

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

FILED/ACCEPTED

AUG 10 2011

Federal Communications Commission  
Office of the Secretary

In re )  
)  
**MARITIME COMMUNICATIONS/LAND** ) EB Docket No. 11-71  
**MOBILE, LLC** ) File No. EB-09-IH-1751  
) FRN: 0013587779  
)  
Participant in Auction No. 61 and Licensee of )  
Various Authorizations in the Wireless Radio )  
Services )  
)  
Applicant for Modification of Various ) Application File Nos. 0004030479,  
Authorizations in the Wireless Radio Services ) 0004144435, 0004193028, 0004193328,  
) 0004354053, 0004309872, 0004310060,  
) 0004314903, 0004315013, 0004430505,  
**Applicant with ENCANA OIL AND GAS (USA),** ) 0004417199, 0004419431, 0004422320,  
**INC.; DUQUESNE LIGHT COMPANY; DCP** ) 0004422329, 0004507921, 0004153701,  
**MIDSTREAM, LP; JACKSON COUNTY** ) 0004526264, 0004636537,  
**RURAL MEMBERSHIP ELECTRIC** ) and 0004604962  
**COOPERATIVE; PUGET SOUND ENERGY,** )  
**INC.; ENBRIDGE ENERGY COMPANY,** )  
**INC.; INTERSTATE POWER AND LIGHT** )  
**COMPANY; WISCONSIN POWER AND** )  
**LIGHT COMPANY; DIXIE ELECTRIC** )  
**MEMBERSHIP CORPORATION, INC.;** )  
**ATLAS PIPELINE – MID CONTINENT, LLC;** )  
**DENTON COUNTY ELECTRIC** )  
**COOPERATIVE, INC. , DBA COSERV** )  
**ELECTRIC; AND SOUTHERN CALIFORNIA** )  
**REGIONAL RAIL AUTHORITY** )

To: Marlene H. Dortch, Secretary  
Attention: Chief Administrative Law Judge Richard L. Sippel

**ENFORCEMENT BUREAU'S**  
**OPPOSITION TO MOTION TO DEFER ALL PROCEDURAL DATES**

1. On August 1, 2011, Maritime requested the deferral of all procedural dates in this proceeding based solely on the fact that it voluntarily filed for bankruptcy protection that same day and that it intends, at some undefined time in the future, to seek *Second Thursday* treatment

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of as yet unidentified transactions.<sup>1</sup> As discussed more fully below, Maritime's failure to provide any information concerning the transactions for which Maritime intends to seek *Second Thursday* treatment makes it impossible to gauge the impact of such extraordinary relief – if such relief is even granted – on the course of this hearing. As such, Maritime's request to essentially hold the hearing proceeding in abeyance is premature, and the Chief, Enforcement Bureau, by her attorneys and pursuant to Section 1.294 of the Commission's Rules,<sup>2</sup> hereby opposes it.

2. Maritime requests that the Presiding Judge place this case on hold on the basis of its assertion that it voluntarily filed for bankruptcy on August 1, 2011 and intends at some point in the future to petition for extraordinary relief under the Commission's *Second Thursday* doctrine.<sup>3</sup> Yet, Maritime has not filed a petition seeking such extraordinary relief and does not offer any indication of when it might do so. Maritime also has not identified the transactions for which it purportedly intends to seek *Second Thursday* treatment, except to the extent that it suggests it may attempt to sell only some, and not all, of the licenses designated for hearing.<sup>4</sup> Nor has Maritime identified potential buyers or a timetable for finding such potential buyers, or explained how the proceeds of any potential transactions shall be distributed to benefit innocent creditors and not Maritime or the DePriests. In fact, Maritime has presented no evidence – such as its financial statements, an itemization of its assets and liabilities, and a list of its creditors – demonstrating that its bankruptcy claim is even legitimate, and not just a litigation tactic to avoid

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<sup>1</sup> See Maritime's Motion to Defer All Procedural Dates ("Motion").

