

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

In Re the Matter of

Creation of A Low Power Radio Service

Amendment of Service and Eligibility Rules  
for FM Broadcast Translator Stations

**MM Docket No. 99-25**

**MB Docket No. 07-172  
RM-11338**

**COMMENTS OF THE  
OREGON ASSOCIATION OF BROADCASTERS**

The Oregon Association of Broadcasters (“OAB”), through its counsel, submits the following Comments in response to the Commission’s *Third Further Notice of Proposed Rule Making* released in MM Docket No. 99-25.

**PRELIMINARY STATEMENT**

The FCC seeks comment on the impact of the recently adopted Local Community Radio Act 2010 (“LCRA”) on the procedures previously adopted to process the approximate 6,500 applications for new FM translators which remain pending from the 2003 FM translator window. Previous to the FM translator window the Commission had created the Low Power Radio Service in January, 2000, which led to a series of LPFM filing windows in 2001 (*see Creation of Low Power Radio Service*, 15 FCC Rcd 2205 (2000)). These windows led to the filing of over

3,200 applications for LPFM permits.<sup>1</sup> As of date the Commission has granted in excess of 1,140 permits for new LPFM stations.<sup>2</sup>

The need for guidance stems from the quandary created when the Commission opened the Auction No. 83 window for new non-commercial FM translator applicants in 2003, applications which would compete for the same spectrum that anticipated Low Power FM applicants (“LPFM”) would seek at such time as the Commission might open another LPFM filing window. After processing approximately 6,000 of the more than 13,000 translator applications received in the 2003 window, the Commission concluded that processing the remaining 7,000 applications, will likely limit the creation of additional LPFM licensing opportunities, primarily in large markets. The decision of the Commission was to freeze further processing of the then-remaining some 7,000 translator applications until it could adopt licensing rule changes which could resolve potential competing demands for new stations in the two services. On the basis that both LPFM and translators provided valuable service the Commission seeks to create a system where both LPFM and translators would have reasonable access to the remaining limited FM spectrum available.

During the six-year period in which the FCC wrestled with this problem, Congress passed the LCRA Act which, among other things, repealed the requirement that LPFM stations operate in minimum distance from nearby stations operating on third adjacent channels. this development opened up additional opportunities for new LPFM stations.

The LCRA also directed the Commission to make sure that licenses were made available to ***both*** FM translators and LPFMs ***based on the needs of the local community*** and at the same

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<sup>1</sup>See *Third Report and Order and Second Further Notice of Proposed Rule Making*, 22 FCC 2nd 21912 (2007).

<sup>2</sup>This data is from the data base maintained as [www.angelfire.com/nj2/piratejim/lpfm.html](http://www.angelfire.com/nj2/piratejim/lpfm.html).

time directed the Commission to insure that FM translators and LPFMs “remain equal in status . . .”.

Although not specified in the LCRA, the Commission reads into Section 5(1) a mandate that it ensure a minimum number of licensing opportunities “throughout the nation” for both translators and LPFM stations. However, it does this on the presumption there is pent-up need for new LPFM services in larger markets which is currently precluded by the large number of pending but frozen FM translator applications. The Commission then asks if Section 5 is applicable to only “new” or existing LPFM and translator stations when applying the mandate to make licenses available to the two services. Its concern stems from the fact that while the term “new” appears in the opening paragraph of Section 5 it does not appear in the subparagraph 5(1). Statutory interpretation would dictate that the use of the term “new” in the initial paragraph of Section 5 limits the Commission to consider new applications only and to ensuring a future balance between “new” translator and “new” LPFM licenses.

The Commission appears to view LCRA as requiring it to provide LPFM licensing opportunities in larger markets which are now limited by the large number of pending, but properly filed, translator applications. To do this it is considering a proposal to dismiss all of the pending translator applications in 41 of the top 50 markets and all of the pending translator applications in 14 of the bottom 50 markets. Also to be dismissed are all of the translator applications in 12 of the other Arbitron markets. The Commission recognizes that the existing translator applications are entitled to “cut-off” protection, which if dismissed, would violate that protection and the statutory provision that translator proposals must be treated “co-equal” to LPFM proposals.

