

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

**In Reply Refer To:**  
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In re: **NEW(FM), Yucca Valley, California**  
Penfold Communications, Inc.  
File No. BPED-19981013MB  
Facility ID No. 91840

**NEW(FM), Yucca Valley, California**  
Broadcasting for the Challenged, Inc.  
File No. BPED-19990310MB  
Facility ID No. 92934

**NEW(FM), Yucca Valley, California**  
Sacramento Brain Trust, Inc.  
File No. BPED-19990310MQ  
Facility ID No. 92946

Joint Request for Settlement Agreement  
MX Group 981002

Dear Counsel:

This is in reference to the above-captioned mutually exclusive construction permit applications for a new noncommercial FM station in Yucca Valley, California and the Joint Request for Approval of Agreements ("Joint Request") filed July 19, 2001 by Penfold Communications, Inc. ("Penfold), Broadcasting for the Challenged, Inc. ("BFTC") and

Sacramento Brain Trust, Inc. ("SBT"). A supplement to the Joint Request was filed on August 29, 2001.

We have examined the Joint Request and the Settlement Agreement ("Agreement") attached thereto. Under the terms of the Agreement, the BFTC and SBT applications will be dismissed and the Penfold application will be granted. As consideration for dismissal, Penfold will pay BFTC \$12,000. SBT has agreed to dismiss its application in consideration for the agreement of BFTC to dismiss its application, in order to permit the settlement.<sup>1</sup> This consideration is authorized pursuant to the temporary waiver of the reimbursement limitations contained in 47 C.F.R. § 73.3525(a)(3) in *Reexamination of the Comparative Standards for Noncommercial Educational Applicants, Memorandum Opinion and Order*, 16 FCC Rcd 5074, 5107-08 (2001) ("NCE Comparative Standards"). The waiver was extended to settlement agreements filed by July 19, 2001. See *Public Notice*, "Deadline for Noncommercial Educational FM Settlements and Supplements," DA 01-1245 (MM Bur. May 24, 2001).

After careful consideration of the Agreement, we find that approval of the Joint Request would serve the public interest and the applications were not filed for the purpose of reaching or carrying out the Agreements. Accordingly, the applicants have complied with the provisions of 47 U.S.C. § 311(c)(3) and 47 C.F.R. § 73.3525. Since the applicants propose to serve the same community, no Section 307(b) questions have been presented and no republication is required under 47 C.F.R. § 73.3525(b). Furthermore, we find that Penfold is fully qualified and that a grant of the application would serve the public interest by expediting a new noncommercial FM service to Yucca Valley, California.

Accordingly, pursuant to 47 C.F.R. § 0.283, the Joint Request for Approval of Settlement Agreements IS GRANTED. The applications filed by Broadcasting for the Challenged, Inc. (File No. BPED-19990310MB) and Sacramento Brain Trust, Inc. ("File No. BPED-19990310MQ) ARE HEREBY DISMISSED and the application filed by Penfold Communications, Inc. (File No. BPED-19981013MB) IS HEREBY GRANTED. The construction permit authorization will follow under separate cover.

Sincerely,

A handwritten signature in dark ink, appearing to read "Peter H. Doyle", with a stylized flourish or initial at the end.

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

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<sup>1</sup> Penfold, SBT and BFTC entered into a separate Agreement to Resolve Application Conflicts on May 7, 2001 with numerous other applicants. The Agreement to Resolve Application Conflicts proposes universal settlements among eight mutually exclusive groups, which included MX Group 981002.