

**LUVAAS / COBB**

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MAY 2 2006

FCC - MAILROOM

**J. DOMINIC MONAHAN**  
*Attorney at Law*

May 1, 2006

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

VIA UPS OVERNIGHT

RE: Conditional Objection to Order to Show Cause of  
Westend Radio, LLC, Licensee of Station KQFM(FM), Hermiston, Oregon

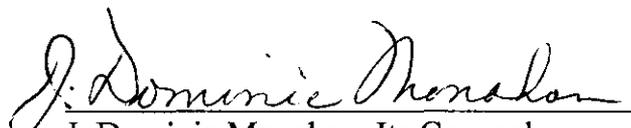
Dear Ms. Dortch:

There is transmitted herewith on behalf of Westend Radio, LLC, the licensee of Station KQFM(FM), Hermiston, Oregon [Facility ID 27076], an original and four copies of its Conditional Objection to *Order to Show Cause*.

An extra copy of this transmittal letter is enclosed, as well as a pre-addressed, stamped envelope. Please confirm your receipt of the filing of this objection by date stamping the extra copy of this transmittal letter and returning it to the undersigned counsel.

Should additional information be desired concerning this objection, please contact the undersigned counsel.

WESTEND RADIO, LLC

  
J. Dominic Monahan, Its Counsel

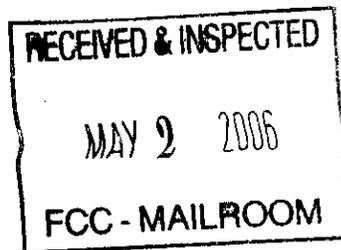
JDM/nlk  
Enclosures

cc: Ron Hughes, Westend Radio  
David Tillotson, Esquire

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*OTF*

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



In the matter of

Amendment of Section 73.202(b),  
Table of Allotments,  
FM Broadcast Stations.  
(Ione, Oregon; Walla Walla, Washington  
and Athena, Hermiston, La Grande, and  
Arlington, Oregon

MB Docket No. 05-9  
RM-11141  
RM -11142

TO: Assistant Chief, Audio Division, Media Bureau

**CONDITIONAL OBJECTION TO ORDER TO SHOW CAUSE**

Westend Radio, LLC ("Westend") the licensee of FM Station KQFM (Channel 263A), Hermiston, Oregon [Facility ID 27076], respectfully submits this Conditional Objection to the *Order to Show Cause* issued March 31, 2006 in the above-captioned proceeding. In support, the following is shown.

Two Hearts Communications, LLC ("Two Hearts"), the licensee of Station KHSS(FM), Walla Walla, Washington, filed a petition for rulemaking to substitute Channel 264C-2 for Channel 264C-3 at the station. If successful this re-allocation would require Station KQFM(FM), Hermiston, Oregon, to move from Channel 260C1 to Channel 225C1. The *Show Cause Order* would also require Station KWRL(FM), La Grande, Oregon to move to Channel 225C1 from Channel 260C1.

Whereas it appears the engineering in support of Two Hearts' proposal demonstrates that the re-allocations are technically feasible, Westend has significant concerns that Two

Hearts lacks the financial resources with which to meet its obligations to pay the reasonable and prudent costs which will be incurred to effect the requested changes in the frequencies. Attached hereto is documentation of the cost and expense estimates Westend has secured as to the technical and related costs it expects to incur should it be ordered to shift frequencies.

These include the following:

Returning of FM antenna and transmitter and related expenses	\$6,600.00
Printing expenses incurred in replacing stationery, banners, vehicles, business cards, letterhead	8,469.05
Placement of marketing items	6,094.50
Lost air time to promote station	4,950.00
Staff time reimbursement	4,500.00
Lost advertising	4,800.00
Advertising channel change on local media	54,133.00
Legal Fees	2,500.00
<b>Total Estimate</b>	<u>\$92,046.55 +</u>

The above figure represents the low end of a study which indicates that total costs associated with the channel shift could amount to as much as \$92,046.55.

Westend's concerns over Two Hearts' ability to reimburse it for the above expenses is heightened by the fact that Two Hearts will also have to pay similar, if not larger reimbursements to KSRV, Inc., the licensee of Station KWRL(FM), in La Grande, Oregon, which will be required to move some 35 channels. Given the magnitude of the KWRL channel change it is anticipated that the expenses needed to educate its audience to the

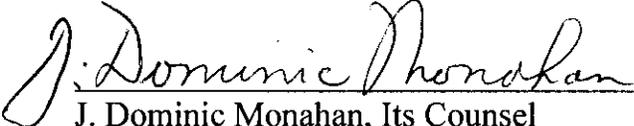
station's new dial position will be substantially greater than those incurred by Station KQFM. Thus, Two Hearts could be liable for more than \$200,000.00 in reimbursement obligations.

Westend's concern as to Two Hearts' ability to reimburse these expenses stems from the nature of Two Hearts' operation of its stations in Walla Walla, Washington.<sup>1</sup> These are facilities which operate with a very small staff and on a quasi-commercial basis. While there is no doubt that the stations operate in the public interest, there is no visible evidence that they have sufficient revenue or outside resources to meet the total costs which would be incurred if both stations KQFM and KWRL are directed to change frequencies as required by Two Hearts.

