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In Re: **NEW(FM), Sparks, Nevada**
Educational Media Foundation
File No.BNPED-20000518ACL
Facility ID No.124888

NEW(FM), Quincy, California
CSN International
File No.BNPED-20000517AFH
Facility ID No.124890
Channel 203C2

NEW(FM), Susanville, California
Broadcasting for the Challenged, Inc.
File No.BNPED-20000518ACM
Facility ID No. 124889

NEW(FM), Quincy, California
California State University, Sacramento
File No. BNPED-20000119ABU
Facility ID No.122435
Channel 201A

Joint Request for Approval of Settlement Agreements
MX Group 200101

Dear Counsel:

This is in reference to the above-captioned mutually exclusive construction permit applications for a new noncommercial educational FM station in Sparks, Nevada, Quincy[1] and Susanville, California and the Joint Request for Approval of Settlement Agreements ("Joint Request") filed on July 19, 2001 by Educational Media Foundation ("EMF"), as amended on January 17, 2001, CSN International ("CSN"), as amended on January 23, 2002, Broadcasting for the Challenged, Inc. ("BFTC"), as amended on July 12, 2001, and California State University, Sacramento ("CSU"). On April 8, 2002, CSN filed a Supplement to the Joint Request. The Joint Request indicates that the EMF, BFTC and CSU applications would be granted and the CSN application would be dismissed. The Supplement states that CSN has ascertained that its application, which is mutually exclusive with the EMF application, could be technically amended and thereby granted without adversely affecting the Joint Request. Accordingly, the settlement agreement between EMF and CSN has been amended to permit such amendment, which was filed on January 23, 2002.

Pursuant to the terms of the Joint Request and Supplement filed thereto, all the applications in this proceeding would be granted.

We have examined the Joint Request, Settlement Agreements and declarations attached thereto. Based on this examination, we find that approval of the Joint Request and Supplement would serve the public interest. Accordingly, the applicants have complied with the provisions of 47 U.S.C. § 311(c)(3) and 47 C.F.R. § 73.3525. Because all the communities at issue will receive a new broadcast service, no Section 307(b) issue is presented and republication is not required under 47 C.F.R. § 73.3525(b). Furthermore, we find that EMF, CSN, BFTC and CSU are fully qualified and that a grant of their respective applications would serve the public interest by expediting new noncommercial educational FM service to Sparks, Nevada, and Susanville and Quincy, California (Channels 203C2 and 201A).

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[1] In this proceeding, two applications were filed for Quincy, California. One application (BNPED-20000517AFH) proposed Channel 203C2 and the second application (BNPED-20000119ABU) proposed Channel 201A.

Main Studio Waiver Requests. Both EMF and CSU have requested a waiver of the main studio requirement.[2] EMF proposes to operate the Sparks, Nevada station as a satellite[3] of its commonly-owned NCE station KLVR(FM), Santa Rosa, California. The proposed Sparks, Nevada station will be part of a network of radio broadcast stations operated by EMF known as the "K-LOVE Radio Network." CSU proposes to operate the Quincy, California station (Channel 201A) as a satellite of commonly-owned NCE stations KXJZ(FM) or KXPR-FM, Sacramento, California. For the reasons set forth below, we will waive Section 73.1125.

Pursuant to Section 73.1125(a), a main studio must be located either (1) within a station's community of license; (2) within the principal community contour of any other broadcast station licensed to its community; or (3) within 25 miles of the center of the community of license.[4] 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 a 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 and CSU's requests are based on the economies of scale which would be realized by a grant of their waivers. We agree and conclude that there is good cause to waive 47 C.F.R. § 73.1125(a) in these circumstances. EMF proposes to operate the Sparks, Nevada station as a satellite of KLVR(FM), Santa Rosa, California, approximately 176 miles from Sparks. CSU proposes to operate the Quincy, California (Channel 201A) as a satellite of KXJZ(FM) or KXPR-FM, Sacramento, California, approximately 98 miles from Quincy. Where there is a considerable distance between parent and satellite stations, as here, we are particularly concerned that the licensee takes adequate measures to maintain its awareness of the satellite community's needs and interests. To that end, EMF has pledged to: (1) maintain an auxiliary studio within the proposed station's city grade contour capable of originating local programming that is responsive to local community needs; (2) engage the services of a local Sparks, Nevada public affairs representative to work with an EMF regional manager to conduct quarterly

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[2] *See* 47 C.F.R. § 73.1125.

[3] 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, Memorandum Opinion and Order*, 3 RR 2d 1554, 1562 (1964).

[4] *See 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*").

ascertainment surveys of local community leaders and other residents to determine the concerns, problems and needs of Sparks listeners and serve as a liaison between the residents of Sparks and EMF's programming personnel; (3) maintain a toll-free telephone number, as required by Section 73.1125(d) of the rules and (4) maintain a public inspection file, as required by the Commission's rules.

CSU has pledged to: (1) maintain a public inspection file and a toll-free telephone number in Quincy; (2) make periodic visits to interview community leaders in order to become aware of the problems and needs of the Quincy community; (3) address issues of concern through news programs, and (4) produce a Quincy public affairs program on a regular basis to be broadcast on the Quincy station, if the problems and needs of the Quincy community are found to be so different from those of the Sacramento community that they cannot be included in local newscasts.

Under these circumstances, we are persuaded that EMF and CSU will meet their local service obligations and thus, grant of the requested waiver is consistent with the public interest. We remind EMF and CSU that, notwithstanding their commitment to maintain a public inspection file in Sparks, Nevada and Quincy, California, they must also maintain a public file for the Sparks, Nevada and Quincy California stations at the main studio of the parent stations. In the case of EMF, it would be the main studio of KLVR(FM), Santa Rosa, California and for CSU it would be the main studio of KXJZ(FM) or KXPR-FM, Sacramento, California. EMF and CSU must also make reasonable accommodation for listeners wishing to examine the file's contents.[5] We further remind EMF and CSU that, notwithstanding the grant of the waivers requested here, the public file for the station must contain the quarterly issues and programs list, as required by 47 C.F.R. § 73.3527(e)(8).

Accordingly, pursuant to 47 C.F.R. § 0.283, the Joint Request for Approval of Settlements, the Supplement filed thereto and the requests for waiver of 47 C.F.R. § 73.1125 filed by Educational Media Foundation and California State University, Sacramento ARE GRANTED. The Petitions for Leave to Amend filed on December 19, 2001, and March 27, 2002, by California State University, Sacramento ARE GRANTED and the amendments are accepted for filing. The applications filed by Educational Media Foundation (BNPED-20000518ACL), as amended on January 17, 2001, CSN International (File No. BNPED-20000517AFH), as amended on January 23, 2002, Broadcasting for the Challenged, Inc. (File No. BNPED-20000518ACM), as amended on July 12, 2001, and California State University, Sacramento (File No.BNPED-20000119ABU) ARE HEREBY GRANTED.

Sincerely,

Lisa Scanlan

for

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

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[5] *See Reconsideration Order,* 14 FCC Rcd at 11129, ¶45.