

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of Section 73.202(b),)	
Table of Allotments,)	
FM Broadcast Stations.)	
(Ione, Oregon; Walla Walla, Washington and)	MB Docket No. 05-9
Athena, Hermiston, La Grande, and Arlington,)	RM-11141
Oregon))	RM-11242
)	
(Monument, Oregon; Prairie City, Prineville, and)	MB Docket No. 05-10
Sisters, Oregon and Weiser, Idaho; The Dalles,)	RM-11140
Tualatin, Eugene, Albany, Lebanon, Paisley, and)	RM-11241
Diamond Lake, Oregon and Goldendale,)	RM-11279
Washington))	

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: August 31, 2006

Released: September 5, 2006

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it two *Notices of Proposed Rule Making*.¹ We are consolidating these two proceedings because the counterproposals filed in each proceeding are mutually exclusive. Klickitat Broadcasting filed comments in both proceedings. Two Hearts Communications, LLC, (“Two Hearts”), licensee of FM Station KHSS, Channel 264C3, Walla Walla, Washington filed a timely counterproposal in MB Docket No. 05-9. SSR Communications, Inc. (“SSR Communications”) filed a timely counterproposal in MB Docket No. 05-10.² Portland Broadcasting, L.L.C, licensee of Station KXPC-FM, Lebanon, Oregon, Columbia Gorge Broadcasters, Inc., licensee of Station KACI-FM, The Dalles, Oregon, M.S.W. Communications, LLC, licensee of Station KMSW(FM), The Dalles,

¹ See *Ione, Oregon*, Notice of Proposed Rule Making, 20 FCC Rcd 1287 (MB 2005) (“*Notice*”) and *Monument, Oregon*, Notice of Proposed Rule Making, 20 FCC Rcd 1287 (MB 2005) (“*Notice II*”).

² SSR Communications hand-delivered its counterproposal to the Commission on March 21, 2005, the comment deadline in this proceeding. However, SSR Communications addressed its counterproposal to the Chief, Allocations Branch, Policy and Rules Division, Media Bureau, which resulted in the receipt of a bureau/office mail stamp. Thereafter, the counterproposal was re-stamped by the Office of the Secretary on April 1, 2005 because all filings pertaining to FM allotment proceedings must be submitted to the Office of the Secretary. Any such filing is treated as filed on the date it is received by the Office of the Secretary. See 47 C.F.R. § 1.7. Accordingly, SSR Communications’ counterproposal was untimely. We note that this filing was made before a recent change in the Audio Division’s standard notice of proposed rulemaking language, which emphasizes this filing requirement for all submissions in FM allocation proceedings. Accordingly, we waive the filing deadline in this instance. We note, again, that failure to follow the specified requirements will result in the treatment of a filing as filed on the date it is received in the Office of the Secretary. This processing rule will be strictly followed. See *Filing Requirements in FM Allotment Rulemaking Proceedings*, Public Notice, DA 05-995, released April 1, 2005 (advising filers that all filings concerning FM allotment proceedings must be submitted to the Office of the Secretary).

Oregon, and Extra Mile Media, Inc., licensee of Station KHPE(FM), Albany, Oregon (collectively “Joint Petitioners”) filed jointly a counterproposal in MB Docket No. 05-10.³ Reply comments were separately filed by SSR Communications, Two Hearts, Joint Petitioners, Horizon Broadcasting Group, LLC (“Horizon Broadcasting”), licensee of Station KWPK-FM, Channel 281C2, Sisters, Oregon, and Cumulus Licensing LLC (“Cumulus Licensing”), licensee of Station KNRQ-FM, Channel 250C, Eugene, Oregon. Two Hearts filed Supplemental Comments. Two Hearts and SSR Communications filed a Joint Request for Approval of Settlement Agreement (“Settlement Agreement”). In response to the *Orders to Show Cause*, comments were separately filed by Westend Radio LLC (“Westend Radio”), licensee of FM Station KQFM, Channel 263A, Hermiston, Oregon, KSRV, Inc, licensee of FM Station KWRL, Channel 260C1, La Grande, Oregon, Two Hearts, Horizon Broadcasting, SSR Communications and Cumulus Licensing.⁴ No other comments or counterproposals were filed.

2. **Background.** The *Notice* in MB Docket No. 05-9 proposed the allotment of Channel 295A at Ione, Oregon, as its first local service. Klickitat Broadcasting filed comments expressing its interest in Channel 295A at Ione. Klickitat Broadcasting states that it would apply for a Class A allotment at Ione, if allotted.

