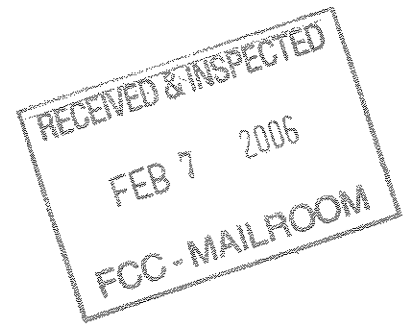


February 2, 2006



Federal Communications Commission  
**Attention: CGB Room 3-B431**  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

*Re: Request for Full Exemption from Closed Captioning Requirements*

Gentlemen:

R. C. Boyd Enterprises, LLC respectfully submits this Petition requesting exemptions from the closed captioning requirements under the Commission's Rules, 47 C.F.R. §79.1 based on the undue burden standard and regulations.

#### **INTRODUCTION AND OVERVIEW**

R. C. Boyd Enterprises, LLC (the "Company") was formed in 2005 to purchase Honey Hole All Outdoors television, a 30-minute program currently aired regionally in Texas, North Louisiana and Arizona. The primary objective of the show is to provide timely bass fishing information on Texas public lakes. Other shows include kid's fishing tournaments and a few hunting segments in the winter.

The show's staff consists of two volunteers; a fishing host, and a kid's camp host, and the owner who sells the advertising, runs the business, and hosts fly fishing and hunting episodes. The only paid person is an independent contractor who films, produces, and distributes the show.

#### **THE NATURE AND COSTS OF THE CLOSED CAPTIONING FOR THE PROGRAMMING**

We have solicited vendors to perform closed captioning on our behalf. The best price we received was \$250 per episode. Shipping the media back and forth to the supplier is \$5 per episode. Therefore, the hard costs would be \$13,260 per year.

In addition, the producer/editor must proof read the closed captioning for accuracy. The producer/editor would require a minimum of 1 hour to ensure the text matches the audio. This cost at \$37.50 per hour would be \$1,950 annually.

Therefore, the total annual cost for closed captioning is estimated to be \$15,210. As detailed below, gross revenue in 2005 was approximately \$108,000, while expenses were approximately \$103,000, resulting in a net operating profit of approximately \$5,000. The

expense of closed captioning would eliminate any profit and in fact would have produced a net operating loss of at least \$10,000.

In calendar year 2006, operating revenues are expected to increase by \$64,500, and expenses will increase by at least \$68,000. Therefore, a net operating profit of less than \$10,000 is forecast. If the Company has the additional cost of closed captioning the consequence will be an operating loss for the year.

#### FINANCIAL RESOURCES OF THE PROGRAM PROVIDER

The assets of the Company are as follows:

Cash	\$10,000
Library of Program Tapes	

As noted elsewhere in this Petition, the Company's primary source of revenue is from the sale of advertising, which totaled approximately \$107,500 in calendar year 2005. The only other source of revenues is from the sale of program DVDs and Video Tapes, which generated approximately \$500 in income in calendar year 2005. While total income for 2005 was \$108,000, operating expenses totaled \$102,740 as follows:

Independent Contractor Fees	\$ 78,000
Boat Wrapping	3,700
Media Consulting	1,250
KDFI Channel 27 Broadcast Fees	9,000
Legal Fees	5,790
Miscellaneous	<u>5,000</u>
	\$102,740

In 2006, the Company has budgeted additional advertising revenues of \$64,500. This will bring revenues to \$172,500. Total expenses, however, will also increase due in part to a \$52,000 increase in broadcasting fees (\$30,000 to KDFI Channel 27 for a full year of broadcasting and \$22,000 in new broadcast fees for Fox Sports Network Southwest, which will air the program for the first time in 2006 in a 5:30 a.m. slot). Other expenses are expected to be unchanged except for travel expenses which are expected to be at least \$16,000 in 2006. In 2005, travel expenses were absorbed by individuals, but the Company will bear a greater share in 2006. Therefore, profit margins are expected to fall. If the Company has the added expense of closed captioning in 2006, then there will be an operating loss in 2006.

While the Company continuously seeks additional advertising revenue, no new contracts, other than those mentioned above, are expected to be executed in 2006.