The Commission proposes to adopt a “market-specific” dismissal policy for dismissing the translator applications. It assumes that largely populated markets have a *greater need* for LPFM stations in those markets. The Commission assumes this need can be measured by the number of NCE FM stations<sup>3</sup> in the market because in its view that service is “most comparable to the LPFM service.” Using the number of NCE FMs in each large market the Commission has established a “floor” by using the number of NCE FM Stations in each of the top 150 markets as a measure of how many LPFMs can be added to those markets. For instance, in Portland, Oregon the Commission lists ten NCE FM stations and only six licensed LPFM stations versus 15 existing translators and 43 pending translator applications. Thus, it proposes to dismiss all 43 of the translator applications to open up an opportunity to applicants for two LPFM channels which may be available.

The OAB views this dismissal policy approach to be wholly arbitrary and capricious. To begin with the Commission provides no study demonstrating any similarity between the radio service provided by NCE-FM stations and LPFM stations. In fact, available information would suggest significant differences and a wide disparity. In Oregon 24 of the 39 licensed LPFMs are religiously formatted and 12 of these are satellite fed by syndicated religious programs. Three other LPFMs are operated by high schools with formats described as “variety. Contrasted to these LPFM services is the fact that many of Oregon’s NCE-FM stations are NPR affiliates operated by educational entities.

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<sup>3</sup>The FCC ignores the fact there are several AM stations in Portland which operate as non-commercial facilities. Why this non-commercial AM service differs from FM non-commercial service is not explained.

**OPENING NEW LPFM AVAILABILITIES IS  
PREMATURE IN VIEW OF THE ABUSES IN THE LICENSING  
PROCEDURES AND OPERATING HISTORY  
OF LPFM STATIONS TO DATE**

Five years ago in the *Third Report and Order and Second Further Notice of Proposed Rule Making (Third Report and Order)*, 22 FCC Rcd 21912 (2007), the Commission acknowledged it had been advised that it take a “more active role in overseeing any LPFM ownership changes to ensure “ethical use” of LPFM licenses.<sup>4</sup> As shown herein, while that was prudent and timely advice it went unheeded. And in large part it is unexamined history of the licensing process of LPFM applicants and operations which has contributed to the false sense of need and promulgated the need for more LPFM service. In sum, the Commission seems to assume the emergence of the LPFM service has gone along swimmingly. The OAB submits that examination of the licensing performance of LPFM applicants in Oregon and its sister states of Idaho and Washington make it abundantly clear this is not the case.

What an examination of LPFM history in these three states shows is that while there was obvious initial interest among proponents of LPFM stations, that interest clearly waned and abated after receiving grants. From the outset of the LPFM filing windows, there has been abuse, misrepresentation, lethargy, fraud and waste of the Commission’s processes. Fewer than half the permits issued in the three states continue to operate to date. This operational track record for the LPFM stations authorized is less than commendable and poses a genuine question as to the need and efficacy of the LPFM service and the need for additional FM service, at least until the FCC conducts a review of its licensing procedures.

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<sup>4</sup>Para. 19 of *Third Report and Order*.

## LPFM OPERATIONS IN OREGON

Some 96 applications were filed for new LPFM facilities in Oregon. Of this number, 50 applicants were granted construction permits. Ten of these permits were cancelled by the Commission when the applicants failed to construct their facilities.<sup>5</sup>

Of the remaining 40 permits, seven (7) were apparently built but were later cancelled when they failed to file covering licenses or went silent for more than one year. These include:

