

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

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|--|---|--------------------------|
| In the Matter of                               | ) |                          |
|  | ) |                          |
| Application of CAAM Partnership, LLC for a New | ) | File No. BNP-20071010ABZ |
| AM Broadcast Station in Snohomish, Washington  | ) | Facility ID No. 160891   |
|  | ) |                          |

**MEMORANDUM OPINION AND ORDER**

**Adopted: September 7, 2012**

**Released: September 10, 2012**

By the Commission:

1. The Commission has before it an April 14, 2011, Application for Review filed by the Citizens to Preserve the Upper Snohomish River Valley (“CPUSRV”), seeking reversal of the March 16, 2011, decision of the Media Bureau, Audio Division (“Bureau”) <sup>1</sup> granting the captioned application (“Application”) of CAAM Partnership, LLC (“CAAM”) for a new AM broadcast station in Snohomish, Washington.<sup>2</sup> The Bureau found that the proposed station would have no significant environmental impact, and denied the informal objection of CPUSRV.

2. We have carefully reviewed the *Staff Decision* and the full record of this application proceeding. We conclude that the Bureau has correctly resolved all issues before it. As the Bureau explained in the *Staff Decision*, the EA submitted by CAAM in this case, as supplemented, contained current and complete information that both satisfied the requirements specified in Sections 1.1307 and 1.1311 of the Commission’s rules and provided a reasoned basis for a finding of no significant impact for all listed categories of action not categorically excluded from environmental processing.<sup>3</sup>

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<sup>1</sup>CAAM Partnership, LLC., Letter, 26 FCC Rcd 3883 (MB 2008) (“*Staff Decision*”). CAAM subsequently chose the call sign KKXA(AM) for the Station.

<sup>2</sup> CAAM filed a “Petition for Ruling, Dismissal of Unauthorized Pleading and Finality of Staff Action” on May 13, 2011. We treat this filing as an opposition to the CPUSRV Application for Review.

<sup>3</sup> CPUSRV argues for the first time that the Bureau failed to adequately consider the impact on birds of the proposed construction in accordance with *American Bird Conservancy v. FCC*, 516 F.3d 1027 (D.C. Cir. 2008) (“*American Bird Conservancy*”). Section 1.115(c) prohibits parties from raising new arguments on review. See 47 C.F.R. § 1.115(c). Accordingly, we dismiss the new argument as procedurally barred. As an alternative and independent basis for our decision, we deny the argument on the merits. There is no inconsistency between the *American Bird Conservancy* decision and the Bureau’s decision here: the Bureau properly determined that no EIS was required under the particular circumstances of this case and did not, for example, fail to follow the Commission’s rules implementing NEPA, to require the preparation of an EA, to consult with the Fish and Wildlife Service, or to give public notice before acting on the license approvals. Cf. *American Bird Conservancy*, 516 F.3d at 1032-35.

3. ACCORDINGLY, IT IS ORDERED that: (1) the Application for Review of Citizens to Preserve the Upper Snohomish River Valley IS DISMISSED, pursuant to 47 C.F.R. § 1.115(c), to the extent that it relies on questions of fact or law not previously presented to the Bureau; and (2) the Application for Review otherwise IS DENIED, pursuant to section 5(c)(5) of the Communications Act of 1934, as amended, 47 U.S.C. § 155(c)(5), and section 1.115(g) of the Commission's rules, 47 C.F.R. § 1.115(g).

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary