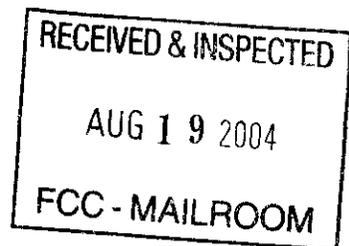


DOCKET FILE COPY ORIGINAL



August 19, 2004

Ms. Marlene Dortch  
Office of the Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
12<sup>th</sup> Street Lobby - TW - A325  
Washington, D.C. 20554

Re: Petition for Rule Making  
Matagorda, Texas

Dear Ms. Dortch:

Enclosed is an original and four (4) copies of a  
Petition for Rule Making to add Channel 291C3 at Matagorda,  
Texas.

Respectfully submitted,

Katherine Pyeatt

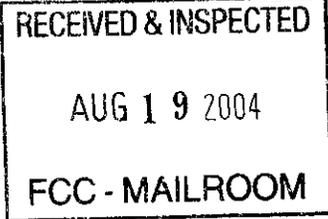
Katherine Pyeatt  
6655 Aintree Circle  
Dallas, Texas 75214  
(214) 363-6030      Tele

Mat 04

No. of Copies rec'd  
List ABCDE

014  
MB 04-150

Before the  
Federal Communications Commission  
Washington, D.C. 20554



In the Matter of )  
 )  
Amendment of 73.202 (b) ) MB Docket No. \_\_\_\_\_  
Table of Allotments )  
FM Broadcast Stations )  
(Matagorda, TX) )

To: John Karousos, Assistant Chief  
Audio Division of the  
Media Bureau

PETITION FOR RULE MAKING

Pursuant to 47 C.F.R. 1.401, Katherine Pyeatt respectfully petitions the FCC to institute a Rule Making proceeding to amend the FM Table of Allotments to add Channel 291C3 at Matagorda, Texas.

DISCUSSION

Petitioner respectfully submits that the public interest would be served by allocating Channel 291C3 to Matagorda, Texas as that community's first local FM service.<sup>1</sup> Matagorda, Texas is a community of 710 people according to the 2002/ 2003 Texas Almanac. Thirty (30) businesses in Matagorda, Texas have been given a credit

---

<sup>1</sup> A NPRM is currently pending proposing Channel 252A to Matagorda.

rating by Dun & Bradstreet as of the last quarter of 2000.<sup>2</sup> Matagorda has its own post office, volunteer fire department and its own school district, the Matagorda Independent School District. Matagorda is home to a number of churches including the Matagorda First Baptist Church and the Matagorda United Methodist Church. The community of Matagorda also provides a study center at the Matagorda Branch Library. A number of businesses in Matagorda consider the civic pride in Matagorda to be significant enough to use Matagorda in their name, such as, Matagorda Charter Boats, Matagorda Courts Motel, Matagorda Dunes Development Company, Matagorda Seafaris Inc. and Matagorda Shoppe. A sense of civic pride and community is demonstrated in the annual Matagorda Day Parade and Festival held in October. The proposed channel 291C3 will provide additional diversity and an outlet for local self-expression to Matagorda residents and therefore is in the public interest.

In order for Channel 291C3 to be allotted at Matagorda, Texas, two stations will need to be reclassified to C0's, they are, station KOVE Channel 293C in Galveston

---

<sup>2</sup> Texas Almanac 2002/ 2003

Texas and station KIOC Channel 291C in Orange, Texas.  
Pursuant to MM Docket 98-93, I am making a formal request for station KOVE in Galveston, Texas and station KIOC in Orange, Texas be reclassified from a C to a C0's. (See, Attachment A, Request to Reclassify statement for station KOVE and Attachment B, Request to Reclassify statement for station KIOC)

Attached hereto is a channel study confirming that Channel 291C3 can be allocated to Matagorda, Texas, consistent with the FCC's FM separation rules, provided Channel 293C in Galveston is reclassified to a C0. See revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1992). (See, Attachment C) Note: the counterproposal in MM Docket No. 02-248 proposing to allot Channel 291A to Point Comfort, Texas was withdrawn on July 29, 2004, an effective but not yet final dismissal. (See, Attachment D)

