



# PUBLIC NOTICE

Federal Communications Commission  
445 12<sup>th</sup> St., S.W.  
Washington, D.C. 20554

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DA 08-289

Released: February 4, 2008

**PUBLIC SAFETY AND HOMELAND SECURITY BUREAU SEEKS COMMENT ON  
APPLICATIONS AND REQUESTS FOR WAIVER FILED BY THE COUNTY OF  
BEAVERHEAD, COUNTY OF GRANITE, AND COUNTY OF SILVERBOW, MONTANA TO  
OPERATE PUBLIC SAFETY RADIO SYSTEMS USING PART 80 MARITIME VHF  
FREQUENCIES**

**File Nos. 0002777116, 0002780258, 0002806667, 0002898490**

**Comment Date: [February 19, 2008]**

**Reply Comment Date: [February 26, 2008]**

The Public Safety and Homeland Security Bureau (Bureau) seeks comment on the above-captioned applications and waiver requests, as amended, filed by the County of Beaverhead (Beaverhead),<sup>1</sup> the County of Granite (Granite),<sup>2</sup> and the County of Silverbow (Silverbow) (collectively, the Counties).<sup>3</sup> Each county is a governmental entity in the State of Montana (Montana) eligible to hold authorizations in the Public Safety Pool.<sup>4</sup> The Counties seek to use various VHF maritime frequencies in the 156-162 MHz Band allocated under Part 80 of the Commission's rules,<sup>5</sup> as part of Montana's statewide VHF public safety communications system. Because the subject maritime frequencies<sup>6</sup> are not allocated for the provision of public safety services, the Counties seek waiver relief pursuant to Section

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<sup>1</sup> See File No. 0002777116 (filed Oct. 6, 2006, amended Nov. 9, 2006, Nov. 14, 2006 (attaching initial Beaverhead Waiver Request), Nov. 21, 2006, April 12, 2007, April 13, 2007, June 27, 2007, Aug. 22, 2007 (filing Waiver Clarification (amending Beaverhead Waiver Request)), and Oct. 5, 2007) (Beaverhead application).

<sup>2</sup> File No. 0002780258 (filed Oct. 11, 2006 (attaching initial Granite Waiver Request), amended Dec. 12, 2006, April 16, 2007, Aug. 20, 2007 (filing Waiver Clarification (amending Granite Waiver Request)), and Oct. 5, 2007) (Granite application).

<sup>3</sup> See File No. 0002806667 (filed Nov. 2, 2006 (attaching Silverbow Waiver Request), amended Nov. 21, 2006, April 16, 2007, Aug. 20, 2007 (filing Waiver Clarification amending Silverbow Waiver Request), Oct. 5, 2007) (Silverbow first application); File No. 0002898490 (filed Feb. 1, 2007 (attaching second Silverbow Waiver Request), amended Mar. 1, 2007, June 26, 2007, July 2, 2007, Oct. 16, 2007, and Oct. 23, 2007 (filing Waiver Clarification, amending second Silverbow Waiver Request)) (Silverbow second application). The applicant's filings also refer to the County as Butte-Silver Bow or Silver Bow County.

<sup>4</sup> See 47 C.F.R. § 90.20.

<sup>5</sup> See 47 C.F.R. Part 80, Subpart H.

<sup>6</sup> See Appendix to this Public Notice, listing the relevant frequencies.

337(c) of the Communications Act of 1934, as amended.<sup>7</sup> In the alternative, the Counties seek waiver relief pursuant to Section 1.925 of the Commission's rules.<sup>8</sup>

Specifically, Beaverhead and Granite seek to use Part 80 private coast station frequencies and Silverbow seeks to use Part 80 maritime VHF frequencies as a part of a wireless communications system that is vital to the public safety governmental operations of the applicants.<sup>9</sup> Accordingly, the Counties filed requests for waiver of Sections 80.105, 80.106, 80.123, 80.203, 80.213, 80.371, and 80.373,<sup>10</sup> and such other sections of Part 80, as may be necessary.<sup>11</sup>

Beaverhead's application seeks to modify its license for Station KLV872 by adding one frequency designated for ship and private coast station use under Part 80 at two locations.<sup>12</sup> Similarly, Granite's application seeks to modify its license for Station KOF476 by adding three frequencies designated for ship and private coast station use under Part 80 at three locations.<sup>13</sup> In addition, Beaverhead and Granite seek to add public safety frequencies allocated under Part 90 at these locations.<sup>14</sup>

Silverbow filed two applications: (1) an application for a new authorization to use nine VHF frequencies designated for ship and private coast station use under Part 80, one VHF frequency designated for VHF Public Coast (VPC) station use under Part 80, and four maritime VHF frequencies designated for public safety use under Part 90<sup>15</sup> at six total locations;<sup>16</sup> and (2) an application for a new authorization to use one additional maritime frequency allocated for VPC use under Part 80 at four out of

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<sup>7</sup> 47 U.S.C. § 337(c).

