

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In re Application of	)	
	)	
<b>Zuma Beach FM Emergency and Community Broadcasters, Inc.</b>	)	Facility ID No. 195574
	)	NAL/Acct. No. MB-201841410017
	)	FRN: 0023661713
For Modification of License for	)	File No. BPL-20170807ABE
Station KBUU-LP	)	
Malibu, California	)	

**MEMORANDUM OPINION AND ORDER  
AND  
NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

**Adopted: August 28, 2018**

**Released: August 28, 2018**

By the Chief, Audio Division, Media Bureau:

**I. INTRODUCTION**

1. The Media Bureau (Bureau) has before it a petition by Future Roots, Inc. (FRI)<sup>1</sup> seeking reconsideration of the grant of an application by Zuma Beach Emergency Broadcasting, Inc. (Zuma) for a permit to modify the facilities of Low Power FM (LPFM) station KBUU-LP, Malibu, California (Malibu Station).<sup>2</sup> In this *Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture (NAL)*,<sup>3</sup> we affirm our grant of the Permit Application but find that Zuma apparently willfully violated Section 73.1745 of the Rules<sup>4</sup> and Section 301 of the Act,<sup>5</sup> by operating for about a month with a hybrid of its authorized facilities and new facilities for which it held a construction permit but had not yet filed a license application. Based upon our review of the facts and circumstances before us, we conclude that Zuma is apparently liable for a monetary forfeiture in the amount of six thousand dollars (\$6,000).

**II. BACKGROUND**

2. The Malibu Station has been licensed since March 2015. Zuma filed the Permit Application in August 2017, proposing an ostensibly minor modification to the Malibu Station, including a change of channel. The primary dispute in this proceeding is whether the channel change is “minor” or “major” and, thus, whether the Bureau properly processed the Permit Application as it did or should have dismissed it as untimely. Permittees can request “minor” modifications at any time but may not seek

<sup>1</sup> Future Roots Petition for Reconsideration and Request for Emergency Relief (filed Dec. 7, 2017) (Reconsideration Petition). FRI holds a permit to construct KLDB-LP, Los Angeles, California (LA Station).

<sup>2</sup> File No. BPL-20170807ABE (granted Nov. 2, 2017) (Permit Application). In the Permit Application, as amended, Zuma proposes to change the Malibu Station’s channel to Channel 256, upon which FRI’s LA Station is also authorized. The Permit Application also proposes to adjust height, modify antenna pattern, and increase effective radiated power (ERP).

<sup>3</sup> This *NAL* is issued pursuant to Sections 309(k) and 503(b) of the Communications Act of 1934, as amended (Act), and Section 1.80 of the Commission’s rules (Rules). See 47 U.S.C. §§ 309(k), 503(b); 47 CFR § 1.80. The Bureau has delegated authority to issue the *NAL* under Section 0.283 of the Rules. See 47 CFR § 0.283.

<sup>4</sup> See 47 CFR § 73.1745.

<sup>5</sup> See 47 U.S.C. § 301.

“major” modifications except during an application filing window.<sup>6</sup> Proposals to move an LPFM station to an adjacent channel are “minor,”<sup>7</sup> whereas non-adjacent channel moves qualify as “minor” only if the applicant demonstrates that the move would reduce interference.<sup>8</sup>

3. In the instant proceeding, Zuma filed a proposal outside of a filing window to move the Malibu Station from Channel 248 to Channel 256 (a non-adjacent channel change) and provided a technical exhibit purporting to show that the move would reduce interference and, thus, qualify as “minor.”<sup>9</sup> Specifically, Zuma provided an engineering statement and map claiming that an area in which the Malibu Station had 9,946 potential listeners received interference on Channel 248 from two co-channel, full service stations: KLSB(FM) (formerly KYGA(FM)), Goleta, California (Goleta Station) and KLYY(FM), Riverside, California (Riverside Station).<sup>10</sup> Zuma argued that the proposed move to Channel 256 would reduce interference by about 62 percent by eliminating all interference from the Goleta and Riverside Stations while adding a much smaller amount of new interference from co-channel, full service station KGGI(FM), San Bernardino, California, potentially affecting 3,648 people.<sup>11</sup> The Bureau accepted Zuma’s Interference Showing, processed the Permit Application as a “minor” change, and issued a construction permit on November 2, 2017, unaware that FRI had filed a Petition to Deny that same day challenging the Interference Showing.<sup>12</sup> Zuma opposed the Petition to Deny on November 15, 2017.<sup>13</sup>

4. On December 7, 2017, FRI filed the Reconsideration Petition, reiterating an argument from its unresolved Petition to Deny that Zuma’s Interference Showing was inadequate and that the non-adjacent channel change, thus, did not qualify as “minor.” FRI also raised new claims that the Malibu Station allegedly operated on Channel 256 and with excess power prior to filing a required license application, thereby causing interference to another co-channel LPFM station.<sup>14</sup> Zuma filed a License

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<sup>6</sup> See 47 CFR § 73.870(a)-(b).

