

- e. Chisholm Trail Broadcasting Company
- f. Mortenson Broadcasting Company
- g. Bromo Communications
- h. Graham-Brock, Inc.
- i. Munn-Reese, Inc.
- j. Mullaney Engineering, Inc.

2. The only Comments received which were not supportive of Petitioners' proposal were those filed by Hammett & Edison, Inc., and Cox Radio, Inc. Each of these two commentators raises questions as to whether Petitioners' proposal can be implemented, without violating agreements between the United States and Canada and/or the United States and Mexico.

3. The positions taken by Hammet and Edison and by Cox are, however, different. While Cox is opposed to the rule changes, Hammet and Edison agree with us that uniform rules need to be adopted to cover facilities changes by expanded band stations – they simply contend that the 10 KW limit on daytime power should be retained. Furthermore, Hammet and Edison suggest that if the rules are changed, there should be a one-time minor change window for existing expanded band stations. We agree with, and support that suggestion.

4. Cox and Hammet and Edison are wrong, however, when they contend that that the relief requested by the Petitioners is barred by International Agreements.

5. There are two Agreements that are pertinent: the "Agreement between the Government of the United States of America and the Government of the United Mexican States for the Use of the Band 1605 to 1705 kHz in the AM Broadcasting Service", executed on August 11, 1992 (the "Mexican Agreement") and the "Interim Working Arrangement Between the Federal Communications Commission and the Department of Communications Relating to the AM Broadcasting Service in the Medium Frequency Band" executed on February 28, 1991 by

Roy Stewart on behalf of the FCC's Mass Bureau and his counterpart in Canada's Department of Communications (the "Canadian Agreement."

6. The Mexican Agreement specifies no maximum power for Expanded Band stations, but requires notification and coordination for allotments located within a specified distance from the border. There is no reason why the FCC can't notify allotments with more than 10 KW daytime power, even in the border areas – so long as they provide the contour protections specified in the Agreement, Mexico should not object.

7. The Canadian Agreement is even more flexible. It mentions a 10 KW daytime power limit but makes specific provisions for coordination of non-conforming allotments. It states that,

"A draft text of an Agreement (May 1990 version attached) regarding the mutual use of this band has been developed. At the same time, however, both the DOC and FCC are in the process of reviewing potential improvements to the AM service, both in the existing band and the expanded band. Not wishing to preclude the findings of these studies from influencing any final Agreement governing the use of the AM expanded band, the two Administrations will apply the provisions in the attached draft Agreement as an Interim Working Arrangement.

Both Administrations will coordinate all proposals individually. During such coordinations, the Administrations may, by mutual agreement, modify the applications of provisions of the Interim Working Arrangement (in particular the provisions relating to the required distance for adjacent channel protection).

This Interim Working Arrangement will take effect upon signature by both Administrations, and will remain in effect until the entry into force of a binding Agreement covering the use of the 1605-1705 kHz band or until notice of termination is given by either Administration."

8. In short, Petitioners' proposal has received overwhelming support from the broadcasting industry in the United States. The pertinent International Agreements do not bar a

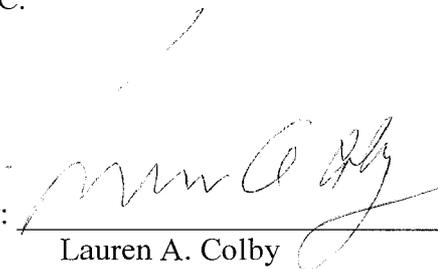
grant of the relief requested by the Petitioners. Certainly, they are no bar to the issuance of a Notice of Proposed Rulemaking. Therefore, the Commission should promptly issue a Notice of Proposed Rulemaking, looking towards the rule changes proposed by the Petitioners.

Respectfully submitted,

February 18, 2005

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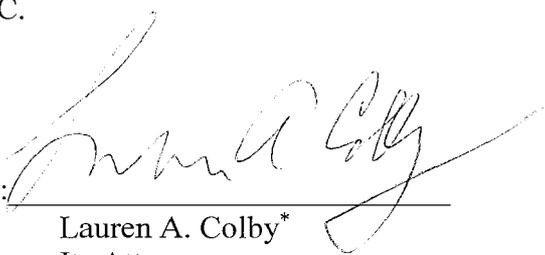
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CERTIFICATE OF SERVICE

I, Kelli A. Muskett, a secretary in the law office of Lauren A. Colby, do hereby certify that copies of the foregoing have been sent via first class, U.S. mail, postage prepaid, this 18th day of February, 2005, to the offices of the following:

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