<sup>8</sup> 47 C.F.R. § 1.925.

<sup>9</sup> *See, e.g.*, File No. 0002780258 (Granite Waiver Request).

<sup>10</sup> 47 C.F.R. §§ 80.105, 80.106, 80.123, 80.203, 80.213, 80.371, and 80.373.

<sup>11</sup> *See* File No. 0002777116 (Letter from Bob McWilliams, Disaster & Emergency Services, Beaverhead County, re: Waiver Clarification for Part 80 frequencies, filed Aug. 22, 2007, at 1); File No. 0002780258, (Letter from Stephen Immenschuh, Sheriff, Granite County, re: Waiver Clarification for Part 80 frequencies, filed Aug. 20, 2007, at 1). *See* File No. 0002806667 (Letter from John Walsh, Sheriff, Butte-Silverbow Law Enforcement Department, re: Waiver Clarification for Part 80 frequencies, filed Aug. 20, 2007, at 1); File No. 0002898490 (Letter from James David McPherson, 9-1-1 Coordinator, Silverbow County, re: Waiver Clarification for Part 80 frequencies, filed Oct. 23, 2007).

<sup>12</sup> *See* initial Beaverhead Waiver Request, requesting 157.100 MHz. *See* 47 C.F.R. § 80.373(f), including tables and conditions; *see* Appendix to this Public Notice.

<sup>13</sup> *See* File No. 0002780258, FCC 601 – Schedule H at 4-5, 7, 10, requesting 156.050 MHz, 156.250 MHz, and 156.700 MHz. *See* 47 C.F.R. § 80.373(f), including tables and conditions; *see* Appendix to this Public Notice.

<sup>14</sup> *See* 47 C.F.R. Part 90, Subpart B. Beaverhead seeks to add 38 public safety frequencies, which are allocated under Part 90, at nine locations. *See* Beaverhead application. Granite seeks to add 11 public safety frequencies, which are allocated under Part 90, at eight locations. *See* Granite application.

<sup>15</sup> *See* 47 C.F.R. § 90.20(g)(2), Table B, allocating maritime channels 25 and 84 for public safety use in the VHF public coast service areas designated for Montana.

<sup>16</sup> *See* Silverbow first application; *see* Appendix to this Public Notice, listing the specific private coast station frequencies and the VPC frequency (as clarified in the Appendix). Also, Silverbow requested the maritime frequency pairs (maritime channels 25 and 84) that are designated for public safety use under Part 90. *See* 47 C.F.R. Part 90, Subpart B; *see* Appendix to this Public Notice.

five proposed locations.<sup>17</sup> In addition, Silverbow seeks to add public safety frequencies allocated under Part 90 at these locations.<sup>18</sup>

The Counties filed amended applications, describing the Montana statewide system as designed to provide seamless communications to first responders.<sup>19</sup> The amended applications include a frequency coordination letter from AASHTO reporting the results of a frequency search.<sup>20</sup> The letter from AASHTO noted that, while its frequency search appears to identify available frequencies, objections from other public safety coordinators render those frequencies “not available.”<sup>21</sup> Accordingly, the waiver requests state that AASHTO conducted a search of the public safety radio service frequency pool and could not identify suitable frequencies to satisfy all operating parameters.<sup>22</sup> The Counties assert that they have no reasonable alternative available, given the intensive use of Public Safety Radio Service spectrum in each county’s respective area of operation.<sup>23</sup> The Counties further state that, since they are a part of Montana’s interoperable VHF system, other spectrum allocations are not technically or economically feasible.<sup>24</sup> In this regard, the Counties state that they need the marine frequencies, in addition to the Part

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<sup>17</sup> See Silverbow second application. See Appendix to this Public Notice, listing the specific VPC frequency.

<sup>18</sup> See 47 C.F.R. Part 90, Subpart B. Silverbow seeks 16 non-maritime public safety frequencies, which are allocated under Part 90, at six locations. See Silverbow first application. Also, in its second application as initially filed, Silverbow seeks an additional non-maritime public safety frequency, which is allocated under Part 90, at three out of the five proposed locations. See Silverbow second application.