Finally, the television stations that air the Company's program are not willing to bear any of the cost of closed captioning as evidenced by the email attached hereto as Exhibit "A," from the Company's primary broadcast outlet, KDFI Channel 27 located in the Dallas/Fort Worth Metroplex. In fact, as noted above, KDFI charges the Company a fee of \$750 per episode to air the Company's program. They advise that their modest revenues from us would be reduced by one-third (1/3) if they assumed the responsibility for captioning. The other stations that air the program are small stations located in secondary and tertiary markets, including Tyler and Lufkin, Texas, Monroe, Louisiana, and Camp Verde, Arizona. We give them a portion of our advertising revenue for airing our services. None of them are willing to incur any expense in connection with airing the program.

#### **OTHER IMPACT ON THE PROGRAM OWNER**

In addition to the direct financial burden that the closed captioning requirement would impose on the Company, it also impacts the Company in several ways that the Company considers harmful:

1. *Program Scheduling.* The Company's show is filmed once per week. Filming requires one full day, while editing takes another 4 or 5 days. Each show is distributed on Mondays for airing the following Saturday. The very essence of the show is providing timely information on bass fishing, fly fishing and hunting. The addition of closed captioning to the production schedule would mean that each show would air two or three weeks after filming. The delay would significantly reduce the value of the information the show provides our viewers, consisting mostly of avid fisherman and hunters. Even in a week, wildlife can significantly change their patterns. For example, the spawn in the spring for bass lasts only a few weeks. The spawn in the summer for bass is less than a month. In the case of hunting, the seasons are relatively short so hunting shows are produced the first week of a particular hunting season so viewers can use the techniques we show before the season ends. The viewers use the programs as their guide to outdoor sporting opportunities. The time required to closed caption would eliminate that element of being current that the viewers expect from the programming.

2. *Format.* The format of the program uses a host, a guest and a single cameraman. In the case of the fishing programs, when a fish is caught, the camera has a picture of the fisherman and then his catch in an inset at the bottom of the screen. Closed captioning would eliminate either the fish or the fisherman depending on where it is placed on the screen. In addition, programs often demonstrate techniques and tackle which require the whole screen to show properly. As a consequence, closed captioning would render those aspects of the programs

ineffective for all viewers, including the hearing impaired, because the pictures rather than the words are the essential part of the programs.

3. *Workload.* The only paid person connected with the program, namely the independent contractor, is already fully occupied with the activities of filming, producing, editing and distributing the show each week. Therefore, the editing of the closed captioning would have to be outsourced or an additional staff person would have to be hired, at least on a part-time basis, to insure audio translation accuracy. Again, budgetary constraints do not allow for the additional expense associated with either alternative.

**ALTERNATIVES AVAILABLE AS SUBSTITUTES  
FOR CLOSED CAPTIONING**

The Company would offer the following as possible substitutes for closed captioning if an exemption is granted:

1. A fishing tournament for hearing impaired children, that would serve as the basis for a program that would be closed captioned. Tournament participants would receive a free DVD of the program.
2. The addition of a graphic for large fish, the size of which are currently only identified orally.
3. A graphic showing the name of the bait or brand name of the tackle or other product being demonstrated.
4. Provide hearing impaired viewers the opportunity to purchase DVDs of individual episodes with closed captioning at the Company's production and captioning costs.
5. Add closed captioning as annual net profit reaches or exceeds \$50,000 or the Company finds an underwriter for the costs of closed captioning.

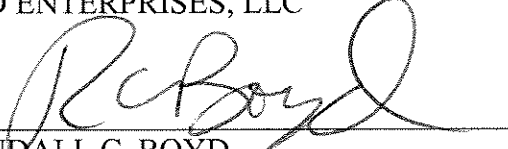
Federal Communications Commission  
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Page

As shown by this Petition, the Commission should grant a full exemption of the closed captioning requirements in this case, because requiring closed captioning would create an undue burden. The cost of captioning would be excessively high, and would substantially increase the Company's operating loss. As a consequence, and because of its limited assets, the Company may have to cease operations if it is forced to bear the expense of close captioning. The Company's type of operation and financial resources are different in kind and magnitude from a mainstream program provider. Because of the significant difficulty and expense of providing closed captions, a full exemption under §79.1(f) is warranted. If more information is needed, please contact the undersigned at the address listed below.

