

Congress of the United States  
Washington, DC 20515

October 17, 2012

Julius Genachowski, Chairman  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

1402

Dear Commissioner Genachowski:

We write today to urge the Federal Communications Commission to reconsider its denial of a waiver of Section 73.409 rules to Clear Creek Radio, Inc. to allow its station, KYGT, to operate with a full-power non-commercial educational (NCE) license.

We ask the FCC to reconsider based on several factors, including the unique mountain terrain which would prevent any interference, the need of Clear Creek County to expand their Emergency Alert System, and the support for the waiver by all affected parties, including potentially at-risk parties.

Because the Continental Divide separates KYGT from Fraser Valley Community Media (FVCM), which has a license to operate a full-power station in Winter Park, there is virtually no possibility that KYGT would interfere with FVCM's signal. This possibility was cited by the FCC in its denial, because FVCM had right to first aural service. We ask that the FCC factor the unique topography of the area into your reconsideration.

Furthermore, Clear Creek County hopes to expand their Emergency Alert System capabilities, especially in light of the recent drought and fire danger in Colorado, as well as the difficulty of travel during the winter. Allowing KYGT to operate at full power would provide the county with the ability to reach a greater number of residents in the case of an emergency.

Finally, there is strong support for the waiver from all of the affected parties and other stakeholders: KYGT; FVCM; the North Fork Angling Society (which has recently withdrawn its request for an FM license); the Clear Creek County Board of Commissioners; and the Mayors of Idaho Springs, Georgetown, Empire, and Silver Plume. Please see the attached stakeholder letters of support for the waiver.

Given all of these factors, most notably the lack of opposition to the waiver, we ask you to strongly consider granting Clear Creek Radio this waiver.

Thank you for your consideration of this matter.

Sincerely,



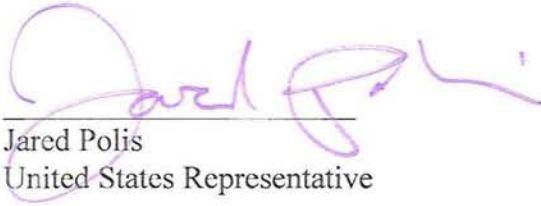
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Michael F. Bennet  
United States Senator



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Mark Udall  
United States Senator



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Jared Polis  
United States Representative



# Clear Creek County

POST OFFICE BOX 2000  
GEORGETOWN, COLORADO 80444

TELEPHONE: (303) 569-3251 • (303) 679-2300

August 14, 2012

US Senator Michael Bennet  
702 Hart Senate Office Building  
Washington D.C. 20510

Dear Senator Bennet:

We, the undersigned, being the County Commissioners of Clear Creek County, the Mayors of Idaho Springs, Georgetown, Empire, and Silver Plume, Colorado request the assistance of the offices of Senators Udall and Bennet, and Congressman Polis to engage the Federal Communications Commission in regards to the application for Review submitted by that mutually exclusive (MX) Group 324.

Clear Creek County is in need of expanding their Emergency Alert System capabilities, especially in light of the recent drought conditions and danger of wildfires.

Our local community radio station, KYGT, is an LPFM station with a limited signal and no opportunity to expand their reach of 50% of our population. It serves the community on many levels, but none more important than to alert our citizenry in the event of wildfires or other disasters.

They applied for a full power non-commercial, educational license in 2007. They were denied the frequency due to another applicant's right to first aural service (Fraser Valley Community Media, Inc.)

Our radio station, operated by Clear Creek Radio, Inc., filed for a waiver of Section 73.509 of the FCC's rules. Fraser Valley Community Media, Inc. in a gracious attempt to help the situation joined the waiver request. The issue lies in the fact that there is no possibility of Clear Creek and Fraser Valleys' signal interfering with one another due to the providential interposition of the continental divide. This waiver was denied.

