

**Meadows Media, LLC
FCC Form 301
Attachment A
November, 2008**

**Section 307(b) Showing
Supporting Retention of Station KLVF
as an FM Radio Service to Las Vegas, New Mexico**

Meadows Media, LLC is the licensee of FM radio broadcast station KLVF, currently licensed to serve Las Vegas, New Mexico on Channel 264C3. However, until recently Meadows held a construction permit to operate on Channel 264C3 in Pecos, New Mexico. The facilities described in that construction permit have not been built as of the date of this submission. This is the result of circumstances that have changed since that permit was issued.

The channel allotment occupied by KLVF was tentatively assigned to Pecos pursuant to the request initiated by a previous owner, KFUN/KLVF, Inc. However, since acquiring the station, the owners of Meadows have come to realize that the ongoing need in Las Vegas for the service provided by KLVF, as described in this application, exceeds the need for an additional Class C3 service in Pecos. Notably, for the past three years, Meadows has employed Joseph and Loretta Baca to manage the station. They have developed the station into providing an extraordinary record of community service. As reflected in the application (File No. BALH-20080804ADD) for Commission consent to the assignment of the KLVF license to the Bacas' company, Baca Broadcasting, LLC, that entity is now about to acquire the station. Naturally, that transaction is conditioned on being able to maintain their current service to their community. The public interest, as shown in more detail below, requires that this level of service continue.

Meadows Media has not arrived at this conclusion casually. The owners of Meadows Media have vast experience in community-oriented radio broadcasting, and particularly in

northern New Mexico. Thus, they are particularly well-positioned to evaluate the evolving needs of Las Vegas for the service provided by KLVF under the Bacas' devoted stewardship. For example, Meadows' minority owner Don Davis is a respected field engineer and consultant who has owned and operated a number of stations in the region. Notably, majority owner Will Sims for many years was a resident of Pecos. As a further illustration of the depth of Mr. Sims' experience in local radio in the Rocky Mountains, and particularly in northern New Mexico, attached hereto as Exhibit 2 is a summary of his background in this field.

Subsequent to Meadows' acquisition of KLVF, Mr. Sims' personal circumstances changed, and he relocated to Puerto Rico. Having concluded that the public interest would be best served by leaving KLVF in Las Vegas, Meadows has very recently surrendered the Pecos construction permit, and has developed the instant application. In this application, Meadows is requesting that the Commission (1) officially reassign Channel 264C3 from Pecos, New Mexico back to Las Vegas, New Mexico; (2) upgrade the station's channel class to Channel 264C2, and (3) approve specific Class C2 facilities for the station.

I. Legal Standard

Section 307(b) of the Communications Act of 1934, as amended, directs the Commission to "make such distribution of licenses . . . among the several States and communities as to provide a fair, efficient, and equitable distribution of radio service to each of the same." 47 U.S.C. §307(b). From this directive, the Commission has developed a set of procedures and principles to guide the assignment of frequencies and licenses.

In this context, the Commission will approve a proposed change in channel assignments where the new plan "constitutes a preferential arrangement of allotments under Section 307(b) of the Act as compared to the existing allotment(s)." *Revision of Procedures Governing*

Amendments to FM Table of Allotments and Changes of Community of License in the Radio Broadcast Services, 21 FCC Rcd 14212 at ¶ 10 (2006). The reassignment must result in a “net service benefit for the communities involved” and cannot deprive a community of its sole existing transmission service. *Amendment of the Commission’s Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 ¶¶ 25, 28 (1989).

The FCC has established a set of priorities to rank the various elements that bear on a decision under Section 307(b) to assess whether a given assignment is to be preferred. *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 ¶ 7 (1982). The FM assignment priorities are: (1) first full time aural service; (2) second full time aural service; (3) first local service; and (4) other public interest matters. *Id.* Equal weight is given to the second and third priorities. *Id.* The first two priorities focus on the reception service aspects of Section 307(b), while under the third priority the FCC considers the need of an individual community for a station identifying particularly with that community. This is the “transmission service” prong of Section 307(b). Under the fourth priority, the Commission reviews such other factors as the need for a third, fourth or fifth service in underserved areas, and a given community’s need for a first competitive local service.