Respectfully submitted,

R. C. BOYD ENTERPRISES, LLC

By: \_\_\_\_\_

  
RANDALL C. BOYD,  
Managing Member and President


2003 Navasota Cove  
Westlake, Texas 76262  
817-691-7775  
info@alloutdoorstv.com

# AFFIDAVIT

STATE OF TEXAS §

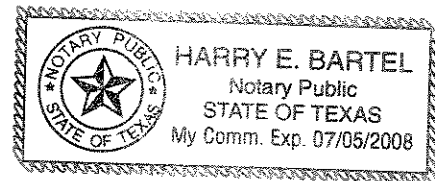
COUNTY OF TARRANT §

Before me, the undersigned authority, on this the 30 day of February 2006, personally appeared Randall C. Boyd in his capacity as President and sole Member of R. C. Boyd Enterprises, LLC the Petitioner in the forgoing Petition for Closed Captioning Exemption, and being by me duly sworn on oath deposes and avers that all statements and representations made in the Petition are true and accurate in substance and fact.

  
\_\_\_\_\_  
RANDALL C. BOYD

SWORN TO and SUBSCRIBED BEFORE ME, by the said Randall C. Boyd this the 3<sup>rd</sup> day of February, 2006, to certify and witness my hand and seal of office.

  
\_\_\_\_\_  
Notary Public, State of Texas



C A N T E Y & H A N G E R, L L P.

ATTORNEYS AT LAW

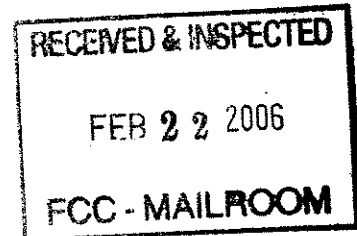
 MERITAS LAW FIRMS WORLDWIDE

HARRY E. BARTEL  
BOARD CERTIFIED – ESTATE PLANNING AND PROBATE  
TEXAS BOARD OF LEGAL SPECIALIZATION  
DIRECT DIAL 817-877-2813  
E-MAIL hbartel@canteyhanger.com

BURNETT PLAZA, SUITE 2100  
801 CHERRY STREET, UNIT #2  
FORT WORTH, TEXAS 76102-6881  
817-877-2800 ■ METRO 817-429-3815  
FAX 817-877-2807

February 21, 2006

Commission's Secretary  
Office of the Secretary  
Federal Communications Commission  
ATTN: CGB Room 3-B431  
9300 East Hampton Drive  
Capitol Heights, Maryland 20743



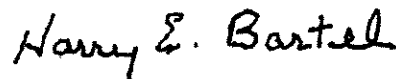
**Re: Case Identifier: CGB-CC-0420**  
**R. C. Boyd Enterprises, LLC**  
**Request for Full Exemption from Closed Captioning Requirements**

Gentlemen:

R. C. Boyd Enterprises, LLC has filed a petition for exemption from the closed captioning requirements, pursuant to Section 79.1 of the Commission's rules, 47 C.F.R. § 79.1, for its program "Honey Hole All Outdoors"

Through inadvertence, an Exhibit A mentioned in the petition was omitted from its petition upon initial filing. Enclosed herewith are duplicate copies of Exhibit A in support of the petition previously filed.

Very truly yours,



Harry E. Bartel

HEB/jmg

Enclosures

cc: Mr. Randall Boyd – w/enc.

## EXHIBIT A

-----Original Message-----

From: Margaret Baker [<mailto:mbake198@FOXTV.COM>]

Sent: Friday, December 16, 2005 2:09 PM

To: Randall Boyd

Subject: Closed Captioning Reimbursement

Randall,

We have received your request for Closed Captioning reimbursement due to the new FCC regulations. KDFW/kdfi station policy is that the cost for closed captioning for all programs is the responsibility of the producers. We apologize for any inconvenience this may cause. Please contact us with any further questions.

Thanks,  
Maggie

Maggie Baker  
Paid Programming Specialist /  
Special Projects Coordinator  
KDFW-FOX4 / KDFI-27  
214-720-3225 ph  
214-720-3127 fax