<sup>7</sup> *Id.* at § 73.870(a)(1).

<sup>8</sup> *Id.* LPFM stations are required to protect, but receive no interference protection from, full service stations. See *Creation of Low Power Radio Service*, Report and Order, 15 FCC Rcd 2205, 2231-33, paras. 65-67, 70 (2000) (subsequent history omitted) (*LPFM Order*); 47 CFR § 73.809. Section 73.870(a) enables LPFM stations to reduce interference by moving to another channel, even to a non-adjacent channel that otherwise would have been considered a major modification. See 47 CFR § 73.870(a).

<sup>9</sup> See Zuma Request for Handling Under § 73.870(a) (attached to Permit Application) (Interference Showing). The proposed move from Channel 248 to Channel 256 corresponds to a change from 97.5 MHz to 99.1 MHz. See 47 CFR § 73.202.

<sup>10</sup> The Goleta and Riverside Stations are grandfathered facilities which Zuma characterizes as “high-altitude, super-powered Class B stations” causing interference that “blocks reception of KBUU-LP in significant portions of Malibu.” Zuma Opposition to Petition to Deny at 3-4 (filed Nov. 15, 2017) (Permit Opposition).

<sup>11</sup> See Interference Showing at 1.

<sup>12</sup> See FRI Petition to Deny (filed Nov. 2, 2017). Minor changes to LPFM authorizations are not subject to Petitions to Deny, but the Bureau considers informal objections received prior to action on the application. See 47 CFR §§ 73.870(d), 73.3587. For ease of reference we will use the term “Petition to Deny,” when discussing FRI’s objection to the Permit Application, consistent with how the parties identify the pleading. Notwithstanding that terminology, we are treating FRI’s filing as an informal objection rather than a petition to deny. See, e.g., *Fireweed Commc’ns LLC*, Letter Decision, 31 FCC Rcd 6997, 7000-01 (MB 2016).

<sup>13</sup> See Permit Opposition.

<sup>14</sup> See Reconsideration Petition at 2. The co-channel station which FRI alleges received interference is KTPC-LP, Venice, California, licensed to Reach for the Top, Inc. (Reach), with which FRI is authorized to share time. Reach did not lodge any objection. FRI also alleges interference to its own LA Station, which is not yet operational.

Application for the newly constructed facilities on December 13, 2017,<sup>15</sup> and an Opposition to the Reconsideration Petition on December 15, 2017.<sup>16</sup> The Bureau granted the License Application (which was not itself directly contested) on December 20, 2017 without addressing the filings against the underlying Permit Application. We now consider those filings.

### III. DISCUSSION

5. *Procedural Matters.* The Commission will consider a petition for reconsideration only when the petitioner shows either a material error in the Commission's original order or raises facts not known or existing at the time of the petitioner's last opportunity to present them.<sup>17</sup> The petitioner must be a party to the proceeding or someone whose interests are adversely affected by the decision.<sup>18</sup> Non-parties must explain their interests and show why it was not possible to participate earlier.<sup>19</sup>

6. FRI's arguments, including an alleged processing error and new facts occurring after the Permit Application's grant, are matters permissibly raised on reconsideration. It demonstrates standing to seek reconsideration based on its status as a co-channel competitor with interference concerns. FRI seeks reconsideration in a proceeding to which it was not a party but contends that it could not have participated earlier. FRI explains that it had no objection to the Permit Application as originally filed, which proposed continued use of Channel 248. Its interest arose from Zuma's October 23, 2017 amendment, which substituted Channel 256, and which FRI believes will cause interference to its unbuilt, co-channel LA Station.<sup>20</sup> The Bureau gave public notice of the amendment on October 25, 2017, FRI filed the Petition to Deny on November 2, 2017, and the Bureau granted the Permit Application, as amended, that same day. FRI argues that because there were only ten days between public notice and grant, it could not have participated earlier.<sup>21</sup> We agree and will consider FRI's Reconsideration Petition.

7. *Minor Change/Interference.* FRI alleges that the Bureau erred in processing the Permit Application as a "minor" change because Zuma's showing of reduced interference is flawed. In particular, FRI argues that Zuma: (1) incorrectly characterizes the weak signal of the Malibu Station on Channel 248 as interference from the Goleta and Riverside Stations; and (2) ignores new interference that would result between the Malibu and LA Stations on Channel 256, which FRI claims would offset any interference reduction on Channel 248.<sup>22</sup> In reply, Zuma: (1) contends that the Reconsideration Petition is not supported by an affidavit from a qualified radio engineer as the Rules require for interference-based reconsideration requests; (2) provides additional support for its claim of interference reduction with

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<sup>15</sup> See File No. BLL-20171213ABD (granted Dec. 20, 2017) (License Application).

<sup>16</sup> See Zuma Opposition to Petition for Reconsideration and Request for Emergency Relief at 1 (filed Dec. 15, 2017) (Reconsideration Opposition). The Reconsideration Opposition incorporates by reference Zuma's earlier Permit Opposition.

<sup>17</sup> See 47 CFR § 1.106(c)(1).

<sup>18</sup> See 47 U.S.C. § 405(a); 47 CFR § 1.106(b)(1). In the broadcast regulatory context, standing is generally shown in one of three ways: (1) as a competitor in the market subject to signal interference; (2) as a competitor in the market subject to economic harm; or (3) as a resident of the station's service area or regular listener of the station. See, e.g., *Entercom License, LLC*, Hearing Designation Order, 31 FCC Rcd 12196, 12205 (2016); *Melodie Virtue, Esq.*, Letter Decision, 30 FCC Rcd 6045 (MB 2015).

<sup>19</sup> See 47 CFR § 1.106(b)(1).

<sup>20</sup> Reconsideration Petition at 1-2.

<sup>21</sup> *Id.* at 1.

<sup>22</sup> FRI contends that there will be new interference from the Malibu Station to the LA Station and also from the LA Station to the Malibu Station. See Reconsideration Petition, Exh. A. FRI suggests that Zuma could improve the Malibu Station's signal without impacting Channel 256 LPFM stations like the LA Station if Zuma remained on Channel 248 but moved its transmitter southward. *Id.*

respect to the Goleta and Riverside Stations; and (3) argues that it is protecting the LA Station to the full extent that the Rules require.<sup>23</sup>

8. We find that the alleged new interference between the Malibu Station and other LPFM stations is immaterial to the question at hand – whether the Bureau appropriately processed the Permit Application as a minor facility modification based on interference reduction cognizable under Section 73.870(a). FRI’s claim of new interference to the LA Station relies upon a contour-overlap-based Longley Rice analysis, a method inapplicable to LPFM stations. The sole source of interference protection for LPFM stations is a minimum distance separation between stations, which in this case requires the Malibu and LA Stations to be at least 24 km apart.<sup>24</sup> The Permit Application did not propose to move the Malibu Station’s authorized site, which is fully spaced to the LA Station.<sup>25</sup> Accordingly, we reject FRI’s claim that new interference between the Malibu and LA Stations on Channel 256 offsets Zuma’s claimed reduction of interference on Channel 248.

9. We also find no error in our acceptance of Zuma’s claim that the modification would eliminate Channel 248 interference from the full power Riverside and Goleta Stations. FRI attributes the Malibu Station’s reception problems to a very weak signal rather than to interference, whereas Zuma states that its weak signal “is precisely why the station is susceptible to interference.”<sup>26</sup> Zuma now supplements its Interference Showing with new information from listening tests. The new information consists primarily of maps of the Malibu Station’s 60 dBu contour on which the station’s General Manager marks areas of claimed total and partial interference from the Goleta and Riverside Stations on Channel 248.<sup>27</sup> For example, Zuma contends that the Goleta Station completely drowns out the Malibu Station along a 1.4 km segment of the Pacific Coast Highway at Zuma Beach, resulting in loss of a significant number of potential listeners.<sup>28</sup> We find that Zuma has adequately demonstrated interference on Channel 248 that would be eliminated with a move to Channel 256. Zuma has also shown that new interference it expects to receive on Channel 256 will affect a smaller area and population. Accordingly, we affirm our approval of the Permit Application’s non-adjacent channel move as “minor.”

10. *Unauthorized Operation/Proposed Forfeiture.* A broadcast construction permit authorizes a permittee to build, but not to operate, the facilities specified in the permit.<sup>29</sup> Upon completion of construction, the permittee must file an application for a license to cover the permit.<sup>30</sup> In most cases, an LPFM applicant can begin to operate new facilities with automatic program test authority upon notification to the Commission that it has completed construction, provided that it files a license

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<sup>23</sup> See Permit Opposition at 6; Reconsideration Opposition at 2, 5, citing 47 CFR §§ 1.106(e), 73.807(a).

<sup>24</sup> See 47 CFR § 73.807(a)(1) (requiring 24 km separations between co-channel LP100 stations). In establishing LPFM technical requirements, the Commission chose a simple spacing requirement and specifically declined to apply contour analyses. See *LPFM Order*, 15 FCC Rcd at 2233, para. 70. FRI does not challenge the Permit Application’s compliance with the spacing requirements. Cf. *Calvary Chapel of Redlands*, Letter Decision, 31 FCC Rcd 12694, 12696 (MB 2016) (no actionable claim of interference between LPFM stations that were fully spaced and not shown to be operating with unauthorized facilities).

<sup>25</sup> The distance between KBUU-LP and KLDB-LP is 30.2 km, i.e., 6.2 km beyond the 24 km requirement. See Reconsideration Opposition at 7.

<sup>26</sup> *Id.*

<sup>27</sup> Zuma also submits a similar map showing a relatively small area of expected interference on Channel 256. Reconsideration Opposition, Exh. 1.

<sup>28</sup> See Affidavit of Hans Laetz, General Manager, Malibu Station at 1 (Reconsideration Opposition, Exh. 1).

<sup>29</sup> See 47 CFR § 73.3598(a).

<sup>30</sup> *Id.* at § 73.3536(a).

application within ten days.<sup>31</sup> In this case, FRI alleges and Zuma admits that Zuma operated the Malibu Station at variance from its authorization before filing the License Application.<sup>32</sup> Specifically, the Malibu Station operated for about a month with a hybrid of its licensed antenna pattern combined with the higher power and different channel intended to be used with a new antenna pattern it had not yet implemented.

11. Zuma contends that its operations after grant of the Permit Application are “irrelevant” to the question of whether the Bureau properly granted that application but addresses FRI’s allegations “in the interest of clarity and a complete record.”<sup>33</sup> Zuma explains that it had authority to construct in accordance with the granted Permit Application and expected to complete the modification within one or two days.<sup>34</sup> On November 14, 2017, it moved from Channel 248 to Channel 256 and increased ERP from 55 watts to 71 watts, two of the steps needed to complete the construction authorized in the granted Permit Application.<sup>35</sup> Zuma further states that it intended to take the final step of reorienting the antenna the next day and then to file a license application shortly thereafter.<sup>36</sup> However, Zuma recounts a series of medical and weather issues, which it characterizes as beyond its control, that delayed its plans.<sup>37</sup> Zuma did not re-orient the antenna and file the License Application until December 11, 2017 and December 13, 2017, respectively.<sup>38</sup> Thus, the Malibu Station operated on a new channel, with increased power, but using the existing antenna pattern between November 14, 2017 and December 11, 2017. Zuma argues that the variance between antenna patterns was *de minimis*, and that there was no increased radiation toward the LA Station or any full service station that the modified antenna pattern was designed to protect.<sup>39</sup> Zuma disputes, with one brief exception, an FRI allegation that the Malibu Station is “overpowered.”<sup>40</sup> Zuma claims to have operated at the 71 watts ERP specified in the granted Permit Application except on the morning of December 5, 2017 when it increased power to 244 watts in response to a wildfire emergency, prior to learning from communications counsel that it could not do so without prior Commission authorization.<sup>41</sup>

12. Section 301 of the Act and Section 73.1745 of the Rules require broadcasters to operate in accordance with terms of a license.<sup>42</sup> Section 73.3542 establishes that licensees must obtain Commission consent to operate at variance in emergencies, except for limited circumstances identified in

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<sup>31</sup> *Id.* at § 73.1620(a)(5).

<sup>32</sup> See Reconsideration Petition at 1-2; Reconsideration Opposition at 4-5. Zuma did not notify the Commission or request special temporary authority for such operations.

<sup>33</sup> Reconsideration Opposition at 2-3.

<sup>34</sup> *Id.* at 4, Exh. B.