Reference coordinates for Channel 291C3 at Matagorda, Texas are:

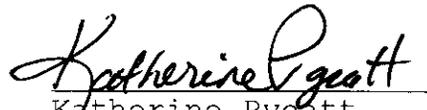
28 44 53 N  
95 48 41 W

Should this petition be granted and Channel 291C3 is allotted to Matagorda, Texas, Petitioner will apply for Channel 291C3 at Matagorda and after it is authorized, will

promptly construct the new facility.

The factual information provided in this Petition for Rule Making is correct and true to the best of my knowledge.

Respectfully submitted,

A handwritten signature in cursive script that reads "Katherine Pyeatt". The signature is written in black ink and is positioned above the typed name.

Katherine Pyeatt  
6655 Aintree Circle  
Dallas, Texas 75214  
(214) 363-6030           Tele

cc: Gene A. Bechtel, Law Office of Gene Bechtel, Suite 600, 1050 17<sup>th</sup> Street, N.W., Washington, D.C. 20036, telephone (202) 496-1289, telecopier (301) 762-0156, attorney for Katherine Pyeatt. It is requested that the Commission and any parties who may file pleadings in the captioned matter serve copies to Mr. Bechtel as well as Ms Pyeatt.

August 19, 2004

CERTIFICATE OF SERVICE

I, Katherine Pyeatt, hereby certify that on this 19<sup>th</sup> day of August, 2004, I caused copies of the foregoing "Petition for Rule Making for Matagorda, Texas" to be placed in the U.S. Postal Service, first class postage prepaid, addressed to the following persons:

Ms. Marlene Dortch  
Office of the Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
12<sup>th</sup> Street Lobby-TW-A325  
Washington, D.C. 20554

Gene Bechtel, Esq.  
Law Offices of Gene Bechtel, P.C.  
1050 17<sup>th</sup> Street, N.W., Suite 600  
Washington, D.C. 20036-5517  
(Counsel for Petitioner)

Univision Radio License Corporation  
Station KOVE  
3102 Oak Lawn Avenue, #215  
Dallas, Texas 75219

Capstar TX Limited Partnership  
Station KIOC  
2625 S. Memorial Drive, Suite A  
Tulsa, Oklahoma 74129-2623

  
Katherine Pyeatt

**Attachment A**

(Request to Reclassify statement for station KOVE)

Katherine Pyeatt  
6655 Aintree Circle  
Dallas, Texas 75214

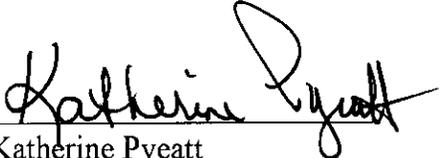
Petition for Rule Making  
FM Channel 291C3  
Matagorda, Texas  
August 19, 2004

**Attachment A**

Request to Reclassify  
Station KOVE(FM), Galveston, Texas  
Pursuant to MM Docket 98-93

Radio Station KOVE(FM), Galveston, Texas is licensed to Univision Radio License Corporation, 3102 Oak Lawn Avenue, #215, Dallas, Texas 75219, (Facility ID 19091), FCC File No. BLH 19950503KA. The facility operates with a power of 100 kilowatts with center of radiation 403 meters height above average terrain. The above captioned Docket 98-93 provides the mechanism to automatically downgrade a Class C facility to Class C0 when a demand is made for the spectrum, as is the case here. Katherine Pyeatt respectfully requests that the license of Radio Station KOVE(FM) be modified to specify operation on FM Channel 293C0 instead of on FM Channel 293C in accordance with the above Docket which provides for such downgrades when a demand for the unused spectrum is made, as is the case here.

Katherine Pyeatt, the proponent of Channel 291C3/ Matagorda, Texas, in accordance with the above Docket, formally requests that the Commission reclassify Radio Station KOVE(FM) as a Class C0 facility. Katherine Pyeatt certifies that no alternative channel is available for the service he proposes at Matagorda, Texas as is proposed in the Petition for Rule Making. A copy of this Petition for Rule Making is being served on Univision Radio License Corporation, as is required in the above Docket.