3. Two Hearts filed a timely counterproposal in MB Docket No. 05-9 in response to the *Notice’s* proposal. The counterproposal requests the substitution of Channel 264C2 for Channel 264C3 at Walla Walla, Washington, reallocation of Channel 264C2 from Walla Walla, Washington to Athena, Oregon, as its first local service, and the modification of the FM Station KHSS license accordingly. To accommodate the proposed Athena reallocation, Two Hearts requests the substitution of Channel 295C2 for vacant Channel 261C2 at Arlington, Oregon; substitution of Channel 261A for Channel 263A at Hermiston, Oregon, and the modification of the FM Station KQFM license accordingly;⁵ and substitution of Channel 225C1 for Channel 260C1 at La Grande, Oregon, and the modification of the FM Station KWRL license accordingly.⁶ Two Hearts also proposes the allotment of Channel 258A rather than Channel 295A at Ione to resolve the conflict with the *Notice’s* proposal.

4. The *Notice II* in MB Docket No. 05-10 proposed the allotment of Channel 266A at Monument, Oregon, as its first local service. Klickitat Broadcasting filed comments, stating that it has no interest in a Class A allotment on Channel 266 at Monument.⁷ Since neither Klickitat Broadcasting nor any other party filed the requisite continuing expression of interest in a Class A allotment at Monument, we will not allot this channel.

³ The Joint Petitioners filed its proposal as a petition for rulemaking. This petition is treated as a counterproposal in MB Docket No. 05-10 because it conflicts with a portion of SSR Communications’ counterproposal.

⁴ See *Ione, Oregon; Walla Walla, Washington and Athena, Hermiston, La Grange, and Arlington, Oregon, Order to Show Cause*, 21 FCC Rcd 3335 (MB 2006); see also *Monument, Oregon; Prairie City, Prineville, and Sisters, Oregon and Weiser, Idaho; The Dallas, Tualatin, Eugene, Albany, Lebanon, Paisley, and Diamond Lake, Oregon and Goldendale, Washington, Order to Show Cause*, 21 FCC Rcd 3332 (MB 2006).

⁵ We issued an *Order to Show Cause* directed at Westend Radio, requesting the licensee to show cause why its Station KQFM’s license, File No. BLH-19990520KB, should not be modified to specify operation on Channel 261A in lieu of Channel 263A at Hermiston. See *Id.*

⁶ We issued an *Order to Show Cause* directed at KSRV, Inc., requesting it to show cause why its Station KWRL’s license, File No. BLH-19970805KE, should not be modified to specify operation on Channel 225C1 in lieu of Channel 260C1 at La Grande. See n. 4.

⁷ As stated in the *Notice II*, Klickitat Broadcasting originally requested the allotment of Channel 229A at Monument. However, Channel 229A conflicted with a subsequently filed Auction 37 application for vacant Channel 228C1 at Condon, Oregon. See File No. BNPH-20041214AFN. Channel 266A at Monument was proposed as an alternate channel to enable us to process the application and rulemaking petition separately.

5. SSR Communications filed a timely counterproposal in MB Docket No. 05-10 in response to the *Notice II's* proposal. Specifically, the SSR Communications counterproposal requests the allotment of Channel 265C at Prairie City, Oregon, as its first local service; the allotment of Channel 267C1 at Prineville, Oregon, as its third FM commercial broadcast service; the substitution of Channel 247C1 for vacant Channel 280C1 at Weiser, Idaho; and the substitution of Channel 282C2 for Channel 281C2 at Sisters, Oregon, and the modification of the Station KWPK-FM license accordingly.⁸ To resolve the existing conflict with the *Notice II* proposal, SSR Communications also requests the allotment of Channel 280C in lieu of Channel 266A at Monument, Oregon. In this regard, SSR Communications states that it would apply for Channel 280C at Monument, if allotted. The requested allotment of Channel 265C at Prairie City conflicts with Two Hearts' proposed reallocation of Station KHSS to Channel 264C2 at Athena, Oregon.