1. DKTIE-LP, Community Information System, Inc., Dallas, Oregon  
Permit expired 1/31/2004
2. Coos Bay Gospel Ministry, Inc., Coos Bay, Oregon  
Permit expired 3/30/2010
3. Bridgeview Community Church, Cave Junction, Oregon  
License cancelled when it failed to file a license renewal
4. Calvary Chapel of Grants Pass, Grants Pass, Oregon  
Station went off the air on July 11, 2008 when it lost its transmitter site. It has filed two applications for new sites but has not informed the FCC it has ever returned to operation.
5. WTL Communications, Inc., Grants Pass, Oregon  
Permit expired 2/6/2011
6. Keep Praising Our Lord, Inc., Canyonville, Oregon  
Permit Expired 2/6/2004
7. Multicultural Association of Southern Oregon, Eagle Point, Oregon  
Licence voluntarily cancelled 6/28/2011

At least two other LPFM stations are listed as licensed facilities but the validity of their corporate existence is in serious question as their charters have been administratively dissolved for the failure to file annual corporate reports:

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<sup>5</sup>These applicants were (1) Cannon Beach Conference Center; (2) Clatskanie School District 6J; (3) Hood River Christian Fellowship; (4) Cornerstone Community Church of Ontario; (5) North Central Educational Service District; (6) Lost River High School; (7) Sunriver Owners Association; (8) Disciples Way Ministries; (9) North Lake County School; and (10) Heritage Christian School.

1. Valley Christian Radio Corporation operates KFYL-LP in La Grande, Oregon. It was administratively dissolved last year, the second time since its incorporation on June 6, 2001(see Exhibit 1).
2. Central Oregon Educational Radio Corporation, the licensee of KGBZ-LP, Madras, Oregon. This corporation was administratively dissolved by the State of Oregon almost five years ago on September 15, 2006. It had earlier been dissolved on September 12, 2003 after its incorporation a year earlier on July 7, 2002(see Exhibit 2).

**UNAPPROVED TRANSFER OF CONTROL OF LPFM LICENSES.** In its *Third Report and Order* the Commission addressed the issue of changes in board membership of many of the non-profit organizations holding LPFM authorizations. The review was triggered by evidence that frequent elections and changes in governing board membership were common among volunteer organizations and entities that operate LPFM stations. The issue was raised whether or not such changes would impact the Commission's requirement that LPFM licensees required a three year holding period from the issuance of the license. Accordingly, the LPFM licensees were directed to use FCC Form 314 and 315 for assignments and transfers of control of licenses and the 316 for gradual *pro forma* changes in ownership. However it would appear that from a comparison of the ownership reflected in the various licensees' original applications versus the corporate reports they have filed with the Oregon Corporation Commission that there is a great disparity of the original ownership approved by the Commission and the ownership as now being reported to the state corporate offices. None of these changes have been reported to the Commission, nor has approval been sought for the transfer of control of the facilities. Consider the following licensees:

**Coquille Christian Radio, Inc.** (KLYF-LP). In its original application, granted July 30, 2003, it reported the following members as directors of the governing board:

<b>FCC Record</b>	<b>Corporate Report</b>
Aleena Gladden, Director	Helmut Kramer, President
Charlie Roesel, Director	Ruth Talent, Secretary
Darwin Knight, Director	
Donald Gladden, Director	
Fred Andrews, Director	
Glen Casper, Director	
Herman Pauls, Director	
Twyla Smith, Director	

(see Exhibit 3).

**Western Oregon Radio Club, Inc.** Consider the original ownership reported for this applicant to the Commission versus principals reported in the state corporate office:

<b>FCC Record</b>	<b>Corporate Report</b>
Frank Huffman, Shareholder (20% vote)	<b>Ken Seymour</b>
<b>Ken Seymour</b> , President (25% vote)	Michael Hemel
Ron Polonconni, Vice President (55% vote)	

(see Exhibit 4).

**Anchor Network.** Compare the members in the original application for this applicant versus the principals reported to the State Corporation Division:

<b>FCC Record</b>	<b>Corporate Report</b>
Sheri Hare	Paul Corhran, President
Delores Payne	Lyn Shiffer, Secretary
Doug Cross	
Ira Tozer	

**FCC Record**

**Corporate Report**

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Jim Bolen

Joy Croy

(see Exhibit 5).

**City of Shady Grove** (Station KSHD-LP). This application was filed by the original city council and administrator which included the following:

**FCC Record**

**City Web Site**

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Alison Curtis (17% vote)

Bill Kyle

Elyize Smurzynski (15% vote)

Gary Hughes

Thomas Anderson (17% vote)

Leith Hayes

Fred Wendt (17% vote)

Jim Ulrich

Lois Holland (17% vote)

Jack Henson (17% vote)

(see Exhibit 6).

**Sisters School District No. 6.** The original school board members which govern the district were listed in their application as:

**FCC Record**

**City Web Site**

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Bill Reed (20% vote)

Don Hedrick

Eric Dolson (20% vote)

**Glen Laskin**

**Glen Laskin (20% vote)**

**Jeff Smith**

**Jeff Smith (20% vote)**

Christine Jones

Tom Coffield (20% vote)

Cheryl Stewart

Only 40% of the members of the original governing board remain in office (see Exhibit 7).

**Radio Tierra.** The last board of directors reported to the FCC included the following individuals and votes:

<b>FCC Record</b>	<b>Current Corporate Report</b>
Dardo Salis (16.5% vote)	Claudia Lopez
Rebecca Maahs (16.6% vote)	<b>Hugo Flores Gonzales</b>
John Mendez (16.6% vote)	
<b>Hugo Flores Gonzales</b> (16.6% vote)	
Suzannah Gilkerson (16.6% vote)	
Tuenis Wyres (16.6% vote)	

(see Exhibit 8).

**Hope For Today Broadcasting, Inc.** (Station KTOD-LP). The original ownership for this state as reported to the Commission as:

<b>FCC Record</b>	<b>Corporate Record</b>
Christian Ausper (20% vote)	Steve Hatfield
Jimmy Vandenburg (20% vote)	David Mason
John Clough (20% vote)	
John Rogers (20% vote)	
Lauren Cole (20% vote)	

(see Exhibit 9).

While the annual reports to the Oregon Corporation Division do not include a full listing of all members, the fact that the president and secretary of these organizations as originally reported and later identified in current reports are often entirely different suggests that the low power licensees are either ignorant of or not attentive to the requirement to file updates with the Commission when control of their board shift. For this reason the Commission in order to insure that ownership of LPFM licensees should be accurately and properly reported, should require biennial Ownership Reports of LPFM operations. Recently the FCC has been requiring FM

translator licensees to file such reports following the assignment of a translator licensee (*see* Exhibit 10).

**IS LOCAL PROGRAMMING REQUIRED?** With the creation the low power radio service the Commission has emphasized the importance of locally originated programming. Initially the FCC believed that by establishing ownership and various eligibility rules for LPFM operators, these requirements would logically lead to the creation of local programming. In the Commission’s view, locally originated programming would be programming that “covers local persons and/or their activities and/or other local issues.”<sup>6</sup> While the Commission did not obligate LPFMs to carry local programming, it did adopt a preference in selection among competing applications for those which would provide locally originated programming. In explaining the definition of “locally originated programming” the Commission pointed out that it was not to be construed to encompass programming delivered by satellite.

Today in Oregon at least 12 of the LPFM stations which remain in operation carry satellite delivered programming. These include:

	<b>Call Sign</b>	<b>Satellite Network</b>
1.	KFYL-LP, La Grande, Oregon	LifeTalk
2.	KSHY-LP, Newport, Oregon	EWTN
3.	KBWR-LP, Burns, Oregon	3ABN
4.	KSPL-LP, John Day, Oregon	3ABN
5.	KTOD-LP, Lakeview, Oregon	3ABN
6.	KGLS-LP, Tillamook, Oregon	LifeTalk
7.	KMAB-LP, Madras, Oregon	LifeTalk
8.	KSEP-LP, Brookings, Oregon	3ABN

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<sup>6</sup>*Reconsideration Order*, 15 FCC Rcd at 19246.

