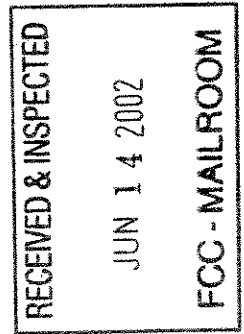


**FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D. C. 20554
June 13, 2002**

**IN REPLY REFER TO:
1800B3-JWR**



Amy L. Van de Kerckhove, Esquire
Shaw Pittman
2300 N Street NW
Washington, DC 20037-1128

Donald Martin, Esquire
6060 Hardwick Place
Falls Church, Virginia 22041

In re: **NEW(FM), JORDAN VALLEY, OREGON**
Facility ID No. 85777
Educational Media Foundation
File No. BPED-19970311MB

NEW(FM), PARMA, IDAHO
Facility ID No. 88402
Southern Idaho Corporation of Seventh-Day
Adventists d/b/a Gem State Academy
File No. BPED-19970919ME
Application for Review

Joint Request for Approval of Settlement
Agreement

MX Group # 970313

Dear Counsel:

We have on file the above-referenced mutually exclusive construction permit applications for new noncommercial educational FM stations in Jordan Valley, Oregon and Parma, Idaho filed, respectively, by Educational Media Foundation ("EMF") and Southern Idaho Corporation of Seventh-Day Adventists d/b/a Gem State Academy ("SIC"). Also on file are a Joint Request for Approval of Settlement Agreement, as supplemented on September 24, 2001 and January 18, 2002,¹ and Educational Media Foundation's request for waiver of 47 C.F.R. § 73.1125, both filed on July 19, 2001. Also submitted is SIC's October 1, 2001 request for "Dismissal of Application for Review."² For the reasons set forth below, we will grant the Joint Request, dismiss SIC's application for review, and grant both EMF's waiver request and its application.

¹ The January 18, 2002 filing consisted of an amendment to the EMF application filed at the request of the staff.

² The staff returned SIC's application on September 3, 1999. SIC filed an application for review of this action on December 20, 2000.

Settlement Agreement. Under the terms of the settlement agreement, SIC consents to cease prosecuting its Parma, Idaho proposal, in return for which EMF will (1) pay \$15,000 to SIC; and (2) request a waiver of 47 C.F.R. § 73.1125 to operate the Jordan Valley station as a “satellite” of EMF’s station KLRD(FM), Yucaipa, California. EMF submitted the waiver request on July 19, 2001, concurrently with the Joint request. We have examined the Joint Request and the declarations appended thereto. We find that the applicants have complied with the requirements of Section 73.3525 of the Commission’s Rules, which implements Section 311(c)(3) of the Communications Act of 1934, as amended.² While the applicants propose to serve different communities, no § 307(b) questions have been presented and no publication is required.³ Finally, we find that Educational Media Foundation is fully qualified to be a licensee of the proposed facility and that a grant of its application would serve the public interest by expediting a new FM service to Jordan Valley, Oregon.

Main Studio Waiver. EMF proposes to operate the new station at Jordan Valley, Oregon as a satellite of co-owned noncommercial educational FM station KLRD(FM), Yucaipa, California, approximately 592 miles from Jordan Valley.⁴ EMF submits that by collocating the proposed station and KLRD(FM)’s main studios, EMF will realize valuable economies of scale and cost savings necessary to maintain high quality programming. EMF asserts that as a listener-supported station the proposed station “will face severe financial constraints” and that the obligation to maintain separate staffing and studio locations for the proposed station and KLRD(FM) “will place a serious financial burden” on EMF and divert limited resources away from programming efforts. For the reasons set forth below, we shall grant EMF’s request for waiver.

Pursuant to § 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 (“Main Studio R&O”), Review of the Commission’s Rules regarding the main studio and local public inspection files of broadcast television and radio stations*, 13 FCC Rcd 15,691 (1998), *recon. granted in part*, 14 FCC

² The Commission has temporarily waived the reimbursement limitations contained in Section 73.3525(a)(3) of the Commission’s rules. *See Reexamination of the Comparative Standards for Noncommercial Educational Applicants*, 16 FCC Rcd 5074 (2001); waiver extended to settlement agreements filed by July 19, 2001, *Deadline for NCE Settlements and Supplements, Public Notice*, Released May 24, 2001. The instant settlement agreement was, as noted, filed on July 19, 2001.