II. Reception Service Aspects

If KLVF had been relocated to Pecos, it would have reached more listeners in terms of absolute numbers, inasmuch as the relocation would have brought it closer to the populous Santa Fe and Albuquerque areas. However, those areas are already served by a plethora of other stations.

In contrast, by staying in Las Vegas and raising its power, as requested herein, KLVF would continue to serve an audience that has few other listening choices. Moreover, the Engineering Statement of Don Davis (Exhibit 1, hereto) shows that the proposed improved facility will provide coverage to significant underserved areas, including eliminating “gray” areas. Significantly, substantial parts of the “gain” area will receive their second, third or fourth reception service. Specifically, the proposed facility will provide new second service to 128 people in the 48 sq. km. area designated by red shading in Exhibit 1-B, new third service to 430 people in the 136 sq. km. designated by red shading in Exhibit 1-C, and new fourth service to 461 people in the 288 sq. km. area designated by red shading in Exhibit 1-D. Accordingly, establishment of a Class C2 facility in Las Vegas will provide important public interest benefits to over a thousand New Mexicans who are underserved at present.

Conversely, there is no corresponding “loss” area to consider or weigh against the above gains, since the permit to relocate KLVF to Pecos has been forfeited and that facility is not to be built. Even so, the purely hypothetical loss area (created by eliminating the Pecos allotment in favor of retaining the original Las Vegas assignment) is all well-served. Consequently, the arrangement of assignments proposed in this application is to be preferred under priority (4).

III. Local Transmission Service

A. The Community of Las Vegas, New Mexico

Las Vegas is a unique community with truly distinctive needs that KLVF must continue to serve. Las Vegas is located in an isolated valley on the eastern slope of the Sangre de Cristo Mountains of northern New Mexico. The 2000 U.S. Census listed its population as 14,565. It is the seat of San Miguel County. The county’s 2000 census population was slightly over 30,000. Approximately 83% are Hispanic. In particular, many elderly residents do not speak English.

Fortunately, Joseph and Loretta Baca are fluent in both English and Spanish. This is important for community service-oriented messages (especially in emergency situations).

Culturally, Las Vegas has ties to the 18th century settlement of New Mexico by Spanish colonists. Growth of that colony was slow, and many decades passed between the establishment of Santa Fe and the founding of Las Vegas. The “Old Town” section of Las Vegas dates from 1835, ten years prior to the Mexican War. <http://interuwcimag.wordpress.com/2007/11/24/las-vegas-nm-and-the-uwc-usa-in-the-new-york-times/>, last visited 10 October 2008.

Today, many of the original families remain in the area. Interestingly, Joseph Baca traces his roots to a “Luis Maria Cabeza De Baca (Vaca).” Prior to the founding of Las Vegas in 1835, Joseph Baca’s forebear received from the King of Spain and the Mexican government a grant of all the land where Las Vegas is now located. Thus, his family’s connection to Las Vegas is basic to the community’s history.

Las Vegas hosts two institutions of higher learning: New Mexico Highlands University and Luna Community College. Only four miles away is the United World College of the American West, a unique multi-cultural pre-college residential school whose 200 students hail from over 80 countries.

Las Vegas is a remote and rather insular community due the mountain range separating Las Vegas from New Mexico’s capital (Santa Fe) and largest city (Albuquerque). Nevertheless, Las Vegas has been an important transportation hub since the days of the Santa Fe Trail. Las Vegas is a stop on Amtrak’s “Southwest Chief” line from Los Angeles to Chicago,. <http://www.amtrak.com/pdf/routeguideswchief.pdf>, last visited 10 October 2008. Interstate 25, which links Las Cruces, New Mexico to Buffalo, Wyoming, also runs through Las Vegas.