  
Katherine Pyeatt

**Attachment B**

(Request to Reclassify statement for station KIOC)

Katherine Pyeatt  
6655 Aintree Circle  
Dallas, Texas 75214

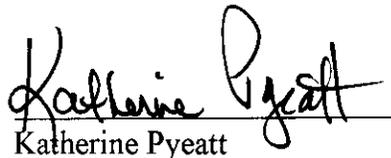
Petition for Rule Making  
FM Channel 291C3  
Matagorda, Texas  
August 19, 2004

**Attachment B**

Request to Reclassify  
Station KIOC(FM), Orange, Texas  
Pursuant to MM Docket 98-93

Radio Station KIOC(FM), Orange, Texas is licensed to Capstar Texas Limited Partnership, 2625 S. Memorial Drive, Suite A, Tulsa, Oklahoma 74129-2623, (Facility ID 33060), FCC File No. BPH-20020423AAP. The facility operates with a power of 100 kilowatts with center of radiation 326 meters height above average terrain. The above captioned Docket 98-93 provides the mechanism to automatically downgrade a Class C facility to Class C0 when a demand is made for the spectrum, as is the case here. Katherine Pyeatt respectfully requests that the license of Radio Station KIOC(FM) be modified to specify operation on FM Channel 291C0 instead of on FM Channel 291C in accordance with the above Docket which provides for such downgrades when a demand for the unused spectrum is made, as is the case here.

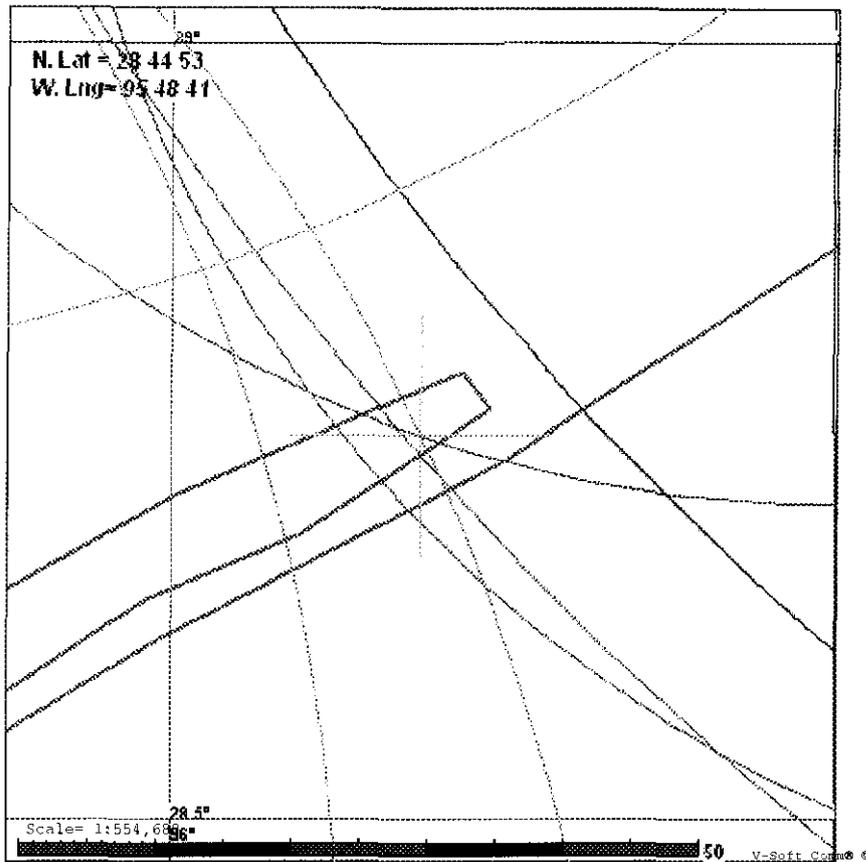
Katherine Pyeatt, the proponent of Channel 291C3/ Matagorda, Texas, in accordance with the above Docket, formally requests that the Commission reclassify Radio Station KIOC(FM) as a Class C0 facility. Katherine Pyeatt certifies that no alternative channel is available for the service he proposes at Matagorda, Texas as is proposed in the Petition for Rule Making. A copy of this Petition for Rule Making is being served on Capstar TX Limited Partnership, as is required in the above Docket.