6. The Joint Petitioners filed a petition for rule making that was timely filed by the comment deadline in MB Docket 05-10, requesting the reallocation of Station KXPC-FM, Channel 279C to Paisley, Oregon, which conflicts with SSR Communications' proposed allotment of Channel 280C at Monument, Oregon. As such, the petition is treated as a counterproposal in MB Docket 05-10. Specifically, the Joint Petitioners proposes the substitution of Channel 250C2 for Channel 249C2 at The Dalles, Oregon, reallocation of Channel 250C2 from The Dalles to Tualatin, Oregon, as the community's first local service, and the modification of the Station KACI-FM license accordingly; substitution of Channel 300C for Channel 250C at Eugene, Oregon and modification of the Station KNRQ-FM license accordingly;⁹ substitution of Channel 279C for Channel 300C at Albany, and the modification of the Station KHPE license accordingly; substitution of Channel 251A for vacant Channel 299A at Diamond Lake, Oregon; reallocation of Channel 279C from Lebanon to Paisley, Oregon, as the community's first local service, and the modification of the Station KXPC-FM license accordingly; substitution of Channel 272C2 for Channel 224C3 at The Dalles, Oregon, and the modification of the FM Station KSMW license accordingly; and substitution of Channel 300C2 for Channel 272C2 at Goldendale, Washington, and the modification of the FM Station KYYT license accordingly.

7. **Comment Summary.** Two Hearts and SSR Communications filed a Settlement Agreement proposing a global resolution to this consolidated proceeding. The Settlement Agreement requests the allotment of Channel 260C in lieu of Channel 265C at Prairie City to resolve the existing conflict between their counterproposals. The Settlement Agreement also proposes the allotment of Channel 280C1 in lieu of Channel 280C at Monument, Oregon. SSR Communications notes that the proposed allotment of Channel 280C1 at Monument resolves the existing conflict with the Joint Petitioners' proposal and obviates the need for Station KWPK-FM to change its frequency to Channel 282C2 at Sisters, Oregon. The Settlement Agreement provides, as consideration for the settlement, that SSR Communications will be compensated in the amount five thousand dollars for its legitimate and prudent expenses incurred in connection with the preparation, filing and advocacy of its counterproposal, consistent with the requirements of Section 1.420(j) of the Commission's Rules.¹⁰

8. In response to the *Order to Show Cause* issued in MB Docket No. 05-9, Westend Radio and KSRV, Inc. separately filed comments requesting that Two Hearts submit financial documentation,

⁸ We issued an *Order to Show Cause* directed at Horizon Broadcasting, requesting the licensee to show cause why its Station KWPK-FM's license, File No. BLH-20010516AAI, should not be modified to specify operation on Channel 282C2 in lieu of Channel 281C2 at Sisters. *See* n. 4.

⁹ We issued an *Order to Show Cause* directed at Cumulus Licensing, requesting the licensee to show cause why its Station KNRQ-FM's license, File No. BLH-19910528KF, should not be modified to specify operation on Channel 300C in lieu of Channel 250C at Eugene. *See* n.4.

¹⁰ *See* 47 C.F.R. § 1.420(j).

showing that it has the ability to pay the total anticipated costs along with a written commitment, stating that it would reimburse the stations in a timely manner. Westend Radio anticipates that it would cost at least \$92,046.55 to change the Station KQFM frequency to Channel 261A at Hermiston, while KSRV, Inc. states that it would cost at least \$148,677.00 to change Station KWRL's frequency to Channel 225C1 at La Grande. In response, Two Hearts states that it has clearly stated its commitment to reimburse both licensees for their reasonable and prudent costs for changing their station's frequencies to accommodate its counterproposal. Two Hearts states that no documentation is needed because the Commission does not require a party to demonstrate its financial ability to reimburse a party for changing its frequencies in the context of a rulemaking proceeding.¹¹ Moreover, Two Hearts contends that the detailed itemizations provided by Westend Radio and KSRV, Inc. are excessive and unjustifiable reimbursement claims. Two Hearts requests that the Commission establish procedures for dealing with disputes regarding "reasonable and prudent" expenses for changing a frequency in the context of this rulemaking proceeding.

9. In response to the *Public Notice*, Cumulus Licensing filed reply comments stating that the Joint Petitioners' proposal is flawed. In this regard, Cumulus Licensing asserts that Station KNRQ-FM can not be modified to specify operation on Channel 300C at Eugene, Oregon at the station's current transmitter site because it would create the potential for electromagnetic interference to regional air navigation aid signals operated by the Federal Aviation Administration ("FAA") in connection with the Mahlon Sweet Field Airport. Moreover, Cumulus Licensing claims that the proposed move for Station KACI-FM to 250C2 at Tualatin, Oregon would create a white area of 646 persons and a gray area of 1,502 persons. In response to the *Order to Show Cause*¹² issued in MB Docket 05-10, Cumulus Licensing submitted a Notice of Presumed Hazard from the FAA, stating that a proposed Channel 300C at Eugene, Oregon at Station KNRQ-FM's current transmitter site would exceed obstruction standards and/or would have an adverse physical or electromagnetic interference effect upon navigable airspace or air navigation facilities. Moreover, the proposed Channel 300C at Station KNRQ-FM's current transmitter site would have a negative impact on air/ground communications and cause unacceptable interference to the Eugene, Oregon Instrument Landing System (ILS) operated by the FAA.

10. **Discussion.** We will approve the Settlement Agreement in accordance with Section 1.420(j) of the Commission's Rules to resolve the existing conflicts between the three counterproposals. Specifically, we will allot Channel 280C1 at Monument, Oregon, as its first local service¹³ and Channel 260C at Prairie City, Oregon, as its first local service.¹⁴ To accommodate Channel 280C1 at Monument, we are substituting Channel *247C1 for vacant Channel *280C1 at Weiser, Idaho.¹⁵ We are also allotting

¹¹ *Citing Colonial Heights, TN*, 11 FCC Rcd 18079 (MMB 1997).

¹² *See* n.4.

¹³ The reference coordinates for Channel 280C1 at Monument are 44-49-09 NL and 119-25-11 WL. Monument is an incorporated city with a 2000 U.S. Census population of 151 persons.

¹⁴ The reference coordinates for Channel 260C at Prairie City are 44-17-47 NL and 118-44-22 WL. This site is located 18.5 kilometers (11.5 miles) south of Prairie City. According to the 2000 U.S. Census, Prairie City is an incorporated city with a population of 1,080 persons. Prairie City has its own municipal government, city hall, police department, fire department, school district, private school, numerous churches and U.S. Post Office (97869).

¹⁵ We note that Channel 280C1 was reserved for noncommercial educational ("NCE") use in compliance with the relaxed reservation policy set forth in the *Reexamination of the Comparative Standards for Noncommercial Educational Applicants*, Second Report and Order, 18 FCC Rcd 6691 (2003). *See Anniston, Alabama, et al.*, Report and Order, 19 FCC Rcd 13115 (MB 2004). Therefore, we are reserving Channel 247C1 at Weiser for NCE use at reference coordinates 44-20-39 NL and 117-07-14 WL in compliance with the relaxed reservation policy. This site is located 16 kilometers (9.9 miles) northwest of Weiser.

Channel 267C1 at Prineville, Oregon, as its third FM commercial broadcast service as proposed in SSR Communications' counterproposal.¹⁶

11. **Two Hearts' counterproposal.** Westend Radio and KSRV, Inc. filed comments in response to the *Order to Show Cause*,¹⁷ questioning Two Hearts ability to reimburse the licensees for costs associated with changing their station's frequencies to accommodate Two Hearts' counterproposal. In this regard, Westend Radio and KSRV, Inc. requested that Two Hearts submit financial documentation, showing its ability to pay the total anticipated costs and a written commitment, stating that Two Hearts would reimburse the stations in a timely manner. Two Hearts has pledged to reimburse both licensees for "reasonable and prudent" expenses incurred for changing the frequency of Station KQFM to Channel 261A at Hermiston and Station KWRL to Channel 225C1 at La Grande consistent with the policy set forth in *Circleville*.¹⁸ As such, we will not require Two Hearts to submit written documentation on its ability to reimburse or a commitment that it will reimburse in a timely manner. The Commission set forth guidelines in *Circleville* of what constitutes "reasonable and prudent" expenses. To this end, the Commission stated that it expects parties to follow these guidelines and to reach an agreement in good faith. We find no basis to depart from this policy in this proceeding.

12. Two Hearts filed its reallocation proposal consistent with the requirements of Section 1.420(i) of the Commission's rules.¹⁹ When considering a reallocation proposal, a comparison is made between the existing and the proposed arrangement of allotments based upon the FM Allotment priorities.²⁰ The proposed reallocation of Channel 264C2 to Athena, Oregon would provide a first local service, priority (3), whereas the retention of Station KHSS at Walla Walla, Washington would attribute to a tenth local service, priority (4).²¹ We find that the reallocation proposal results in a preferential arrangement of allotments based on priority (3), first local service.