B. Comparison to Pecos

The Commission takes the relative size of communities into consideration in reassignment proceedings. *See East Brewton, Alabama and Navarre, Florida*, 14 FCC Rcd 6974 ¶ 4 (1999); *Genoa, Illinois, et al.*, 14 FCC Rcd 2930 ¶ 5 (1999). Accordingly, it is significant that the population of Las Vegas is 14,565, nearly *ten times* the population of Pecos, which has a mere 1,441 inhabitants. Moreover, even if KLVF were to have been constructed in Pecos, it would not have constituted the first or second local transmission service there, as Pecos is already served by stations KLBU and KVSF-FM. Therefore, this case presents no issue of depriving a community of its sole local transmission service or even a first competing service. Even so, as discussed in more detail below, since KLVF has never broadcast in Pecos, this application does not present a question of removing from the community an accustomed service on which listeners have come to rely. On the contrary, as discussed below, the service currently rendered by the station to Las Vegas by the Bacas – who intend to continue that service under their forthcoming ownership – is exemplary.

C. Transmission Services in Las Vegas

Las Vegas has several local transmission services. If one were to treat KLVF as assigned to Pecos, there would be four FM stations licensed to Las Vegas (KEDP, KRRE, KMDZ (Ch. 244A) and KBAC (Ch. 251C) and two AM stations (KFUN and KNMX). However, only two of the FM stations are commercial stations.¹

Considering the noncommercial reserved band, educational FM station KRRE was licensed last spring to the Regents of the University of New Mexico, in Albuquerque, to operate

¹ Las Vegas also has three other commercial FM allotments. One of them (Ch. 224C3) is the subject of the construction permit for unbuilt FM station KBQL. A construction permit for a low power FM station on Channel 283 lapsed over three years ago. Channel 296A is vacant, except for a noncommercial FM translator

on Channel 220 in Las Vegas. However, the licensee secured a waiver of the main studio rule (47 C.F.R. §73.1125) in order to avoid having to establish a studio in Las Vegas. Thus, KRRE cannot be viewed as providing local service to Las Vegas like that provided by KLVF.

Without KLVF, Las Vegas would have far fewer local commercial FM stations (one station for each 3,541 people) than Pecos (one commercial station for each 480 people if KLVF were to be moved there). Las Vegas would still be relatively underserved in this regard even if one were to count its vacant FM allotments. Moreover, as discussed in more detail below, KLVF is outstanding in its service to the Las Vegas community. This makes it unique among Las Vegas stations and essential to preserve as a Las Vegas outlet.

D. Reassignment of KLVF Is in the Public Interest.

Reassignment of KLVF to Las Vegas does not implicate priorities (1) through (3) and the arrangement of allotments proposed in this application is to be preferred under priority (4). With KLVF, we are not dealing with a proposed new allotment, but with an established Las Vegas station whose presence would be sorely missed in the community if it were to relocate to Pecos. Approval of the instant application, including the restoration of the underlying channel assignment to Las Vegas, would serve the community in a number of ways.

1. The Purchasers of KLVF Are Established in the Community.

The purchasers of KLVF, Joseph and Loretta Baca, are life-long residents of Las Vegas. Joseph Baca, who currently manages KLVF, has been in the radio business in Las Vegas since 1980. Loretta Baca is the KLVF traffic manager, handling billing, station accounts, and payroll. She also assists with production and recording and serves as an on-air host. Upon conclusion of the sale of KLVF to the Bacas (which was recently approved by the Commission) that station would continue to be run as a local business, owned and operated by the Baca family.

Keeping KLVF a locally-owned business benefits Las Vegas in a number of ways. As life-long members of the community, the Bacas thoroughly understand the interests of Las Vegas and the unique makeup of this remarkable community. Joseph Baca served on the city council for twelve years. That service gave him useful experience in fashioning programming responsive to the needs of the community, which he has developed in his present role as manager of KLVF.

**2. Preserving KLVF as a Las Vegas Station
Is Consistent with Established Commission Objectives.**

KLVF is a community-oriented radio station. As such, its service exemplifies the core concerns expressed in the FCC's recent "*Report on Broadcast Localism and Notice of Proposed Rulemaking*," FCC 07-218 (2008) ("NPRM"). These concerns include the objective of fostering "a system of local stations that respond to the unique concerns and interests of the audiences," a desire for "community-responsive programming," a need for the reliable provision of timely emergency information, and the goal of advancing minority ownership of broadcast stations. *Id.*

a. KLVF Responds to the "Unique Concerns" of its Audience.