<sup>2</sup> See 47 C.F.R. § 1.294.

<sup>3</sup> *Second Thursday Corp.*, 25 FCC 2d 1112 (1970) ("*Second Thursday*"). Pursuant to the *Second Thursday* doctrine, the mere filing of a bankruptcy petition does not immediately remove the case from the Commission's general rule that "during the pendency of a hearing involving the character qualifications of a licensee, no assignment of license will be authorized." *Capital City Communications, Inc.*, 33 FCC 2d 703 (1971). Rather, the Commission will approve an assignment of a license without resolving outstanding character issues only when the alleged wrongdoers will derive no substantial direct or indirect benefit from the transaction or will derive only a minor benefit which is outweighed by the equities in favor of innocent creditors. See *Second Thursday Corp.*, 25 FCC 2d 1112 (1970); *Shell Broadcasting, Inc.* 38 FCC 2d 929 (1973).

<sup>4</sup> See Motion at 2.

responding to the Bureau's pending discovery requests and continuing with this hearing.<sup>5</sup>

Maritime did not even attach a copy of its voluntary bankruptcy petition to its Motion.<sup>6</sup> To stay all of the procedural dates in this hearing now, under such speculative circumstances, would be inconsistent with Commission precedent and the public interest in having the question of Maritime's character qualification addressed expeditiously.<sup>7</sup>

3. In addition, it is unclear from Maritime's Motion that all of the issues designated for hearing will be addressed by Maritime's planned *Second Thursday* filing. Indeed, if as Maritime suggests in its Motion, it intends to sell only some of the licenses that have been designated for hearing in order to pay its creditors and thus to seek *Second Thursday* treatment for only those transactions,<sup>8</sup> there will remain substantial and material questions of fact concerning Maritime's qualifications to be and to remain a licensee of the remaining licenses. Under such circumstances, Maritime's *Second Thursday* petition will not eliminate the need for a hearing. Moreover, Maritime appears to concede that at least one of the issues designated for hearing – whether Maritime constructed or operated any of its stations at variance with sections 1.955(a) and 80.49(a) of the Commission's Rules<sup>9</sup> – will **not** be addressed by its *Second Thursday* petition.<sup>10</sup> For this reason, as well, it would be inconsistent with the public interest to

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<sup>5</sup> Notably, many of the Bureau's outstanding discovery requests to Maritime are directed to the DePriest's affiliations and are likely to be relevant in determining whether the DePriests will derive any benefit from the transactions for which Maritime ultimately seeks *Second Thursday* treatment.

<sup>6</sup> Tellingly, Maritime's bankruptcy petition is nothing but a bare-bones form. It does not include any information concerning Maritime's finances or an identification of its creditors. See Exhibit A filed herewith.

<sup>7</sup> Compare *MobileMedia Corp. et. al.*, 12 FCC Rcd 7927 (1997) (stayed license revocation hearing to permit MobileMedia to seek relief under the *Second Thursday* doctrine **after** it identified the transactions for which it sought *Second Thursday* treatment and **after** it sufficiently demonstrated that potential wrongdoers could not benefit as a result of those transactions); see also *Peoria Community Broadcasters, Inc.*, 79 FCC 2d 311 (1980) (proceeding with hearing on license renewal application when "no showing has been made that individuals charged with misconduct will not benefit" from the transaction or that any innocent creditors would be protected).

<sup>8</sup> See Motion at 2.

<sup>9</sup> See *Maritime Communications/Land Mobile, LLC*, Order to Show Cause, Hearing Designation Order, and Notice of Opportunity for Hearing, EB Docket No. 11-71, FCC-11-64, rel. April 19, 2011 ("HDO") at ¶ 62(g).

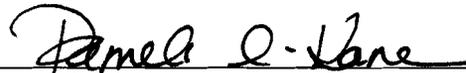
<sup>10</sup> See Motion at fn. 6. Although the Bureau agrees that whether Maritime constructed or operated any of its stations

defer all of the procedural dates in this proceeding at this time.

