

Corporation of the Catholic Bishop of Yakima
FORM 318 APPLICATION FOR PERMIT TO CONSTRUCT LPFM STATION
EXHIBIT 2 - Nonprofit and Educational Nature of Applicant

Applicant operates numerous religiously-oriented schools. Accordingly, it is an educational institution. Moreover, it will operate the proposed Low Power FM broadcast facility pursuant to Part 73, subpart G, of the Commission's Rules.¹

With respect to the licensing requirements governing all noncommercial educational ("NCE") facilities,² the Commission has stated that religiously-oriented applicants can meet its NCE eligibility standards where the applicant (1) proposes an overall educational program and (2) its proposed programming furthers its educational objectives.³

We hereby demonstrate eligibility for a LPFM authorization inasmuch as the Applicant:

- is recognized by a state government as a nonprofit entity;⁴
- proposes an overall educational program; and
- proposes broadcast programming to advance its educational purposes.

Recognition as a Nonprofit Corporate Sole. Applicant is incorporated as a nonprofit religious Corporate Sole,⁵ a form recognized by the state of Washington.⁶

¹ 47 C.F.R. §73.801 - §73.881

² See 47 C.F.R. §73.853(a) and 47 C.F.R. §73.503(d)

³ *Columbia Bible College Broadcasting Co.*, 6 FCC Rcd 516, ¶¶ 9-10 (1991)

⁴ See *Applications for Review of Decisions Regarding Six Applications for New Low Power FM Stations*, MEMORANDUM OPINION AND ORDER, FCC 13-116, ¶14 (rel. August 23, 2013).

⁵ Inasmuch as many are generally less familiar with the corporate sole, a form of corporation traditionally utilized by monarchs and the Church, enclosed herewith at Exhibits 4-5 we provide a brief primer on this most ancient of the two corporate forms. We herein incorporate by reference that discussion and, in an abundance of caution and to the extent necessary or appropriate, the related waiver request.

⁶ WASH. REV. CODE. ANN. §§ 24.12.010-.040 (West 1994). The nonprofit nature of the Applicant is described in the Articles of Incorporation. The key language that indicates a not-for-profit nature, particularly in the organizing documents of religious corporations, is the nondistribution constraint. See Gerstenblith, Patty, "Associational Structures of Religious Organizations"; BRIGHAM YOUNG LAW REVIEW, Vol. 2, 439, 442 (1995), citing Henry B. Hansmann, "The Role of Nonprofit Enterprise", 89 YALE L.J. 835, 838 (1980). The defining characteristic of a not for profit corporation is that "no part of the income or profit of [] is distributable to its members, directors or officers." Gerstenblith at 442, citing VT. STAT.ANN. tit. 11, § 2302(3) (1993); see also MICH. COMP. LAWS ANN. Q450.2108(2) (West Supp. 1994) (defining a not-for-profit corporation as a corporation "incorporated to carry out any lawful purpose or purposes not involving pecuniary profit or gain for its directors, officers, shareholders, or members"). *Id.* at 442, Note 10. Gerstenblith also points out that "The nondistribution constraint is embodied in Internal Revenue Code §

Educational Nature. Applicant's Articles of Incorporation further describe its religious nature. The overall educational nature of its activities can be derived from its many catechetical activities, as well as its operation of no fewer than seven schools.⁷ ***The schools operated by the Applicant are accredited by the Catholic Diocese of Yakima.***

As the operator of several schools, Applicant generally need not provide additional evidence of its educational nature. However, it bears noting that Applicant's educational nature is not solely derived from its operation of numerous schools. Rather, the Applicant also shepherds some forty-four (44) parish churches.⁸ Each of these communities receives religious education on an ongoing basis through the spiritual and administrative leadership of the Bishop.

Pursuant to Canon Law, all Catholic parishes (which are overseen by the Office of the Bishop) are required to operate an educational program that provides for the religious education of children and adults through systematic formal catechesis of sufficient length and intensity to ensure effective faith and sacramental formation at each level.⁹ Accordingly, even if the Applicant did not qualify as a school eligible to hold a permit to

501(c)(3)(1994).” *Id.* Thus, the primary characteristic in not-for-profit organizations (and the most essential characteristic before an advantageous tax status will be recognized) is this nondistribution constraint.

In addition, in a letter issued by the Internal Revenue Service, the federal government has recognized the Applicant as exempt from federal income taxation due to its nonprofit nature pursuant to Section 501(c)(3) of the Internal Revenue Code. ***Enclosed herewith are copies of these documents, or applicable excerpts thereof.***

⁷ Again, we note that copies of the Articles, or applicable excerpts thereof, are enclosed herewith. Additional evidence of the Applicant's educational mission and activities is set forth at its Internet site. See <http://www.yakimadiocese.org>, particularly the links with respect to “schools” and “religious education” (under “ministries”).

⁸ See <http://www.yakimadiocese.org>.