The NPRM states that the proposed regulations are "designed to foster a system of local stations that respond to the unique concerns and interests of the audiences." *See* NPRM ¶ 6.

KLVF is easily accessible to its listeners. Many residents of the community have the station's number memorized because the number is regularly given out during broadcasts. When Las Vegas residents became concerned about the lack of public information about city council proceedings, KLVF instituted a program called "*What's Cooking at City Hall?*" In this program, city officials come to the station to discuss local issues. It airs Fridays from 10:15 AM to 11:00 AM.

KLVF's accessibility to the community promotes the sort of responsiveness that the Commission encourages. "*What's Cooking at City Hall?*" is merely one example of many showing that KLVF is responsive to local concerns. Meadows has been pleased to have the Bacas manage KLVF for the past several years in part because of their close ties to the community and the exemplary manner in which they put those ties to the service of their community.

Further, the owners of Meadows have collectively over eighty years experience in radio in the Rocky Mountain region. As indicated above, they, more than most, appreciate the need for community-oriented programming in successful radio station operations. Throughout the period of Meadows' ownership of KLVF, Meadows has devoted the resources necessary to meet the specific needs ascertained to exist in Las Vegas. In order to preserve this responsiveness to local concerns, Meadows is confident in its conclusion that it is best for KLVF to remain in Las Vegas.

b. KLVF Broadcasts "Community-Responsive Programming."

As the FCC has done many times before, the agency expressed a desire for "community-responsive programming" in the NPRM *See* NPRM ¶ 7. KLVF provides a variety of programs that are responsive to the needs and interests of the community. A weekly talk show, "*Over the Back Fence*," features community organizations and allows local schools, colleges, health care providers, civic groups, government and other community services the opportunity to broadcast important messages to the residents of Las Vegas and to keep the community informed about issues affecting the citizenry. There is also a "*Community Bulletin Board*," broadcast every weekday. Other programs of local interest include "*Traveling Microphone*," in which a KLVF radio personality visits local restaurants and businesses in an effort to raise community issues

and increase meaningful community involvement. In addition KLVF broadcasts “*Northeastern New Mexico Art Connection*.” This program, hosted by a local gallery owner, focuses on Las Vegas’ designation as an Arts and Cultural Community. The goal of the program is to support local artists and galleries and educate young people about the arts. Seeking to expand this service yet further, KLVF plans to air a program on health and exercise in the near future. This program will devote significant air time to issues surrounding diabetes, an important health issue for the community of Las Vegas. KLVF also broadcasts public meetings about political events and community forums for local political candidates, as well as other local events.

Local high school football and basketball games, including district and state championship games, are a focal point of local culture in Las Vegas. Two local high schools often have games at the same time. KLVF typically broadcasts one game, while KFUN broadcasts the other. Also, most games are at night when many listeners are unable to receive other stations, and when KFUN’s signal is much less robust. Thus, KLVF is the area’s only fulltime source for this vital community interest. If KLVF were to relocate to Pecos, listeners would be unable to follow their favorite teams. As specific examples of this type of programming, our students from the MESA program and also the students from the West Las Vegas Middle school "Business Professionals" have earned 1st, 2nd and 3rd place awards during national competitions in New York. During these and other trips, the teachers and students call home to report of their success to the community and their families and friends, and we broadcast these live conversations on KLVF. The station also broadcasts from the high school campus the live performance of students singing the National Anthem during National Flag Day, which is a source of great community pride. The station (as well as KFUN) is often called upon

by both high schools to broadcast many school activities. They also broadcast state, national, municipal and school primary and general elections.

Clearly, KLVF serves the community of Las Vegas well by providing the types of programming described above. No other station in Las Vegas broadcasts as much local programming, or as wide a selection of local programming, as KLVF. If KLVF's channel assignment is restored to Las Vegas, the station's ability to offer residents of Las Vegas a radio station that keeps them informed of local events and issues will be secure.

c. KLVF Provides Emergency Information.