Accordingly, Westend respectfully requests that the Commission defer any action on a show cause order until Two Hearts has submitted financial documentation that it has the ability to pay the total anticipated costs outlined above and a written commitment it will do so in a timely manner. Absent such a showing, Westend respectfully submits the rulemaking and resultant *Show Cause Order* be dismissed.

**DATED** this 1<sup>st</sup> day of May, 2006.

WESTEND RADIO, LLC

  
J. Dominic Monahan, Its Counsel

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<sup>1</sup>Two Hearts operates Station KHSS(FM) using a Catholic talk format] and 1.3 Kw of power. It also operates Station KDGC(AM), a 1 kilowatt daytimer employing a news talk format.

# KQFM RADIO RETUNING FM SYSTEM

**Date: 4-24-06**

ROUND-UP ELECTRONICS SUPPLY IS PLEASED TO SUPPLY YOU WITH THE FOLLOWING PRICE QUOTATION. THIS QUOTE IS GOOD FOR 15 DAYS FROM THE ABOVE DATE. ALL PRICES DO NOT INCLUDE SHIPPING, UNLESS OTHER OTHERWISE NOTED. PLEASE FEEL FREE TO CALL WITH ANY QUESTIONS.

LINE	QUA.	STOCK NUMBER	UNIT PRICE	TOTAL
1.	1	RETUNE FM ANTENNA ON TOWER- RAPI.H MABEE. 1 DAY PLUS TRAVEL AND MOTEL/MEALS	2500.00	2500.00
2.	2	RETUNE ANTENNA ISOCOUPLER- KINTRONIC LABS. RETURNED TO KINTRONICS FOR RETUNING, INCLUDES FREIGHT.	750.00	1500.00
3.	2	RETUNE TRANSMITTER EXCITER- GOODRICH ENTERPRISES. RETURNED TO GOODRICH FOR RETUNING, INCLUDES FREIGHT	300.00	600.00
4.	35	ON SITE ENGINEERING- ROUNDUP ELECTRONICS. LOCAL ENGINEERING WORK FOR ALL ABOVE ITEMS, PLUS RETUNING OF TRANSMITTER, VERIFICATION OF AM MONITOR POINTS, AND OTHER FREQUENCY CHANGE TASKS.	55.00/HIR	1925.00
5.	1	EXCITER RENTAL- RDO BROADCAST, WHILE OUR UNIT IS OUT FOR RETUNING	75.00	75.00
6.				
7.				
8.				
9.				
10.			TOTAL	\$6600.00 PLUS SHIPPING

AUTHORIZED BY RICHARD WILSON

NOTES: SOME COSTS BILLED DIRECT FROM VENDORS, BALANCE BILLED THROUGH ROUND-UP. COSTS ARE WORST CASE, AND SHOULD NOT BE HIGHER THAN ABOVE.

# MASTER PRINTERS NORTHWEST

206 S.E. Court Ave. • Pendleton, OR 97801 • (541) 276-7845 • Toll Free: 800-261-1139 • Fax: 541-276-7964

Mr. Ron Hughes  
KOHU & KQFM  
P.O. Box 145  
Hermiston, OR 97838

April 20, 2006

Dear Ron:

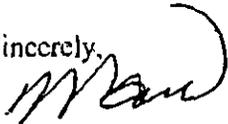
Here are the bids for the items you had requested....

#10 Regular Envelopes, white, 3 colors, 5,000.....	\$568.30
#10 Regular Envelopes, Ivory, 3 colors, 5,000.....	\$890.30
8.5x11 Letterhead, white 60# stock, 5,000 3 colors.....	\$528.10
8.5x11 Letterhead, Ivory 70# stock, 5,000 3 colors.....	\$703.10
2 Part Business Contract, 5.5x8.5 1 color, 3,000.....	\$309.90
8.5x11 Continuous 1 Part Invoice, Green Ink, 3600.....	\$276.10
8.5x11 Continuous 1 Part Statement, Green Ink, 9,000.....	\$600.50
Business Cards, 6 at 1,000 each, 3 colors.....	\$588.00
Contest Sign-up Pads 4x5, pad 100 each, 10,000, Black.....	\$481.80
Banners - 8 4'x6' Vinyl.....	\$800.00
Vehicle Door Signs, Magnetic, 2'x3', 4 Sets of 2.....	\$360.00
Letterhead Logo (All Presentation Sheets) 150 Each x 25.....	\$2,345.60
Address Stamp, self inking 1.....	\$19.95

\$8469<sup>05</sup>

Please let me know if I can be of further help.