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> The medical issues include a doctor’s November 15, 2017 instructions that the Malibu Station’s General Manager (its sole full-time staff member) must not engage in strenuous activity until undergoing a cardiac procedure scheduled for November 28, 2017 and a recovery period extending through December 1, 2017. *Id.* Zuma states that on December 1, 2017, the area experienced high winds and was subject to a National Weather Service Red Flag Warning for 11 days during which it could not rent equipment or hire staff to climb the tower and rotate the antenna into the proper position. *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> *Id.* at 5, Exh. B. Zuma states that the difference amounts to a rotation of the antenna’s two elements eastward by 4.2 percent and 8 percent, respectively, which Zuma proposed so that its signal could reach the Malibu Civic Center while protecting one residence and second-adjacent station KYSR(FM), Los Angeles, California. *Id.*

<sup>40</sup> See Reconsideration Petition at 2; Reconsideration Opposition at 6.

<sup>41</sup> See Reconsideration Opposition at 6.

<sup>42</sup> 47 U.S.C. § 301; 47 CFR § 73.1745.

Section 73.1250, *i.e.*, when public officials ask the station to do so.<sup>43</sup> Zuma operated with parameters that were not fully in accordance with its license, in violation of the Act and Rules.<sup>44</sup>

13. This *NAL* is issued pursuant to Section 503(b)(1)(B) of the Act. Under that provision, any person who is determined by the Commission to have failed willfully or repeatedly to comply with any provision of the Act or any rule, regulation, or order issued by the Commission shall be liable to the United States for a forfeiture penalty.<sup>45</sup> Section 312(f)(1) of the Act defines willful as “the conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate” the law.<sup>46</sup> The legislative history to Section 312(f)(1) of the Act clarifies that this definition of willful applies to both Sections 312 and 503(b) of the Act,<sup>47</sup> and the Commission has so interpreted the term in the Section 503(b) context.<sup>48</sup> Section 312(f)(2) of the Act provides that “[t]he term ‘repeated,’ when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.”<sup>49</sup>

14. The Commission's *Forfeiture Policy Statement* and Section 1.80(b)(4) of the Rules establish a base forfeiture amount of \$4,000 for exceeding power limits.<sup>50</sup> The guidelines also specify a base forfeiture amount of \$4,000 for using an unauthorized frequency.<sup>51</sup> In determining the appropriate forfeiture amount, we may adjust the base amount upward or downward by considering the factors enumerated in Section 503(b)(2)(D) of the Act, including “the nature, circumstances, extent and gravity

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<sup>43</sup> See 47 CFR §§ 73.1250 (FCC authority not required for emergency point-to-point messages at request of public officials), 73.3542 (FCC authority necessary for other types of emergency broadcasting). These rules, along with Section 73.1745, are applied to LPFM stations pursuant to 47 CFR § 73.801. See 47 CFR § 73.801.

<sup>44</sup> See generally, *Hemmingford Media, Inc.*, Forfeiture Order, 14 FCC Rcd 2940, 2941-42, para. 7 (CIB 1999) (responsibility for complying with terms of station license “rests solely and exclusively with the licensee”) (citing *Empire Broad. Corp.*, Memorandum Opinion and Order, 25 FCC 2d 68, 69, para. 4 (1970)).

<sup>45</sup> 47 U.S.C. § 503(b)(1)(B). See also 47 CFR § 1.80(a)(1).

<sup>46</sup> 47 U.S.C. § 312(f)(1). Thus, Zuma’s operation for about a month at a power and on a channel for which it had not yet filed a license application was willful, despite its professed original intent to complete construction and file a license application quickly but for medical and weather problems. Accepting *arguendo* Zuma’s argument that the problems were beyond Zuma’s control, its operation with unauthorized facilities during those periods was its own business decision. Similarly, Zuma’s operation with unauthorized increased power in response to a wildfire, while likely well intentioned, was also willful and violated the Rules. The intent behind Zuma’s willful actions would not negate any rule violation or liability for a forfeiture but may be considered to determine any adjustments to the base forfeiture amount.

<sup>47</sup> See H.R. Rep. No. 97-765, 97<sup>th</sup> Cong. 2d Sess. 51 (1982).

<sup>48</sup> See *Southern California Broad. Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388, para. 5 (1991).

<sup>49</sup> 47 U.S.C. § 312(f)(2).