4. For the foregoing reasons, the Bureau respectfully asks the Presiding Judge to deny Maritime's request for an indefinite deferral of all dates in this proceeding. This proceeding should move forward unfettered, with Maritime expeditiously serving on the Bureau its answers to the Bureau's outstanding interrogatories and requests for documents and with all parties continuing with the discovery process in accordance with the schedule set forth in the Presiding Judge's June 16, 2011 Order.<sup>11</sup>

Respectfully submitted,

P. Michele Ellison  
Chief, Enforcement Bureau



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Deputy Chief  
Investigations and Hearings Division  
Enforcement Bureau

Brian J. Carter  
Attorney  
Investigations and Hearings Division  
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445 12th Street SW  
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August 10, 2011

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at variance with Sections 1.955(a) and 80.49(a) of the Commission's Rules is not a basic qualifications issue, it has nevertheless been designated by the Commission as an issue in the HDO. In the absence of an agreed-upon settlement of that issue, approved by the Presiding Judge, this issue remains in the hearing.

<sup>11</sup> See Order, FCC 11M-15 (ALJ, rel. June 16, 2011).

**EXHIBIT A**

BT (Official Form 1)(4/10)

**United States Bankruptcy Court  
Northern District of Mississippi**

**Voluntary Petition**

Name of Debtor (if individual, enter Last, First, Middle): <b>Maritime Communications/Land Mobile, LLC</b>	Name of Joint Debtor (Spouse) (Last, First, Middle):
All Other Names used by the Debtor in the last 8 years (include married, maiden, and trade names):	All Other Names used by the Joint Debtor in the last 8 years (include married, maiden, and trade names):
Last four digits of Soc. Sec. or Individual-Taxpayer I.D. (ITIN) No./Complete EIN (if more than one, state all) <b>20-2956909</b>	Last four digits of Soc. Sec. or Individual-Taxpayer I.D. (ITIN) No./Complete EIN (if more than one, state all)
Street Address of Debtor (No. and Street, City, and State): <b>206 8th Street North Columbus, MS</b> ZIP Code: <b>39703</b>	Street Address of Joint Debtor (No. and Street, City, and State): ZIP Code:
County of Residence or of the Principal Place of Business: <b>Lowndes</b>	County of Residence or of the Principal Place of Business:
Mailing Address of Debtor (if different from street address): <b>PO Box 1076 Columbus, MS</b> ZIP Code: <b>39703</b>	Mailing Address of Joint Debtor (if different from street address): ZIP Code:

Location of Principal Assets of Business Debtor (if different from street address above):

<b>Type of Debtor</b> (Form of Organization) (Check one box) <ul style="list-style-type: none"> <li><input type="checkbox"/> Individual (includes Joint Debtors) <i>See Exhibit D on page 2 of this form.</i></li> <li><input checked="" type="checkbox"/> Corporation (includes LLC and LLP)</li> <li><input type="checkbox"/> Partnership</li> <li><input type="checkbox"/> Other (if debtor is not one of the above entities, check this box and state type of entity below.)</li> </ul>	<b>Nature of Business</b> (Check one box) <ul style="list-style-type: none"> <li><input type="checkbox"/> Health Care Business</li> <li><input type="checkbox"/> Single Asset Real Estate as defined in 11 U.S.C. § 101 (51B)</li> <li><input type="checkbox"/> Railroad</li> <li><input type="checkbox"/> Stockbroker</li> <li><input type="checkbox"/> Commodity Broker</li> <li><input type="checkbox"/> Clearing Bank</li> <li><input checked="" type="checkbox"/> Other</li> </ul>	<b>Chapter of Bankruptcy Code Under Which the Petition is Filed</b> (Check one box) <ul style="list-style-type: none"> <li><input type="checkbox"/> Chapter 7</li> <li><input type="checkbox"/> Chapter 9</li> <li><input checked="" type="checkbox"/> Chapter 11</li> <li><input type="checkbox"/> Chapter 12</li> <li><input type="checkbox"/> Chapter 13</li> <li><input type="checkbox"/> Chapter 15 Petition for Recognition of a Foreign Main Proceeding</li> <li><input type="checkbox"/> Chapter 15 Petition for Recognition of a Foreign Nonmain Proceeding</li> </ul>
<b>Tax-Exempt Entity</b> (Check box, if applicable) <ul style="list-style-type: none"> <li><input type="checkbox"/> Debtor is a tax-exempt organization under Title 26 of the United States Code (the Internal Revenue Code).</li> </ul>		<b>Nature of Debts</b> (Check one box) <ul style="list-style-type: none"> <li><input type="checkbox"/> Debts are primarily consumer debts, defined in 11 U.S.C. § 101(8) as "incurred by an individual primarily for a personal, family, or household purpose."</li> <li><input checked="" type="checkbox"/> Debts are primarily business debts.</li> </ul>