  
Katherine Pyeatt

**Attachment C**

(Channel Study for Channel 291C3 at Matagorda, Texas)

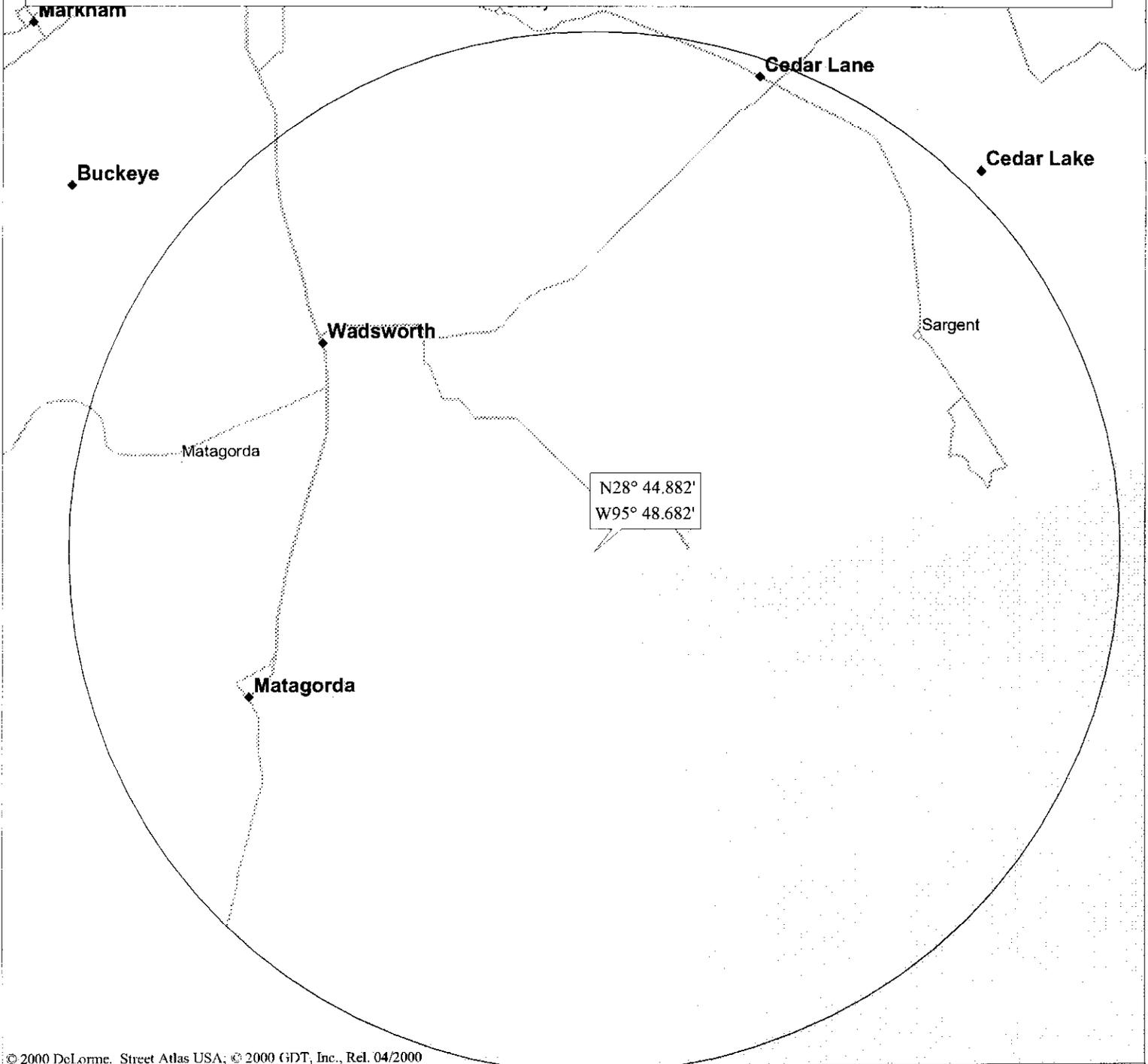
FM PROSP<sup>(TM)</sup> LOCATE STUDY CH 291 C3 106.1 MHz