⁹ Some applicable provisions of the Code of Canon Law include:

- Canon 756, §§1-2 -- “[T]he function of proclaiming the gospel has been entrusted principally to the Roman Pontiff and the college of bishops. With respect to the particular church entrusted to him, an individual bishop, who is the moderator of the entire ministry of the word within it, exercises that function;
- Canon 775, §1 -- “Having observed the prescripts issued by the Apostolic See, it is for the diocesan bishop to issue norms for catechetics, to make provision that suitable instruments of catechesis are available, even by preparing a catechism if it seems opportune, and to foster and coordinate catechetical endeavors.”

This list is not intended to be exhaustive.

construct a new noncommercial educational low power FM radio facility, it would nonetheless qualify as an educational organization.

Advancement of Educational Purpose. The Applicant will provide a noncommercial broadcast service for the advancement of its educational program. Applicant's educational objectives include the following:

- Re-broadcast religious programs produced by organizations within the Catholic Church and delivered via satellite or magnetic media;
- Originate local Catholic religious, educational and cultural programs on local Catholic events of interest to the population within the broadcast area; and
- Distribute religious, educational and cultural material available and furnished by the clergy and laity of the Catholic Church, including materials produced by various organizations and apostolates faithful to the Catholic Church.

In order to advance these and other educational purposes, Applicant plans to broadcast in a "Catholic Talk" format. A schedule of current programming offered by Eternal Word Television Network ("EWTN") -- the most significant supplier of programming for stations with a Catholic Talk format -- is provided herewith.¹⁰

Applicant also intends, of course, to honor the commitments set forth in its Form 318 application, including those with respect to the local origination of programming. Such local origination programming may include broadcast of a local Mass, or the broadcast of homilies by local clergy, interviews with the Bishop, or spiritual music introduced by a local on-air personality.¹¹ Applicant will work with local Roman Catholic

¹⁰ See, enclosed herewith, the "EWTN Radio Schedule" (also at <http://www.ewtn.com/radio/schedule.htm>). We note that the Applicant is not herein committing to affiliate with any single network programming provider, but rather that the programming schedules cited herein are intended to illustrate the type of programming that is currently unavailable in the proposed Community of License and that Applicant wishes to offer. Applicant may offer programming from any number of Catholic radio programming producers. See, e.g., "WAOB Radio Schedule" available at <http://www.waob.org/#!program-schedule/czpx>; "Catholic Answers", available at <http://www.catholic.com>; Relevant Radio, available at <http://www.relevantradio1.com/page.aspx?pid=1399>; and Ave Maria Radio, available at <http://avemariaradio.net/on-air/radio-schedule/>.

¹¹ Regardless of the applicability of agency preferences for local origination of programming, important Church documents urge the faithful to take up broadcasting and other social media to engage in the New Evangelism. This same body of documents favors "subsidiarity" (an emphasis on local responsiveness) within an obligation of wise "stewardship". Accordingly, all Catholic broadcasters share a goal to introduce such programming. See, e.g., each of the documents specified (along with the Internet address where it may be obtained) as follows:

parishes and other community organizations to assist and complement existing efforts to administer to the spiritual, intellectual, and physical needs of the listening audience. In any event, the EWTN schedule supplied herewith may be viewed as representative of the type of educational programming that the Applicant anticipates airing.

Moreover, Applicant will not air commercials. The EWTN network feed includes no paid programming. Rather, the EWTN radio service includes news and current affairs programming; interactive call-in discussion shows; live interviews with authors on spiritual matters and social issues; recorded instructive talks by eminent theologians, scholars, and homilists; and live airings of devotional prayers and the daily Mass. The programming produced by We Are One Body (WAOB), “Catholic Answers”, Ave Maria Radio, and Relevant Radio are similar in nature to those produced by EWTN.

Applicant will work with local Roman Catholic parishes and other community organizations to assist and complement existing efforts to administer to the spiritual, intellectual, and physical needs of the listening audience.

In view of the foregoing, Applicant operates numerous educational institutions and has evidenced its intention to operate the new noncommercial education station consistent with an overall educational program. Accordingly, the nature and educational purposes of the Applicant make it eligible to obtain the broadcast authorization sought herein.

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- *Rerum Novarum* (1891), an encyclical re subsidiarity by Pope Leo XIII
http://www.vatican.va/holy_father/leo_xiii/encyclicals/documents/hf_l-xiii_enc_15051891_rerum-novarum_en.html
 - *Inter Mirifica* (1963), the *Vatican II* decree on social media, promulgated by Pope Paul VI
http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_decree_19631204_inter-mirifica_en.html
 - *Laborum Exercens* (1981), an encyclical re stewardship by Pope John Paul the Great
http://www.vatican.va/holy_father/john_paul_ii/encyclicals/documents/hf_jp-ii_enc_14091981_laborem-exercens_en.html
 - *Redemptoris Missio* (1990), an encyclical re evangelism by Pope John Paul the Great
http://www.vatican.va/holy_father/john_paul_ii/encyclicals/documents/hf_jp-ii_enc_07121990_redemptoris-missio_en.html