

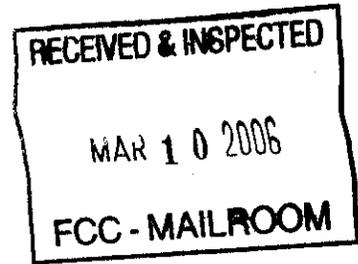
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March 9, 2006

SENT BY FEDERAL EXPRESS

Marlene H. Dortch, Secretary
Federal Communications Commission
9300 East Hampton Drive
Capitol Heights, MD 20743

Re: "Motion for Leave to File Limited Reply" and
associated "Limited Reply" filed by LaGrange
Broadcasting Corporation, in FM Allocation Rule-
making, MB Docket No. 05-246, Meyersville, Texas.

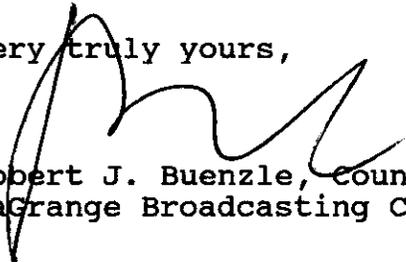
Dear Ms. Dortch:

Transmitted herewith is an original and four copies of
the two associated pleadings as referenced above. For your
assistance only, we note that the pleadings would normally be
acted upon by the Audio Division of the Office of Broadcast
License Policy of the Media Bureau.

It is requested that the attached additional copy of the
pleading set marked "FILE" be date-stamped and returned to us
in the enclosed self-addressed stamped envelope.

Should any additional information be required, please
contact this office.

Very truly yours,


Robert J. Buenzle, Counsel for
LaGrange Broadcasting Corporation

No. of Copies rec'd 0+4
List A B C D E

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

ORIGINAL

In the Matter of) MB Docket No. 05-246
)
Amendment of Section 73.202(b)) RM-11263
Table of Allotments)
FM Broadcast Stations)
Meyersville, Texas)

To: Marlene H. Dortch, Secretary
Office of The Secretary
Federal Communications Commission

RECEIVED & INSPECTED
MAR 10 2006
FCC - MAILROOM

MOTION FOR LEAVE TO FILE LIMITED REPLY

LaGrange Broadcasting Corporation, by its Counsel, and pursuant to Sections 1.3 and 1.415(d) of the Commission's rules, moves the Commission to act within its discretion and accept and consider the attached "Limited Reply" in this proceeding. See South Congaree and Batesburg, South Carolina, 5 FCC Rcd 7480, 7483, note 3, MMB, 1990). In support whereof, the following is submitted:

LaGrange Broadcasting Corporation (hereinafter "LaGrange") is the licensee of radio station KTXM(FM), in Hallettsville, Texas. On September 19, 2005, LaGrange responded to a Notice of Proposed Rulemaking issued in this proceeding July 25, 2005 (DA-05-2215) by filing its "Comments and Counterproposal", serving a copy thereof upon Charles Crawford, the original Petitioner, as well as upon Crawford's counsel. Subsequent to that filing, which was properly reflected in the Commission's ECFS electronic listing for this Docket, the Docket was reviewed for any other Comment filings and no others (other than the

LaGrange Comments) were listed. Specifically, there was no *indication of any Comments having been filed at any time by Crawford*. LaGrange therefore did not file any Reply Comments nor did the ECFS docket listing reflect any Reply Comments filed in response to the LaGrange counterproposal.

Several months thereafter, on January 25, 2006, the Commission placed the LaGrange counterproposal on public notice (Report No. 2753) and LaGrange, on February 3, 2006, filed its "Reply Comments" in response to that public notice, noting in footnote 1 thereof that FCC records had indicated, and still indicated at that time, that no other Comments had ever been filed in response to the original Notice of Proposed Rulemaking.