<sup>19</sup> See File No. 0002777116 (as amended April 12, 2007 (attaching Exhibit “Marine Consortia”)); File No. 0002780258 (as amended April 16, 2007 (attaching Exhibit “Granite Consortia Letter”)); File No. 0002806667 (as amended April 16, 2007 (attaching Exhibit “Silverbow Consortia Letter”)); File No. 0002898490 (as amended June 26, 2007 (attaching “Consortia Explanation.”)). The State of Montana currently holds geographic licenses covering most of the state, permitting it to operate on maritime frequencies allocated under both Part 80, Subpart H, and Part 90, Subpart B. See 47 C.F.R. §§ 80.371(c), 80.373(f), 90.20(g). Montana supplied letters of concurrence for Granite’s use of maritime frequency 156.050 MHz, and for Silverbow’s use of maritime frequencies 157.000 MHz and 161.790 MHz. See File Nos. 0002780258 and 0002806667 (Statements of Concurrence from Kevin Bruski, Chief, Communications Bureau, Montana Department of Transportation, to the FCC, Gettysburg, PA 17325 (dated April 12, 2007); FCC Concurrence Letter from the Office of the Sheriff, Butte-Silverbow County, signed by Kevin Bruski, Communications Bureau Chief, Montana Department of Transportation and John Walsh, Sheriff, Butte-Silverbow County (dated Sept. 9, 2006)).

<sup>20</sup> See File No. 0002777116 (Letter from Cindy Matzel, RS/AASHTO, re: Beaverhead, County of, filed Nov. 21, 2006, attaching objections from APCO, FCCA, and IMSA); File No. 0002780258 (Letter from Cindy Matzel, RS/AASHTO, re: Granite, County of, filed Nov. 21, 2006, attaching objections from APCO and FCCA); File No. 0002806667 (Letter from Cindy Matzel, RS/AASHTO, re: Silverbow, County of, filed Nov. 21, 2006, attaching objections from APCO and FCCA) (all three letters attach certain technical objections from other public safety frequency coordinators to particular frequencies requested by the applicants) (Nov. 21, 2006 AASHTO Letters).

<sup>21</sup> See Nov. 21, 2006 AASHTO Letters.

<sup>22</sup> See, e.g., File No. 0002780258 (Granite Waiver Request).

<sup>23</sup> See *id.*

<sup>24</sup> See File No. 0002777116 (Letter from Bob McWilliams, Disaster & Emergency Services, Beaverhead County, re: Waiver Clarification for Part 80 frequencies, filed Aug. 22, 2007, at 1); File No. 0002780258 (Letter from Stephen Immenschuh, Sheriff, Granite County, re: Waiver Clarification for Part 80 frequencies, filed Aug. 20, 2007, at 1). See File No. 0002806667 (Letter from John Walsh, Sheriff, Butte-Silverbow Law Enforcement Department, re: Waiver Clarification for Part 80 frequencies, filed Aug. 20, 2007, at 1); File No. 0002898490 (Letter from James David McPherson, 9-1-1 Coordinator, Butte-Silverbow County, re: Waiver Clarification for Part 80 frequencies, filed Oct. 23, 2007). The letters state that Silverbow County “is within the 125Km coordination rule of three (3) other large County Systems, (Gallatin, Missoula and Lewis & Clark);” these systems “are comprised of over 90-126 VHF frequencies apiece.” See *id.* at 2.

90 public safety frequencies that they request, to complete their systems.<sup>25</sup> Additionally, the waiver requests state that AASHTO posted the applications with the maritime frequencies for notification to the Coast Guard frequency coordinator and National Telecommunications and Information Administration.<sup>26</sup>

As a part of the analysis under Section 337 of the Act, as well as the Commission's waiver criteria, we also seek comment on whether the 700 MHz public safety band would provide a viable alternative, particularly in light of the approaching February 17, 2009 digital television transition date, and the Commission's recent actions in facilitating a nationwide, interoperable public safety network.<sup>27</sup>

Interested parties may file comments on the applications and waiver requests on or before February 19, 2008. Parties interested in submitting reply comments must do so on or before February 26, 2008. All comments and reply comments should reference the subject waiver request, including the DA number of this *Public Notice*. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue NE, Suite 110, Washington DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class mail, Express, and Priority mail must be sent to 445 12th Street, S.W., TW-A325, Washington, D.C. 20554.