13. Accordingly, we are substituting Channel 264C2 for Channel 264C3 at Walla Walla, Washington, reallocation Channel 264C2 from Walla Walla, Washington to Athena, Oregon, as the community's first local service and modifying the Station KHSS license to reflect this change.²² To accommodate the reallocation, we are substituting Channel 261A for Channel 263A at Hermiston, Oregon

¹⁶ The reference coordinates for Channel 267C1 at Prineville are 44-20-48 NL and 120-22-29 WL. This site is located 37.6 kilometers (23.4 miles) east of Prineville.

¹⁷ See n. 4.

¹⁸ *Circleville, Ohio*, Second Report and Order, 8 FCC 2d 159 (1967).

¹⁹ See 47 C.F.R. § 1.420(i). see also; *Modification of FM and TV Authorizations to Specify a New Community of License*, Report and Order, 4 FCC Rcd 4870 (1989), recon. granted in part, Memorandum Opinion and Order, 5 FCC Rcd 7394 (1990).

²⁰ The FM Allotment priorities are (1) First full-time aural service. (2) Second full-time aural service. (3) First local service. (4) Other public interest matters. [Co-equal weight is given to priorities (2) and (3)], See *Revision of FM Assignment Policies and Procedures*, Second Report and Order, 90 FCC 2d 88, 91 (1988).

²¹ AM Stations KGDC, KUJ and KTEL, Noncommercial Stations KWWS and KWCW, and FM commercial Stations KNLTL, KXRK, KRKL and KUJ-FM are licensed to Walla Walla.

²² The reference coordinates for Channel 264C2 at Athena are 45-47-41 NL and 118-10-06 WL. This site is located 25.2 kilometers (15.7 miles) east of Athena. Athena is an incorporated community with a 2000 U.S. Census population of 1,221 persons. Athena has a local library, planning commission, chamber of commerce, school district and a council and mayor form of government. There are numerous business establishments and several churches located in Athena. The reallocation of Station KHSS to Athena would result in a net gain of 24,821 persons. The gain area contains 27,155 persons, while the loss area contains 2,334 persons. Both areas are considered well-served with at least five other existing full-time services.

and modifying the Station KQFM license accordingly;²³ substituting Channel 225C1 for Channel 260C1 at La Grande, Oregon and modifying the Station KWRL license accordingly;²⁴ and substituting Channel 295C2 for vacant Channel 261C2 at Arlington, Oregon.²⁵ To resolve the conflict with the *Notice's* proposal, we are allotting Channel 258A at Ione, Oregon, as its first local service.²⁶

14. The Joint Petitioner's proposal. The Joint Petitioners requests that Station KNRQ-FM change its frequency to Channel 300C at Eugene, Oregon to accommodate the proposed reallocation of Station KACI-FM to Channel 250C2 at Tualatin, Oregon. In this regard, we issued an *Order to Show Cause*²⁷ to Cumulus Licensing. In response, the licensee submitted documentation from the FAA, stating that Channel 300C at Eugene, Oregon, utilizing the Station KNRQ-FM current transmitter site, would exceed obstruction standards and/or have an adverse physical or electromagnetic interference effect upon navigable airspace or air navigation facilities in connection with the Mahlon Sweet Field Airport. Moreover, the FAA stated that Channel 300C at Station KNRQ-FM's current transmitter site would have a negative impact on air/ground communications and cause unacceptable interference to the Eugene, Oregon Instrument Landing System (ILS) operated by the FAA. Therefore, we conclude that there is a reasonable likelihood that Station KNRQ-FM would not obtain FAA approval on Channel 300C at Eugene, Oregon at its current license site. We note that another transmitter site could be available from which Channel 300C at Eugene could operate in compliance with our rules. However, the Commission will not force a licensee to change its station's transmitter site involuntary.²⁸ Accordingly, we are dismissing the Joint Petitioners' proposal, requesting the reallocation of Channel 250C2 to Tualatin and the channel substitutions necessary to accommodate this reallocation.²⁹

15. The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. § 801(a)(1)(A).

16. Accordingly, pursuant to the authority found in 47 U.S.C. Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) and 47 C.F.R. Sections 0.61, 0.204(b) and 0.283, IT IS ORDERED, That effective October 20, 2006, the FM Table of Allotments, 47 C.F.R. Section 73.202(b), IS AMENDED, with respect to the communities listed below, to read as follows:

²³ Channel 261A can be allotted at Station KQFM's current licensed site, 45-51-57 NL and 119-18-38 WL. This site is located 3.1 kilometers (1.9 miles) northwest of Hermiston.

²⁴ Channel 225C1 can be allotted at Station KWRL's current licensed site, 45-12-59 NL and 118-00-00 WL. This site is located 14.3 kilometers (8.9 miles) southeast of La Grande.

