

$$PF = kWh \div \sqrt{(kWh^2 + rkVAh^2)},$$

with the factors defined as follows:

PF = the power factor for any Demand Period of the month.

kWh = the total quantity of energy which is delivered during such Demand Period to the point of delivery or interconnection.

rkVAh = the total quantity of reactive kilovolt-ampere-hours (kvars) delivered during such Demand Period to the point of delivery or interconnection.

**Power Factor Penalty and Assessment:** The Customer shall be assessed a penalty for all Demand Periods of a month where the power factor is less than 95 percent lagging. For any Demand Period during a particular month such penalty shall be in accordance with the following formula:

$$C = D \times (.95 - LPF) \times \$0.10$$

with the factors defined as follows:

C = The charge in dollars to be assessed for any particular Demand Period of such month that the Determination of Power Factor "PF" is calculated to be less than 95 percent lagging.

D = The Customer's demand in kilowatts at the point of delivery for such Demand Period in which a low power factor was calculated.

LPF = The lagging power factor, if any, determined by the formula "PF" for such Demand Period.

If C is negative, then C = zero (0).

**Application of Power Factor Penalty:** The Power Factor Penalty is applicable to radial interconnections with the System of Southwestern. The total Power Factor Penalty for any month shall be the sum of all charges "C" for all Demand Periods of such month. No penalty is assessed for leading power factor. Southwestern, in its sole judgment and at its sole option, may determine whether power factor calculations should be applied to a single physical point of delivery or to multiple physical points of delivery where a Customer has a single, electrically integrated load served through multiple points or interconnections. The general criteria for such decision shall be that, given the configuration of the Customer's and Southwestern's systems, Southwestern will determine, in its sole judgment and at its sole option, whether the power factor calculation more accurately assesses the detrimental impact on Southwestern's system when the above formula is calculated for a single physical point of delivery or for a combination of physical points or for an interconnection as specified by an Interconnection Agreement.

Southwestern, at its sole option, may reduce or waive power factor penalties

when, in Southwestern's sole judgment, low power factor conditions were not detrimental to the System of Southwestern due to particular loading and voltage conditions at the time the power factor dropped below 95 percent lagging.

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BILLING CODE 6450-01-P

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-8731-4]

### Proposed Agreement and Covenant Not To Sue Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act; In Re: Elizabeth Mine Superfund Site, Located in Strafford and Thetford, VT

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of proposed agreement; request for public comment.

**SUMMARY:** In accordance with the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. 9601, *et seq.*, notice is hereby given of a proposed Agreement and Covenant Not to Sue between the United States, on behalf of the U.S. Environmental Protection Agency ("EPA"), the Vermont Agency of Natural Resources ("ANR") and Settling Parties Theodore Zageski, the Estate of Leonard Cook, and the Elizabeth Mine Corporation (collectively "Settling Parties").

This proposed Agreement includes a Covenant Not to Sue by the United States under sections 106 and 107(a) of CERCLA, 42 U.S.C. 9606 and 9607(a), and section 7003 of the Resource Conservation and Recovery Act, as amended ("RCRA"), 42 U.S.C. 6973; and a Covenant Not to Sue by the Vermont Agency of Natural Resources under section 107(a) of CERCLA, 42 U.S.C. 9607(a), and 10 V.S.A 6615.

In the proposed Agreement, the Settling Parties have agreed to give the Environmental Protection Agency permission to remove and use earthen material such as rock and/or soil overburden materials such as topsoil, sand, silt, clay, gravel, cobbles, and boulders located on land owned by them for use in implementing response actions at the Elizabeth Mine Superfund Site. In addition, the Settling Parties will record a Notice with the Towns of Strafford and Thetford, Vermont that the property is subject to a CERCLA response action and record a Grant of

Environmental Restrictions, Right of Access and Easement under the proposed Agreement.

For thirty (30) days following the date of publication of this Notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. Commenters may request an opportunity for a public meeting to be held in the area of Strafford or Thetford, Vermont, in accordance with section 7003(d) of RCRA, 24 U.S.C. 6973(d). The Agency's response to any comments received will be available for public inspection at One Congress Street, Suite 1100, Boston, MA 02114.

**DATES:** Comments must be submitted by November 19, 2008.

**ADDRESSES:** Comments or request for a public meeting should be addressed to the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 1, One Congress Street, Suite 1100, Mailcode RAA, Boston, Massachusetts 02203 and should refer to: In re: Elizabeth Mine Superfund Site, U.S. EPA Docket No. CERCLA-01-2008-0044.

**FOR FURTHER INFORMATION CONTACT:** A copy of the proposed Agreement can be obtained from Steven Schlang, U.S. Environmental Protection Agency, Region 1, One Congress Street, Mailcode SEL, Boston, Massachusetts 02114 or at (617) 918-1773.

Dated: September 22, 2008.

**James T. Owens III,**  
Director, Office of Site Remediation and Restoration, Region 1.

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BILLING CODE 6560-50-P

## FEDERAL COMMUNICATIONS COMMISSION

### Radio Broadcasting Services; AM or FM Proposals To Change the Community of License

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** The following applicants filed AM or FM proposals to change the community of license: ANDERSON RADIO BROADCASTING, INC., Station KZXT, Facility ID 164302, BMPH-20080904ABB, From EUREKA, MT, To EVERGREEN, MT; ATHENS CHRISTIAN RADIO, INC., Station NEW,