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

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In the Matter of)
)
Amendment of Section 73.202(b),)
FM Table of Allotments, FM Broadcast Stations)
(Ft. Collins, Westcliffe and Wheat Ridge, Colorado))

MB Docket No. 03-57
RM-10565

TO: Full Commission

**REPLY TO OPPOSITION TO MOTION FOR LEAVE TO
SUPPLEMENT APPLICATION FOR REVIEW**

Meadowlark Group, Inc. ("MGI"), by its attorneys, hereby respectfully replies to the "Opposition to Motion for Leave to Supplement Application for Review" filed in this proceeding on March 16, 2005 by Jacor Broadcasting of Colorado, Inc. ("Jacor"). In reply thereto, it is alleged:

1. In its Opposition, Jacor contends that MGI's Creede Counterproposal was technically deficient, when filed, because it conflicted with an application for Station KRFX, Denver, Colorado to achieve full Class C facilities. The position taken by Jacor is contrary to sound public policy.

2. As MGI argued, all along, the KRFX application was technically deficient, and should never have been accepted for filing. MGI's position was fully vindicated when, in the decision released November 9, 2004, the FCC staff dismissed the KRFX application.¹ Jacor has never requested a stay of that staff decision. Accordingly, it remains in full force and effect, and the KRFX application is dismissed. The mere fact that a petition has been filed for

¹ Letter to Marissa G. Repp, Esquire, DA 04-3554.

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reconsideration of the dismissal of the application means nothing except that the dismissal has not become final. Without a stay, the decision is effective.²

3. Under the position taken by Jacor, a licensee seeking to defeat reclassification from Class C status to Class C0 status could always defeat reclassification, or at least delay reclassification by filing an application for full Class C facilities. It would make no difference whether that application was valid, or not. It could request a waiver of almost any Commission Rule – even a short spacing – and the mere filing of the application would defeat reclassification. Such a result would be clearly contrary to the public interest.

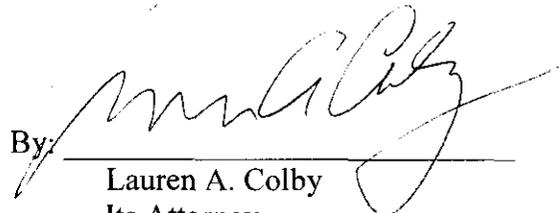
4. Here, as MGI pointed out repeatedly, the KRFX application was never a valid application. It sought a waiver of the Commission's Rules concerning calculation of antenna height above average terrain ("HAAT"), and, as the staff properly found, there was no justification for the waiver. That being so, the only impediment to acceptance of MGI's Counterproposal in this docket was dependency of a defective application. That application having been properly found to be defective and properly dismissed, there is absolutely no impediment to the prompt acceptance, processing and grant of MGI's Counterproposal.

Respectfully submitted,

March 22, 2005

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By: 

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² Even in the days of the "automatic stay," this particular decision would not have been automatically stayed. It certainly is not stayed, under the current rules. See, *In the Matter of Amendment of §1.420(f) of the Commission's Rules Concerning Automatic Stays*, 11 FCC Rcd 9501 (1996).

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 22nd day of March, 2005, to the offices of the following:

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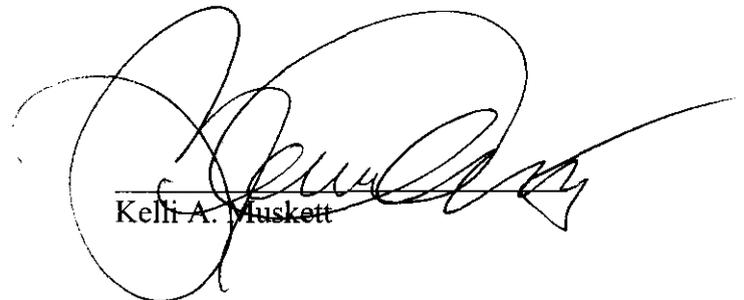
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**Via Federal Express*