

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554
DOCKET FILE COPY ORIGINAL

In the Matter of)
)
Amendment of Section 73.202(b),)
Table of Allotments,)
FM Broadcast Stations)
)
(Roma, Texas))
(San Isidro, Texas))

MB Docket No. 05-142
RM-11220

RECEIVED

MAR 13 2006

Federal Communications Commission
Office of Secretary

To: The Secretary (for the Chief, Audio Division)

PETITION FOR RECONSIDERATION

La Voz Latino ("LVL"), seeks allotment of FM Channel 278A to San Isidro, Texas as its first local broadcast transmission service. On May 10, 2005, LVL submitted Comments and Counterproposal (the "*Counterproposal*") advocating that allotment.

Unfortunately, on February 10, 2006, the Audio Division dismissed the *Counterproposal*, in a *Report & Order ("R&O")*.¹ This action was based on the mistaken perception that LVL had not filed its *Counterproposal* on time. Accordingly, LVL, by counsel, hereby seeks reconsideration of the *R&O*.

I. Factual Background

On March 23, 2005, the Audio Division released a *Notice of Proposed Rulemaking*² proposing the allotment of Channel 278A at Roma, Texas. Counterproposals were due by May 10, 2005. On that date, LVL submitted its *Counterproposal* plan for the allotment for

¹ *Roma, Texas*, DA 06-262, released February 10, 2006.

² *Strong, Arkansas, Roma, Texas, and Romney, West Virginia*, 20 FCC Rcd 6202 (MB 2005).

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

San Isidro, Texas. Counsel for LVL hand-delivered the *Counterproposal* directly to the Commission's filing location at 236 Massachusetts Avenue, N.E., Suite 110, Washington, DC 20002 (the "Filing Location"). A copy of the submission marked "stamp & return" was provided by counsel to LVL. The Commission's contractor at the Filing Location affixed the FCC date-stamp "May 10, 2005." Attached hereto as Exhibit A is a copy of the *Counterproposal* bearing the FCC date-stamp. The date stamp shows that the *Counterproposal* was received by "Federal Communications Commission Bureau/Office" on May 10, 2006. From all appearances, then, the *R&O* was placed in the hands of the agents of the Office of the Secretary. Upon them then devolved the duty of forwarding the *Counterproposal* to the member of the Commission's staff who would actually consider the merits of the *Counterproposal*.

The *R&O* nonetheless erroneously states that the counterproposal submitted by LVL "was received in the Office of Secretary on May 12, 2005, two days after the deadline for comments." This is not true.

II. Delivery of Filings to 236 Massachusetts Avenue, N.E. is the Equivalent of Delivery to the Secretary.

From time immemorial, pleadings relating to broadcast applications in docketed cases were filed – physically – with the Office of the Secretary through hand delivery directly to that office in the headquarters of the Commission. Following the terrorist attacks of September 11, 2001, and the subsequent delivery of anthrax-laced letters to Congress, the Commission discontinued the submission of paper filings directly to Commission headquarters. It is no longer possible for parties having business before the Commission to achieve the physical

delivery of any paper filing to that space in the FCC's current headquarters that is currently occupied by the Office of the Secretary. From time immemorial, LVL's law firm, like countless others, have assisted the Office of the Secretary in its task of distributing pleadings among the several parts of the agency by including under the caption a directive indicating what part of the agency should ultimately act on the matter. This has never been intended to bypass the office of the Secretary, but rather to ease the Secretary's burdens. It would be meaningless to require parties to indicate Office of the Secretary in such space, because *every-thing* of this nature is supposed to pass through the hands of the Office of the Secretary. How would it help the Secretary if every pleading entrusted to the Secretary's agent at 236 Massachusetts Avenue, N.E. were to indicate that the subject paper were for "the Office of the Secretary"? LVL, for its efforts to assist the Commission in the efficient flow of documents through the agency, has been rewarded with the summary dismissal of its proposal.

Presumably, Natek was hired to run the Filing Location through the work of the Office of the Secretary, or the Office of the Managing Director of which the Office of the Secretary forms a part. Section 0.11 of the Commission's Rules states that the "Secretary is the official custodian of the Commission's documents." Further, according to the FCC's website, the Secretary's Office is responsible for "processing all docketed and non-docketed filings that the Commission receives in paper, electronic, and alternative media formats." The FCC has given no indication that Natek, in receiving filings for the Commission, is not acting as an extension of the Secretary's Office itself.

It stands to reason, therefore, that the Secretary exercises control over the operations of personnel at the Filing Location. LVL had no control over the actions of the Secretary's agent at the Filing Location. When LVL received a stamp confirming receipt by the "Federal Communications Commission Bureau/Office," there would be no reason to think that the "Office" in question was not the Office of the Secretary.

It is our understanding that filings entrusted with Natek near the close of Natek's stated hours are delivered to the Office of the Secretary at Commission headquarters the next day for distribution within the agency. In visits to the agency, we have never seen personnel of Natek prowling the halls of the Commission making individual deliveries to each Bureau and to the various Divisions within the Bureaus. Nor would any rational person presume that the Office of the Secretary is incapable of directing Natek's employees to place what are obviously pleadings within the initial responsibility of the Secretary into the hands of the Secretary. In this regard, it is important to note that not even the Office of the Secretary would maintain that it is the ultimate recipient of such pleadings, or that papers stamped "Bureau./Office" do not reach the Secretary's hands. Rather, the Secretary's principal function with respect to such papers is simply to distribute them to the appropriate "Bureau" once the "Office" of the Secretary has completed whatever minor administrative chore might be appropriate before the document is passed on to the Bureau with line responsibility for the substantive decisions on the matter. Indeed, in this case the Counterproposal was stamped in by the Office of the Secretary on merely the next business day after its physical delivery to Commission headquarters.