	<b>Call Sign</b>	<b>Satellite Network</b>
9.	KLYF-LP, Coquille, Oregon	3ABN
10.	KTJN-LP, Gold Beach, Oregon	3ABN
11.	KCPU-LP, Bend, Oregon	Pacifica
12.	KLLF-LP, Roseburg, Oregon	3ABN

Of the twelve stations listed above, at least three of them (KGLS-LP, KSEP-LP and KTJN-LP) made pledges in their applications that they would provide at least eight hours a day of locally originated programming. Clearly the reliance on the use of satellite fed programming is contrary to the varied basis of creating a radio service geared to local programming. At the very least, it is corruption of the original intent of the LPFM service to not require some minimum obligation to provide locally originated programming. The OAB urges the Commission to take this into account as it undertakes to assess the “needs of a local community” when considering rules to implement Section 5(2) of the LCRA. It should also require some form of reporting the amount of local programming being carried by an LPFM station. How else can the Commission determine if an LPFM operator is meeting its commitments to local programming?

#### **LPFM OPERATIONS IN WASHINGTON**

The record of LPFM station performance in the State of Washington is no better than the records established by LPFM stations in Oregon. The Commission received 68 applications for new LPFM stations in Washington. Of these applications, 35 were ultimately granted and 33 were dismissed.

Of the 35 permits issued for new LPFM stations in Washington, 12 of those permits expired when the applicants failed to build the facilities within the allotted time. These include permits held by the following entities:

<b>Licensee</b>	<b>Call Sign</b>
1. Christ the King Community Church of Skagit Valley	KCTK-LP
2. Pacific Northwest Tejano Music Association	KEGO-LP
3. Lake Quinalt Community Action Forum	KQHS-LP
4. Grace Brethren Church	KSGB-LP
5. Steeple Productions	KCIL-LP
6. Calvary Chapel Fellowship of Wenatchee	Unbuilt permit
7. Toledo First Baptist Church	Unbuilt permit
8. Northport School District No. 211	Unbuilt permit
9. Foothills Life Radio, Inc.	Unbuilt permit
10. Channel Light Broadcasting of Cathlamet	Unbuilt permit
11. Rural Community Development Resources	Unbuilt permit
12. Selah School District No. 119	Unbuilt permit

Two other licensed stations were cancelled after they were off the air for more than a year. A third station simply turned in its licenses for cancellation. These included:

<b>Licensee</b>	<b>Call Sign</b>
1. Dry Creek Community Broadcasting	KAPY-LP
2. Council for Alternative Energy	KITR-LP
3. Community Celebrations (license voluntarily cancelled)	KCHW-LP

Three licenses issued for new LPFM stations in Washington were issued to non-existent entities claiming to be non-profit corporations:

	<b>Licensee</b>	<b>Call Sign</b>
1.	Grays Harbor Educational Media (Facility 134524)	KYAB-LP
2.	Ocean Shores Educational Media (Facility ID 133789)	KYAO-LP
3.	Snoqualmie Educational Media Project (Facility ID 134276)	KZFX-LP

(see Exhibit 11).

In addition, two LPFM permits were issued to similar non-existent entities claiming to be non-profit entities:

	<b>Licensee</b>	<b>Facility ID</b>
1.	Foothills Life Radio, Inc.	135317
2.	Channel Light Broadcasting of Cathlamet	135521

Attached are the search results from the Corporation Division of the State of Washington showing the corporate non-existence of these applicants (see Exhibit 12).

The use of fictitious entities for LPFM applications in Washington State was widespread. In addition to the five applicants listed above, another 14 applications, which were later dismissed before grant, were filed in the name of non-existent non-profit entities. The fictional nature of these applicants is evidenced by the corporate records of the State of Washington.

