



Federal Communications Commission
Washington, D.C. 20554

April 29, 2022

VIA E-MAIL AND CERTIFIED MAIL-RETURN RECEIPT REQUESTED

KSRM, Inc.
c/o Gregg P. Skall, Esq.
Telecommunications Law Professionals PLLC
1025 Connecticut Ave, NW
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In Re: **K232EH, Sterling, AK**
Facility ID No. 155064
Application File No. 0000129883

Letter of Inquiry – Response Required

Dear Licensee:

We are currently evaluating an informal objection (Objection) filed regarding the referenced assignment of license application of KSRM, Inc. (Licensee), and KSRM Radio Group, Inc., for translator station K232EH, Sterling, Alaska (Translator), and other stations.¹ The Objection was filed on January 30, 2021, by William Martin Holzheimer (Objector).² In order to evaluate the arguments raised, we request the additional information described below. You are required to respond to this Letter of Inquiry (LOI) within sixty (60) days and to supply the requested information and documents pursuant to the instructions contained herein.

Background. The parties filed the assignment application on December 18, 2020.³

The Objector claims that for several months the Translator did not retransmit the signal of its authorized primary station but instead originated programming from Pero Marinkovski (Marinkovski), who the Objector states is a “known pirate radio operator in the Kenai/Soldotna[, Alaska] area.”⁴

¹ The lead file number for the assignment application is 0000129878. In addition to K232EH, the application also seeks consent to assign the licenses for the following stations: KSRM(AM), Soldotna, AK (Facility ID No. 35635); K245DB, Soldotna, AK (Facility ID No. 202191); KKIS-FM, Soldotna, AK (Facility ID No. 34883); K239AV, Sterling, AK (Facility ID No. 155087); KFSE(FM), Kasilof, AK (Facility ID No. 78420); KKNi-FM, Sterling, AK (Facility ID No. 72677); KWHQ-FM, Kenai, AK (Facility ID No. 35636); K223DG, Soldotna, AK (Facility ID No. 202927); and KSLD(AM), Soldotna, AK (Facility ID No. 34880). Application File No. 0000129878 et al.

² Informal Objection of William Martin Holzheimer, Pleading File No. 0000134343 (filed Jan. 30, 2021) (Objection).

³ On April 7, 2021, the parties amended the assignment application to resubmit the original attachments to the application and provide a revised multiple ownership showing. See Application File No. 0000129878, Attach., KSRM Assignment Purpose of Amendment.

⁴ Objection at 1; Reply of William Martin Holzheimer, Pleading File No. 0000136291 (filed Feb. 14, 2021) (Reply) at 2. The Translator was authorized to retransmit the signal of KKNi-FM, Sterling, AK.

Commission records show that a notice of unlicensed operation was issued to Marinkovski on July 3, 2013, for operation of an unlicensed broadcast station in Soldotna, Alaska.⁵ In response to the Objection, the Licensee states that the Translator is on a tower that is owned by Marinkovski and that Marinkovski placed an audio switch on the tower that feeds to the output of the Translator.⁶ The Licensee claims that the audio switch has two sources: the over-the-air signal of KKNL-FM and the internet feed from Pero Radio, which is controlled by Marinkovski.⁷ The Licensee concedes that at times the Translator rebroadcast Pero Radio, but claims that this was “due to a power failure and resultant...malfunction[ing]” of the audio switch that controls the audio feed.⁸ Licensee states that “this change in output was done without [the] knowledge or authorization of [the Licensee]” and that “[u]pon discovering the technical issue, [Licensee] immediately exercised control over K232EH by turning off the translator until a solution could be found to correct this error and prevent further unauthorized transmissions” over the Translator.⁹ The Licensee claims that it took the Translator off the air on January 25, 2021, and that it remained silent for 25 days.¹⁰

Instructions. If the Licensee requests that any information or Documents, as defined herein, responsive to this letter be treated in a confidential manner, they shall submit, along with all responsive information and Documents, a statement in accordance with section 0.459 of the Commission’s rules.¹¹ Requests for confidential treatment must comply with the requirements of section 0.459, including the standards of specificity mandated by section 0.459(b). Accordingly, “blanket” requests for confidentiality of a large set of documents are unacceptable. Pursuant to section 0.459(c), the Bureau will not consider requests that do not comply with the requirements of section 0.459.