Sincerely,



Marv Anderson



# KOHU KQFM

AM 1360 100.5 FM

*The Pride of Hermiston and Your Source for News and Information*

April 25, 2006

Continued Expenses of Frequency Change of KQFM FM in Hermiston, Oregon from 100.5 to 100.1

Additional Categories:

Marketing Items in stock to be replaced:

Balloons-10,000 Total Expense \$1467.30 (bid enclosed)  
Pencils 5,000 Total Expense \$877.20 (bid enclosed)  
Wall and Door Office Logos Repainted \$700.00  
Station Vests and Shirts 10 each \$650.00  
Station Hats 40 each \$600.00  
Station Water Bottles \$1800.00

Total Replacement Cost of this category \$6094.50

Reimbursement of Lost Air time while off Air:

KQFM FM 4 hours off air-daytime  
@ \$300.00 per hour Total \$1200.00  
8 hours off air-night-time  
@ \$200.00 per hour Total \$1600.00

KOHU AM 4 hours off air-daytime  
@\$350.00 per hour Total \$1400.00  
3 hours off air-night-time  
@ \$250.00 per hour Total \$750.00

Total Reimbursement of Value of Lost Air Time \$4950.00

Additional Staff Needed to Implement All Changes:

Time needed to change all on-air production, arrange all changes, planning, implementation and execution time to conduct changes including liners, marketing, and additional staff needed

Total Additional Staff Time Reimbursement Expense: \$4500.00

Use of KQFM/KOHU air-time Avails:

During certain time periods time will be needed to promote frequency change when there are no avails. This will require the bumping of paid ads resulting in a cost to company.

Re-imburement of KQFM air Avails Total Cost: 200 ads @ \$12.00 \$2400.00  
Re-imburement of KOHU air Avails Total Cost : 200 ads @ \$12.00 \$2400.00

Total of Air Avails: \$4800.00

Mark & Mary Creations Ltd  
Hempstead, Oregon

## KOHU ITEMS

Pencils & Balloons  
4/24/2006

Item #	Description	Quantity	Price/Piece	Set-Up	Freight Estimate	Total
* 14050	Frost Britte Pencil (White with Purple Ferrule)	5000	\$0.16	\$20.00	\$57.20	\$877.20
BTSS	Colored Pencil with Brass Colored Ferrule	5000	\$0.11	\$0.00	\$55.00	\$605.00
<i>*Colors available include white, yellow, dark green, dark blue, royal blue, red, orange, silver, gold, <u>purple</u>, burgundy, l</i>						
11RAM	11" Metallic Gold Balloon with Purple Imprint	10000	\$0.17	\$39.00	\$58.30	\$1,787.30
09RAM	9" Metallic Gold Balloon with Purple Imprint	10000	\$0.15	\$39.00	\$58.30	\$1,607.30
* 11RAB	11" Standard Yellow Balloon with Purple Imprint	10000	\$0.14	\$39.00	\$58.30	\$1,467.30
09RAB	9" Standard Yellow Balloon with Purple Imprint	10000	\$0.12	\$39.00	\$58.30	\$1,297.30

\*Items presently in stock that would need to be replaced

## PRODUCTION ESTIMATE

Date:  Client:   
 Job Number:  Job Name:

### Television

Includes Agency time to concept one television spot.	\$ 5,000
Option A: Station produced television spot	\$ 1,000
Option B: Local market production company	\$ 15,000
Option C: Regional-market production company	\$ 30,000
Airtime. Tri-Cities broadcast and cable - Hermiston & Pendleton. This would be a flighted 3-6 month schedule.	\$ 8,000
Option A Subtotal	\$ 14,000
Option B Subtotal	\$ 28,000
Option C Subtotal	\$ 43,000

### Website

Includes Agency time to concept and design one front splash page plus 4 - 5 additional html pages	
This also includes production of conceptual site.	Subtotal \$ 10,000

### Outdoor Bill Board

Includes Agency time to concept and design one outdoor billboard and provide client with final files.	\$ 4,500
Display costs with local billboard company. This is for 2-3 billboards for 3-4 months.	\$ 2,500
Subtotal	\$ 7,000

### Newspaper

Includes Agency time and cost to design and concept two newspaper ads for the local market.	\$ 5,800
Insertion Costs. Pendleton, Eastern Oregonian, Hermiston Herald	\$ 10,533
This includes one full page, four color ad and one 1/4 page, black and white ad running flighted for 3-6 months.	
Subtotal	\$ 16,333

### Direct Mail

Includes Agency time to concept and design a direct mail postcard	\$ 5,000
Includes printing and postage costs for roughly 7,000 households or 13,000 people	\$ 1,800
Subtotal	\$ 6,800

<b>TOTAL PROJECT COST OPTION A:</b>	<b>\$ 54,133</b>
<b>TOTAL PROJECT COST OPTION B:</b>	<b>\$ 68,133</b>
<b>TOTAL PROJECT COST OPTION C:</b>	<b>\$ 83,133</b>

Client approval: \_\_\_\_\_

Date: \_\_\_\_\_

**CERTIFICATE OF SERVICE**

I, Nancy Lee Kemper, a secretary in the law offices of Luvaas Cobb, certify that I have on this 1<sup>st</sup> day of May, 2006 sent by United States mail, postage prepaid, on behalf of Westend Radio, LLC, copies of the foregoing *Conditional Objection to Order to Show Cause* to:

David Tillotson, Esquire  
4606 Charleston Terrace, NW  
Washington, DC 20007-1911  
Attorney for Two Hearts Communications, LLC

  
\_\_\_\_\_  
Nancy Lee Kemper