They included:

	<b>Licensee</b>	<b>Facility ID</b>
1.	Bainbridge Island Broadcasting	133912
2.	It Plays in Peoria Productions	133951
3.	Latinos En Accion Del Skagit	133981
4.	Hospitality House Ministry	134055
5.	Radio KYA	134273

	<b>Licensee</b>	<b>Facility ID</b>
6.	Kirwan Computer Communications	134498
7.	Calvary Chapel North Hill	134728
8.	Cascade Christian Media Association	134982
9.	Museum of History and Industry	135301
10.	Right of Way Youth Enrichment Programs	135451
11.	Bellingham Hope Radio	135514
12.	Auburn Adventist Academy	135656
13.	Calvary Chapel of North Bend	135109

(see Exhibit 13).

Another licensed LPFM station has apparently changed ownership without notification or approval of the Commission. Thin Air Community Radio, the licensee of KYRS-LP, Spokane, Washington, is on record with the FCC as equally owned and managed by David Eagle, Vice President and Jon Snyder, President (*see* BALL-20051021B). However, the current annual corporate report to the State of Washington lists the governing board as John O'Rourke, President; Stephen Barbieri, Vice-President; Susan Winchell, Secretary and Trudy Miller, Treasurer (*see* Exhibit 14).

The corporate entities holding two other licensed LPFM stations have been corporately inactive for five (5) and two (2) years, respectively. Still they are carried as licensed stations on the Commission records. Wenatchee Youth Radio, the licensee of KWEW-LP, Wenatchee, Washington has been inactive since October 3, 2005 (*see* Exhibit 15).

The status of the ownership of this station is dubious as the license covering this facility was filed not by WYR, by another unrelated entity, Apple Valley TV Association. There is no record that the transfer of the original permit was ever requested or approved by the Commission. Nonetheless, the FCC approved the covering license in the name of WYR, even though filed in

the name of Apple Valley TV Association. Further compounding the ownership issue is the fact Apple Valley TV Association's corporate status in Washington expired December 31, 1997, more than ten years before it filed the license application for KWEW-LP with the Commission (*see* Exhibit 16).

Van Zandt Community Hall Association, the licensee of KAVZ-LP, Deming, Washington, has been inactive since May 8, 2009 (*see* Exhibit 17). The station has been silent since January 7, 2011.

The sum total of the fifteen (15) permits and licenses for new LPFM stations which have been cancelled; the four (4) licenses held in the name of non-existent non-profit entities, the two other licensed stations are held in the name of dissolved non-profit entities, and the licensee owned and controlled by parties who have not been approved by the Commission indicates that some 22 of the 35 issued LPFM permits in Washington State (63%) have provided little or no service to the public while others have flaunted the FCC's licensing policies for LPFM services. The fact that the Commission apparently has no way of ensuring the existence and *bona fides* of the applicants for six of the permits issued and another 15 applicants which were processed and dismissed does not speak well of its licensing policies and procedures. The OAB urges the Commission to address these recurring problems and abuses before undertaking to launch another LPFM window.

Three other LPFM stations are licensed to not just expired corporate entities but non-existent corporations.<sup>7</sup> These include:

1. **Grays Harbor Educational Media** (GHEM"), licensee of Station KYAB-LP, Aberdeen, Washington. GHEM filed its application with the FCC on June 14, 2001, stating it

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<sup>7</sup>The Corporate Division website will acknowledge the previous filing and prior existence of a corporate entity even if it is no longer active. *See* the response for Wenatchee Youth Radio, *infra*.

had been incorporated as a profit corporation in the State of Washington on May 1, 2001. The Washington State corporation web site shows there is “no match” for Grays Harbor Educational Media (*see* Exhibit 11).

2. **Ocean Shores Educational Media** (“OSEM”), licensee of Station KYAO-LP, Ocean Shores, Washington. OSEM filed an application for a new LPFM station in June 13, 2001. In Exhibit 2 of the OSEM application it stated that OSEM had been incorporated as a non-profit Washington state corporation effective June 1, 2001. Nonetheless, the Washington State corporate web site reports “no match” when a search for this entity was initiated (*see* Exhibit 11).

