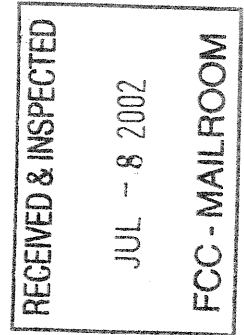


**FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D. C. 20554**

July 2, 2002

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



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**In re: NEW(FM), BEND, OR**

Community Advisory Board of the  
Diocese of Baker  
Facility ID No. 88741  
File No. BPED-19971016MD

Pensacola Christian College, Inc.  
Facility ID No. 90382  
File No. BPED-19980327MA

CSN International  
Facility ID No. 90497  
File No. BPED-19980417MF

American Family Association  
Facility ID No. 90581  
File No. BPED-19980430MB

**NEW(FM), LA PINE, OR**

Educational Media Foundation  
Facility ID No. 90659  
File No. BPED-19980512MA

Joint Request for Approval of Settlement  
Agreement

MX Group 971018

Dear Counsel:

We have on file the above-referenced mutually exclusive applications for new noncommercial educational FM ("NCE-FM") stations in Bend, Oregon filed by Community Advisory Board of the Diocese of Baker ("CAB"),<sup>1</sup> Pensacola Christian College, Inc. ("PCC"),<sup>2</sup> CSN International ("CSN"),<sup>3</sup> American Family Association ("AFA")<sup>4</sup> and the additional mutually exclusive application Educational Media Foundation ("EMF"),<sup>5</sup> as amended, for a new NCE-FM station in La Pine, Oregon. Also on file is a Joint Request for Approval of Settlement Agreement ("Joint Request"), filed on by the applicants on July 19, 2001. For the reasons set forth below, we will grant the Joint Request, dismiss the CAB, PCC and CSN applications, and grant the EMF and AFA applications.

**Settlement Agreement.** Under the terms of the settlement agreement, EMF agreed to amend its proposal to changed its proposed frequency from Channel 210 (89.9 MHz) to Channel 212 (90.3 MHz) and relocate its proposed transmitter site. Additionally under the terms of the agreement, the CAB, PCC and CSN applications will be dismissed and the AFA and amended EMF applications will be granted, in return for which (1) EMF will pay \$ 42,500 to CAB; (2) EMF will grant PCC the right of first refusal to acquire any station EMF receives in Selma,

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<sup>1</sup> File No. BPED-19971016MD.

<sup>2</sup> File No. BPED-19980327MA.

<sup>3</sup> File No. BPED- 19980417MF.

<sup>4</sup> File No. BPED-19980430MB.

<sup>5</sup> File No. BPED-19980512MA.

Oregon<sup>6</sup> and EMF will assign its translator station K209CP, Talent, Oregon, to PCC in exchange for PCC's translator station K204CY, Medford, Oregon; (3) EMF will assign the license, tower lease agreement and equipment of EMF translator station K203AZ, Fairmount, Tennessee, to CSN in effectuation of an exchange agreement;<sup>7</sup> and (4) EMF will pay AFA \$25,000 and facilitate the foregoing settlements as to allow the grant of AFA's application for Bend, Oregon.

We have examined the Joint Request and the declarations included therein. Based on this examination, we find that approval of the agreement would serve the public interest by expediting the inauguration of a new FM broadcast service at Bend and La Pine, Oregon and conserving the resources of the Commission and the applicants, that neither application was filed for the purpose of reaching or carrying out the agreement; and that no consideration has been directly or indirectly paid or promised apart from that disclosed in the agreement.<sup>8</sup> 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. Additionally, because applications are being granted for both communities proposed in this proceeding, no issues are presented under 47 U.S.C. § 307(b) and no republication is required pursuant to 47 C.F.R. § 73.3525(b).

**Main Studio Waiver.** EMF proposes to operate the new station at La Pine, Oregon as a satellite of co-owned noncommercial educational FM station KLVR(FM), Santa Rosa, California, approximately 357 miles from La Pine.<sup>9</sup> EMF submits that by collocating the proposed station and KLVR(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

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<sup>6</sup> PCC also agreed to dismiss its application for Cave Junction, Oregon, File No. BPED-19980528MB. That application was dismissed by the staff on May 21, 2002. See *Letter to David D. Oxenford et al.*, reference 1800B3-ACS (Chief, Audio Division, Media Bureau, rel. May 21, 2002). In that same letter, the staff granted EMF's application (File No. BPED-19980123MM) for a new NCE-FM station in Selma, Oregon. EMF has chosen the call sign KJKL(FM) for this facility.

<sup>7</sup> In its agreement with EMF, CSN agrees to (1) assign the licenses, tower lease agreement, and equipment for use in CSN's translator station K249BS, Grants Pass, Oregon, to the State Board of Higher Education – Southern Oregon University; (2) amend its application for Redmond, Oregon (File No. BPED-19981203MO) in coordination with an EMF application for Sisters, Oregon (File No. BPED-19970925MF) such that both applications (in NCE-MX Group 970939) can be granted; (3) amend its application for Coos Bay, Oregon (File No. BPED-19980320ML) to protect the application of William Patrick Donnelly Ministries for Roseburg, Oregon (File No. BPED-19980318MI); and (3) dismiss its two applications for Bend, Oregon (File Nos. BPED-19980218MD and BPED-19980417MF).

<sup>8</sup> 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 18, 2001.

<sup>9</sup> 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).

and studio locations for the proposed station and KLVR(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 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 request. 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 proposed station's city grade contour which will have the capability to originate local programming responsive to the needs of the local community; (2) engage the services of a local La Pine public affairs representative to conduct ascertainment surveys, on at least a quarterly basis, of local community leaders and other residents to determine the concerns, problems and needs of La Pine listeners, which will be covered in news and public affairs programming; and that EMF's local representative will serve as a liaison between the residents of La Pine and EMF's programming personnel; and (3) maintain a toll-free telephone number and a public inspection file in La Pine in compliance with the Commission's Rules.

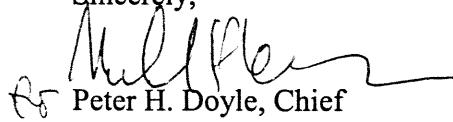
In these circumstances, we are persuaded that EMF will meet its local service obligations and thus, that grant of the requested waiver is consistent with the public interest. We remind EMF, however, of the requirement that it maintain a public file for the proposed station at the main studio of the "parent" station KLVR(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 La Pine, its request for waiver of 47 C.F.R. § 73.1125 will be granted.

**Conclusion/Actions.** In light of the above discussion, 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 La Pine, Oregon.

We also find that American Family Association 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 Bend, Oregon.

Accordingly, the Joint Request for Approval of Settlement Agreement IS GRANTED; the applications of the Community Advisory Board of the Diocese of Baker (File No. BPED-19971016MD), Pensacola Christian College, Inc. (File No. BPED-19980327MA), and CSN International (File No. BPED-19980417MF) ARE DISMISSED and the applications of American Family Association (File No. BPED-19980430MB) and Educational Media Foundation (File No. BPED-19980512MA), as amended, ARE GRANTED. The authorizations are enclosed.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter H. Doyle", with a long horizontal flourish extending to the right.

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