANNEL 219A, OREM, UTAH 11

 G. STATION KCUA, COALVILLE TO NAPLES, UTAH 11

 1. Technical Analysis 11

 2. Change in Community of License..... 12

 H. STATION KPEB, HUNTSVILLE TO COALVILLE, UTAH..... 14

 I. PROPOSED CHANNEL 276C, SALINA, UTAH..... 15

 J. STATION KKMV, RUPERT, IDAHO 15

 K. STATION KMVX, JEROME, IDAHO 15

IV. CONCLUSION 16

SUMMARY

The Joint Parties propose to substitute Channel 223C2 for Channel 221C3 for Station KUUU and reallocate the channel from Toole to South Jordan, Utah as its first local service. Toole will retain local service. Station KCUA will change from Channel 223C2 at Coalville, Utah to Channel 223C2 at Naples, Utah and Station KPEB will change from Channel 276C3 at Huntsville, Utah to Channel 276C at Coalville, Utah. Several other channel changes and station modifications will be required. The public interest will benefit from the provision of first local service to two new communities and a substantial net gain in population to 2,661,320 persons. The Ketchum proposal will be accommodated with an alternate channel.

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COUNTERPROPOSAL

Millcreek Broadcasting, L.L.C. ("Millcreek"), licensee of Station KUUU(FM), Tooele, Utah; Community Wireless of Park City, Inc. ("Community Wireless"), licensee of Stations KCUA(FM), Coalville, Utah and KPCW(FM), Park City, Utah; and George S. Flinn, Jr. ("Flinn"), permittee of Station KPEB, Huntsville, Utah (together, "Joint Parties"), by their respective counsel, submit this counterproposal in the above-captioned proceeding.¹ The Joint Parties request that the Commission amend the FM Table of Allotments to (i) delete Channel 221C3 at Tooele, Utah, and allot Channel 223C2 at South Jordan, Utah as that community's first local service; (ii) delete Channel 223C3 at Coalville, Utah, and allot Channel 223C2 at Naples, Utah as that community's first local service; and (iii) change the community of license of Station KPEB(FM) from Huntsville, Utah, to Coalville. To effectuate these upgrades, further changes will be necessary at Payson, Utah, Rupert, Idaho, and Jerome, Idaho, as described herein.

I. PRELIMINARY MATTERS

1. Millcreek, one of the Joint Parties, has entered into agreements with the licensees of Station KKMV, Rupert, Idaho; and KVMX, Jerome, Idaho; and will reimburse them for their

¹ See Notice of Proposed Rule Making, DA 02-206 (rel. Jan. 25, 2002) ("*NPRM*").

reasonable expenses in changing channel and/or transmitter site in accordance with *Circleville, Ohio*, 8 FCC 2d 159 (1967). Each of the affected licensees/permittees has furnished a statement consenting to the proposed changes. See Exhibit 1. If the Petition is granted, Millcreek will file an application to modify the license of KUUU to specify operation on Channel 223C2 at South Jordan, Community Wireless will file applications to modify the license of KCUA to specify operation on Channel 223C2 at Naples, Utah, and modify Station KPCW on Channel 220A at Park City, and Flinn will file an application to re-license KPEB to Coalville.

2. The following table summarizes the changes requested in this Counterproposal:

City	Channel	
	Existing	Proposed
Jerome, Idaho	275C1	224C1
Rupert, Idaho	223C	275C0
Coalville, Utah	223C3	276C
Naples, Utah	----	223C2
Huntsville, Utah	276C3	----
Payson, Utah	222A	221A
South Jordan, Utah	----	223C2
Tooele, Utah	221C3	----

II. CONFLICT WITH THE NPRM

3. As indicated in the attached Engineering Statement, Exhibit E, Figure 23 this proposal, which would result in the allotment of Channel 224C1 to Jerome, Idaho, conflicts with the *NPRM* proposal to allot Channel 224A to Ketchum, Idaho. However, the Joint Parties offer an alternate channel, Channel 228A, for allotment to Ketchum. Thus, Ketchum can receive a second local service, while at the same time the benefits of this counterproposal can be achieved. See Exhibit E, Figure 24. If for some reason Channel 228A cannot be allotted to Ketchum, this Counterproposal would clearly be favored over the Ketchum proposal under the Commission's allotment priorities, since this Counterproposal offers a first local service to two communities

(South Jordan and Naples, Utah) with a total population of 30,737, whereas the Ketchum proposal offers a second local service to a community of 3003 (all population figures 2000 Census). *See Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982).