3. **Station KZFX-LP, Fall City, Washington** has ownership which is difficult to determine. Its authority to operate is equally in doubt. The application for the station was originally filed by Sam-Sno Educational Media (“Sam-Sno”) on June 13, 2001. From the date of filing through January 91, 2006, when Sam-Sno filed for a covering license, Sam-Sno appeared to be the licensee of record. In June an application to modify the facility was filed in the name of Fall City Radio Project. The application noted that the organization had changed its name to avoid public confusion. While Sam-Sno remains an established corporation in Washington State, there is no record at the state corporation division it ever changed its corporate name.

On November 25, 2007, Station KZFX-LP went silent and requested Special Temporary Authorization (“STA”) to remain silent. It was granted authority to remain silent until May 28, 2007.

In August, 2008, an application was filed seeking permission to assign the license to Snoqualmie Educational Radio Project (“SERP”). The application identified Frank Hansche and

Robert Keeton, with 51% and 49% of the votes, respectively. A search of the Washington corporate web site provides “no match” for this entity as a registered non-profit entity.

The station notified the Commission it had gone silent on April 9, 2010 because of co-channel interference from a full-service station. At the same time, SERP sought to shift majority control of the company from Fran Hanson to Brook Riddle and to modify the station’s facilities (*see* BTCL-20100416AAA and BPL-20100427AEC and BPL-20100518ADV). All three of these applications were dismissed.

On October 8, 2010, the station filed again for a permit to change channels to avoid co-channel interference from a full-service FM station. At the same time the station requested another STA, which appears to be further silence authority.

On November 11, 2010, SERP sought an extension on its STA to remain silent pending action of the application to modify its facilities (BPE-20100826ADE). The Commission granted the extension request. The application to modify the KZFX-LP facilities remains pending and it is almost 17 months since the station sent silent. There is no record that any further requests for silences authority have been filed with the FCC.

Given that there is no evidence that SERP has an authorized existence as a legally constituted non-profit institution and that the station has failed to return to operation the license should be cancelled.

## LPFM OPERATIONS IN IDAHO

When the low power window opened for LPFM applications in the State of Idaho, 14 applicants submitted proposals.<sup>8</sup> Ultimately, the FCC granted nine of the 14 applications. The following six applicants built and had the following facilities licensed:

	<u>Licensee</u>	<u>Call Sign</u>
1.	Amazing Grace Fellowship <sup>9</sup>	KAGF-LP
2.	The Lift Church Wood River, Inc.	KLCW-LP
3.	Kamiah Valley Broadcasting Corporation	KMEI-LP
4.	Lewiston Christian Radio Association	KPLL-LP
5.	Radio Free Moscow, Inc.	KRFT-LP
6.	Rupert United Methodist Church	KUMC-LP

Many of the same LPFM regulatory abuses and problems impacting the integrity of the FCC's procedures that have surfaced in Oregon and Washington reappeared and are present in Idaho, *i.e.* expired permits, cancelled licenses, non-existent applicants, and unreported transfers of control.. The litany of events begins with the permit awarded to Sandpoint Low Power Christian Radio on September 15, 2003, which expired on March 15, 2005 when the applicant failed to construct the facilities. However, it is still listed on the FCC's CDBS system as a "granted" permit.

Another LPFM permit was issued to Commissioned by Christ but by its own terms was allowed to expire on July 28, 2003. It remains on the FCC's CDBS website as a granted permit. Compounding the circumstance of this permit is that Commissioned by Christ has never been

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<sup>8</sup>The applications filed by Hayden Christian Broadcasting Corporation and Lake City Lighthouse are vying for the same channel and remain in litigation over the Commission's decision to award the permit to Lake City Lighthouse.