An Application for Review was filed in January of 2009 and no action has been taken. Below is the summary of that application:

*"This is an Application for Review of the Media Bureau's denial of a Joint Waiver Request by all members of MX Group 324. Joint Parties requested a waiver of*

*Section 73.509 of the Commission's rules and that MX Group 324 be split into three groups. If granted the waiver, three of the four parties would be able to provide radio service without interfering with the other groups.*

*This action results in depriving two communities of new FM radio service. The Bureau incorrectly assumed that granting the waiver would have far reaching consequences to the enforcement of Section 73.509. Two unique factors are present here: all at risk parties requested the relief and the unique terrain presented prevents any predictable interference except as between parties Fraser Valley and RV Ministries."*

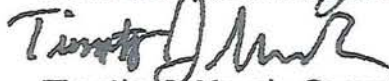
The Board of County Commissioners of Clear Creek County, the Mayors of Idaho Springs, Georgetown, Empire and Silver Plume strongly urge our representatives to address this issue with the FCC and bring it to a satisfactory conclusion which would include the enhancement of our community radio station's ability to inform, educate and alert the citizens of our fair county.

Sincerely,

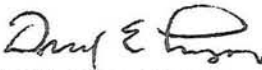
**CLEAR CREEK BOARD OF COUNTY COMMISSIONERS**

  
Kevin J. O'Malley, Chairman

  
Joan Drury, Commissioner

  
Timothy S. Mauck, Commissioner

**TOWN OF SILVER PLUME**

  
Fred Lyssy, Mayor

**TOWN OF EMPIRE**

  
Wendy Koch, Mayor

**TOWN OF GEORGETOWN**

  
Kerry Ann McHugh, Mayor

**CITY OF IDAHO SPRINGS**

  
Jack Morgan, Mayor

Senator Michael Bennett  
1127 Sherman Street  
Suite 150, Denver, CO. 80203

Congressman Jared Polis  
4770 Baseline Road #220  
Boulder, CO. 80303

Senator Mark Udall  
999 18<sup>th</sup> Street, Suite 1525  
North Tower, Denver, CO. 80202

Dear Sirs:

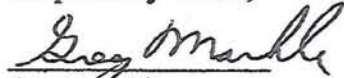
We represent the applicants for REVIEW OF DENIAL OF JOINT WAIVER REQUEST FILED BY MX GROUP 324 before the Federal Communications Commission. This matter concerns the Threshold Fair Distribution Analysis of Mutually Exclusive Applications for Permits to Construct New or Modified Noncommercial Educational FM Stations Filed in October 2007 window.

A construction permit was awarded to Fraser Valley Community Media, Inc. However, we feel that the Commission ignored our unique mountainous topography in denying the Joint Waiver Request. The high mountain ridges which are part of the Continental Divide simply will not allow interference between the three proposed FM stations.

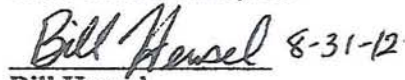
Fraser Valley, though awarded a construction permit, has put their plans on hold to join in this request in the desire to bring community radio to a larger Colorado populace.

Attached is a letter from the political leaders of Clear Creek County requesting that the Commission grant the waiver to Clear Creek Radio, Inc. and The North Fork Angling Society.

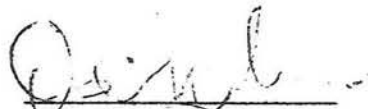
Respectfully Yours,



Greg Markle  
Clear Creek Radio, Inc.



Bill Hensel  
The North Fork Angling Society



Denis Moynihan  
Fraser Valley Community  
Media, Inc.

**TO WHOM IT MAY CONCERN:**

I, Bill Hensel, representing the North Fork Angling Society, and an applicant for REVIEW OF JOINT WAIVER REQUEST filed by MX Group 324 Members which is before the Federal Communications Commission, do hereby withdraw from any pursuit of obtaining a new NCE FM license originally applied for in the October of 2007 window.

Sincerely,

*Bill Hensel* 8-31-12

Bill Hensel  
The North Fork Angling Society  
28307 Grove Street  
Pine Grove, Colorado  
80470-8815  
08/27/12