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February 6, 2003

Marlene Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W., Room TW A-325
Washington, DC 20554

OUR FILE NUMBER
518765-189

WRITER'S DIRECT DIAL
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Re: *WT Docket No. 00-32*
The 4.9 GHz Band Transferred from Federal Government Use

To the Secretary:

On behalf of our client, the Los Angeles County Sheriff's Department ("LASD"), we write to support the positions taken in several recent filings in the above referenced docket.

The early weeks of 2003 have seen a ground swell of support for reversing the Federal Communications Commission's ("FCC") determination to ban aeronautical mobile use of the reallocated 4.9 GHz spectrum. In addition to the January 10, 2003, meeting between the undersigned, a representative of Microwave Radio Communications ("MRC") and several members of the FCC staff¹, filings by APCO, Motorola, Inc. and MRC have supported reversing the ban, at least in part. LASD believes that the filings demonstrate that the FCC should, and is armed with sufficient data to, promulgate a rule which protects the interests of *both* the public safety community and the radio astronomy community.

As discussed below, the need for additional spectrum for video downlink is present during high profile events and during events which occur on a day-to-day basis, but which are nonetheless of vital importance to public safety. It would be unfortunate if the FCC missed this opportunity to partially relieve the shortage of available spectrum for public safety video downlink.

Footnote US257 provides that the FCC will avoid assigning frequencies in the 4950-4990 MHz band for uses which "may cause harmful interference to the listed observatories" but does not preclude assignments for aeronautical mobile purposes which will not cause harmful interference to the listed sites.² Evidence in the docket now clearly demonstrates that terrain shielding, in combination with other reasonable limitations, protects all but one radio astronomy

¹ See *Joint Ex Parte Notice* filed January 10, 2003.

² See 47 C.F.R. §2.106, US Footnote 257.

site (Socorro, New Mexico) from interference in a manner that complies with ITU requirements.³ Evidence in the docket also demonstrates that the distance between urban areas where additional spectrum for aeronautical mobile use is necessary and the remote areas where radio astronomy sites are located will prevent harmful interference to the observatories. While LASD believes that the filings demonstrate that the entire 4940-4990 band should be made available for aeronautical mobile use through a program involving a channel plan embodying flexibility and regional frequency coordination, at a minimum, the recent filings demonstrate that the 4940-4950 MHz band (which is not covered by US257) may be used without causing interference to radio astronomy sites. Representatives of the radio astronomy community are on record as not objecting to such an outcome as long as out-of-band emissions are prohibited. The record now demonstrates that such emissions can be avoided and reflects proposals for accomplishing that result. Thus, the Commission should adopt a rule which establishes conditions which permit aeronautical mobile use of all of the reallocated 4.9 GHz spectrum for aeronautical mobile operations and, at a minimum, should adopt a rule which permits aeronautical mobile use in the 4940-4950 MHz portion of the band. Significantly, the record demonstrates that the adoption of such a rule would be consistent with the FCC's obligations under US257 and within the spirit of the concerns raised by NTIA when it transferred the spectrum.

In addition to being able to coexist with radio astronomy sites, LASD believes that the record contains proposals which will allow aeronautical mobile use of the reallocated spectrum to harmoniously coexist with other public safety uses. LASD supports the adoption of a channel plan, such as that proposed by Motorola, that (1) promotes regional decision making as to the best use of the reallocated spectrum, (2) allows for the aggregation of sufficient spectrum to provide at least one technically adequate video downlink stream (with potentially greater use in the future as compression technologies improve) and (3) allows harmonious use of the reallocated spectrum for video downlink and for ground-based activities. In response to inquiries made by the staff during the January 10, meeting, LASD's current understanding is that the ability to aggregate a 6 MHz channel would be necessary to support aeronautical mobile operations using digital equipment and LASD would intend to utilize only digital equipment in the 4.9 GHz band.

As previously discussed in the filings made by LASD, LASD faces a daunting battle with broadcast stations in the search for video downlink spectrum. Over the past several years, LASD and others have pursued a variety of options for additional spectrum but have met obstacles at each turn. As the broadcast stations have a great deal of control over the frequency coordination process, public safety agencies like LASD are further disadvantaged. During major events, such as the 2000 Democratic National Convention, the Rose Bowl parade and game and the Super Bowl, LASD has been precluded from using its helicopters to provide video downlink as broadcasters have claimed all available spectrum. In the post-September 11 environment, major events require enhanced security and video downlink can play a key role. The need for additional spectrum is not, however, only seen at such high profile times. For example, in April 2002, LASD was not able to use its helicopters for video downlink during the search for an

³ As the parameters to be established in the rules would address whether aeronautical mobile operations are possible in the areas which surround the Socorro observatory, the lack of terrain shielding at this site should not negate the ability to use the 4.9 GHz band for aeronautical mobile purposes in other locations.

assailant who had just shot and killed LASD Deputy David March. Lack of spectrum also has negated the ability of public safety agencies to fully implement additional uses for video downlink for police and fire fighting purposes as it is difficult to allocate resources to these uses when faced with the lack of spectrum. Thus, the need for additional spectrum for video downlink is critical.

If there are any questions concerning this matter, please do not hesitate to contact the undersigned.

Sincerely,

/s/ Todd D. Rosenberg

Todd D. Rosenberg
for O'Melveny & Myers LLP

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