³ In a “Supplement to Joint Request for Approval of Settlement Agreement,” submitted on September 24, 2001 at the request of the staff, EMF states that neither proposal will provide a first or second service to 10 per cent of the people within either station’s 60 dBμ contour. Accordingly, under the standards applied to mutually exclusive NCE applications, neither applicant would be awarded a preference under 47 U.S.C. § 307(b). *See Report and Order* in MM Docket No. 95-31, 15 FCC Rcd 7386, 7397-98 (2000); *Public Notice*, “Deadline for NCE Settlements and Supplements Extended to July 19, 2001; Date for Calculating Comparative Qualifications Remains June 4, 2001/Mass Media Bureau Provides Examples of Application of NCE Section 307(b) Criteria,” DA 01-1245 (M.M. Bur., released May 24, 2001). Therefore, the elimination of SIC’s Parma proposal will not “unduly impede achievement of a fair, efficient, and equitable distribution of radio service” under 47 C.F.R. § 73.3525(b). *See, e.g., National Communications Affiliates of West Virginia*, 2 FCC Rcd 4515 (1987) (dismissal of only application for a community will not unduly impede realization of Section 307(b) mandate where neither applicant would receive a decisive preference); *Suburbanaire, Inc.*, 2 FCC Rcd 1478 (1987).

⁴ A “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*, 3 RR 2d 1554, 1562 (1964).

Rcd 11,113 (1999)(*"Reconsideration Order"*). However, under Section 73.1125(b)(2), the Commission will waive this requirement 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.*

EMF'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)(4) in these circumstances. The Commission expects the licensee of a satellite station to take adequate measures to maintain its awareness of the satellite community's needs and interests. Where there is a considerable distance between parent and satellite stations, we are particularly concerned that the licensee take adequate measures to maintain its awareness of the satellite community's needs and interests and respond to them in its programming. To that end, EMF has pledged to: (1) maintain an auxiliary studio within the geographical limits prescribed by Section 73.1125, which studio will have the capability to originate local programming responsive to the needs of the local community; (2) have a local representative, who may be a volunteer, available in Jordan Valley, who will work with EMF's regional managers, and will, at least on a quarterly basis, conduct interviews and surveys to ascertain the interests, concerns, and needs of Jordan Valley listeners; and (3) maintain a toll-free telephone number and a public inspection file in Jordan Valley in compliance with the Rules.

In these circumstances, we are persuaded that EMF will meet its local service obligations and thus, that grant of the requested waiver is consistent with the public interest. We remind EMF, however, of the requirement that it maintain a public file for the proposed station at the main studio of the "parent" station KLRD(FM) and make reasonable accommodation to the listeners wishing to view the contents of the file. *See Reconsideration Order*, 14 FCC Rcd at 11,129, para. 45. We further remind EMF that notwithstanding the grant of the waiver requested here, the public file for the proposed station must contain the quarterly issues and programs list required by 47 C.F.R. § 73.3527(e)(8). With these *caveats* underscoring EMF's obligations to the residents of Jordan Valley, its request for waiver of 47 C.F.R. § 73.1125 will be granted.

Actions. Accordingly, in light of the above discussion, the Joint Request for Approval of Settlement Agreement IS GRANTED, and the Southern Idaho Corporation of Seventh-Day Adventists d/b/a Gem State Academy Application for Review IS HEREBY DISMISSED. Additionally, Educational Media Foundation's request for waiver of 47 C.F.R. § 73.1125 IS HEREBY GRANTED and its application (File No. BPED-19970311MB) IS GRANTED. The authorization is enclosed.

Sincerely,



Peter H. Doyle, Chief
Audio Division
Office of Broadcast License Policy
Media Bureau