

ORIGINAL

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)
(The Dalles, Tualatin, Eugene, Albany,)
Lebanon, Paisley, and Diamond Lake,)
Oregon and Goldendale, Washington))

MB Docket No. 05-10
RM-11279

FILED/ACCEPTED

MAR 30 2009

Federal Communications Commission
Office of the Secretary

TO: The Secretary
Attention: Chief, Audio Division
Media Bureau

SUPPLEMENT TO MOTION FOR STAY

Cumulus Licensing LLC ("Cumulus"), by its attorneys, hereby submits its Supplement to Motion for Stay, filed November 14, 2008, with respect to the above-captioned proceeding. Attached as Exhibit A is a Petition for Review filed with the United States Court of Appeals for the D.C. Circuit with respect to the decision issued by the Federal Aviation Administration ("FAA") whereby the FAA (1) denied Cumulus' request to terminate the reimbursable agreement between the FAA and Portland Broadcasting, LLC ("PB") with respect to the localizer frequencies in use at the Eugene, Oregon airport and (2) denied Cumulus'

No. of Copies rec'd
List ABCDE 094

request to enter into a reimbursable agreement with the FAA to change the frequencies back to those in use prior to implementation of the PB agreement.

Respectfully submitted,

CUMULUS LICENSING LLC



Alan C. Campbell

Michelle A. McClure

Its Counsel

FLETCHER, HEALD & HILDRETH, PLC
1300 N. 17th Street, 11th Floor
Arlington, VA 22209
703-812-0400

March 30, 2009

W:\DOCS\Clients\50004\50004-01\00049916.DOC

RECEIVED
U.S. COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA
STAMP AND RETURN

**IN THE
UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

709 MAR 25 PM 7:50
FILING DEPOSITION

Cumulus Broadcasting LLC,)
)
)
) Petitioner,)
) Case No. _____)
) v.)
))
) Federal Aviation Administration,)
))
) Respondent.)
)

PETITION FOR REVIEW

Cumulus Broadcasting LLC (“Cumulus”), acting pursuant to 49 U.S.C. § 46110, Rule 15 of the Federal Rules of Appellate Procedure (“FRAP”), and Circuit Rule 15(a), hereby petitions the Court for review of the following Federal Aviation Administration (“FAA”) decision: Letter dated January 26, 2009 from James R. Whitlow, Deputy Chief Counsel for Policy and Adjudication, FAA, to Lewis J. Paper, Dickstein Shapiro, LLP (attorneys for Cumulus) (“*Order*”). A copy of the *Order* is attached hereto as Exhibit 1.

In accordance with FRAP Rule 15(c) and Circuit Rule 26.1, attached hereto are a corporate disclosure statement and list of persons upon whom this Petition has been served.

Respectfully submitted,

DICKSTEIN SHAPIRO LLP
1825 Eye Street, NW
Washington, DC 20006-5403
Telephone: (202) 420-2265
(202) 420-2290

Email: paperl@dicksteinshapiro.com
farberj@dicksteinshapiro.com

Attorneys for Cumulus Broadcasting LLC

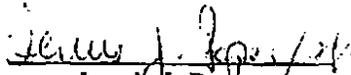
By: 
Lewis J. Paper
Jacob S. Farber

EXHIBIT 1



U.S. Department
of Transportation
Federal Aviation
Administration

Office of the Chief Counsel

800 Independence Ave., S.W.
Washington, D.C. 20591

January 26, 2009

Lewis J. Paper, Esq.
Dickstein Shapiro LLP
1825 Eye Street, NW
Washington, DC 20006-5403

Dear Mr. Paper:

This is in response to your request that the FAA terminate the reimbursable agreement with Portland Broadcasting with respect to changing the localizer frequencies at the Mahlon Sweet Field Airport in Eugene, Oregon, and the other related issues you have raised directly to the Office of the Chief Counsel. I have been designated by the Chief Counsel to make the final agency decision on these matters.

Your request that FAA terminate the reimbursable agreement or defer its implementation is denied. The agency's authority to enter into a reimbursable agreement flows from our determination that the agreement would be in the public interest. Here, accepting payment to change the localizer frequencies so that our air navigation aids would no longer be an impediment to the FCC's assignment of a radio frequency is clearly in the public interest. Therefore, I must conclude that the FAA Northwest Mountain Region had ample authority to enter into the reimbursable agreement. This is true even though the agreement is not being funded by the entity that would be ordered to move to the conflicting radio frequency, and was executed in advance of a determination by the FCC that such a move should be ordered.

In reaching this decision, I have taken into account the ethical issues you raised concerning a former FAA employee who participated in the initial hazard determination process, and then subsequently prepared an analysis and recommendation on how the hazard could be eliminated by the actions funded by the reimbursable agreement. The Northwest Mountain Region, through its Regional Administrator, was also concerned about the ethical implications of the former employee's participation in the reimbursable agreement process, and requested an investigation by the DOT Office of the Inspector General. After reviewing that report, the Northwest Mountain Region concluded that the former employee's preparation of the analysis and recommendation for Portland Broadcasting did not preclude the agency from entering into the reimbursable agreement. I concur with their conclusion. The initial hazard determination is a separate matter from the subsequent proposal from Portland Broadcasting to eliminate the hazard through the reimbursable agreement. I agree with the Northwest Mountain Region's determination that the employee's conduct was not an ethical violation.