Thereafter, on or about February 9, 2006, LaGrange received service of a pleading by Crawford dated February 6, 2006, and indicated as served by mail that date, styled as a "Response to Counterproposal". In that pleading Crawford alleged that he had, in fact, filed "Comments" in response to the original NPR and included a copy of such Comments dated August 22, 2005, as an attachment to his "Response to Counterproposal". LaGrange had never before seen such "Comments" in this proceeding, they were not listed as having been filed in this proceeding by the Commission's ECFS docket listing (although LaGrange's filing WAS listed), and they are still not included in the list of pleadings filed in this proceeding, even as of today.

To the extent that Crawford has indicated that such Comments were in fact timely filed in this proceeding, there remains a

serious question as to why the existence of such a filing is not reflected in the FCC's ECFS record for this docket. In the event that the Commission has some independent record of such a filing, then that will have to be recognized, although the question would still remain as to why the filing was not recorded and listed in the ECFS public docket site. On the other hand, if the FCC does not have any other record or indication of such a filing, then the burden should be upon Crawford to demonstrate the existence of such a filing by his own evidence, such as an "FCC date-stamped copy" of the pleading. Failing that, we submit that the Crawford "Comments" as included in his "Response to Counterproposal" pleading could not be recognized for any purpose in this proceeding and Crawford would have to be considered as having failed to respond to the original NPR.

Finally, in the event, arguendo that Crawford did in fact file timely Comments in this proceeding but that the Commission, for some unknown reason did not disclose the existence of that filing in its ECFS site for this docket, it is submitted that simple fairness and the interest of having a complete record on this proceeding would be best served by grant of this Motion. Further, that the public interest would be served in accepting and considering the attached Limited Reply which addresses matter raised in the previously unknown and undisclosed Comments as well as one new matter raised by Crawford suggesting the need for a selection between transmitter site specifications by LaGrange, specifically as to a suggested incompatibility in new proposed transmitter sites for radio station KTXM as specified here and in

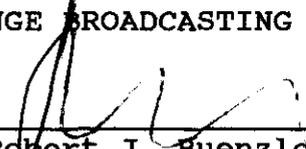
a prior rulemaking proposal in Matagorda, Texas (Docket no. 04-215). As noted in the attached Limited Reply, the site specified in the instant proceeding would also work equally well, with no conflict and no problem, in the engineering proposal as submitted in Matagorda, and with no need to "choose" required.

Wherefore, in order to provide a complete record for the Commission to consider in deciding which of the conflicting proposals would best serve the public interest in this proceeding, especially in the unusual circumstance here where it is still unknown whether Comments were or were not timely filed by Crawford, it is respectfully requested that this Motion be granted and that the attached Limited Reply be received and considered.

Respectfully submitted,

LAGRANGE BROADCASTING CORPORATION

by


Robert J. Buenzle
Its Counsel

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

March 10, 2006

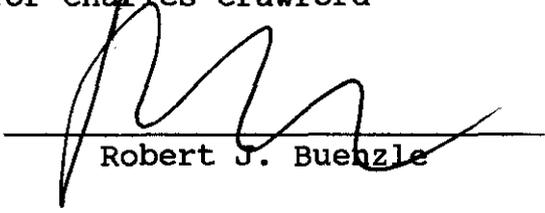
CERTIFICATE OF SERVICE

I, Robert J. Buenzle, do hereby certify that copies of the foregoing Motion for Leave to File Limited Reply have been served by United States mail, postage prepaid this 10th day of March, 2006, 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

Charles Crawford
4553 Bordeaux Avenue
Dallas, Texas 75205
Meyersville Petitioner

Gene A. Bechtel, Esq.
Law Office of Gene Bechtel, PC
1050 17th Street, NW
Suite 600
Washington, D.C. 20036
Counsel for Charles Crawford


Robert J. Buenzle

Although that was several months ago, the Commission's ECFS public record of this docket has never indicated such a filing, and still, to this date, six months thereafter, does not reflect such a filing having ever been made. Whether such a filing was, in fact made, is of course of substantial importance since the absence of such a filing would result in a fatal failure of Crawford to have provided the required reaffirmation of commitment to this proposal as necessary and required under applicable FCC rules and policies.

