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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Petition for a Micro Station Broadcasting	)	
Service and Proposal for Creation of the	)	RM-9208
Low Power FM (LPFM) Broadcast	)	RM-9242
Service	)	

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TO: The Full Commission

REPLY COMMENTS OF ZILLAH SCHOOL DISTRICT #205

Zillah School District #205 ("Zillah" or "School District"), by its attorney, hereby respectfully submits the following reply comments in this proceeding:

1. In Comments filed in this proceeding, Zillah submitted a counterproposal to the proposals which have been made to establish a Low Power FM Broadcast Service. The counterproposal, which had been under consideration by the School District long before the FCC announced any other LPFM schemes, was very simple. The School District simply proposed that the FCC once again begin licensing 10W Class D FM stations, as non-commercial educational FM broadcast stations. The School District pointed out that such stations had been routinely licensed until 1979, when the FCC decided to suspend the licensing of such stations, except in Alaska. The School District pointed out that the Rules already contain allocations criteria to protect other stations from Class D stations, and that application forms and rules are already in existence for the processing of Class D applications.

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2. These two rule making proceedings attracted several hundred comments. Counsel for the School District has copies of all of them, but could not possibly read them all in the time available for the preparation of this reply. Suffice to say that they run the gauntlet from enthusiastic support to passionate opposition. At one pole, the National Lawyers Guild suggests that the Commission should let 10,000 flowers (stations) bloom; that every man should have a right to a broadcast station of his own. At the other end of the ideological spectrum, the National Association of Broadcasters and a consortium of state broadcast organizations view with alarm what they seem to think will be a grave threat to the American Way of Life, if even a single LPFM station is authorized.

3. Licensed broadcasters do have a point. They are threatened by thousands of pirates who pay no regulatory fees, or ASCAP or BMI fees, and who paid nothing for their licenses because they don't have any licenses. In one instance, known to the undersigned counsel, the owner of a small foreign language AM station has lost most of her business to a pirate who has opened an FM station and stolen most of her advertisers.

4. The pirate problem, however, has nothing to do with the LPFM question. The profusion of pirate operators results from policies pursued over the past few years, in which the FCC stripped its field offices of personnel and largely abandoned its role as a policeman of the airwaves. If the mayor of a larger city was to announce that he was taking all of the cops off the streets, it is likely that there would be an increase in the crime rate.

5. The current FCC Chairman has acknowledged the pirate problem, and the field offices seem to be dealing with it. In time, they will get it under control. It is not a valid argument against the implementation of an LPFM Service. If anything, the availability of licenses for suitably

controlled LPFM stations should reduce the temptation for some individuals to go into business without a license.

6. An interesting Comment was filed by USA Digital Radio Partners ("USADR"). They are a firm engaged in the development of a compatible digital broadcast system for both AM and FM. They express concern that the elimination of second-adjacent channel protection might make it difficult for them to achieve the protection they need for their system, which places low powered digital sidebands at the upper and lower extremities of an FM channel.

7. USADR should welcome the School District's proposal. It contemplates no reduction in the second (and third) adjacent channel protection built into the existing rules (47 C.F.R. Section 73.509). It will, however, open a market for additional transmitters - albeit low power transmitters - which may use the USADR system.

8. Existing broadcasters should also welcome the School District's proposal. It contemplates full interference protection to existing stations. It restricts eligibility for LPFM licenses to schools and other entities entitled to licensing under Section 397(6) of the Communications Act. Thus, the stations to be implemented will be non-commercial, and will be held by responsible persons who can be expected to operate those stations in a responsible manner.

9. Finally, the licensing authorities, i.e., the FCC, should welcome the School District proposal. It is a proposal that can be implemented without any drastic changes in existing rules, application forms, or processing procedures.

10. In closing, there is one more subject which deserves discussion. That is the means by which conflicting applications are to be selected.

11. Some commentators suggest a "first come, first served" system. That is not likely

to be very successful. It would encourage the filing of mountains of applications by people who want to be sure that they get a construction permit or license, just in case they need it at some future date. The Commission's processes could be swamped and there could be massive delays in awarding construction permits.

12. The Communications Act does not appear to sanction the use of spectrum auctions in the non-commercial services and, in any event, auctions would appear to be inconsistent with the objectives of an LPFM service. Large, well-heeled entities would buy up all of the authorizations, to the exclusion of the schools and community based groups which the service is intended to attract.

13. The Communications Act does allow the FCC to use random selection, and that is the process which the School District advocates. Applications will be filed and made the subject of "cut of lists". If competing applications are filed, the winner will be selected by lottery. The Commission already has experience in administering such a system in the LPTV service, and there do not appear to have been any major problems.

14. This proceeding is exempt from the service requirements of the "ex parte" rules. See 47 C.F.R. Section 1.1204(b)(2). Therefore, no attempt has been made to serve any parties except those who are specifically mentioned herein.

Respectfully submitted,

May 26, 1998

ZILLAH SCHOOL DISTRICT #205

By: _____
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CERTIFICATE OF SERVICE

I, Traci Maust, a secretary in the law office of Lauren A. Colby, do hereby certify that copies of the foregoing have been sent via first class, U.S. mail, postage prepaid, this 26th day of May, 1998, to the following:

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