III. COMPLIANCE WITH THE COMMISSION'S RULES

A. STATION KUUU, TOOELE TO SOUTH JORDAN, UTAH

1. Technical Analysis

4. As demonstrated in the Exhibit E, Figure 1, Channel 223C2 can be allotted to South Jordan, Utah consistent with Section 73.207 of the Commission's Rules, provided that changes are made at Payson, Utah, Coalville, Utah, and Rupert, Idaho, as discussed below. A 70 dBu signal can be provided to South Jordan from the proposed reference point. *See Figure 2.*

5. The relocation of KUUU to South Jordan will result in a net increase in area of 3,755 sq. km. and population of 1,130,525 persons able to receive a 60 dBu signal from the station. *See Figure 3.* The loss area will continue to be well served by more than five aural services. *See Figure 4.*

2. Change in Community of License

6. In *Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989), *recon. granted in part*, 5 FCC Rcd 7094 (1990) ("*Community of License*"), the Commission stated that in order to grant a change in community of license: (1) the proposed use of the channel must be mutually exclusive with its current use; (2) the existing community of license must retain local service; and (3) the proposed arrangement of allotments must be preferred over the existing arrangement under the Commission's allotment priorities. The proposed change in community of license of KUUU from Tooele to South Jordan satisfies these prerequisites. First, the proposed use of

Channel 223C2 at South Jordan is mutually exclusive with the current use of Channel 221C3 at Tooele. See Figure 1. Second, Tooele will not be deprived of local service since Station KIQN(AM) (1010 kHz) will remain licensed to Tooele. Third, the South Jordan proposal is preferred under the Commission's priorities since South Jordan would receive a first local service (Priority 3), while retaining Channel 221C3 at Tooele would give that community a second local service (Priority 4). See *Revision of FM Assignment Policies and Procedures, supra*.

7. Tooele is located entirely outside the Salt Lake City Urbanized Area, while South Jordan is partially within the Urbanized Area. Therefore, this relocation implicates the Commission's policy concerning the potential migration of stations from underserved rural areas to well-served urban areas. See *Elizabeth City, North Carolina and Chesapeake, Virginia*, 9 FCC Rcd 3586 (1994). In making the determination whether to award an urbanized community a first local service preference, the Commission will consider the extent the station will provide service to the entire Urbanized Area, the relative populations and proximity of the suburban and central city, and, most importantly, the independence of the suburban community. See *Faye and Richard Tuck*, 3 FCC Rcd 5374 (1988). In this case, from the proposed transmitter site, KUUU will place a 70 dBu contour over ___ percent of the Salt Lake City Urbanized Area. South Jordan is 22 kilometers away from Salt Lake City. The 2000 Census population of South Jordan (29,437) is 16% of the population of Salt Lake City (181,743). These figures are similar to those of other suburban communities granted a first local preference. See, e.g., *Anniston, Alabama, et al.*, 16 FCC Rcd 3411, *recon. denied*, 2001 FCC Lexis 6055 (2001) and cases cited therein. In any event, the Commission has repeatedly stated that these factors are less important than evidence of independence. See *Headland, Alabama and Chattahoochee, Florida*, 10 FCC Rcd

10352 (1995). The following analysis of the eight *Tuck* factors demonstrates the independence of South Jordan from Salt Lake City.

(1) *Extent to which the residents of South Jordan, Utah, work in the City of South Jordan.* The population of South Jordan was 29,437 in 2000 (2000 U.S. Census Bureau). This represents an increase of 141% from the 1990 U.S. Census figure of 12,220 for South Jordan. According to the 1990 U.S. Census Database, the last year for which statistics are available, 618 of the 4,944 workers, or 12.5%, work in their place of residence. *See Exhibit 1.*

(2) *Newspapers and other media that cover South Jordan's needs and interests.* South Jordan is served by two daily newspapers, the *Deseret News and Salt Lake Tribune*. Each newspaper has a writer assigned to cover the City of South Jordan, and local businesses advertise in each newspaper, which contain news and information of special interest to the residents of South Jordan. Additionally, *The Valley Journal* publishes a monthly newspaper, *South Valley Journal*, which focuses on the town of South Jordan and contains news and information of special interest to the residents of South Jordan.