It is therefore submitted that unless the Commission itself has evidence of such a filing having been made as indicated by Crawford, that the burden would then be upon Crawford to present some extrinsic evidence of such a filing, such as a copy bearing the Commission's "received" stamp.

It is further submitted that even in the event that the filing was in fact made but for some reason, not recorded nor divulged in the ECFS public docket file for this proceeding, then some burden must still rest upon Crawford for not noting the absence of any record of its filing during all those months and failing to call that very important omission to the attention of the Commission. In referring to Crawford's "Response to Counterproposal" as dated February 6, 2006, it is noted that the Response contains a copy of the alleged "Petitioner's Comments" as an attachment and that the Petitioner's Comments are similar to the Response itself in that they are devoted almost entirely to Crawford's attempt to establish Meyersville as a recognizable

community for FCC allocation purposes. That matter was addressed by LaGrange in its own "Comments and Counterproposal" as filed on September 19, 2005, and called into question there.

Even so, and with the LaGrange Counterproposal served upon Crawford (and upon his counsel), we are not aware of any Reply Comments filed by Crawford in response to the filing of the LaGrange counterproposal and Crawford makes no claim that any such Reply Comments were in fact filed by him to counter those suggestions that Meyersville did not meet any logical definition of a "community" that could conceivably be assigned and could support an FM radio station. Crawford admits that the "town" contains at most a maximum of 110 persons which, in some places, would be no more than 10 large families. Nonetheless, he states that the Meyersville "postmaster "says she provides residential delivery to over 130 residences in Meyersville" (response at page 4). That would mean that each of the 110 persons, men, women, and children, each had not only their own individual house, but 20 more houses which they must keep as "spares". Even in Crawford's own filing, it is admitted that the "town" of Meyersville is not even located on a recognizable state or federal road but only on a "farm to market" road. It is all so patently absurd and illustrates the folly of trying to convince the Commission that these 110 persons actually constitute a "town" for any purpose.

There has to be a bottom line beyond which no rational person can claim a "community" in which to place a radio station. Crawford cites the Commission's decision in Semora, North

Carolina, 5 FCC Rcd 934 (1990) as authority for finding a "community" comprised of only 150 persons. But even assuming arguendo that were so, how could an already strained finding of "community" for 150 persons support an even more strained finding of a recognizable community comprised of only 110 persons? Should the Commission buy that argument, then the next case would have to be 80 persons, and then 60 persons and where would the line be drawn?

Further, in considering the assignment of a radio station allocation to a "community" of 110 persons, who could the FCC reasonably believe would be willing to make the investment to build a radio station to sell services and be supported by 110 persons? In this regard, the Commission looks in the first instance to the proponent, Mr. Crawford, and his stated "commitment" to do just that. Recognizing the obvious fact that it is just flatly unreasonable to expect anyone to be foolish enough to actually embark upon such an undertaking, the Commission must rely here solely upon the "commitment" of Mr. Crawford. In that respect, it would seem only reasonable for the Commission to search its own records to see how many such "commitments" have been made by Mr. Crawford (the best estimate, on information and belief, is over 100) and how many stations have been applied for by Mr. Crawford?...none?, and how many built by Mr. Crawford?...none? 1/It would be simply a waste of

1/ The Commission's own records would clearly be the best evidence of the facts here and we request that the Commission take official notice of the facts in those records.

the Commission's time and resources for it to assign a radio allocation to a "town" of 110 persons, with the expectation that Mr. Crawford would indeed then ride to the rescue and apply for, and build, and operate such a station there. The past record simply indicates otherwise.