<sup>50</sup> See *Forfeiture Policy Statement and Amendment of Section 1.80(b) of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087, 17113-15, Appx. A, Section 1 (1997) (*Forfeiture Policy Statement*), *recon. denied*, 15 FCC Rcd 303 (1999); 47 CFR § 1.80(b)(4), note to para. (b)(8), Section I.

<sup>51</sup> *Id.* Zuma characterizes its actions as merely a delay in filing a license application. See Reconsideration Opposition at 3-4. The base forfeiture for the failure to file a required form is \$3,000. See 47 CFR § 1.80(b)(4). However, Zuma did not merely fail to apply timely for a new license – it operated with facilities that neither complied fully with its existing license nor with its construction permit. The Bureau would have rejected any application Zuma might have filed for a license to cover the incomplete and unauthorized facilities.

of the violation, and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.”<sup>52</sup>

15. In this case, as discussed above, Zuma operated for about a month with power levels and on a channel that were specified in its construction permit but not in its existing license and for which it could not apply for a new license until completing a required re-orientation of its antenna. It also, for a period of less than one full day and during a wildfire emergency, operated with power exceeding that specified in its authorizations, although such operations were not requested by public officials and Zuma had not sought Commission authority. With respect to the factor of Zuma’s prior history of compliance, we note that Zuma and its principals do not have a history of prior violations. Taking into consideration these facts and all of the factors required by Section 503(b)(2)(D) of the Act and the *Forfeiture Policy Statement*, we propose a reduced forfeiture for using an unauthorized frequency from the \$4,000 base amount to \$3,000. We further propose a reduced forfeiture for exceeding power limits from the \$4,000 base amount to \$3,000. Thus, we propose a total forfeiture in the amount of six thousand dollars (\$6,000).

#### IV. ORDERING CLAUSES

16. Accordingly, IT IS ORDERED, that the Petition to Deny and Petition for Reconsideration filed by Future Roots, Inc. against an application by Zuma Beach Emergency Broadcasting, Inc. for a permit to modify the facilities of KBUU-LP, Malibu, California (File No. BPL-20170807ABE) ARE DENIED. Grant of the application (File No. BPL-20170807ABE) IS AFFIRMED.

17. IT IS FURTHER ORDERED, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Section 1.80 of the Commission’s Rules, that Zuma Beach Emergency Broadcasting, Inc. is hereby NOTIFIED of its APPARENT LIABILITY FOR FORFEITURE in the amount of six thousand dollars (\$6,000) for its apparent willful and repeated violation of Sections 73.1745 of the Commission’s Rules and apparent willful and repeated violation of Section 301 of the Communications Act of 1934, as amended.

18. IT IS FURTHER ORDERED, pursuant to Section 1.80 of the Commission’s Rules, that, within thirty (30) days of the release date of this *NAL*, Zuma Beach Emergency Broadcasting, Inc. SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

19. Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the *NAL*/Account Number and FRN Number referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the *NAL*/Account number in block number 23A (call sign/other ID), and enter the letters “FORF” in block number 24A (payment type code). Requests for full payment under an installment plan should be sent to: Chief Financial Officer – Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.<sup>53</sup> Please contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: ARINQUIRIES@fcc.gov with any questions regarding payment procedures.

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<sup>52</sup> 47 U.S.C. § 503(b)(2)(D); see also *Forfeiture Policy Statement*, 12 FCC Rcd at 17100, para. 27; 47 CFR § 1.80(b)(4).

<sup>53</sup> See 47 CFR § 1.1914.

20. The response, if any, must be mailed to Office of the Secretary, Federal Communications Commission, 445 12<sup>th</sup> Street, S.W., Washington, DC 20554, ATTN: Albert Shuldiner, Chief, Audio Division, Media Bureau, and MUST INCLUDE the NAL/Acct. No. referenced above.

21. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the respondent submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices ("GAAP"); or (3) some other reliable and objective documentation that accurately reflects the respondent's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

22. IT IS FURTHER ORDERED that a copy of this *NAL* shall be sent, by First Class and Certified Mail-Return Receipt Requested, to Mr. Hans Laetz, General Manager, Zuma Beach FM Emergency and Community Broadcasters, Inc., 6402 Surfside Way, Malibu, CA 90265, and its representative, Michelle Bradley, REC Networks, 11541 Riverton Wharf Rd., Mardela Springs, MD 21837.

FEDERAL COMMUNICATIONS COMMISSION

Albert Shuldiner  
Chief, Audio Division  
Media Bureau