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**FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D. C. 20554**

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**IN REPLY REFER TO:
1800B3-ALM**

November 2, 2000

RECEIVED
John Crigler, Esquire
Garvey, Schubert & Barker
1000 Potomac Street, N.W.
Fifth Floor
Washington, D. C. 20007

In re: NEW (Ed. FM), Hood River, OR
KPBS Public Radio Foundation
Facility ID No. 90769
File No. BPED-19980522MB

Dear Mr. Crigler:

This is in reference to the captioned application filed by the KPBS Public Radio Foundation ("Foundation") for a new noncommercial, educational FM station at Hood River Oregon. This application was mutually exclusive with an application filed by Educational Media Foundation (BPED-19980826ME) for a new noncommercial, educational FM station in Welches, Florida. On September 21, 1999, the parties filed a Joint Request For Approval Of Settlement Agreement.

Section 73.503(a) of the Commission's Rules, 47 C.F.R. § 73.503(a), states that:
A noncommercial educational FM station will be licensed only to a nonprofit educational organization and upon showing that the station will be used for the advancement of an educational program.

As originally filed, Foundation's application stated in response to Section II, Item 2 of FCC Form 340 (legal qualifications) that: "The KPBS Public Radio Foundation operates as an independent tax-exempt organization which oversees the successful continuance of public radio stations KPBS AM and KBPS FM. These stations are licensed to Public School District No. 1 in Portland, Oregon." In carrying out these responsibilities, the goals of the Foundation are:

1. Ensure the continuity of classical music on KBPS FM.
2. Assist in upgrading station financial and administrative systems.
3. Review station programming with respect to community needs, listening habits, program trends and audience building.
4. Assist the AM [station] (which is part of the curriculum of Benson High School, and is entirely staffed by students) with funding, instruction in their radio curriculum and support services.
5. Broaden station interaction with other community arts organizations.

6. Identify and develop marketing, positioning and promotions strategies.
7. Identify and implement special events and activities which provide exposure, positive public relations and audience benefits.

In response to a Commission staff inquiry to further demonstrate the educational program of Foundation, on May 9, 2000, you provided a copy of Foundation's Articles of Incorporation which state that Foundations primary purposes are:

1. Function in harmony with and in full support of radio broadcast stations KBPS AM and FM in carrying out the purposes of KBPS, while maintaining the corporation's separate and independent status.
2. Assist in the long-range development planning of KBPS, especially in those aspects which will lead to improved financial support of KBPS through gifts, grants and bequests.
3. Promote the financial development of KBPS to better meet its broadcasting objectives for students of the Portland Public Schools, and the needs of the community.
4. Coordinate special fund-raising programs for the benefit of KBPS and the Portland Public Schools.
5. Transfer, convey and deliver freely *any and all monies and property acquired by it* to KBPS and the Portland Public Schools.

Examination of both Foundation's application as originally filed and the May 9, 2000 amendment reveal that Foundation exists primarily to support, mainly financially, the two existing noncommercial educational broadcasting stations operated by the Portland Public Schools. Even if we were to find that Foundation has demonstrated that it has an educational program designed to serve the residents of Hood River Oregon, it has not demonstrated how it will use the proposed station to advance any stated educational purpose. Rather, grant of a new FM station appears to be antithetical to the Foundation's stated "educational" purposes, as the new station will likely draw efforts and resources away from KPBS. Furthermore, Foundation's Articles of Incorporation do not show that it is itself authorized to engage in the operation of a broadcasting station; again, it appears to be tied exclusively to KPBS' broadcast operations. Lastly, Foundation's Articles of Incorporation require it to "deliver freely any and all monies and property acquired by it to KBPS and the Portland Public Schools". Foundation has failed to demonstrate that it can legally hold the money and property it needs to operate a broadcasting station.

Accordingly, Foundation must file an amendment within 45 days of the date of this letter demonstrating that Foundation is authorized to operate a broadcasting station independent of KPBS(AM)/FM and demonstrating compliance with 47 C.F.R. § 73.503(a). Failure to respond within the time specified will result in the dismissal of the Hood River, Oregon application. If you need assistance in the preparation of this amendment, please contact Allen Myers, Communications Analyst, at (202) 418-2774.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Blair", with a long horizontal flourish extending to the right.

Linda Blair, Chief
Audio Services Division
Mass Media Bureau

cc: Robert C. Fisher, Esquire
Veronica D. McLaughlin, Esquire