The City of South Jordan maintains its own webpage at <www.ci.south-jordan.ut.us/home.cfm>. By accessing this webpage, city residents may access a wide variety of facts and events concerning South Jordan, including information regarding city officials, public services, public and committee meetings, development, job opportunities, public schools and community events. Sample pages are attached. *See Exhibit 1.*

(3) *Community leaders and residents perceive South Jordan as being separate from Salt Lake City.* The City of South Jordan has its own unique identity and history that

are separate from that of Salt Lake City. South Jordan is a growing community located along the banks of Jordan River and State Highway 154 between Salt Lake City and Provo. South Jordan was founded in 1857 and incorporated in 1935. South Jordan was settled by Alexander and Catherine Lince Beckstead whose first home was a cave dug out of the river bank. The Beckstead family dug and built the Beckstead Ditch which still exists today. Built to direct water from the Jordan River to irrigate crops, its construction enabled a flour mill industry to flourish. South Jordan was a small farming community when it was incorporated. In 1960, the population of South Jordan was 1,354. By 1970, it had doubled to 2,942. Housing gradually replaced farmland as the population doubled again by 1980 to 7,492 and nearly doubled in 1990, to 12,220. The population again had doubled by 2000 to 29,437. Initially a small farming village, Jordan City now encompasses more than 21 square miles including urban and commercial developments, ranches and industrial parks. City officials estimate that the current population is 33,010. See Exhibit 1.

(4) *South Jordan has its own local government and elected officials.* The government of the City of South Jordan functions independently of any other governmental units, and operates under a mayor/council form of government. The government structure is a mayor, five council members and an appointed city attorney and city manager. The mayor is elected to a four-year term. Depending on the district, the city council members are elected to two or four-year terms. Among the departments are: Finance, Municipal Court, Community Development Director, Building Director, City Engineer, Police, Fire, Parks and Recreation, Operations and Maintenance, Public Works, Finance, and Support Services. Among the municipal services provided by the

City are: garbage collection, recycling, snow removal, water, street maintenance, economic development, licensing, and community center. The 2002 fiscal year budget for the City of South Jordan is \$25,000,000. *See Exhibit 1.*

(5) *The City of South Jordan has its own zip code and separate governmental listings in the local telephone company.* The zip code designated exclusively for the City of South Jordan is 84095. The U.S. Postal Service operates the South Jordan Post Office, 10102 South Redwood in South Jordan. Residential and business listings for South Jordan are found in the Salt Lake Telephone Directory published by Qwest, which contains a separate section for the South Jordan government listings. *See Exhibit 1.*

(6) *The City of South Jordan has its own commercial establishments and health facilities.* South Jordan is home to a variety of businesses and commercial establishments. A few of these businesses identify with the community by using “South Jordan” in their name, for example: South Jordan Beehives Homes and South Jordan Cleaner. South Jordan retail businesses include: Maximum Sports, Inc., South Valley Cycles, Exotic Imports (cars), Oil Can Henry’s Quick Lube Center, Kroozin Vee Dos (videos), Smith Food & Drug Center, Maverick Country Store, Progressive Computer Stores, and Wireless Planet. South Jordan has numerous dining establishments such as: Gecko’s Mexican Grille, Grandpa Maddox Restaurant and Giovanni’s Restaurante. Banking services are provided by many establishments such as: Beehive Credit Union, Granite Credit Union and Zions Bank. South Jordan has numerous inns and hotels such as Country Inn and Suites-Carlson, and Jordan Hospitality. *See Exhibit 1.*

A number of health care providers are located in the City of South Jordan. Medical services are provided by First Health Choice, Intermountain Healthcare, South

Valley Healthcare, The Health Center, Families First Pediatrics and community residents have a variety of options to take care of their medical needs. Dental care is provided by South Jordan Dental, Custom Dental Care as well as by various other local dentists. Veterinary services may be obtained from Valley Large Animal Clinic and Intermountain Veterinary Care. *See Exhibit 1.*

South Jordan is also home to a number of religious organizations, such as Christian Family Church, South Valley Evangelical Free and several Churches of Jesus Christ of Latter-day Saints. *See Exhibit 1.* There are many civic organizations and committees in South Jordan such as Arts Council, Country Fest Committee, and Historical Committee. Community activities and events that occur in the City of South Jordan include: Country Fest and Miss South Jordan Pageant.

(7) *South Jordan is a separate and distinct advertising market from Salt Lake City.* According to the City Government and the newspapers serving South Jordan, businesses in South Jordan advertise in *South Valley Journal* which enables them to reach the residents of South Jordan and does not involve directly Salt Lake City media sources. Residents may also access the City's webpage to learn about community events and news. Thus, the residents of South Jordan do not need to seek out Salt Lake City media sources in order to find what is happening in their community.

(8) *The City of South Jordan has its own library and its police and fire protection are provided independent of any other jurisdiction.* Salt Lake City County Library System operates the South Jordan public library which serves the local population. The Library is open six days a week and houses 98,643 volumes. It has a

meeting room, computer and Internet access and a book-on-tape and video collections. The library has several programs for children.

The Jordan School District provides public school education to the children of South Jordan. District schools located in South Jordan are Jordan Elementary School, Monte Vista Elementary, Elk Meadow Elementary, Welby Elementary, South Jordan Elementary, South Jordan Middle School, Elk Ridge Middle School, Bingham High School and Copper Hills High School. *See Exhibit 1.*

The City of South Jordan maintains its own police and fire departments. The fire department is composed of more than forty-five full-time professional members operating two stations located in South Jordan. According to the South Jordan Fire Battalion Chief, the South Jordan Fire Department provides a variety of fire prevention and safety, ambulance, paramedic, search and rescue, EMT, HAZMAT and other services to city residents as well as educational programs. It maintains its own web site at <www.southjordanfire.org>. According to a South Jordan police department representative, the department is composed of a police chief, five sergeants and thirty-four officers. The department has one main station and two sub-stations. *See Exhibit 1.*

The City of South Jordan has a full range of parks and recreation services that are available to its residents. Many sports programs are offered through the Parks & Recreation Department, such as tennis, soccer, softball, baseball and basketball. The City of South Jordan offers two golf courses for its residents to use. Within the city, there are tennis courts, mini-parks and basketball courts. *See Exhibit 1.*

B. STATION KTCE, PAYSON, UTAH

8. In order to allot Channel 223C2 to South Jordan, Channel 222A must be deleted at Payson, Utah. The Joint Parties propose to substitute Channel 221A for Channel 222A and modify the license of Station KTCE, Payson, Utah accordingly. Channel 221A can be allotted to Payson at the existing site of Station KTCE in compliance with the Commission's spacing rules provided a channel substitution is made at Wellington, Utah and a transmitter site change is implemented at Park City, Utah. *See Exhibit E, Figure 5.* An order to show cause to Moenkopi Communications, Inc., the licensee, will be necessary. Millcreek hereby states that it will reimburse the licensee for its expenses in making the channel changes should the Commission grant the Counterproposal.

C. VACANT CHANNEL 221C3, WELLINGTON, UTAH

9. In order to allot Channel 221A at Payson, Utah, Channel 237C3 must be substituted for Channel 221C3 at Wellington, Utah. Channel 237C3 can be allotted consistent with the Commission's spacing rules provided a channel substitution is made for vacant Channel 237C3 at Castle Dale, Utah. *See Figure 6.*

D. VACANT CHANNEL 237C3, CASTLE DALE, UTAH

10. In order to allot Channel 237C3 to Wellington, Channel 271C3 must be substituted for vacant Channel 237C3 at Castle Dale, Utah. Channel 271C3 can be substituted in compliance with the Commission's spacing rules. *See Figure 7.*

E. STATION KPCW, CHANNEL 220A, PARK CITY, UTAH

11. In order to allot Channel 221A to Payson, Utah, the transmitter site for Station KPCW on Channel 220A, Park City, Utah must be relocated. The licensee, Community Wireless of Park City, Inc., is one of the Joint Parties and hereby states that it will file an

application consistent with the Commission's spacing rules. The Joint Parties recognize that Channel 220A is not listed in the FM Table of Allotments and therefore the reference coordinates cannot be changed as part of this proceeding. Therefore, Station KPCW will file a minor change application to enable the Commission to allocate Channel 221A at Payson, Utah.² The minor change application should be granted well before this proceeding is completed. At the new transmitter site, Station KPCW can place a 60 dBu contour over all of Park City. See Figure 10. The new site will result in a gain of 148,113 population within the 60 dBu contour. See Figure 10.