The applications and waiver requests can be accessed electronically via the Commission's Universal Licensing System, <http://wireless.fcc.gov/uls>. The full text of the waiver requests, comments, and reply comments will be available for inspection and duplication during regular business hours in the

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<sup>25</sup> See File No. 0002777116 (Letter from Bob McWilliams, Disaster & Emergency Services, Beaverhead County, re: File No. 0002777116, filed Oct. 5, 2007, stating that thirty-six public safety VHF frequencies are available and that Beaverhead needs thirty-seven VHF frequencies, including one VHF maritime frequency); File No. 0002780258 (Letter from Stephen Immenschuh, Sheriff, Granite County, re: File No. 0002780258, filed Oct. 5, 2007, stating that fourteen VHF public safety frequencies are available and that Granite needs seventeen frequencies, including the three VHF maritime frequencies to complete its system); File No. 0002806667 (Letter from James David McPherson, 9-1-1 Coordinator, Butte-Silverbow County, re: File No. 0002806667, filed Oct. 5, 2007, stating that sixteen VHF public safety frequencies are available and that Silverbow needs twenty-nine VHF frequencies, including the thirteen Part 80 Marine frequencies to complete its system); File No. 0002898490 (Letter from James David McPherson, 9-1-1 Coordinator, Butte-Silverbow County, re: File No. 0002898490, filed Oct. 16, 2007, stating that Silverbow needs one VHF high band frequency to operate its interoperable system and that "(0) VHF PS frequencies are available . . .").

<sup>26</sup> See, e.g., File No. 0002780258 (Granite Waiver Request).

<sup>27</sup> See Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band, PS Docket No. 06-229; Development of Operational, Technical and Spectrum Requirements for Meeting Federal State and Local Public Safety Communications Requirements through the Year 2010, WT Docket No. 96-86, *Second Report and Order*, 22 FCC Rcd 15289 (2007).

FCC Reference Information Center (RIC) of the Consumer and Governmental Affairs Bureau, Federal Communications Commission, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. Copies may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554. Customers may contact BCPI through its web site, <http://www.bcpiweb.com>, by email at [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com), by phone at (202) 488-5300 or (800) 378-3160, or by facsimile at (202) 488-5563. For further information regarding the public reference file for this waiver request, contact Lisa Williams, RIC, (202) 418-1352.

Because of the policy implications and potential impact of this proceeding on persons not parties to the waiver requests, we believe it would be in the public interest to treat these cases as a permit-but-disclose proceeding under the *ex parte* rules. See Sections 1.1200(a), 1.1206 of the Commission's rules, 47 C.F.R. §§ 1.1200(a), 1.1206. Therefore, subsequent to the release of this *Public Notice, ex parte* presentations that are made with respect to the issues involved in the subject applications and waiver requests will be allowed but must be disclosed in accordance with the requirements of Section 1.1206(b) of the Commission's Rules, 47 C.F.R. § 1.1206(b).

To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

For further information, contact Mr. David Siehl of the Policy Division, Public Safety and Homeland Security Bureau via e-mail at [David.Siehl@fcc.gov](mailto:David.Siehl@fcc.gov) or call 202-418-1313 (voice), 202-418-7233 (tty).

By the Deputy Chief, Public Safety and Homeland Security Bureau.

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## APPENDIX

### **Maritime VHF Ship and Private Coast Station Frequency Requested by Beaverhead, Montana Under Part 80<sup>28</sup>**

File Number 0002777116

157.100

### **Maritime VHF Ship and Private Coast Station Frequencies Requested by Granite County, Montana Under Part 80**

File Number 0002780258

156.050

156.250

156.700

### **Maritime VHF Ship and Private Coast Station Frequencies Requested by Silverbow County, Montana Under Part 80**

File Number 0002806667

156.275

156.500

156.850

156.325

156.550

157.000

156.350

156.600

161.600<sup>29</sup>

### **Maritime VHF Public Coast Station (VPC) Frequencies Requested by Silverbow County, Montana Under Part 80**

File Number 0002806667

File Number 0002898490

161.790<sup>30</sup>

161.950

### **Maritime VHF Frequencies Requested by Silverbow County, Montana Under Part 90<sup>31</sup>**

File Number 0002806667

Channel No. 25 157.250/161.850

Channel No. 84 157.225/161.825

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<sup>28</sup> See 47 C.F.R. Part 80, Subpart H.

<sup>29</sup> See 47 C.F.R. § 80.373(f), table, note 12.

<sup>30</sup> See *id.* VHF frequency 161.790 MHz is not specifically designated a VPC frequency under Part 80. See 47 C.F.R. § 80.371(c). The frequency 161.790 MHz, however, is adjacent to and overlaps a VPC frequency, 161.800 MHz. See *id.*

<sup>31</sup> See 47 C.F.R. Part 90, Subpart B.