²⁵ The reference coordinates for Channel 295C2 at Arlington are 45-33-52 NL and 120-19-00 WL. The site is located 19.9 kilometers (12.3 miles) southwest of Arlington.

²⁶ The reference coordinates for Channel 258A at Ione are 45-30-12 NL and 119-49-36 WL. Ione is an incorporated city located in Morrow County with a 2000 U.S. Census population of 321 persons. Ione has its own school district, community web site, post office and zip code (97843).

²⁷ *See* n. 4.

²⁸ *See Claremore, Locust Grove and Nowata, Oklahoma and Barling, Arkansas*, Memorandum Opinion and Order, 4 FCC Rcd 2181 (1989).

²⁹ *See Johannesburg and Edwards, California*, Report and Order, 15 FCC Rcd 15801 (MMB 2000); *Sebring and Miami, Florida*, Report and Order, 10 FCC Rcd 6577 (MMB 1995); *Mount Wilson FM Broadcasters v. FCC*, 884 F.2d 1462 (D.C. Cir. 1989) and *San Clemente California*, Memorandum Opinion and Order, 3 FCC Rcd 6728 (MMB 1998), *appeal dismissed sub. nom.* (stating that at allotment stage, we presume that a theoretical reference site exists from which a station can operate consistent with the Commission's rules; presumption, however is rebuttable).

<u>Communities</u>	<u>Channel No.</u>
Arlington, Oregon	295C2
Athena, Oregon	264C2
Hermiston, Oregon	261A
La Grande, Oregon	225C1
Monument, Oregon	280C1
Prairie City, Oregon	260C
Prineville, Oregon	236C1, 255C3, 267C1
Walla Walla, Washington	227C1, 239C, 246C0
Weiser, Idaho	*247C1

17. IT IS FURTHER ORDERED, That pursuant to 47 U.S.C. Section 316(a) that the license of Two Hearts Communications, LLC for Station KHSS, Channel 264C3, Walla Walla, Washington IS MODIFIED to specify operation on Channel 264C2 at Athena, Oregon, subject to the following conditions:

- (a) Within 90 days of the effective date of the *Order*, the licensee of Station KHSS shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility;
- (b) Upon grant of the construction permit, program tests may be conducted in accordance with 47 C.F.R. Section 73.1620; and
- (c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to 47 C.F.R. Section 1.1307, unless the proposed facilities are categorically excluded from environmental processing.

18. IT IS FURTHER ORDERED, That pursuant to 47 U.S.C. Section 316(a) that the license of Westend Radio LLC for Station KQFM, Channel 263A, Hermiston, Oregon, IS MODIFIED to specify operation on Channel 261A at Hermiston, subject to the following conditions:

- (a) Within 90 days of the effective date of the *Order*, the licensee of Station KQFM shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility;
- (b) Upon grant of the construction permit, program tests may be conducted in accordance with 47 C.F.R. Section 73.1620; and
- (c) Nothing contained herein shall be construed to authorize a

change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to 47 C.F.R. Section 1.1307, unless the proposed facilities are categorically excluded from environmental processing.

19. IT IS FURTHER ORDERED, That pursuant to 47 U.S.C. Section 316(a) that the license of KSRV, Inc. for Station KWRL, Channel 260C1, La Grande, Oregon, IS MODIFIED to specify operation on Channel 225C1 at La Grande, Oregon, subject to the following conditions:

(a) Within 90 days of the effective date of the *Order*, the licensee of Station KWRL shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility;

(b) Upon grant of the construction permit, program tests may be conducted in accordance with 47 C.F.R. Section 73.1620; and

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to 47 C.F.R. Section 1.1307, unless the proposed facilities are categorically excluded from environmental processing.

20. Pursuant to 47 C.F.R. Sections 1.1104(1)(k) and (3)(l) of the Commission's rules, Two Hearts Communications, LLC, licensee of Station KHSS, Channel 264C3, Walla Walla, Washington is required to submit a rulemaking fee in addition to the fee required for the application to effectuate the community of license for Station KHSS to specify operation on Channel 264C2 at Athena, Oregon at the time its Form 301 application is submitted.

21. IT IS FURTHER ORDERED, That the Joint Petitioners' Petition for Rule Making IS DISMISSED.

22. IT IS FURTHER ORDERED, That these proceedings ARE TERMINATED.

23. For further information concerning this proceeding, contact Rolanda F. Smith, Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
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