F. STATION KOHS, CHANNEL 219A, OREM, UTAH

12. The allotment of Channel 221A at Payson at its current transmitter site will result in maintaining a preexisting short spacing to Station KOHS, Channel 219A, Orem, Utah. The stations are currently short spaced by 1.93 km as third adjacent (Channel 222/219). The same short spacing will result as second adjacent stations (Channel 221/219). See *Gainesville, Florida*, 7 FCC Rcd 4138 (1992) recon. granted, 7 FCC Rcd 7657 (1992) (recognizing that a 40 dBu protection ratio applies to second and third adjacent channels whether commercial or noncommercial).³ Therefore, Channel 221A can be substituted at Payson at the current site of Station KTCE without regard to the preexisting short spacing to KOHS, Orem, Utah.

G. STATION KCUA, COALVILLE TO NAPLES, UTAH

1. Technical Analysis

13. In order to allot Channel 223C2 to South Jordan, Channel 223C3 must be deleted at Coalville, Utah. Community Wireless, one of the Joint Parties, proposes to allot Channel

² Station KPCW is licensed to operate an auxiliary station at a site that meets the spacing requirements.

³ See Sections 73.215(a)(2) and Section 73.507(a) (applying the commercial rules to noncommercial educational station separations to 2nd and 3rd adjacent commercial channels). Compare Section 73.509(a) (which applies only when both stations are noncommercial educational).

223C2 at Naples, Utah for use by KCUA, and modify the license of KCUA accordingly. Channel 223C2 can be allotted to Naples consistent with Section 73.207 of the Commission's Rules. See Figure 11. A 70 dBu signal can be provided to Naples from the proposed reference point. See Figure 12.

14. The relocation of KCUA to Naples will result in a net increase in area of 3,751 sq. km but a net decrease in population of 34,305 persons able to receive a 60 dBu signal from the station. See Figure 13. The loss area will continue to be well served by more than five aural services. See Figure 14.

2. Change in Community of License

15. The proposed change in community of license of KCUA from Coalville to Naples satisfies the prerequisites set forth in *Community of License, supra*. First, the proposed use of Channel 223C2 at Naples is mutually exclusive with the current use of Channel 223C3 at Coalville. See Figure 11. Second, Coalville will not be deprived of local service since Station KPEB, Huntsville, Utah, has agreed to change its community of license to Coalville as described below. By so doing, Coalville will receive a Class C channel rather than its current Class C3 channel. Third, the Naples proposal is preferred under the Commission's priorities. The comparison that results is a first local service at Naples (2000 pop. 1,300) versus a first local service at Huntsville (2000 pop. 649). See *Revision of FM Assignment Policies and Procedures, supra*. Since both arrangements would further Priority 3, community population is the deciding factor. See *Elberton and Lavonia, Georgia*, 15 FCC Rcd 12571 (2000).

16. Naples is not located within any Urbanized Area, nor will the 70 dBu contour of KCUA cover any part of an Urbanized Area. Naples easily qualifies as a community for allotment purposes. Naples is a rural farming community located in Uintah County near U.S.

Highway 40. Naples is listed in the U.S. Census 2000 with a population of 1,300. The U.S. Post Office associates ZIP Code 84078 with Naples. Naples's government functions independently of any other governmental units. According to the City Recorder for the City of Naples, Nicki Kay, the City of Naples has an elected mayor and five council members. The mayor and council members serve four year terms. The city government has a city recorder, city treasurer, prosecuting attorney, city manager, building inspector, and police chief. Among the services provided by the city government are local planning and zoning, road maintenance animal control and park and recreation. Police protection is provided the Naples Police Department, which is composed of three full-time officers and four part-time officers. The Naples City Volunteer Fire Department operates in Naples, offering fire, rescue, EMS and other services to its residents. The Eight Judicial District Court of Utah operates the Naples Justice Court in Naples.

17. The City of Naples has its own unique identity and history. According to Naples City Manager, Craig Blunt, Naples can trace its origins back to the 19th century and the work of Mormon missionaries. The area that is now Naples and Uintah County was originally known as Ashley Valley. The area was sparsely settled when the Mormon Church sent followers to settle the region in the late 1860s. Located on the south side of the Ashley Valley, Naples was initially called Merrillville. The initial settlers were farmers who dug canals and irrigation systems. In the 1880s, Del Merrill, the city's founder, died. With his death, the issue of changing the community's name became a controversial topic. A citizen of Merrillville who originally came from Italy suggested that the community be named Naples because of the surrounding canals. The City of Naples was incorporated on May 13, 1982.

18. According to the Naples City Recorder, Naples businesses include a wide variety of companies such as the Naples Auto Sales, Naples Car Wash, Naples Marine & Spa, Memorie

Lane and 7-Eleven. The City of Naples' economy is based on farming and oil field drilling with such companies as Schlumberger, Inc., Coastal Oil and Gas, Inc., Weatherford Intera, Inc., and Intermountain Farmers, Inc. located in Naples. Vernal Municipal Airport is a privately owned airport that straddles the Naples City boundaries.

19. The Uintah County School District provides public education for children in Naples. Naples Elementary School offers schooling from grades K through 6. Naples is also home to a Church of Jesus Christ of Latter-day Saints. According the Naples City Recorder, among the events that are held in Naples are the Naples July 4 Parade and Fireworks and July 24 Pioneer Day. The Naples area has numerous parks and lakes that offer opportunities for mountain climbing, hunting, boating, fishing and hiking.

H. STATION KPEB, HUNTSVILLE TO COALVILLE, UTAH

20. To provide a replacement service at Coalville, the Joint Parties propose to relocate Station KPEB, Huntsville, Utah, to Coalville. George S. Flinn, Jr., one of the Joint Parties, holds a construction permit to operate KPEB as a Class C3 station on Channel 276 at Huntsville. Channel 276C can be allotted to Coalville consistent with Section 73.207 of the Commission's Rules. *See* Figure 15. A 70 dBu signal can be provided to Coalville from the proposed reference point. *See* Figure 16. The relocation of KPEB to Coalville will result in a net gain in population of 1,416,998 persons in an increase area of 21,661 sq. km. able to receive a 60 dBu signal from the station. *See* Figure 17. The loss area will continue to be well served by more than five aural services. *See* Figure 18. Flinn hereby states he is willing to apply for Channel 276C at Coalville.

I. PROPOSED CHANNEL 276C, SALINA, UTAH

21. In order to allot Channel 276C at Coalville, Channel 300C must be substituted for the proposed Channel 276C at Salina, Utah set forth in a pending petition filed on October 9, 2001 by Willison H. Gormly of Sierra Grande Broadcasting. That petition has not yet been accepted by the Commission. Therefore, the Salina proposal would be timely for inclusion in the instant proceeding. Alternatively, the Commission may separate the Salina petition by proposing Channel 300C in place of 276C. In order to allot Channel 300C to Salina, Channel 272C2 must be substituted for vacant Channel 300C2 at Parowan, Utah. *See* Figures 19 and 20. Channel 272C can be allotted to Parowan consistent with the spacing rules. *See* Figure 21.

J. STATION KKMV, RUPERT, IDAHO

22. In order to allot Channel 223C2 to South Jordan, Utah, Channel 275C0 must be substituted for Channel 223C at Rupert, Idaho for use by Station KKMV. Channel 275C0 can be allotted to Rupert at KKMV's current transmitter site consistent with Section 73.207 of the Commission's Rules, provided that Channel 275C1 is deleted at Jerome, Idaho as discussed below. *See* Exhibit E, Figure 22. Millcreek has entered into an agreement with the licensee of KKMV pursuant to which the licensee has agreed to make the change in exchange for compensation. Millcreek hereby states that it will reimburse the licensee for its expenses in changing channel and class. The licensee's statement of consent is attached. *See* Exhibit 2.

K. STATION KVMX, JEROME, IDAHO

23. In order to allot Channel 275C0 to Rupert, Idaho, Channel 224C1 must be substituted for Channel 275C1 at Jerome, Idaho for use by Station KVMX. Channel 224C1 can be allotted to Rupert at KVMX's current transmitter site consistent with Section 73.207 of the Commission's Rules. *See* Exhibit E, Figure 23. As previously discussed, this allotment conflicts

with the allotment of Channel 224A to Ketchum, Idaho, as proposed in the *NPRM*. Millcreek has entered into an agreement with the licensee of KMVX pursuant to which the licensee has agreed to make the change in exchange for compensation. Millcreek hereby states that it will reimburse the licensee for its expenses in changing channels. The licensee's statement of consent is attached. *See* Exhibit 2.

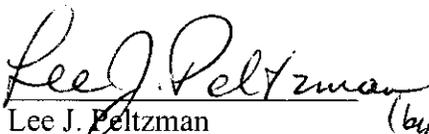
24. The Joint Parties propose an alternative channel, Channel 228A, for use at Ketchum, which can be allotted consistent with the Commission's spacing rules. *See* Figure 24. As discussed above, if Channel 228A can not be allotted at Ketchum for any reason, the instant proposal is favored under the Commission's allotment priorities.

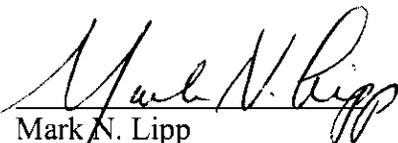
IV. CONCLUSION

Grant of the Counterproposal is in the public interest because South Jordan and Naples, Utah will both receive a first local service, and an additional 2,661,320 people will receive radio service. An alternate channel has been offered to satisfy the Petitioner's expression of interest in a second local service at Ketchum, Idaho. Agreements have been reached with two of the three affected stations, and the Joint Parties are confident that the changes can be implemented smoothly and rapidly. Accordingly, the Commission should grant the Counterproposal.

Respectfully submitted,

MILLCREEK BROADCASTING, L.L.C.

By: 
Lee J. Peltzman (by HNL)
Shainis & Peltzman, Chartered
1850 M Street, NW
Suite 240
Washington, DC 20036
(202) 293-0011

By: 
Mark N. Lipp
J. Thomas Nolan
Shook, Hardy & Bacon
600 14th Street, NW
Suite 800
Washington, DC 20005-2004
(202) 783-8400

Its counsel

March 18, 2002

COMMUNITY WIRELESS OF PARK
CITY, INC.

By: 
John Crigler (by HNL)
Garvey Schubert & Barer
1000 Potomac Street, NW
Fifth Floor, Flour Mill Building
Washington, DC 20007
(202) 965-7880

Its counsel

GEORGE S. FLINN, JR.

By: 
Stephen C. Simpson, Esq. (by HNL)
Law Office of Stephen C. Simpson
1090 Vermont Avenue, NW
Suite 800
Washington, DC 20005
(202) 408-7035

His counsel



**ENGINEERING STATEMENT
IN SUPPORT OF A
COUNTERPROPOSAL**

MM DOCKET 02-14, RM-10358

**Millcreek Broadcasting, L. L. C.
George S. Flinn, Jr.
Community Wireless of Park City, Inc.**

Prepared by:

**Reynolds Technical Associates
12585 Old Highway 280 East, Suite 102
Chelsea, Alabama 35043
(205) 618-2020**

March, 2002

Engineering Statement

In Support of a

Counterproposal

MM Docket 02-14 (RM-10358)

Millcreek Broadcasting, L.L.C.

George S. Flinn, Jr.

Community Wireless of Park City, Inc.

Table of Contents

Summary of Channel Assignments	Table 1
1. Allocation study, channel 223C2, South Jordan, Utah (KUUU)	Exhibit E, Figure 1
2. Channel 223C2 at South Jordan 70 dBu contour map	Exhibit E, Figure 2
3. Channel 223C2 at South Jordan gain/loss study map	Exhibit E, Figure 3
4. Channel 223C2 at South Jordan remaining services study map	Exhibit E, Figure 4
5. Allocation study, channel 221A, Payson, Utah (KTCE)	Exhibit E, Figure 5
6. Allocation study, channel 237C3, Wellington, Utah	Exhibit E, Figure 6
7. Allocation study, channel 271C3, Castle Dale, Utah	Exhibit E, Figure 7
8. Channel spacing study, channel 220A, Park City, Utah (KPCW)	Exhibit E, Figure 8
9. Channel 220A at Park City 60 dBu contour map	Exhibit E, Figure 9
10. Channel 220A at Park City gain/loss study map	Exhibit E, Figure 10
11. Allocation study, channel 223C2, Naples, Utah (KCUA)	Exhibit E, Figure 11
12. Channel 223C2 at Naples 70 dBu contour map	Exhibit E, Figure 12
13. Channel 223C2 at Naples gain/loss study map	Exhibit E, Figure 13
14. Channel 223C2 at Naples remaining services study map	Exhibit E, Figure 14
15. Allocation study, channel 276C, Coalville, Utah (KPEB)	Exhibit E, Figure 15
16. Channel 276C at Coalville 70 dBu contour map	Exhibit E, Figure 16
17. Channel 276C at Coalville gain/loss study map	Exhibit E, Figure 17