III. The R&O Provides no Valid Rationale for Dismissal of the LVL Counterproposal.

LVL can only speculate as to how the Audio Division erroneously perceived that the *Counterproposal* had been filed late. The *R&O* is intolerably mute on that score. However, in an effort to understand the unstated rationale of this arbitrary action, we first posit that the *R&O* may be premised on a rule, found nowhere in the FCC's published regulations, that it is necessary for the proponent of a new FM channel allotment to obtain a date-stamp proving that its proposal was received not just by some FCC "Office," but by the Office of the Secretary. Alternatively, perhaps one had to expressly direct the pleading to the "Office of the Secretary." The *R&O* is utterly opaque on this score. It is true that the Counterproposal included -- below the caption, per counsel's practice and as a courtesy to the staff -- a signal that the pleading was to be distributed ultimately to the "Audio Division, Media Bureau." The FCC's contractor affixed a date-stamp with a "Bureau/Office" notation, as opposed to "Office of Secretary." Yet given that this stamp was applied at the same Filing Location, this is a distinction without a difference. It does not change the stubborn fact that the *Counterproposal* was timely submitted at the Filing Location on May 10, 2005.

A date-stamp from the Office of Secretary is considered authoritative proof that a pleading was filed no later than the date shown. However, such an imprint is only useful to support dismissal where it affirmatively indicates that a given filing was, in fact, irredeemably late.³ The mere absence of the words "Office of Secretary" on a date-stamp has never before been deemed dispositive of whether a given paper was timely received by the Com-

mission.

The staff should not obsess over whether the stamp, in specifying “Office,” means something other than the “Office of Secretary” date-stamp. The important fact is that LVL did nothing to prevent the Secretary’s agent from routing the pleading through the Secretary’s Office on its way to the Media Bureau. In the more than two years since that Public Notice was published, counsel to LVL has routinely submitted pleadings without any cover letter, and invariably these pleadings note below the caption that they are for the attention of a specific bureau.⁴ This fact has not resulted in any pattern insofar as the date-stamps received sometimes indicate “Office of Secretary” and sometimes indicate “Office/Bureau”. The Commission’s contractor does not (and did not) make known that the possibility of receiving various date-stamping options even exists, much less inquire as to whether the precise “Office of Secretary” stamp is desired.

Accordingly, the staff may not suddenly begin dismissing counterproposals merely because they did not receive the “Office of Secretary” stamp at the Filing Location. Since, this has not been the staff’s practice with respect to similarly situated applicants⁵In other allotment proceedings, counsel for LVL has observed the precise same date-stamp employed without the summary rejection of the submission. Specifically, *e.g.*, the Commission or its agent date-stamped a counterproposal submitted in *Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Monument, Ore-*

³ *American Cellular Services*, 6 FCC Rcd 65, ¶ 10 (1991).

⁴ Attached hereto at Exhibit B are date-stamped captioned pages from several pleadings filed with the FCC by counsel for LVL. In none of these cases were the filings dismissed without consideration. On the contrary, many of the matters involved have been acted upon favorably.

⁵ *Melody Music, Inc. v. FCC*, 345 F.2d 730 (D.C. Cir. 1965).

gon), MB 05-10 (2005), attached hereto as Exhibit C, as received by “Bureau/Office.” In this case, the original date-stamp of March 21, 2005 demonstrated that the Counterproposal was in fact received by the Commission or its agent on the due date. No “Office of the Secretary” stamp was affixed until April 1, 2005, more than ten days after the deadline for counterproposals. Even though this Counterproposal evidently took far longer to reach someone wielding the Secretary’s stamp, this delay did not prompt dismissal. On the contrary, the Counterproposal was accepted for filing and considered on the merits. See Report No. 2708, dated May 17, 2005, attached hereto as Exhibit D. In light of the proper treatment of the counterproposal in MB 05-10, dismissal of the instant *Counterproposal* clearly fails the *Melody Music* standard discussed above. All parties similarly situated, even as to issues as trivial as date stamps, must be treated similarly in order for FCC decision-making in this area not to be condemned as arbitrary and capricious.

In addition, to the extent that the “Bureau/Office” stamp might be deemed inadequate, contrary to the Monument precedent, this was the choice of the FCC’s contractor. LVL had no authority over the contractor to dictate what stamp should be being applied to the *Counterproposal*. In similar circumstances, the FCC has recognized the timely filing of a pleading where other evidence, such as that a law firm’s standard and time-tested filing practices were followed, supports the conclusion that a given submission was timely.⁶ More on point with the facts of this case, the staff has reconsidered a decision in light of evidence that the FCC mailroom provided a date-stamp before a deadline had expired.⁷ Furthermore, the FCC has viewed as conclusive evidence of a timely filing the date-stamp of

⁶ See *Communications Vending Corp. of Arizona, Inc.* 17 FCC Rcd 24201, ¶ 69 (2002).

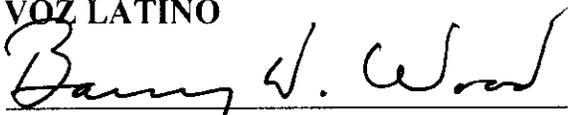
⁷ See *Skywave Electronics, Inc.* 16 FCC Rcd 5508, ¶ 2 (EB 2001); *Hughes-Moore Assoc., Inc.*, 6 FCC Rcd 889, ¶ 9 (Rev Bd 1991).

its remote filing location at Mellon Bank in Pittsburgh.⁸ In other words, timely receipt by the Commission's agents has always been treated as timely receipt by the Commission itself. The staff has even accepted a copy of a filing with no legible date-stamp at all under circumstances where a fee appeared to have been paid on the date in question.⁹ Accordingly, for the Audio Division now to treat as untimely a paper that was in the hands of the Secretary's agent would be a stark, and unwarranted, departure from Commission precedent. Here, the FCC's date stamp clearly indicates the FCC received the Counterproposal by the deadline. The standard practices of counsel to LVL evidence that an agent of the Commission supplied the date-stamp at the appropriate Filing Location.

In view of the foregoing, LVL's *Counterproposal* was timely-filed and deserving of consideration. Accordingly, the *Counterproposal* should be reinstated *nunc pro tunc*, and the Decision should be reconsidered with the *Counterproposal* included in the staff's deliberations.

Respectfully submitted,

LA VOZ LATINO

By: 

Barry D. Wood

Stuart W. Nolan, Jr.

