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March 22, 1999

## EX PARTE COMMUNICATION

Ms. Magalie Salas  
Secretary  
Federal Communications Commission  
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445 - 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

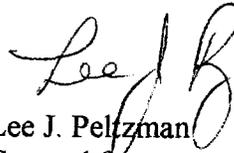
RECEIVED  
MAR 22 1999  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: MM Docket No. 99-25

Dear Ms. Salas:

Transmitted herewith, on behalf of Cynthia Alderete Earle and Bruce Miller Earle, is an original and (1) copy of a summary of their oral presentation made to Commissioner Gloria Tristani on March 19, 1999. Please contact the undersigned in the event the Commission has any questions with respect to this written summary.

Sincerely,



Lee J. Peltzman  
Counsel for  
CYNTHIA ALDERETE EARLE AND  
BRUCE MILLER EARLE

Enclosure

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## EX PARTE MEMORANDUM

TO: FEDERAL COMMUNICATIONS COMMISSION

CC: COMMISSIONER GLORIA TRISTANI

FROM: LEE J. PELTZMAN, COUNSEL TO CYNTHIA ALDERETE EARLE AND  
BRUCE MILLER EARLE

RE: SUMMARY OF ORAL PRESENTATION MADE TO COMMISSIONER  
TRISTANI ON MARCH 19, 1999

DATE MARCH 22, 1999

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This is a summary of an oral *ex parte* presentation made by Cynthia Alderete Earle and Bruce Miller Earle to Commissioner Gloria Tristani and her senior legal advisor, Rick C. Chessen, on Friday, March 19, 1999. Present at the meeting were Commissioner Tristani, Rick Chessen, Cynthia Alderete Earle, Bruce Miller Earle, and Lee J. Peltzman, counsel to the Earles. The purpose of the meeting was to discuss the Commission's recently issued Notice of Proposed Rule Making proposing to establish new rules authorizing the operation of a new low power FM broadcast service.

The Earles spoke against the establishment of a LPFM radio service. Cynthia Alderete Earle related the history of her involvement in broadcasting, including the construction of her Station KBDR(FM), Mirando City, Texas. She further related the ongoing problems the Station has encountered with respect to interference caused by pirate radio broadcasters. Based on that experience, she argued against rewarding these types of individuals with new low power stations. She explained that should the Commission establish a new LPFM radio service, operators in her area and throughout the country would see the Commission action as confirmation that the Commission doesn't really care if citizens personally carve out pieces of the spectrum for themselves to broadcast at low power. The problem in the Laredo area is further heightened by the fact that there is considerable drug money on both sides of the border which is presently being funneled into low power broadcasters and which will continue or even be expanded in the event the Commission gives its *imprimatur* of approval by starting a new low power FM radio service.

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Mrs. Earle reminded the Commission that while the FCC should encourage minorities' entrance into broadcasting, her experience with Docket 80-90 stations was that large broadcasters would apply pressure and, ultimately, would buy out any minority participants in the new low power FM radio.

Mr. Earle related his experience as an engineer and explained that deleting the second and third adjacent channel interference restrictions would only result in increased interference throughout the radio band. Also, importantly, it would create havoc with respect to the establishment of an in-band, on-channel digital broadcasting service, something which would occur on its own if the Commission did not intervene by creating a new low power FM service. Mr. Earle responded to a question from Mr. Chesson that, while the Commission previously did relax its interference standards with respect to grandfathered stations without major problems, the reason that this was successful had to do more with the fact that the rules regulating the stations in question had a built-in tolerance and that the same would not apply with respect to the possible impact on conversion to an in-band, on-channel digital broadcasting service.

Mr. Peltzman related that, while the Commission's intentions were honorable, the fact remains that because of reduced resources, the Commission simply lacks the police power to enforce any new rules to ensure that pirate operators do not abuse the process in the event that a new low power radio service is initiated.

Commissioner Tristani urged the Earles to file Comments in the low power rule making with special emphasis on questions of interference.