Continued

18. Channel 276C at Coalville remaining services study map	Exhibit E, Figure 18
19. Allocation study, channel 300C, Salina, Utah	Exhibit E, Figure 19
20. Channel 300C at Salina 70 dBu contour map	Exhibit E, Figure 20
21. Allocation study, channel 272C2, Parowan, Utah	Exhibit E, Figure 21
22. Allocation study, channel 275C0, Rupert, Idaho (KKMV)	Exhibit E, Figure 22
23. Allocation study, channel 224C1, Jerome, Idaho (KMOV)	Exhibit E, Figure 23
24. Allocation study, channel 228A, Ketchum, Idaho	Exhibit E, Figure 24
25. Cumulative gain/loss study	Exhibit E, Figure 25

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General

The instant counterproposal was prepared for Millcreek Broadcasting, L.L.C., licensee of KUUU, channel 221C3, Tooele, UT; George S. Flinn, Jr., permittee of KPEB, an unbuilt CP on channel 276C3 assigned to Huntsville, Utah; and Community Wireless of Park City, Inc., licensee of KCUA, channel 223A at Coalville, Utah. (These groups are herein referred to as “the Joint Petitioners.”) It is prepared and submitted in response to an NPRM for MM Docket 02-14 (see DA02-206). The Joint Petitioners propose to delete channel 221C3 at Tooele, Utah, so that channel 223C2 can be allotted to South Jordan, Utah that community’s first local service. They propose that the license of KUUU be modified accordingly. Tooele, Utah will continue to receive service from KIQN-AM, 1010 kHz. Other sub changes are required for the allotment of channel 223C2 at South Jordan. Various other channel changes are required to implement the instant counterproposal.

The instant counterproposal is mutually exclusive (MX) with the NPRM in its proposed use of channel 224A at Ketchum, Idaho. But the Joint Petitioners propose to substitute channel 228A, which is available for use at Ketchum. Therefore, if the Commission adopts the Joint Petitioners’ counterproposal as submitted, it can use a proposed substitute channel of 228A at Ketchum as that community’s second local service.

Methods

The Joint Petitioners' counterproposal is presented in sections, in which each channel or licensed facility where a change is proposed is discussed individually. All sections begin with an allocation or channel spacing study. Additional exhibits then support the proposed modification's technical compliance.

All searches were performed on a V-Soft SearchFM program and verified with the EDX FMSR search program. The FCC F(50,50) contours were calculated using SoftWright's Terrain Analysis Package (TAP) Version 4.1.586. The studies were based on the latest technical data from the Commission's databases. Mapping, population counts, and gain/loss areas were conducted using a professional mapping program from MapInfo Corporation, Version 5.5. The program contains the exact community boundaries of the relevant cities. In pertinent cases where community boundaries were critical, the boundaries were cross-checked with the U.S. Census Bureau's TIGER maps.

All modifications that require a class change or antenna site modification have a gain/loss study for population and square kilometers. The two facilities that are requesting community of license changes include a remaining services study that demonstrates no white or gray is created by The Joint Petitioner's counterproposal (in the loss areas).

Nature of The Joint Petitioners Counterproposal

A summary of all communities and their related channels (present and proposed) is included in Table 1 for reference. The Joint Petitioners propose to delete channel 221C3 at Tooele, UT and substitute channel 223C2 at South Jordan, Utah for use by KUUU. In order to accomplish this, various channels and licensed facilities need to be modified in order to create compliance with §73.207. The counterproposal provides for first local