Dates:  
 Data:08-10-04  
 Job :08-18-04

Call	CH#	Type	Location		D-KM	Azi	FCC	Margin
RADD	291A	ADD	Point Comfort	TX	62.66	259.0	142.0	-79.34
KOVEFM	293C*	LIC	Galveston	TX	91.63	47.8	96.0	-4.37
KIOC.C	291C*	CP	Orange	TX	235.99	48.0	237.0	-1.01
KIOC	291C*	LIC	Orange	TX	235.99	48.0	237.0	-1.01
RDEL	291C	DEL	Orange	TX	235.99	48.0	237.0	-1.01
KHCBFM	289C	LIC	Houston	TX	95.85	18.3	96.0	-0.15
RDEL	291C3	DEL	Refugio	TX	153.02	244.0	153.0	0.02
KTKY	291C3	LIC	Refugio	TX	153.02	244.0	153.0	0.02
RADD	291C0	ADD	Orange	TX	235.99	48.0	226.0	9.99
AL291	291A	RSV	Refugio	TX	153.54	254.3	142.0	11.54
KTTX	291C2	LIC-Z	Brenham	TX	193.75	337.8	177.0	16.75
RADD	291A	ADD	Yorktown	TX	174.74	275.5	142.0	32.74

# Matagorda, TX CH 291C3 70 dBu



© 2000 DeLorme, Street Atlas USA; © 2000 GDT, Inc., Rel. 04/2000

Mag 11.00  
Wed Aug 18 12:59 2004  
Scale 1:250,000 (at center)



-  Major Connector
-  State Route
-  Small Town
-  Locale
-  City
-  Lake
-  Land
-  Water

**Attachment D**

(Motion to Dismiss Counterproposal and withdraw from the proceeding in MM Docket No. 02-248)

RECEIVED & INSPECTED  
JUL 29 2004  
FCC-MAILROOM

ORIGINAL

Before The  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C.

In the Matter of ) MB Docket No. 02-248  
 )  
Amendment of Section 73.202(b) ) RM-10537  
Table of Allotments )  
FM Broadcast Stations )  
Smiley, Texas )

To: Assistant Chief,  
Audio Division  
Media Bureau

**NOTION TO DISMISS COUNTERPROPOSAL AND  
WITHDRAW FROM THE PROCEEDING**

On October 21, 2002, New Ulm Broadcasting Company ("New Ulm"), filed its Comments and Counterproposal in this proceeding, proposing, *inter alia*, to add a new FM allocation to Schulenburg, Texas. The Counterproposal was filed in good faith and prosecuted diligently over the subsequent years with the most recent filing being a Request for Waiver filed on June 23, 2004. As of this time the Counterproposal and all subsequent pleadings remain pending.

On further consideration however, in view of the intervening time and changed circumstances, including changes in FCC Rules and Policies applicable to this case, since the time of the filing, New Ulm has now reached the conclusion and determination that it does not wish to proceed further with its prosecution and therefore hereby respectfully requests that its Counterproposal

be dismissed and that the Commission recognize New Ulm's withdrawal from this proceeding.

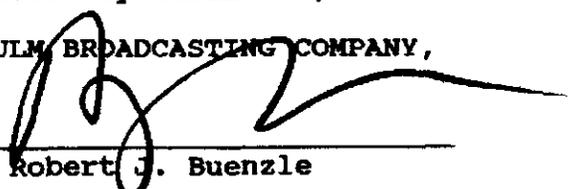
In compliance with 47 CFR 1.420(j) of the Commission's Rules, there is attached hereto a Declaration by Roy E. Henderson, Principal of New Ulm Broadcasting Company, certifying that neither the company nor any principal has received, or will receive, any money or other consideration in connection with its withdrawal from this proceeding.

