

Northwest College - Supplemental Statement Regarding Diversity Credit

Northwest College (the “College”) was created pursuant to Article III, Community College Districts of State of Wyoming, WS 21-18-301. The Northwest Community College District was created in 1953 pursuant to Chapter 146, Wyoming Session Laws of 1951. Members of the College’s governing Board of Trustees (“Board”) are elected from among eligible resident electors of the College District, in accordance with Wyoming State Statute.

The FCC requires that an applicant claiming diversity credit have governing documents that require that diversity of ownership be maintained. Because the creation of the College and the election of members of the Board are governed by state statute, the College cannot itself amend its underlying organizational charter, nor can it control who is elected to the Board. In circumstances such as this, the FCC has stated that it will accept alternative safeguards from an applicant if they reasonably assure that the board characteristics upon which a diversity credit is based will be maintained during the four-year holding period. See Reexamination of the Comparative Standards for Noncommercial Educational Applicants, Memorandum Opinion and Order, 16 FCC Rcd 5074, at para. 58, (2001) (subsequent history omitted).

None of the current Board members or officers has an attributable interest in another radio station. Given that election to the Board is governed by Wyoming state law, the College is unable to prohibit the possible future election of Board members who may have an interest in a radio station that has a principal community contour that overlaps the principal community contour of the College’s proposed station. However, the Board has amended the “Rules and Regulations Pertaining to the Governance of the Northwest College Board of Trustees” (“Board Rules and Regulations”) to prohibit a possible future Board member from having any ability to participate in any decisions or actions regarding any aspect of or affecting the College’s proposed station (because an officer must also be a Board member, this language also applies to officers). Specifically, on September 14, 2007 the Board adopted a new Section 8.b. to Chapter II of the Board Rules and Regulations that provides as follows:

Section 8. Conflicts of Interest

b. Federal Communication Commission

Any member of the Board of Trustees having an attributable interest as defined by the Federal Communications Commission in another radio station, or construction permit for a radio station, if the principal community contour of such station would overlap, in whole or in part, the principal community contour of the Northwest College noncommercial radio station, shall not participate in any decisions or actions of the Board of Trustees regarding any aspect of or affecting the Northwest College non-commercial FM radio station while that person holds the attributable interest.

A copy of the Board’s Rules and Regulations is provided as an attachment to this supplemental statement.

In determining whether an applicant’s officers, directors or members of its governing board have an attributable interest for purposes of the diversity criterion, the FCC applies the standards applicable for commercial broadcast licensees, Section 73.3555, Note 2 of the FCC’s Rules. See Reexamination of the Comparative Standards for Noncommercial Educational Applicants, Report and Order, 15 FCC Rcd 7386, at paras. 75, 77 (2000) (subsequent history omitted). The FCC’s attribution

rule recognizes that officers and directors can be insulated from having an attributable interest in an entity that may engage in broadcasting but that also engages in other business activities if the duties and responsibilities of that officer or director are wholly unrelated to the broadcast business and documentation of that insulation is provided to the FCC. See generally Section 73.3555, Note 2 subpart (g). The FCC's rule also recognizes the general concept of not attributing interests in an entity to an individual who is insulated from material involvement, directly or indirectly, in the management of the broadcast-related activities of the entity. See generally Section 73.3555, Note 2 subpart (f).

With respect to the College's Board, members have the broad responsibility to govern the operation of the College within the parameters of Wyoming state law, with the objective of assuring that the College accomplishes its vision and mission. See Board Rules and Regulations, Chapter I, Sections 5 (Purpose) and 6 (Objective). These are responsibilities that, in general, will have no bearing, relevance or impact on the College's proposed station, which will be a small aspect of the College's overall operation. Amended Chapter II, Section 8.b. of the Board's Rules and Regulations insulates any future Board member who might have an attributable interest in another station with an overlapping principal community contour from having any involvement in any matters related to the operation of the College's proposed station. This provision therefore safeguards that no person having an attributable interest in an overlapping radio station will have any involvement with the College's proposed station.

Because neither the College nor its Board have the ability to control who may be elected to the Board (which would require legislative action), amended Chapter II, Section 8.b. is the best way for the Board to safeguard that the underlying diversity goals and characteristics are maintained if the College's application is granted for the duration of the FCC-mandated holding period.