<b>Filing Fee</b> (Check one box) <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Full Filing Fee attached</li> <li><input type="checkbox"/> Filing Fee to be paid in installments (applicable to individuals only). Must attach signed application for the court's consideration certifying that the debtor is unable to pay fee except in installments. Rule 1006(b). See Official Form 3A.</li> <li><input type="checkbox"/> Filing Fee waiver requested (applicable to chapter 7 individuals only). Must attach signed application for the court's consideration. See Official Form 3B.</li> </ul>	<b>Chapter 11 Debtors</b> <ul style="list-style-type: none"> <li><input type="checkbox"/> Debtor is a small business debtor as defined in 11 U.S.C. § 101(51D).</li> <li><input checked="" type="checkbox"/> Debtor is not a small business debtor as defined in 11 U.S.C. § 101(51D).</li> </ul> Check if: <ul style="list-style-type: none"> <li><input type="checkbox"/> Debtor's aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$2,343,300 (amount subject to adjustment on 4/01/13 and every three years thereafter).</li> </ul> Check all applicable boxes: <ul style="list-style-type: none"> <li><input type="checkbox"/> A plan is being filed with this petition.</li> <li><input type="checkbox"/> Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).</li> </ul>
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**Statistical/Administrative Information**

Debtor estimates that funds will be available for distribution to unsecured creditors.

Debtor estimates that, after any exempt property is excluded and administrative expenses paid, there will be no funds available for distribution to unsecured creditors.

**Estimated Number of Creditors**

<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>							
1-49	50-99	100-199	200-999	1,000-5,000	5,001-10,000	10,001-25,000	25,001-50,000	50,001-100,000	OVER 100,000

**Estimated Assets**

<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
\$0 to \$50,000	\$50,001 to \$100,000	\$100,001 to \$500,000	\$500,001 to \$1 million	\$1,000,001 to \$10 million	\$10,000,001 to \$50 million	\$50,000,001 to \$100 million	\$100,000,001 to \$500 million	\$500,000,001 to \$1 billion	More than \$1 billion

**Estimated Liabilities**

<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
\$0 to \$50,000	\$50,001 to \$100,000	\$100,001 to \$500,000	\$500,001 to \$1 million	\$1,000,001 to \$10 million	\$10,000,001 to \$50 million	\$50,000,001 to \$100 million	\$100,000,001 to \$500 million	\$500,000,001 to \$1 billion	More than \$1 billion

THIS SPACE IS FOR COURT USE ONLY

**Voluntary Petition**

(This page must be completed and filed in every case)

Name of Debtor(s):  
**Maritime Communications/Land Mobile, LLC**

**All Prior Bankruptcy Cases Filed Within Last 8 Years (If more than two, attach additional sheet)**

Location Where Filed: <b>- None -</b>	Case Number:	Date Filed:
Location Where Filed:	Case Number:	Date Filed:

**Pending Bankruptcy Case Filed by any Spouse, Partner, or Affiliate of this Debtor (If more than one, attach additional sheet)**

Name of Debtor: <b>- None -</b>	Case Number:	Date Filed:
District:	Relationship:	Judge:

**Exhibit A**

(To be completed if debtor is required to file periodic reports (e.g., forms 10K and 10Q) with the Securities and Exchange Commission pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 and is requesting relief under chapter 11.)