If the Licensee withholds any information or Documents under claim of privilege, it shall submit, together with any claim of privilege, a schedule of the items withheld that states, individually as to each such item, the numbered inquiry to which each item responds and the type, title, specific subject matter, and date of the item; the names, addresses, positions, and organizations of all authors and recipients of the item; and the specific ground(s) for claiming that the item is privileged.

Each requested Document, as defined herein, shall be submitted in its entirety, even if only a portion of that Document is responsive to an inquiry made herein, unless the Document is a recording or transcript, in which case it should be provided only for the period of the broadcast specified in the pertinent inquiry herein. This means that the Document shall not be edited, cut, or expunged, and shall include all appendices, tables, or other attachments, and all other Documents referred to in the Document

⁵ *Pero Marinkovski*, Notice of Unlicensed Operation, Document No. W201332780001, Case No. EB-FIELDWR-13-00009630 (EB-OFD July 3, 2013), *available at* <https://www.fcc.gov/document/pero-marinkovski-soldotna-ak>.

⁶ Opposition of KSRM, Inc., Pleading File No. 0000136281 (filed Feb. 12, 2021) (Opposition) at 7; Declaration of Matthew Wilson, Attach. A to Opposition, ¶ 3-4 (Wilson Decl.).

⁷ Wilson Decl. ¶ 4; *see also* Opposition at 2, n.4 (“Pero Radio <https://peroradio.com> is owned by Pero Marin[k]ov[s]ki of Soldotna AK.”).

⁸ Wilson Decl. ¶ 4. According to Licensee, sometimes the audio switch defaults to the Pero Radio audio source due to power outages or other technical difficulties. *Id.*

⁹ Opposition at 7-8; Wilson Decl. ¶ 4.

¹⁰ Opposition at 8; E-mail from Gregg Skall, Member, Telecommunications Law Professionals PLLC, to Kimia Nikseresht, Attorney Advisor, Audio Division, FCC Media Bureau (Apr. 27, 2021, 19:03 EDT).

¹¹ 47 CFR § 0.459.

or attachments. All written materials necessary to understand any Document responsive to these inquiries must also be submitted.

If a Document responsive to any inquiry made herein existed but is no longer available, or if the Licensee is unable for any reason to produce a Document responsive to any inquiry, identify each such Document by author, recipient, date, title, and specific subject matter, and explain fully why the Document is no longer available or why the Licensee is otherwise unable to produce it.

With respect only to Documents responsive to the specific inquiries made herein and any other Documents relevant to those inquiries, the Licensee is directed to retain the originals of those Documents for twelve (12) months from the date of this letter unless the Licensee is directed or informed by the Media Bureau in writing to retain such Documents for some shorter or longer period.

The specific inquiries made herein are continuing in nature. The Licensee is required to produce in the future any and all Documents and information that are responsive to the inquiries made herein but not initially produced at the time, date and place specified herein. In this regard, the Licensee must supplement its responses: (a) if the Licensee learns that, in some material respect, the Documents and information initially disclosed were incomplete or incorrect or (b) if additional responsive Documents or information are acquired by or become known to the Licensee after the initial production. The requirement to update the record will continue for twelve (12) months from the date of this letter unless the Licensee is directed or informed by the Media Bureau in writing that the Licensee's obligation to update the record will continue for some shorter or longer period.

For each Document or statement submitted in response to the inquiries below, indicate, by number, to which inquiry it is responsive and identify the person(s) from whose files the Document was retrieved. If any Document is not dated, state the date on which it was prepared. If any Document does not identify its author(s) or recipient(s), state, if known, the name(s) of the author(s) or recipient(s). The Licensee must identify with reasonable specificity all Documents provided in response to these inquiries.

Definitions. For purposes of this letter, the following definitions apply. The definitions in this section apply regardless of whether the first letter of the defined term appears in upper or lower case.