WOOD, MAINES & NOLAN, CHT'D.
1827 Jefferson Place, NW
Washington, DC 20036
(202) 293-5333

Its attorneys

Dated: March 13, 2006

⁸ *Nugget Broadcasting Company*, 6 FCC Rcd 2013 ¶¶ 2-3 (Rev Bd 1991).

⁹ *Pioneer Telephone Cooperative, Inc.* 18 FCC Rcd 16677, Note 17 (WTB 2003).

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

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MAY 10 2005

Federal Communication Commission
Bureau / Office

In the Matter of)
)
Amendment of Section 73.202(b),)
Table of Allotments)
FM Broadcast Stations)
)
(Roma, Texas))
(San Isidro, Texas))

MB Docket No. 05-142
RM-11220

TO: Audio Division, Media Bureau

COMMENTS AND COUNTERPROPOSAL

La Voz Latino ("LVL"), by its attorneys, hereby submits Comments to the Notice of Proposed Rule Making (the "NPRM") in the above-captioned proceeding and also submits a counterproposal. The NPRM was issued in response to a petition for rule making filed by Charles Crawford ("Petitioner") with respect to Roma, Texas. Significantly, the NPRM erroneously described Petitioner's proposal as one that would provide Roma with its "first local FM allotment." In fact, Channel 249A is already allotted to Roma. FM station KBMI is licensed to BMP RGV License Company, L.P. The confusion on this point undoubtedly arose from Petitioner's assertion that his proposal would result in the "first competing FM service." *Petition for Rulemaking*, Docket 05-142; RM-11220 (December 16, 2004), at 1.

LVL opposes Petitioner's proposed amendment of the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, and offers a counterproposal that would better serve the public interest.

EXHIBIT A

The Commission's allotment priorities are: (1) first fulltime aural reception service; (2) second fulltime aural reception service; (3) first local aural transmission service; and (4) other public interest matters. Priorities (2) and (3) are given co-equal weight. See *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88, ¶11, 51 RR 2d 807 (1982), *recon. denied* 56 RR 2d 448. Since Petitioner would provide a second local aural service to Roma, his proposal receives a priority four designation. However, the Commission's policies favor service to an underserved "grey area" over provision of a second local transmission service to Roma.

As a counterproposal, LVL requests the allotment of Channel 278A at San Isidro, Texas. The 2000 U.S. Census lists San Isidro as a Census Designated Place with a population of 208. More recent Census Bureau data show the population in 2003 was 270, reflecting a growth rate of almost ten per cent per year. In addition, San Isidro has its own post office, fire department, city commissioner, justice of the peace and school district. San Isidro also has a number of local churches.¹ As explained in the engineering exhibit attached hereto, this counterproposal would provide service to a grey area where 154 persons reside, in addition to service to people traveling on local roads, including Routes 1017 and 755. Thus, our counterproposal is entitled to the Bureau's consideration under priority two.

In view of the foregoing, Petitioner's proposal is in compliance with all Commission requirements for the suggested change and constitutes a preferential arrangement

¹ In Docket No. 01-305 (RM-10310), the Bureau has already determined that San Isidro is a community for allotment purposes. *San Isidro, Texas*, 17 FCC Rcd 24330 (MB 2002).

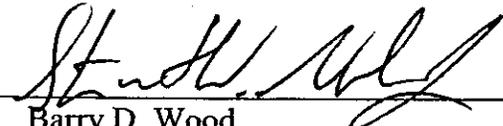
consistent with the FM allotment priorities. Accordingly, Petitioner respectfully requests that the Commission amend its Table of Allotments, 47 C.F.R. §73.202(b), to allot Channel 278A at San Isidro, Texas, as follows:

<u>Community</u>	<u>Present Allocation</u>	<u>Proposed Allocation</u>
Roma	249A	249A
San Isidro	247A	247A, 278A

The undersigned will apply for a construction permit for the new San Isidro allotment if allocated by the Commission and will promptly construct the station when a permit is granted.

Respectfully submitted,

LA VOZ LATINO

By: 
 Barry D. Wood
 Paul H. Brown
 Stuart W. Nolan, Jr.

WOOD, MAINES & BROWN, CHT'D.
 1827 Jefferson Place, NW
 Washington, DC 20036
 (202) 293-5333

Its attorneys

Dated: May 10, 2005

This Engineering Statement has been prepared on behalf of La Voz Latina ("LVL"), proponent of a new FM service at San Isidro, Texas. LVL proposes to assign channel 278A to this community. Another channel, 247A, has already been allocated to San Isidro (see dotted contour on attached overlap map).

The attached community coverage map and interference study list show that this channel can be allocated to San Isidro with a site restriction of 6 kilometers west of the community. The population residing within the 60 dBu contour of this proposal is 1,670 persons (2000 Census, Block Data). Of that population, 154 persons reside within the grey area created by the proposal. The area is considered grey and not white due to overlap with the service contour of the allocation. The service contour of station KQBO forms the southern boundary of the grey area. The small area not overlapped by either the allocation or KQBO contains no population. The same is true for a small area overlapped by KVLV, but outside the KQBO contour. Thus the true population within the proposed contour that is only overlapped by the allocation is 154 persons.