I have also considered the other matters you raised, including the fact that the entity who funded the reimbursable agreement and then requested a new hazard determination was not the entity that would move to the new frequency. Although these occurrences are a tad

RECEIVED

JAN 28 2009

unusual, they are not really relevant to the agency's authority to enter into the reimbursable agreement or issue the new "no hazard" determination.

I must also inform you that FAA has rejected your request for the agency to enter into a reimbursable agreement with Cumulus Broadcasting to change the frequency back, pending an FCC determination on Portland Broadcasting's request to the FCC. There currently is no public interest justification for changing the frequency again until the FCC decides, particularly since this would return our navigation aid to the status of an impediment to assignment of the frequency by the FCC.

Finally, I want to emphasize that the FAA's decision to enter into the reimbursable agreement should not be construed by anyone as an endorsement of the motion to the FCC to have your company move to the new frequency. Our finding that it would be in the public interest to change the localizer frequency should not be cited or relied upon to influence the merits of the FCC's decision on Cumulus Broadcasting's request for an order.

Sincerely,



James W. Whitlow
Deputy Chief Counsel for Policy and Adjudication

**IN THE
UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

Cumulus Broadcasting LLC,)	
)	
Petitioner,)	
)	Case No. _____
v.)	
)	
Federal Aviation Administration,)	
)	
Respondent.)	
)	

CORPORATE DISCLOSURE STATEMENT

Cumulus Broadcasting LLC (“Cumulus”), acting pursuant to Circuit Rule 26.1, hereby submits this corporate disclosure statement.

Cumulus is a wholly-owned subsidiary of Cumulus Media Inc. (“CMI”). CMI is publicly-traded on NASDAQ. The only party which owns ten percent (10%) or more of CMI stock is Bank of America (through its affiliates, including Bank of America Capital Investors).

Cumulus is in the business of owning and operating radio stations.

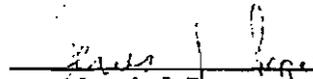
Respectfully submitted,

DICKSTEIN SHAPIRO LLP
1825 Eye Street, NW
Washington, DC 20006-5403
Telephone: (202) 420-2265
(202) 420-2290

Email: paperl@dicksteinshapiro.com
farberj@dicksteinshapiro.com

Attorneys for Cumulus Broadcasting LLC

By:



Lewis J. Paper
Jacob S. Farber

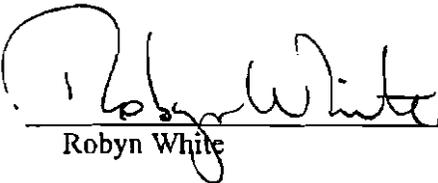
CERTIFICATE OF SERVICE

I hereby certify that on March 25, 2009, a copy of the foregoing Petition for Review and Corporate Disclosure Statement was sent by hand delivery and first class U.S. mail, postage prepaid, to the following individuals:

The Honorable Lynne A. Osmus
Acting Administrator
Federal Aviation Administration
800 Independence Avenue, SW
Washington, DC 20591

James W. Whitlow, Chief Counsel (Acting)
Office of the Chief Counsel
Federal Aviation Administration
800 Independence Avenue, SW
Washington, DC 20591

Lee J. Peltzman
Shainis & Peltzman, Chartered
Suite 240
1850 M Street, NW
Washington, DC 20036



Robyn White

CERTIFICATE OF SERVICE

I, Barbara L. Lyle, a secretary in the law firm of Fletcher, Heald & Hildreth, PLC, do hereby certify that a true copy of the "Supplement to Motion for Stay" was sent this 30th day of March, 2009, via United States First Class Mail, postage prepaid, to the following:

Peter Doyle, Esq. (Peter.Doyle@fcc.gov)
Chief, Audio Division, Media Bureau
Federal Communications Commission
445 12th Street, SW
Room 2-A360
Washington, DC 20554

John A. Karousos (John.Karousos@fcc.gov)
Assistant Chief, Audio Division, Media Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Rodolfo Bonacci (Rodolfo.Bonacci@fcc.gov)
Media Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Rolanda F. Smith (Rolanda.Smith@fcc.gov)
Media Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

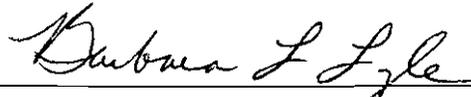
Lee J. Peltzman, Esq.
Aaron P. Shainis, Esq.
Shainis & Peltzman, Chartered
Counselors at Law
1850 M Street, NW
Suite 240
Washington, DC 20036

J. Dominic Monahan, Esq.
Luvaas Cobb
777 High Street, 27853, Suite 300
Eugene, OR 97401

Lewis J. Paper, Esq.
Dickstein Shapiro LLP
1825 Eye Street, N.W.
Washington, D.C. 20006

Erwin G. Krasnow, Esq.
Garvey Schubert Barer
1000 Potomac Street, N.W.
5th Floor, Flour Mill Building
Washington, D.C. 20007

Western Oregon Radio Club
9115 SW 176th Avenue
Beaverton, OR 97007


Barbara L. Lyle