The Commission also remarked in the NPRM that "providing emergency information is a fundamental area in which broadcasters use their stations to serve their communities of license." *See* NPRM ¶ 81. In too many cases, absentee ownership and the rise of automation in radio station operation has hurt the local stations' ability to disseminate urgent emergency information promptly. This is not the situation with KLVF.

KLVF is the "go-to" station for emergency service providers in Las Vegas. Local emergency service providers are aware that Joseph Baca typically arrives at the station at four-thirty every morning and that he can be relied upon to broadcast any important emergency information immediately. This established relationship between the station and local services is extremely valuable to Las Vegas, as it provides the residents with a reliable means of obtaining vital information that is unfortunately not always available through other local broadcast outlets.

d. A Grant of the Application Would Promote Minority Ownership.

The NPRM expresses the desire for more minority-owned businesses. *See* NPRM ¶ 3. The Bacas are both Hispanic. Their agreement to purchase KLVF conditioned on a grant of the instant application. Their willingness to acquire KLVF depends on the retention of the

underlying assignment for Las Vegas so that they can continue to serve the community through the means afforded by this station. Thus, a grant of this application is necessary to ensure that KLVF will be added to the ranks of minority-owned stations.

e. The Las Vegas Business Community Relies on KLVF.

The services provided by KLVF are just as important to the business community of Las Vegas as to the public at large. Businesses rely on KLVF both for their advertising needs and as a source of information and entertainment for customers. A member of the Chamber of Commerce recently commented to Joseph Baca that “most businesses [in Las Vegas] play KLVF” on their premises. The popularity of KLVF in Las Vegas also benefits community organizations by getting their message out to a large number of listeners. It also clearly evidences the pride that local businesses take in “their” station.

f. Retention of KLVF at Las Vegas Will Serve the Public Interest

This application is unusual in that it does not seek to add a *new* station to the proposed city of license. Rather, the parties simply seek to preserve an existing station that has become a pillar of the Las Vegas community.

KLVF has served Las Vegas for thirty-five years. During that time, residents of Las Vegas have come to rely on KLVF for everything from emergency information to local high school football games. KLVF is an outstanding example of the type of local broadcasting that the Commission seeks to promote through the historic policies developed pursuant to Section 307(b), as well as through the Commission’s broader public interest mandate.

E. Reassignment Will Not Deprive Pecos of an Operating Station.

It is significant that Pecos will not be harmed by the reassignment of KLVF to Las Vegas. The Commission has acknowledged that removal of a station that has never been

operational does not raise the same concerns as removal of an operational station. *See., e.g., Linden, Texas*, 16 FCC Rcd 10853 ¶ 3 (2001) (“We do not believe that the removal of an unbuilt station . . . presents the parallel concerns with loss of service represented by the removal of an operational station since it does not represent a service that the public has become reliant upon”); *Loretto, Tennessee and Killen, Alabama*, 21 FCC Rcd 5834 ¶ 6 (2006) (removal of allotment permitted when station not yet built).

The residents of Pecos have not come to rely on the station as a local facility simply because KLVF has never broadcast in Pecos. Currently Pecos is served by two other FM stations, KLBU and KVSF-FM. As demonstrated above, KLVF is a key feature of local radio service in Las Vegas. Therefore, reassigning Channel 264C3 from Pecos to Las Vegas will greatly benefit the residents of Las Vegas and the surrounding rural areas, while not substantially harming the residents of Pecos. Reassignment is therefore in the public interest.

III. Conclusion

Reassignment of Channel 264C3 from Pecos to Las Vegas would constitute a preferential arrangement of allotments under Section 307(b) of the Communications Act. Pecos would not be deprived of its sole transmission service. In fact, Pecos would not be denied a service at all, as the facility that Meadows had planned to establish in Pecos is not yet built. By providing community-oriented and responsive programming, KLVF has become an integral and essential part of the Las Vegas community.

In sum, retention of the pre-existing assignment of KLVF’s channel to Las Vegas is in the public interest. Based on all relevant factors, in respect of current circumstances, it is plainly to be preferred under priority (4) of the Commission’s channel assignment priorities over a move to Pecos. Accordingly, the Audio Division should grant the instant application.