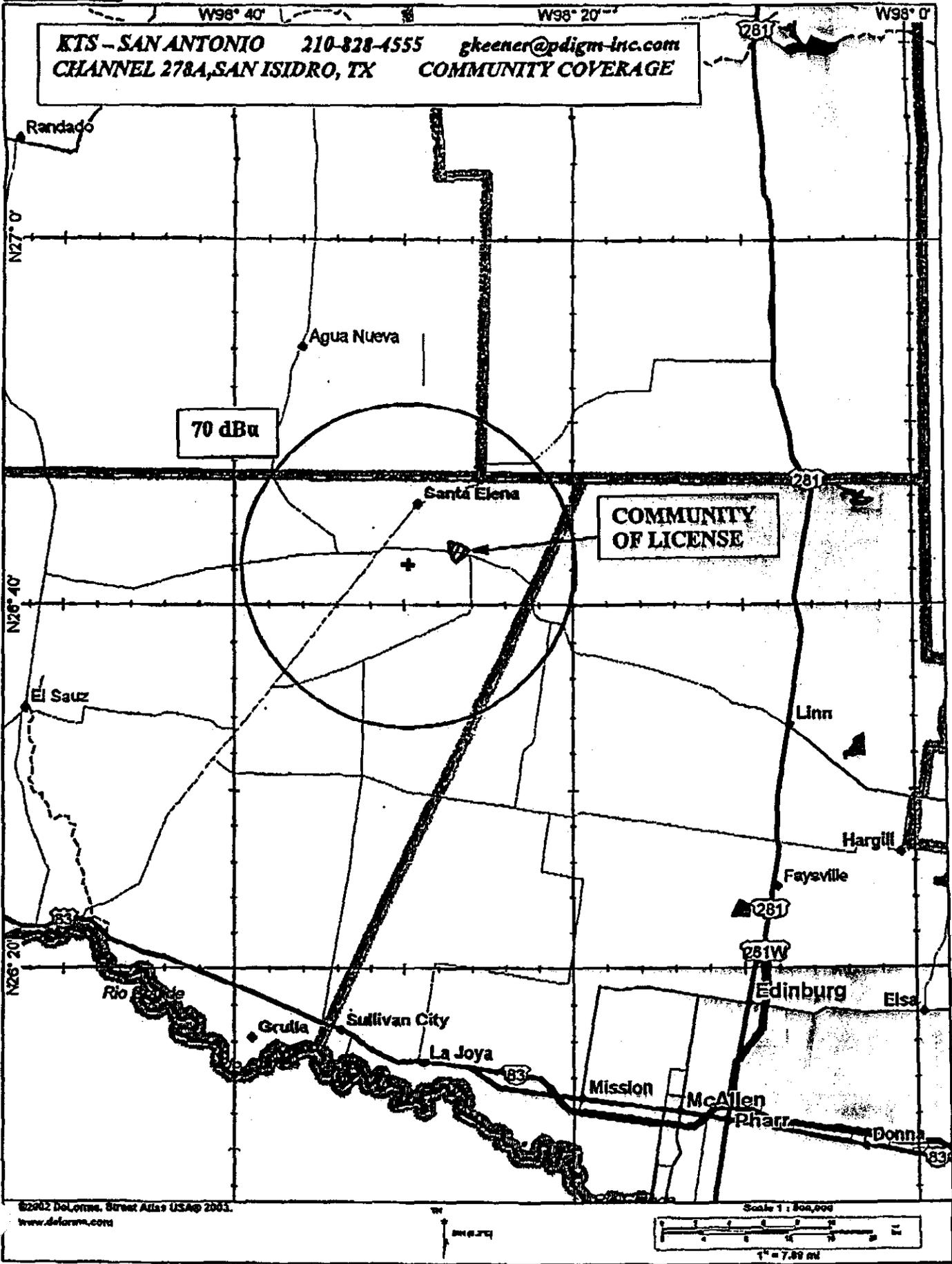
The above and attached is correct and true as to my knowledge and belief.

May 10, 2005



Gary O. Keener

KTS - SAN ANTONIO 210-828-4555 gkeener@pdigm-inc.com
CHANNEL 278A, SAN ISIDRO, TX COMMUNITY COVERAGE