Finally, we must note Crawford's reference to the commitment of LaGrange to move its station KTXM as presently licensed to Hallettsville, to a point as far north as it could to accommodate a Counterproposal filed by Fort Bend Broadcasting (co-owned by Roy E. Henderson along with LaGrange) to relocate radio station KNVR, Brenham, Texas, to Belleville, Texas. In that counterproposal (MB docket 04-215, Matagorda, Texas) filed more than one year prior to the counterproposal filed by Lagrange in the instant case, LaGrange did indeed agree to move to that farthest most location to accommodate the Fort Bend proposal. When LaGrange itself then determined over one year later to request authority to move its station KTXM from Hallettsville to Yoakum, it proposed a transmitter site location even farther west than that agreed to in the Matagorda proceeding, a location that subsumed and was totally consistent with the location suggested in Matagorda, a location farther west as would be consistent with a station licensed to Yaokum, and beyond the farthest limit for a station still licensed to Hallettsville.

It was, and remains the commitment of LaGrange to move to a new site to the north, totally consistent with the Fort Bend proposal in Matagorda, either the new site proposed in the

instant proceeding for the change of community to Yoakum, or if for any reason, that were not approved, then to the farthest most move to the north for the station as presently licensed at Hallettsville, as originally committed in the Matagorda rulemaking proposal. That is specifically reaffirmed in the attached Declaration of the President and owner of both Fort bend and LaGrange as attached hereto. There is simply no question on that. In either case, the engineering would be totally consistent with the commitment in Matagorda, as fully documented in the attached engineering statement confirming no conflict between the two sites, which would work equally well in both proposals, and with no conflict to the move proposed in the instant docket.

As noted by Crawford, the limited "white area" that would have been covered in the original site specified in the Matagorda proceeding would not be covered from the site specified by LaGrange as it relocates the station to Yoakum, but at the same time, the original site would have kept KTXM as a grandfathered short-spaced station while relocation to the site specified herein would result in a fully spaced station. The important point is that both sites are fully consistent with the engineering proposal in Matagorda and there simply is no conflict on that, and no need to "choose" between the two.

In any event, LaGrange has seen the alleged "Petitioner's Comments" for the first time as part of Crawford's "Response to Counterproposal" and if the Commission determines that they were in fact properly filed as claimed by Crawford but, for some

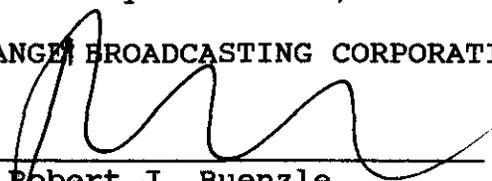
reason never recognized or listed in the docket file for this case, then that will be something that will have to be considered, and upon a finding that they were in fact properly filed and contained the "commitment" of Charles Crawford as required for further consideration in this case, then that will have to be done. If so, however, the fact remains that Meyersville is simply not recognizable as a "town" for purposes of allocating an FM radio station there, and if for some reason the Commission were to make such a finding, it would then perforce have to give substantial scrutiny to the commitment of Charles Crawford to apply for, build, and operate a new FM radio station there.

Wherefore, for the reasons as set forth in the LaGrange counterproposal as filed on September 19, 2005, and in its Reply Comments filed February 3, 2006, it is submitted that the public interest would be best served by adoption of the LaGrange counterproposal.

Respectfully submitted,

LAGRANGE BROADCASTING CORPORATION

by


Robert J. Buenzle
Its Counsel

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

March 10, 2006

DECLARATION

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

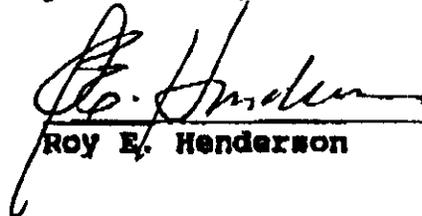
I am President and sole owner of Fort bend Broadcasting Company, petitioner in MB Docket No. 04-215 (Matagorda, Texas), and President and sole owner of LaGrange Broadcasting Corporation, licensee of station KTXM(FM) and petitioner to change community of license of that station in MB Docket No. 05-246 (Meyersville, Texas); and

