



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

October 7, 2010

The Honorable Max Baucus
United States Senate
27 North Wyoming Street
Butte, Montana 59701

Dear Senator Baucus:

Thank you for your letter regarding Montana State University's construction permit in Kalispell, Montana. I appreciate your interest in this important matter and have asked the Chief of the Media Bureau's Office of Communications and Industry Information to reply to your letter. His response is attached.

If I may be of further assistance, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Julius Genachowski", written over a horizontal line.

Julius Genachowski



Federal Communications Commission
Washington, D.C. 20554

October 7, 2010

IN REPLY REFER TO:
CN-1001380

The Honorable Max Baucus
United States Senate
27 North Wyoming Street
Butte, Montana 59701

Dear Senator Baucus:

Thank you for letter regarding the status of an application to construct a new noncommercial educational television broadcast station that was filed with the Federal Communications Commission by the Board of Regents of the Montana State University ("University"). I appreciate the opportunity to update you on this matter.

In August 2006, the University submitted an application for a construction permit proposing to establish a new digital television ("DTV") broadcast station in Kalispell, Montana. At that time, the University's application was mutually exclusive (*i.e.*, only one application may be granted) with an application filed by Flathead Adventist Radio, Inc. ("Flathead"). Subsequently, as indicated in your correspondence, the University concluded a settlement agreement with Flathead and the agreement was filed with the Commission in September 2009. While the settlement agreement means that the University's application is no longer mutually exclusive, the University proposes to operate on channel 46 which is not yet assigned in the final DTV Table of Allotments and, therefore, currently is not available for use in Kalispell.

In 2004, the Commission adopted a *Report and Order* concerning the transition from analog to digital television service. Among other things, the *Report and Order* determined that only licensed stations and authorized permittees for new broadcast stations would be eligible to participate in the digital channel election process to provide television broadcasters with channels for their digital operations after completion of the transition. The University's application was pending and mutually exclusive with the Flathead application at the time the Commission adopted the final DTV Table of Allotments in 2007. Thus, because the University was not an authorized permittee when the final post-transition table was adopted, it was not eligible to participate in the digital channel election process.

Page 2—The Honorable Max Baucus

The Commission's Media Bureau currently is working to develop a recommendation regarding the review and disposition of several pending applications, such as the one submitted by the University, which propose to use television channels that have not been allotted. The Bureau staff is evaluating each of the pending applications for technical compliance and also must consider the impact that recommendations proposed in the Commission's recent National Broadband Plan concerning the reallocation and use of a portion of the television broadcast spectrum may have on the pending applications.

I hope that this information is helpful to you and the University and please do not hesitate to contact me if I may be of further assistance.

Sincerely,

A handwritten signature in black ink that reads "Michael S. Perko". The signature is written in a cursive style with a large initial "M".

Michael S. Perko

Chief, Office of Communications and Industry Information
Media Bureau