

Chron
2-B450

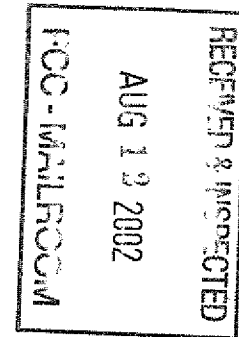
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D. C. 20554

IN REPLY REFER TO:
1800B3-ALM

AUG 9 2002

Jerrold D. Miller, Esquire
Miller & Miller, P.C.
1990 M Street, N.W.
Washington, D. C. 20036

Eric S. Kravetz, Esquire
3511 Porter Street, N.W.
Washington, D. C. 200016



In re: MX Group 990903

NEW(Ed. FM), La Grande OR
Oregon Public Broadcasting
Facility ID No. 94194
File No. BPED-19990903ME

Casper Learning FM, Inc.
Facility ID No. 122874
File No. BNPED-20000223ABX

NEW(Ed. FM), Union, OR
CSN International
Facility ID No. 122935
File No. BNPED-20000303ABB

Dear Counsel:

Currently before the Commission are (1) the captioned mutually exclusive applications for new noncommercial educational FM stations filed by Oregon Public Broadcasting ("OPB"), Casper Learning FM, Inc. ("Casper"), and CSN International ("CSN"); (2) a May 7, 2001 Agreement To Resolve Application Conflicts ("Agreement #1") between Casper and CSN; (3) a July 19, 2001 Joint Request For Approval Of Settlement Agreement MX Group #990903 ("Agreement #2") between OPB and CSN; and (4) a request by OPB for a waiver of 47 C.F.R. § 73.1125, the Commission's main studio rule¹.

The Agreements: Pursuant to the terms of Agreement #1, Casper has agreed to dismiss its application in exchange for dismissal of a CSN application in another mutually exclusive group. In accordance with the terms of Agreement #2, CSN will dismiss its

¹ An amendment to the waiver request was filed on July 9, 2002.

application and OPB has agreed to make technical modifications to its translator station, K219FE, McMinnville, Oregon in accordance with CSN's desires. Additionally, OPB will provide CSN a three-year option to purchase the McMinnville, Oregon translator. Lastly, the application of OPB will be granted. We have examined the Joint Request and the attached declarations. Based on this examination, we find that approval of the Joint Request would serve the public interest and that the applications were not filed for the purpose of reaching or carrying out the agreement. Accordingly, the applicants have complied with the provisions of 47 U.S.C. § 311(c)(3) and 47 C.F.R. § 73.3525. Furthermore, approval of the Joint Request would serve the public interest by providing La Grande, Oregon a second noncommercial educational FM radio station.

The parties have demonstrated that with respect to Section 307(b) dismissal of the CSN application would not unduly impede achievement of a fair, efficient and equitable distribution of radio services. Therefore, no publication is required under 47 C.F.R. § 73.3525(b).

Main Studio Waiver: OPB has requested a waiver of the Commission's main studio requirement, see 47 C.F.R. § 73.1125, in order to operate the proposed La Grande, Oregon station as a satellite of its commonly owned NCE station KOPB-FM, Portland, Oregon.² For the reasons set forth below, we will waive 47 C.F.R § 73.1125.

Pursuant to section 73.1125(a), a main studio must be located either (1) within a station's principal community contour, (2) within the contour of any other broadcast station licensed to its community, or (3) within 25 miles of the center of its community. *See Report and Order, Review of the Commission's Rules regarding the main studio and local public inspection files of broadcast television and radio stations*, 13 FCC Rcd 15691 (1998); *recon. granted in part*, 14 FCC Rcd 11113 (1999) ("Reconsideration Order"). However, under Section 73.1125(b)(2), the Commission will waive these requirements where "good cause" exists to do so and where the proposed studio location "would be consistent with the operation of the station in the public interest." Each waiver request by an NCE station seeking to operate as the satellite of another NCE station is considered on a case-by-case basis. The Commission has recognized the benefits of centralized operations for NCE stations, given their limited funding, and thus found "good cause" exists to waive the main studio location requirement where satellite operations are proposed. *Id.* A satellite station must, however, demonstrate that it will meet its local service obligation to satisfy the Section 73.1125 "public interest" standard. *Id.*

OPB's request is based on the economies of scale that would be realized by grant of its waiver. We agree and conclude that there is "good cause" to waive 47 C.F.R. § 73.1125(a) in these circumstances.

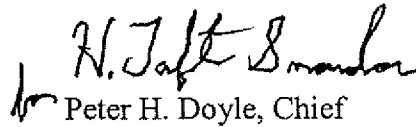
²A "satellite" station meets all of the Commission's technical rules; however, it originates no programming and instead rebroadcasts the parent station's programming. See Amendment of Multiple Ownership Rules, Memorandum Opinion and Order, 3 RR2d 1554, 1562 (1964).

OPB proposes to operate La Grande, Oregon station as a satellite station of KOPB-FM, Portland, Oregon which is approximately 200 miles from La Grande. Where there is a great distance between parent and satellite stations, as here, we are particularly concerned that the licensee take adequate measures to maintain its awareness of the satellite station's community needs and interests. To that end, OPB has pledged to: (1) establish a community resident to serve as the local OPB representative and maintain close contact with this individual; (2) subscribe to the local newspaper serving La Grande; (3) maintain regular contact with the editor of the local newspaper and use the information obtained to develop news segments airing on the OPB radio network; (4) insert into the OPB program guide, on a yearly basis, a comprehensive questionnaire to solicit listener opinions about programming and for input regarding news and public affairs coverage of community issues; (5) utilize letters from OPB listeners in consideration of radio programming decisions and news coverage; (6) have two local employees in La Grande who will provide OPB management information about community issues; (7) originate programming from the La Grande area, when appropriate, using remote origination equipment; and (8) maintain a toll free telephone number between La Grande and the KOPB-FM main studio.

In these circumstances, we are persuaded that OPB will meet its local service obligations and thus, that grant of the requested waiver is consistent with the public interest. We remind OPB, however, of the requirement that it maintain a public file for the La Grande, Oregon station at the main studio of the "parent" station, KOPB-FM, Portland, Oregon. It must also make reasonable accommodation for listeners wishing to examine the file's contents. *See Reconsideration Order*, 14 FCC Rcd 11113, 11129 at ¶45. We further remind OPB that, notwithstanding the grant of the waiver requested here, the public file for the La Grande, Oregon station must contain the quarterly issues and programs list for La Grande, Oregon required by 47 C.F.R. § 73.3527(e)(8). Furthermore, OPB has adequately demonstrated to the Commission its qualifications to be the licensee of a noncommercial, educational broadcasting station.

Accordingly, the Agreement To Resolve Application Conflicts and the Joint Request For Approval Of Settlement Agreement MX Group #990903 ARE GRANTED; the applications of Casper Learning FM, Inc. (BNPED-20000223ABX) and CSN International (BNPED-20000303ABB) ARE DISMISSED; and the application of Oregon Public Broadcasting (BPED-19990903ME) and its request for a waiver of 47 C.F.R. § 73.1125 ARE HEREBY GRANTED.

Sincerely,


Peter H. Doyle, Chief
Audio Division
Media Bureau