CHANNEL 278A, SAN ISIDRO, TX

INTERFERENCE STUDY LIST

05-10-2005

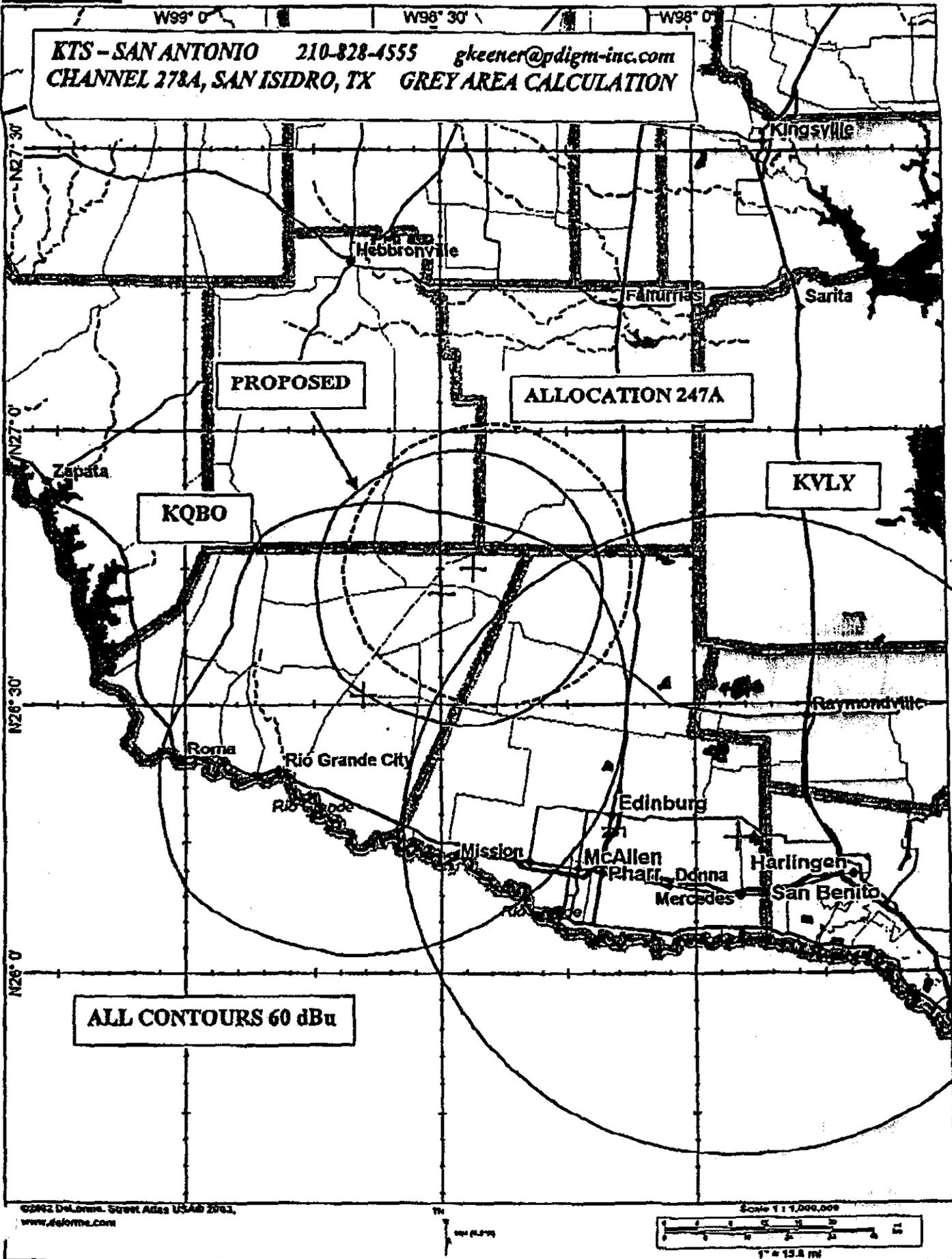
PAGE 1

FM Study for: NEW
 Location: SAN ISIDRO, TX
 [*] by HAAT indicates calculated as missing in database.
 Call City, State Chan Class Freq kW Latitude Dist. Required
 Statue Proponent File Number HAAT Longitude Azm. Clear (km)

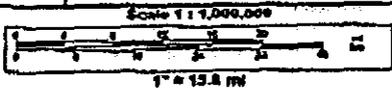
>>>>>> Study For Channel 278 103.5 mhz <<<<<<<<

Call	City, State	Chan Class	Freq	kW	Latitude	Dist.	Required
Statue	Proponent	File Number	HAAT	Longitude	Azm.	Clear (km)	
ALLOCR	ROMA, TX	278 A	103.5				
ADD		RM-11220		0		26-26-05 51.8 115	
						98-55-16 234.9 -63.2	SHORT
KDFM	FALFURRIAS, TX	277 A	103.3	3.00		27-15-29 71.92 72	
LIC	Fac. No. 86553	BLH-19980625KC		100		98-07-08 31.3 -0.08	CLOSE
XALLO	REYNOSA, TA	277 A	103.3			26-05-21 71.8 68	
	Fac. No. 95738	-		0		98-16-29 161.9 +3.8	CLOSE
KBFM	EDINBURG, TX	281 C0	104.1	100.		26-06-02 93.7 86	
LIC	Fac. No. 40777	BMLH-20030501ACJ		373		97-50-21 135.4 +7.7	CLOSE
XHAHU	CIUDAD ANAHUAC, NL	277 C	103.3	100.		27-18-32 187.7 165	
	Fac. No. 95163	-		600		100-15-56 291.3 +22.7	CLEAR
XALLO	CIUDAD ANAHUAC, NL	277 C	103.3			27-18-32 187.7 165	
	Fac. No. 95163	-		0		100-15-56 291.3 +22.7	CLEAR
XALLO	SAN FERNANDO, TA	279 C	103.7			24-50-46 209.3 165	
	Fac. No. 94562	-		0		98-09-30 170.6 +44.3	CLEAR
NEW	ZAPATA, TX	280 A	103.9	6.00		26-55-03 78.5 31	
APP	Fac. No. 162400	BNPH-20050103ADC		100		99-15-00 287.7 +47.5	CLEAR
NEW	ZAPATA, TX	280 A	103.9	6.00		26-55-03 78.5 31	
APP	Fac. No. 162400	BNPH-20050103ADC		100		99-15-00 287.7 +47.5	CLEAR
NEW	ZAPATA, TX	280 A	103.9	6.00		26-55-03 78.5 31	
APP	Fac. No. 162400	BNPH-20050103ADC		100		99-15-00 287.7 +47.5	CLEAR
NEW	ZAPATA, TX	280 A	103.9			26-54-32 78.7 31	
APP	Fac. No. 162400	BSPH-20040805ADR		0		99-15-17 286.9 +47.7	CLEAR
ALLOCR	SINTON, TX	279 C1	103.7			28-02-07 181.0 133	
DEL		RM-10958		0		97-26-11 35.2 +48.0	CLEAR
ALLOCR	REFUGIO, TX	279 C1	103.7			28-02-07 181.0 133	
ADD		RM-10958		0		97-26-11 35.2 +48.0	CLEAR
KOUL	SINTON, TX	279 C1	103.7	100.		28-02-07 181.0 133	
LIC	Fac. No. 7084	BLH-20030814AJZ		290		97-26-11 35.2 +48.0	CLEAR
ALLO	ZAPATA, TX	280 A	103.9			26-54-30 80.3 31	
VAC	Fac. No. 95854	Dockt-1998-133		0		99-16-18 286.5 +49.3	CLEAR

KTS - SAN ANTONIO 210-828-4555 gkeener@pdigm-inc.com
CHANNEL 278A, SAN ISIDRO, TX GREY AREA CALCULATION



ALL CONTOURS 60 dBu



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

In re Application of)
)
Cumulus Licensing, LLC.)
For Minor Change to Licensed Facility of)
KMXY(FM) Grand Junction, Colorado)

File No. BPH-20040510ABM

RECEIVED - FCC

To: Chief, Audio Division, Media Bureau

JUN 14 2004

PETITION TO DISMISS

Federal Communication Commission
Bureau / Office

Rocky III Investments, Inc. ("Rocky III"), licensee of FM radio broadcast station KRYD, Norwood, Colorado, through its counsel, hereby petitions the Audio Division to dismiss the above-captioned application (the "*Application*") for a minor change in the licensed facilities of FM radio broadcast station KMXY, Grand Junction, Colorado, filed by Cumulus Licensing LLC ("Cumulus"). As explained below, the *Application* is not cognizable under the Commission's Rules and should therefore be dismissed.

The *Application* is untimely. The *Application* proposes to increase the height above average terrain (HAAT) of KMXY's transmitting antenna in order to qualify KMXY as a full Class C station. In a notification to the FCC on October 8, 2002, Cumulus promised such an application no later than 80 days from the date of its letter, or by April 7, 2003. These dates are critical because they were essentially fixed by the Commission in its Order to Show Cause dated September 9, 2002.

EXHIBIT B

STAMP &
RETURN

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

In re Application of)
)
Rocky III Investments, Inc.)
)
For Minor Change to Licensed Facility of)
KRYD(FM), Facility ID No. 57324,)
Norwood, Colorado)

File No. BPH-20031126AID

RECEIVED - FCC

JUN 14 2004

To: Chief, Media Bureau

Federal Communication Commission
Bureau / Office

REPLY TO OPPOSITION TO MOTION TO DISMISS

Rocky III Investments, Inc. ("Rocky III"), licensee of FM radio broadcast station KRYD, Norwood, Colorado, through its counsel, hereby replies to the opposition filed on June 2, 2004 (and styled "Reply") by Cumulus Licensing LLC ("Cumulus"), licensee of FM broadcast station KMXV, Grand Junction, Colorado, in the above-captioned matter. Cumulus filed a *Petition for Reconsideration* (the "*Petition*") of the Audio Division's grant of a construction permit for a minor change to the licensed facilities of KRYD. Rocky III moved for dismissal of the *Petition* on the ground that, *inter alia*, Cumulus had not shown good reason why it was not possible for Cumulus to participate in the earlier stages of this proceeding, as required. Cumulus' opposition fails to show that Cumulus' earlier participation was impossible. Accordingly, the *Petition* must be dismissed.

BACKGROUND

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re: Application Proposals of)	
)	
Cibola Radio Company	)	File No. BMJP-20040129AFO
KQNM(AM), 1100 kHz, Rio Rancho, NM)	)	Facility ID No. 22391
)	
KM Communications, Inc., for	)	File No. BNP-20040129AHU
New AM, 1120 kHz, Snowflake, AZ	)	Facility ID No. 160271
)	
RAMS III	)	File No. BNP-20040130BPT
New AM, 1120 kHz, Tesuque, NM	)	Facility ID No. 161187
)	
BRETT HUGGINS	)	File No. BNP-20040130AIR
New AM, 1120 kHz, Peralta, NM	)	Facility ID No. 160574
)	
In Mutually Exclusive Group 84-168 of)	
AM Auction No. 84)	

RECEIVED - FCC

OCT 31 2005

To: Audio Division, Media Bureau

Federal Communication Commission
Bureau / Office

SHOWING PURSUANT TO SECTION 307(b)

Cibola Radio Company ("Cibola"), by counsel, hereby submits the following information with respect to its application (FCC File No. BMJP-20040129AFO) for a construction permit modify the facilities of AM radio broadcast station KQNM (formerly KRKE), currently operating on 1100 kHz in Milan, New Mexico.

I. INTRODUCTION

In the instant application, Cibola seeks to change the city of license of KQNM to Rio Rancho, New Mexico. The FCC has determined that a grant of this application is mutually exclusive with applications for new AM service on 1120 kHz at Peralta and Tesuque, New Mexico. In turn, those applications are mutually exclusive with the appli-

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

In re Application of)
)
Cumulus Licensing, LLC.)
For Minor Change to Licensed Facility of)
KMXY(FM) Grand Junction, Colorado)

File No. BPH-20040510ABM

RECEIVED - FCC

To: Chief, Audio Division, Media Bureau

JUL 1 2 2004

Federal Communication Commission
Bureau / Office

REPLY

Rocky III Investments, Inc. ("Rocky III"), licensee of FM radio broadcast station KRYD, Norwood, Colorado, through its counsel, hereby replies to the opposition filed on June 29, 2004 by Cumulus Licensing, LLC ("Cumulus") to the petition Rocky III filed on June 14, 2004. In that petition, Rocky III asked the Audio Division to dismiss the captioned Cumulus application for a permit to construct full Class C facilities for FM radio broadcast station KMXY, Grand Junction, Colorado.

Rocky III requested dismissal of Cumulus' application on the grounds that it is untimely, not consistent with the Table of FM Allotments, and short-spaced to the valid permitted facilities of station KRYD on channel 285C1.

Under the current rules of the Commission, the instant application is considered as proposing a minor change in facilities. In opposition, Cumulus labels Rocky III's *Petition to Dismiss* as "procedurally defective" because, it says, a petition to dismiss or deny does not lie against a minor change application. *Opposition* at n. 1. Further, Cumulus

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**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

MAR 29 2004

In re	)	Federal Communication Commission
	)	Bureau / Office
Applications for Consent to Transfer	)	File No. BTCCT-20031201AQT
Of Control of the License of Stations	)	FCC Facility No. 24766
KKCO(TV), Grand Junction, Colorado	)	File No. BTCTT-20031201AQU
And K50EZ, Montrose, Colorado	)	FCC Facility No. 43670

TO: Chief, Video Division, Media Bureau

PETITION FOR RECONSIDERATION

Eagle III Broadcasting, LLC ("Eagle III"), by counsel, hereby petitions for reconsideration of the Video Division's letter dated February 27, 2004 (the "*Dismissal Letter*"), in the above-captioned matter. Eagle III is licensee of television station KKCO in Grand Junction, Colorado (the "Station") and translator K50EZ in Montrose, Colorado, (collectively the "Stations"). The *Dismissal Letter* dismissed applications (collectively the "Application") for FCC consent to the transfer of control of the Stations from one partnership to another of the same name. Because it is apparent that the staff was influenced by a letter (the "*Cameron Letter*") filed on February 11, 2004 by counsel for Cara Ebert Cameron ("Cameron") and Henry D. Vara, Jr. ("Vara"), we also address the arguments advanced therein.