That I have been assured by my Consulting Engineer that the relocated transmitter site proposed for station KTXM in the Meyersville proceeding is fully compatible with the engineering proposal in Matagorda, actually going beyond the move needed and already committed to in that proceeding, with the sole difference being that the limited "white area" that would be covered in the first proposed site would not be covered in the second proposed site; and

That in my capacity as President of LaGrange Broadcasting, I reaffirm that, if for any reason, the transmitter relocation change as included in the change of community as requested for KTXM in Meyersville is not adopted, that LaGrange will continue to honor the transmitter site change for that station as set forth in the Matagorda proceeding.

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

Signed and dated this *8th* day of *March*, 2006.



Roy E. Henderson

Engineering Statement
MB Docket 05-246 and MB Docket 04-215

This firm has been retained by Lagrange Broadcasting Corporation, licensee of Radio Station KTXM(FM), Hallettsville, Texas to prepare this engineering statement to verify that the proposal to change the community of license for Radio Station KTXM(FM) from Hallettsville, Texas to Yoakum, Texas is fully consistent with an agreement to relocate the transmitter site for KTXM(FM) that was filed in MB Docket 04-215.

1. The agreement filed in MB Docket 04-215 is an agreement to simply move the transmitter site for KTXM(FM) to a site northwest of Hallettsville, Texas to accommodate the assignment of FM Channel 259C3 at Edna, Texas.
2. The proposal filed in MB Docket 05-246 requests the reallocation of the grandfathered short spaced Class A facility at Hallettsville, Texas to Yoakum, Texas as a fully spaced Class A facility.
3. Both proposals are fully consistent with one another. Should the assignment of the Hallettsville, Texas facility be changed to specify Yoakum, Texas as its community of license, the allotment would be fully spaced to the proposed assignment of FM Channel 259C3 at Edna, Texas. Adoption of the proposal in MB Docket 04-215 would simply require the relocation of the KTXM(FM) transmitter site¹ and the channel would remain assigned to Hallettsville, Texas as a grandfathered short spaced class A facility that is fully spaced to the proposed allotment of FM Channel 259C3 to Edna, Texas.

The statement filed by Charles Crawford in this proceeding claiming that the two proposals are inconsistent with one another is simply not correct.

¹ The proposed transmitter site change in MB Docket 04-215 would provide service to an underserved area, however, the facility would remain a grandfathered short spaced facility. Its reallocation to Yoakum, Texas would provide a fully spaced Class A facility to that community.

CERTIFICATION

This engineering statement has been prepared by the undersigned and is true and correct to the best of his knowledge and belief, and is submitted in good faith. My qualifications are a matter of record before the Commission.

The undersigned is aware that this document is being filed with the Federal Communications Commission by Lagrange Broadcasting Corporation in MB Docket 05-246 and by Fort Bend Broadcasting in MB Docket 04-215 and hereby consents to its use for that purpose.

Dated this 8th day of March 2006.

Respectfully,



F. W. Hannel, PE

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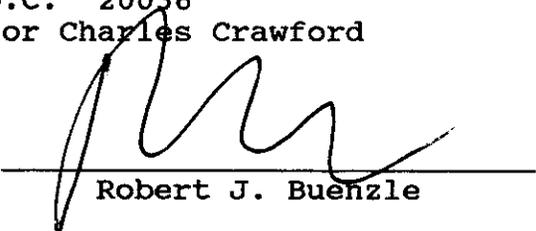
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I, Robert J. Buenzle, do hereby certify that copies of the foregoing Limited Reply have been served by United States mail, postage prepaid this 10th day of March, 2006, upon the following:

John A. Karousos, Esq.
Assistant Chief, Audio Division
Office of Broadcast License Policy
Media Bureau
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Counsel for Charles Crawford



Robert J. Buenzle