Exhibit A is attached and made a part of this petition.

**Exhibit B**

(To be completed if debtor is an individual whose debts are primarily consumer debts.)  
I, the attorney for the petitioner named in the foregoing petition, declare that I have informed the petitioner that [he or she] may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available under each such chapter. I further certify that I delivered to the debtor the notice required by 11 U.S.C. §342(b).

**X** \_\_\_\_\_  
Signature of Attorney for Debtor(s) (Date)

**Exhibit C**

Does the debtor own or have possession of any property that poses or is alleged to pose a threat of imminent and identifiable harm to public health or safety?

- Yes, and Exhibit C is attached and made a part of this petition.
- No.

**Exhibit D**

(To be completed by every individual debtor. If a joint petition is filed, each spouse must complete and attach a separate Exhibit D.)

- Exhibit D completed and signed by the debtor is attached and made a part of this petition.
- If this is a joint petition:
- Exhibit D also completed and signed by the joint debtor is attached and made a part of this petition.

**Information Regarding the Debtor - Venue**

(Check any applicable box)

- Debtor has been domiciled or has had a residence, principal place of business, or principal assets in this District for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other District.
- There is a bankruptcy case concerning debtor's affiliate, general partner, or partnership pending in this District.
- Debtor is a debtor in a foreign proceeding and has its principal place of business or principal assets in the United States in this District, or has no principal place of business or assets in the United States but is a defendant in an action or proceeding [in a federal or state court] in this District, or the interests of the parties will be served in regard to the relief sought in this District.

**Certification by a Debtor Who Resides as a Tenant of Residential Property**

(Check all applicable boxes)

- Landlord has a judgment against the debtor for possession of debtor's residence. (If box checked, complete the following.)

\_\_\_\_\_  
(Name of landlord that obtained judgment)

\_\_\_\_\_  
(Address of landlord)

- Debtor claims that under applicable nonbankruptcy law, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after the judgment for possession was entered, and
- Debtor has included in this petition the deposit with the court of any rent that would become due during the 30-day period after the filing of the petition.
- Debtor certifies that he/she has served the Landlord with this certification. (11 U.S.C. § 362(l)).

**Voluntary Petition**

*(This page must be completed and filed in every case)*

Name of Debtor(s):  
**Maritime Communications/Land Mobile, LLC**

**Signatures**

**Signature(s) of Debtor(s) (Individual/Joint)**

I declare under penalty of perjury that the information provided in this petition is true and correct.  
[If petitioner is an individual whose debts are primarily consumer debts and has chosen to file under chapter 7] I am aware that I may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, understand the relief available under each such chapter, and choose to proceed under chapter 7.  
[If no attorney represents me and no bankruptcy petition preparer signs the petition] I have obtained and read the notice required by 11 U.S.C. §342(b).  
  
I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.

X \_\_\_\_\_  
Signature of Debtor

X \_\_\_\_\_  
Signature of Joint Debtor

\_\_\_\_\_  
Telephone Number (If not represented by attorney)

\_\_\_\_\_  
Date

**Signature of a Foreign Representative**

I declare under penalty of perjury that the information provided in this petition is true and correct, that I am the foreign representative of a debtor in a foreign proceeding, and that I am authorized to file this petition.

(Check only one box.)

I request relief in accordance with chapter 15 of title 11, United States Code. Certified copies of the documents required by 11 U.S.C. §1515 are attached.

Pursuant to 11 U.S.C. §1511, I request relief in accordance with the chapter of title 11 specified in this petition. A certified copy of the order granting recognition of the foreign main proceeding is attached.