Background

Grand Junction Television Partners ("GJTP") controls Eagle III. Until quite recently, William R. Varecha ("Varecha") and his wife, Debbie Varecha ("Debbie"), had believed that they owned 45 percent and 10 percent, respectively, of GJTP. They like-

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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APR 23 2004

In re)
)
Applications for Consent to Transfer)
Of Control of Eagle III Broadcasting,)
LLC, Licensee of Stations)
KKCO(TV), Grand Junction, Colorado)
And K50EZ, Montrose, Colorado)

Federal Communication Commission
Bureau / Office

File No. BTCCT-20031201AQT
FCC Facility No. 24766
File No. BTCTT-20031201AQU
FCC Facility No. 43670

TO: Chief, Video Division, Media Bureau

REPLY TO OPPOSITION TO PETITION FOR RECONSIDERATION

Barry D. Wood
Stuart W. Nolan, Jr.

WOOD, MAINES & BROWN,
CHARTERED
1827 Jefferson Place, N.W.
Washington, D.C. 20036
(202) 293-5333

Dated: April 23, 2004

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

In re Applications of)	
)	
PAUL VARECHA	)	File No. BNPTTL-2000830AQD
)	
TIGER EYE LICENSING, LLC	)	File No. BNPTTL-2000818ABV
)	
INSPIRATION TELEVISION, INC.	)	File No. BNPTTL-2000810AAM
)	
	)	MX Group M157
For a Construction Permit)	
For a New Low Power Television)	
Station to Serve Grand Junction,)	
Colorado on Channel 20)	

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MAR - 4 2004

TO: Chief, Video Division

Federal Communication Commission
Bureau / Office

JOINT REQUEST FOR APPROVAL OF SETTLEMENT AGREEMENT

Tiger Eye Licensing, LLC ("Tiger Eye"), Inspiration Television, Inc. ("Inspiration"), and Paul Varecha ("Varecha") (each a "Party" and collectively "the Parties") respectfully seek approval, pursuant to Section 311(c) of the Communications Act of 1934, as amended (47 U.S.C. 311(c)) and Section 73.3525 of the Commission's Rules and Regulations, of the Settlement Agreement set forth as Attachment 1 hereto ("the Agreement"). In support thereof, the following is shown:

1. The Parties filed mutually exclusive applications for a construction permit for a new low power television station on Channel 20 at Grand Junction, Colorado (the "Applications"). The FCC assigned the appellation MX group M157 to this set of Applications. The Agreement looks toward the resolution of the conflicts among them.

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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SEP 13 2004

Federal Communication Commission
Bureau / Office

In re Applications of)	
)	
EAGLE BROADCASTING COMPANY, INC.	)	File Nos. BAL-20040603AAK
	)	BALH-20040603AAL
and)	
)	
EAGLE II BROADCASTING CORPORATION,	)	File Nos. BAL-20040603AAO
	)	BALH-20050603AAP
Proposed Assignors,)	
)	
and)	
)	
SAGA COMMUNICATIONS)	
OF NEW ENGLAND, LLC,)	
)	
Proposed Assignee,)	
)	
To Assign the Broadcast Licenses for	)	Facility Identifiers: 18048
AM Radio Stations WHCU and WTKO, and of	)	32391
FM Radio Stations WYXL and WQNY, and	)	18051
Associated Translator W276AO,	)	32390
All licensed to Ithaca, New York	)	24216

To: Media Bureau

CONSENT MOTION FOR EXTENSION OF TIME

The Finger Lakes Alliance for Independent Media ("FLAIM"), by counsel, hereby moves for a brief extension of time within which to respond to the *Joint Consolidated Opposition to Petitions to Deny* (the "*Opposition*") submitted September 2, 2004, in the above captioned matter by Eagle Broadcasting Company, Inc., Eagle II Broadcasting Corporation, and Saga Communications of New England, LLC. We request an extension of four business days from the current response date of September 15, 2004.

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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OCT 10 2003

Federal Communication Commission
Bureau / Office

In re Application of)
)
Centro Cristiano de Fe, Inc.)
)
for Assignment of Station Licenses)
) File Nos. BALH-20030307ABC, *et al.*
KPDB, Big Lake, TX; Fac. ID 83849)
K228CO, Barstow, CA; Fac. ID 28845)
K293AG, Taft, CA; Fac. ID 81345)
K205DZ, Devore, CA; Fac. ID 91086)
K204DK, Yucca Valley, CA; Fac. ID 92058)
K208DE, Tipton, CA; Fac. ID 88888)
K207CM, Red Bluff, CA; Fac. ID 89199)
K217DA, Ridgecrest, CA; Fac. ID 88908)
K209CW, Buttonwillow, CA; Fac. ID 89663)
K220GR, Los Banos, CA; Fac. ID 88906)
K205EE, Barstow, CA; Fac. ID 88897)
K220GU, Lost Hills, CA; Fac. ID 89659)
K288DJ, Victorville, CA; Fac. ID 28939)
K208EI, Porterville, CA; Fac. ID 94120)

To: Chief, Audio Services Division

INFORMAL OBJECTION

Paulino Bernal Evangelism ("PBE"), by its counsel, hereby objects to the proposed assignment of the licenses for the subject noncommercial educational FM station and FM translators from Centro Cristiano de Fe, Inc. ("CCFI") to Radio Desafio Network, Inc.

PBE has learned that Radio Desafio Network, Inc. is programming the stations and is otherwise deeply involved in the operation of the stations. For example, according to what PBE has heard, Radio Desafio Network, Inc. is paying expenses of the operation of the stations and controls station personnel. Thus, it appears that the parties to the assignment appli-

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

STAMP &
RETURN

In re Applications of)
)
PAUL VARECHA) File No. BNPTTL-2000830AQD
)
TIGER EYE LICENSING, LLC) File No. BNPTTL-2000818ABV
)
INSPIRATION TELEVISION, INC.) File No. BNPTTL-2000810AAM
)
)
) MX Group M157
For a Construction Permit)
For a New Low Power Television)
Station to Serve Grand Junction,)
Colorado on Channel 20)

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JUL - 6 2004

TO: Chief, Video Division

Federal Communication Commission
Bureau / Office

PETITION FOR RECONSIDERATION

Paul Varecha ("Varecha"), Tiger Eye Licensing, LLC ("Tiger Eye") and Inspiration Television, Inc. ("Inspiration")¹ hereby seek reconsideration of the denial, announced by letter dated June 4, 2004 (the "Denial Letter"), of the Joint Request for Approval of Settlement Agreement with regard to the above-styled applications for a construction permit for a new LPTV station at Grand Junction, Colorado on Channel 20. The Denial Letter indicates that upon review of the Settlement Agreement, the Division found that the Settlement Agreement "does not resolve the mutual exclusivity between these applications and other applications in their MX group."

