

PLAN B

A “Friendly Divorce” to Save the Stations

Introduction. Six years ago, Carol Spooner circulated a letter she called “*Time for an Amicable Divorce at Pacifica?*” Without speaking for her, I believe she saw then, as a very close observer of the Pacifica scene, that attempting to govern and run the five Pacifica Foundation Radio stations under a single corporate umbrella, Pacifica Foundation, was not working, and indeed could be a threat to the survival of at least some of the stations. Observing recent crises, some of us have now come to the same conclusion. This paper will attempt to outline how such a “friendly divorce” could happen. Its goal is the preservation of all of the Pacifica stations in a manner which will enable them to continue carrying out the Pacifica mission.

There are a number of ways in which the “friendly divorce” plan could be initiated. They include; (a) decision by the Pacifica National Board; (b) legal action under California Corporations’ Code Section 6510; (c) the exercise of certain rights which FJC has under the terms of the \$3.7 million Loan Agreement of April 2, 2018; (d) a vote of the Pacifica membership. It is not the purpose of this paper to discuss how such a plan may come to be initiated, but to acknowledge it as a possibility and discuss what it would look like.

Outline of a plan.

1. Legal Separation.

- a. Establishment of independent 501(c)3 non-profit corporations based in each of the cities in which current Pacifica stations are located, thus establishing local station entities. In most states, any person or legal entity can establish a new non-profit organization by filing Articles of Incorporation with the respective Secretary of State. For all five stations Pacifica Foundation itself would be the Incorporator. As the Incorporator, Pacifica would establish bylaws¹ for the new non-profits and appoint their initial Board of Directors.
- b. Appointment of the current members of the stations’ Local Station Board and transfer of the licenses would be conditioned on the agreement of all current board members to suspend intramural fighting during the transition period. They would start with a simplified initial set of by-laws, with a provision that they could be amended by a simple majority of the board during the first 60 days.

¹ A simple set of by-laws, providing for a smaller board, with most of its members elected, and some seats with particular competencies to be filled by appointment.

- c. In the event that a Local Station Board does not unanimously commit to suspending a factional fighting during the transition period Pacifica would put out a notice to all relevant non profit organizations in the signal area, inviting them to apply for that communities' license. Who would be the decider would depend on how the process was initiated (see paragraph 2 of the introduction above).
2. Transfer of licenses. License transfer must be approved by the Federal Communications Commission. Pacifica would file with the FCC an application to transfer the current licenses to the new local entities. Filing a Petition for Consent to Transfer does not open the license to third parties. The only action open to the FCC, if there was any properly filed opposition, would be to either grant the transfer or deny the transfer. If granted, the licensee would become the new local non-profit. If denied Pacifica would remain the licensor. The Application to Transfer the licenses would only happen if the local Board has agreed to suspend intramural disputes (as provided in Section 1 b, above). Under FCC regulations, transfer of licenses is subject to the timely filing, by any concerned party of a Petition to Deny. There would have been prior agreement that no such Petition would be filed on or behalf of any present Board Members.
3. Funding. Pacifica will have to engage in a signal swap which could net as much as \$15,000,000 (probably reducing the number of people potentially, but not currently listening to one or two of the stations by about 40%). The impact on actual listenership Pacifica will be minimal. Pacifica will use the funds to pay off all current debts and divide the balance (which could be as much as \$9,000,000) among the five new non-profit corporations.
4. Reorganization and Revitalizing the New Stations. From the funds left after paying the debt Pacifica would make each newly independent station a a restricted "Reorganization and Development grant" (R&D grant) so they can reorganize and modernize; the terms of the R&D grant will be to conduct a reorganization of programming and operations along the lines outlined in attachment A.
5. The Pacifica Archives will be placed with the University of Santa Barbara or such other entity as has a proven capability of completing the technical preservation work and a commitment to making the contents freely available;
6. The Pacifica Program Service. as the one cash positive entity of Pacifica will continue to operate much as it does at present, under the guidance of a reduced and streamlined Pacifica Board.