Wherefore, it is respectfully requested that this Motion be granted and that the Counterproposal filed by New Ulm Broadcasting on October 21, 2002, in this proceeding, along with any other pending pleadings filed herein, be dismissed and that New Ulm Broadcasting Company be recognized as having no further interest in this case and as being withdrawn from the proceeding.

Respectfully submitted,

NEW ULM BROADCASTING COMPANY,

by

  
Robert J. Buenzle

Its Counsel

Law Offices  
Robert J. Buenzle  
11710 Plaza America Drive  
Suite 2000  
Reston, Virginia 20190  
(703) 430-6751

July 29, 2004

**DECLARATION**

Roy E. Henderson, under penalty of perjury, hereby states and declares the following:

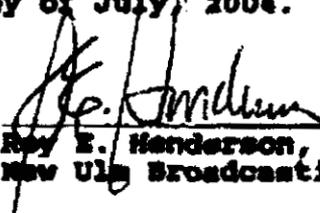
That he is a principal of New Uls Broadcasting Company, which filed a Counterproposal in MB Docket No. 02-248, Suley, Texas, on October 21, 2002, requesting amendment of the Commission's Table of FM Radio Allocations including, *inter alia*, the assignment of a new FM channel to Schulenburg, Texas, and that the Counterproposal is still pending at this time;

That as circumstances have changed since the date of that filing, including changes in applicable FCC Rules and Policies, that New Uls has now concluded that it does not wish to continue further with prosecution of that Counterproposal and has determined to dismiss that Counterproposal and withdraw from this proceeding;

And that in connection therewith, it is hereby certified that neither New Uls Broadcasting nor any principal of New Uls Broadcasting has received, or will receive, any money or other consideration in exchange for that dismissal.

The above statements of fact are true and correct to the best of my own personal knowledge and belief.

signed and dated this 28 day of July, 2004.

  
\_\_\_\_\_  
Roy E. Henderson, Principal of  
New Uls Broadcasting Company

CERTIFICATE OF SERVICE

I, Robert J. Buenzle, do hereby certify that copies of the foregoing Motion To Dismiss Counterproposal and Withdraw from the Proceeding have been served by United States mail, postage prepaid this 29th day of July, 2004, upon the following:

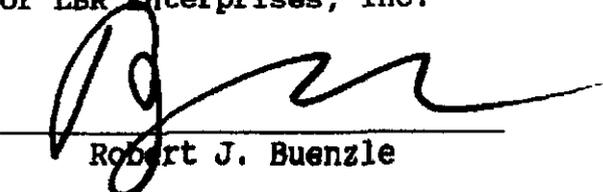
\*John A. Karousos, Esq.  
Assistant Chief, Audio Division  
Office of Broadcast License Policy  
Media Bureau  
Federal Communications Commission  
Portals II, Room 3-A266  
445 12th Street SW  
Washington, D.C. 20554

\*R. Barthen Gorman, Esq.  
Media Bureau, Audio Division  
Federal Communications Commission  
Portals II, Room 3-A224  
445 12th Street SW  
Washington, D.C. 20554

Linda Crawford  
3500 Maple Avenue, #1320  
Dallas, Texas 75219  
Smiley Petitioner

Gene A. Bechtel, Esq.  
Attorney At Law  
1050 17th Street N.W.  
Suite 600  
Washington, D.C. 20036  
Counsel for Elgin Fm Limited  
Partnership and Charles Crawford

Gregg P. Skall, Esq.  
Patricia M. Chuh, Esq.  
Womble Carlyle Sandridge & Rice, PLLC  
1401 Eye Street, 7th Floor  
Washington, D.C. 20005  
Counsel for LBR Enterprises, Inc.

  
Robert J. Buenzle

\* Also Sent By Fax