X \_\_\_\_\_  
Signature of Foreign Representative

\_\_\_\_\_  
Printed Name of Foreign Representative

\_\_\_\_\_  
Date

**Signature of Attorney\***

X /s/ Craig M. Geno  
Signature of Attorney for Debtor(s)

Craig M. Geno 4793  
Printed Name of Attorney for Debtor(s)

Harris Jernigan & Geno, PLLC  
Firm Name  
587 Highland Colony Parkway (39157)  
P. O. Box 3380  
Ridgeland, MS 39158-3380

\_\_\_\_\_  
Address

601-427-0048 Fax: 601-427-0050  
Telephone Number

August 1, 2011  
Date

\*In a case in which § 707(b)(4)(D) applies, this signature also constitutes a certification that the attorney has no knowledge after an inquiry that the information in the schedules is incorrect.

**Signature of Non-Attorney Bankruptcy Petition Preparer**

I declare under penalty of perjury that: (1) I am a bankruptcy petition preparer as defined in 11 U.S.C. § 110; (2) I prepared this document for compensation and have provided the debtor with a copy of this document and the notices and information required under 11 U.S.C. §§ 110(b), 110(h), and 342(b); and, (3) if rules or guidelines have been promulgated pursuant to 11 U.S.C. § 110(h) setting a maximum fee for services chargeable by bankruptcy petition preparers, I have given the debtor notice of the maximum amount before preparing any document for filing for a debtor or accepting any fee from the debtor, as required in that section. Official Form 19 is attached.

\_\_\_\_\_  
Printed Name and title, if any, of Bankruptcy Petition Preparer

Social-Security number (If the bankruptcy petition preparer is not an individual, state the Social Security number of the officer, principal, responsible person or partner of the bankruptcy petition preparer.) (Required by 11 U.S.C. § 110.)

\_\_\_\_\_  
Address

X \_\_\_\_\_  
Date

Signature of Bankruptcy Petition Preparer or officer, principal, responsible person, or partner whose Social Security number is provided above.

Names and Social-Security numbers of all other individuals who prepared or assisted in preparing this document unless the bankruptcy petition preparer is not an individual:

If more than one person prepared this document, attach additional sheets conforming to the appropriate official form for each person.

*A bankruptcy petition preparer's failure to comply with the provisions of title 11 and the Federal Rules of Bankruptcy Procedure may result in fines or imprisonment or both 11 U.S.C. §110; 18 U.S.C. §156.*

**Signature of Debtor (Corporation/Partnership)**

I declare under penalty of perjury that the information provided in this petition is true and correct, and that I have been authorized to file this petition on behalf of the debtor.

The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.

X /s/ Sandra M. DePriest  
Signature of Authorized Individual

Sandra M. DePriest  
Printed Name of Authorized Individual

President  
Title of Authorized Individual

August 1, 2011  
Date

**CERTIFICATE OF SERVICE**

Alicia McCannon, an Enforcement Analyst in the Enforcement Bureau's Investigations and Hearings Division, certifies that she has on this 10th day of August, 2011, sent by first class United States mail copies of the foregoing "ENFORCEMENT BUREAU'S OPPOSITION TO MOTION TO DEFER ALL PROCEDURAL DATES" to:

The Honorable Richard L. Sippel  
Chief Administrative Law Judge  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554 (by hand, courtesy copy)

Sandra DePriest  
Maritime Communications/Land Mobile LLC  
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Alexandria, Virginia 22314

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Howard Liberman

Patrick McFadden

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Washington, DC 20005-1209

**Counsel for Warren Havens; V2G LLC; Telesaurus Holdings GB; Verde Systems;  
Intelligent Transportation and & Monitoring Wireless; Environmental LLC; and  
Skybridge Spectrum Foundation**

A handwritten signature in black ink, appearing to read "Alicia McCannon". The signature is fluid and cursive, with a horizontal line drawn underneath the name.

Alicia McCannon