<sup>9</sup>One applicant, Amazing Grace Fellowship, submitted two LPFM applicants (BNLP-20000530AAP and BNLP-20010119AB). The second application was dismissed and the initial application granted.

an existing or legally established non-profit educational institution. It only claimed to be (*see* Exhibit 18).

The permit issued to Sandpoint Low Power Christian Radio should be officially revoked or cancelled as it no longer exists as a duly incorporated entity and its permit expired over six years ago in March 2005. The corporation was administratively dissolved over five years ago (*see* Exhibit 19).

Another of the six applicants licensed for low power FM facilities in Idaho, Lewiston Christian Radio Association, was administratively dissolved by the State of Idaho in April, 2006 or some five years ago. In fact it was non-existent at the time it filed its renewal application in March of 2007 (*see* Exhibit 20). Yet, it continues to be treated as a properly licensed entity on the records of the FCC.

Even though there are only five corporately active LPFM stations in Idaho, at least one of them, Rupert United Methodist Church (“RUMC”), licensee of KUMC-LP, Rupert, Idaho, has failed to secure approval for the transfer of control of its board. In March, 2009, RUMC sought and received approval for a new board. But when compared to the information reported to the Idaho Secretary of State there is a clear transfer of control. Consider the following board composition (*see* Exhibit 21).

<b>FCC Form 316 March 2, 2009</b>	<b>Annual Corporate Report October 12, 2010</b>
1. Wayne Wilshe	1 Tim Gregersen
2. Elizabeth Jones	2. Daniel Hatfield
3. Ira Lloyd	3. Bob Cameron
4. Kathy Jarolimek	4. Charles Warren
5. Robert Newman	5. Jeff Hare
6. <b>Sara Johnson</b>	6. <b>Sara Johnson</b>

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| 7. <b>Cliff Hieb</b> | 7. <b>Cliff Hieb</b> |
| 8. Bill Bartlett     |                      |
| 9. Sylvia Neiwert    |                      |

In addition to the permits issued to the non-existent Commissioned by Christ, another fictional applicant, Comcristiana of Boise, sought a new LPFM permit in Sonna, Idaho. It was dismissed on December 17, 2004, after an informal objection was filed on September 27, 2001 and before a further fraud was worked on the Commission. Nonetheless, the fact that two of the 14 applications (some 15% of all applications) filed for new LPFM facilities in Idaho were submitted by fictitious applicants requires a heightened scrutiny by the Commission to protect the integrity of its processes. At a minimum applicants for new LPFM facilities should be required to demonstrate and document their eligibility as LPFM applicants. A starting point would be to require applicants to submit a current certificate of good standing from the applicant's state of incorporation. These are now available on line in almost all states and would impose little burden or cost to the applicant.

#### **SUMMARY**

The OAB has examined the records of LPFM stations in only three states in the Pacific Northwest which OAB believes is an instructional sampling of the current state of the emerging LPFM industry. The results are shocking and clearly point to multiple abuses of the Commission's processes and inattention on the part of the Commission to regulate a service which it seeks to expand at the expense of the FM translator service. If these findings are any indication of LPFM operations in the remaining 47 states, it ill behooves the FCC to undertake

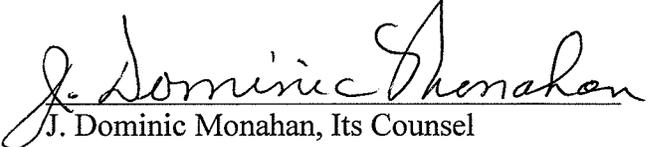
an expansion in a service which reeks of fraud, mismanagement and sense of regulatory direction. Given the resources devoted to creating the LPFM service over the past decades the record evidence of operational success is grossly lacking. It is dismal at best.

Accordingly, the OAB urges the suspension of any further expansion until corrective measures are implemented and the LPFM regulatory house is in order.

**DATED** this 29th day of August, 2011.

Respectfully submitted,

OREGON ASSOCIATION OF BROADCASTERS

  
J. Dominic Monahan, Its Counsel