Unfortunately, the Denial Letter failed to recognize that the facility proposed in the Varecha Application will not cause cognizable interference to any other station (existing or proposed), excepting only the stations proposed by Tiger Eye and Inspiration. These parties have, pursuant to the Set-

1 Time did not permit return of the executed counterparts of this Petition for Reconsideration by Tiger Eye and Inspiration Television prior to the FCC filing deadline. Their signature pages will be supplied as a supplement hereto.



Federal Communications Commission
Washington, D.C. 20554

JAN 11 2005

Paul H. Brown, Esq.
Wood, Maines and Brown
1827 Jefferson Place, NW
Washington, DC 20036

John N. Kyle, Manager
Tiger Eye Licensing, LLC
3400 Lakeside Drive
Suite 500
Miramar, FL 33027

George D. Sebastian, President
Inspiration Television, Inc.
4380 Snow Heights Circle, SE
Suite 100
Rio Rancho, NM 87124-5809

Re: Applications for New Low Power
Television Facilities

Paul Varecha
File No. BNPTTL-20000830AQD
FIN: 128473

Tiger Eye Licensing
File No. BNPTTL-20000818AVB
FIN: 125721

Inspiration Television, Inc.
File No. BNPTTL-20000810AAM
FIN: 125274

Dear Applicants:

This letter concerns the above-referenced applications for a new low power television facility filed in the limited auction filing window.

You submitted a settlement agreement to purportedly resolve the mutual exclusivity among these applications. Initial review of the settlement agreement found that it did not resolve the mutual exclusivity between these applications and other applications in their MX group. Therefore, the settlement agreement was denied. You sought reconsideration

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APR - 1 2005

ORIGINAL

Before the Federal Communications Commission
Office of the Secretary
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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MAR 21 2005

Federal Communication Commission
Bureau / Office

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In the Matter of)
)
 Amendment of Section 73.202(b),) MM Docket No. MB 05-10
 Table of Allotments) RM-11140
)
 FM Broadcast Stations)
 (Monument, Oregon))

To: Chief, Allocations Branch
Policy and Rules Division
Media Bureau

COUNTERPROPOSAL AND REQUEST FOR SHOW CAUSE

SSR Communications Incorporated ("SSR") hereby submits this Counterproposal and Request for a Show Cause Order in the above-mentioned proceeding, to (1) assign FM Channel 280C (in lieu of the Klickitat Broadcasting proposal for FM Channel 266A) to Monument, Oregon, as that community's *first* FM broadcast service; (2) add FM Channel 265C to Prairie City, Oregon, as that community's *first commercial* FM broadcast service; (3) substitute vacant FM Channel 247C1 for FM Channel 281C1 at Weiser, Idaho; (4) substitute FM Channel 282C2 for FM Channel 281C2 for station KWPK at Sisters, Oregon, by way of an Order to Show Cause to Thunderegg Wireless, L.L.C. (licensee of KWPK), directing KWPK to commence operation on a new channel; and, (5) add FM Channel 267C1 to Prineville, Oregon, as that community's *second competing* FM broadcast service, as follows:

<u>City</u>	<u>Present</u>	<u>Proposed</u>
Monument, Oregon	266A (see 05-10)	280C
Prairie City, Oregon	---	265C
Weiser, Idaho	280C1	247C1
Sisters, Oregon	281C2	282C2
Prineville, Oregon	255C3, 271C3	255C3, 267C1, 271C3

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EXHIBIT C



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

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TTY 202 / 418-2555
Internet: <http://www.fcc.gov>
<ftp.fcc.gov>

EXHIBIT D

Report No. 2708

May 17, 2005

CONSUMER & GOVERNMENTAL AFFAIRS BUREAU
REFERENCE INFORMATION CENTER
PETITION FOR RULEMAKING FILED

Interested persons may file statements opposing or supporting the Petition for Rulemaking listed herein within 30 days, or as noted. See Sections 1.4 and 1.405 of the Commission's rules for further information.

RM NO.	RULES SEC.	PETITIONER	DATE RECEIVED	NATURE OF PETITION
11241*	73.202(b)	SSR Communications Incorporated (SSR) (Filed By: Matthew K. Wesolowski 5270 West Jones Bridge Road Norcross, Georgia 30092)	04/04/05	Request Amendment of the FM Table of Allotments to allot Channel 265C at Prairie City, Oregon, as its second local service and Channel 267C1 at Prineville, Oregon, as its third local service and allot Channel 280C in lieu of Channel 266A at

Monument, Oregon. SSR Communications, Inc. also requests the substitution of Channel 281C1 for vacant Channel 247C1 at Weiser, Idaho and the substitution of Channel 282C2 for Channel 281C2 for station KWPK at Sisters, Oregon.

*THE ABOVE PETITION FOR RULEMAKING WILL BE TREATED AS A COUNTERPROPOSAL IN MB DOCKET NO. 05-10. REPLY COMMENTS TO THIS COUNTERPROPOSAL SHOULD BE SUBMITTED IN THIS DOCKET NO LATER THAN 15 DAYS (RATHER THAN 30 DAYS) AFTER THE DATE OF THIS PUBLIC NOTICE.

EXHIBIT D

CERTIFICATE OF SERVICE

I, Kerstin Koops Budlong, hereby certify that on this date I caused the foregoing "Petition for Reconsideration" to be served by first class mail, postage prepaid, on the following:

Gene A. Bechtel, Esq.
Law Office of Gene Bechtel
1050 17th St., NW, Suite 600
Washington, DC 20036
(Counsel for Charles Crawford)


Kerstin Koops Budlong

Dated: March 13, 2006