- “Any” shall be construed to include the word “all,” and the word “all” shall be construed to include the word “any.” Additionally, the word “or” shall be construed to include the word “and,” and the word “and” shall be construed to include the word “or.” The word “each” shall be construed to include the word “every,” and the word “every” shall be construed to include the word “each.”
- “Broadcast,” when used as noun, shall mean any images or audible sounds or language transmitted or disseminated over a station during a radio broadcast. “Broadcast,” when used as a verb, shall mean the transmission or dissemination of radio communications intended to be received by the public. The verb “broadcast” may be used interchangeably with the verb “air.”

- “Document” shall mean the complete original (or in lieu thereof, exact copies of the original) and any non-identical copy (whether different from the original because of notations on the copy or otherwise), regardless of origin or location, of any taped, recorded, transcribed, written, typed, printed, filmed, punched, computer-stored, or graphic matter of every type and description, however and by whomever prepared, produced, disseminated, or made, including but not limited to any broadcast, radio or television program, advertisement, book, pamphlet, periodical, contract, correspondence, letter, facsimile, e-mail, file, invoice, memorandum, note, telegram, report, record, handwritten note, working paper, routing slip, chart, graph, photograph, paper, index, map, tabulation, manual, guide, outline, script, abstract, history, calendar, diary, agenda, minutes, marketing plan, research paper, preliminary drafts, press release, website, or versions of all of the above, and computer material (print-outs, cards, magnetic or electronic tapes, disks and such codes or instructions as will transform such computer materials into easily understandable form). “Document” shall also include the terms of any oral agreement or understanding. If a matter responsive to a request for documents is unwritten, the Licensee should so state, and provide a written narrative of the operative provisions of oral agreement, identifying its date, parties, and terms.
- “Identify,” when used with reference to a person, shall mean to state his or her full legal name, job title (if any), current business address, business phone number, and e-mail address. If such business address or telephone number are not available, state the person’s home address and telephone number. “Identify,” when used with reference to a Document, shall mean to state the date, author, addressee, type of Document (e.g., the types of Document, as described above), a brief description of the subject matter, its present or last known location, and its custodian. “Identify,” when used with reference to an entity other than a person, shall mean to state its name, current or last known business address, current or last known business telephone number, and e-mail address.
- “Licensee” shall mean KSRM, Inc., and any successor or predecessor-in-interest including but not limited to, affiliate, parent company, wholly or partially owned subsidiary, other affiliated company or business, and all trustees, owners, including but not limited to, partners or principals, and all directors, officers, employees, or agents, including consultants and any other persons working for or on behalf of the foregoing at any time during the period covered by this letter.
- “Person” shall mean any natural person or any non-natural person, including but not limited to a business, company, corporation, enterprise, institution, organization (educational, religious, or otherwise), partnership, proprietorship, or any other entity, whether for-profit or non-profit and whether of general or limited liability, and all of such non-natural person’s advisers, agents, consultants, directors, employees, members, officers, owners, partners, principals, representatives, and any other persons working for or on behalf of the foregoing.
- “Translator” shall mean K232EH, Sterling, AK (Facility ID No. 155064), including any other call sign and community by which it may have been known.
- “Switch” shall mean the audio switch on the tower that is owned by Mr. Marinkovski and that feeds to the output of the Translator, as described by Matthew Wilson, General Manager for Licensee, in the declaration attached to the Opposition to the Objection.¹²

¹² Wilson Decl. ¶ 4.

Inquiries: Documents and Information to be Provided.

Unless otherwise indicated, the period of time covered by these inquiries is October 25, 2017 (the date that Licensee acquired the Translator pursuant to an authorized assignment of license),¹³ up to the present.

1. Identify all names under which Licensee operates (e.g., all “doing business as,” “also known as,” trade names, etc.), and the states where Licensee is authorized or otherwise uses those names. Also, identify all web addresses used by Licensee, including those web addresses involving fictitious names (if any).
2. State whether Licensee has received any complaints or reports related to the allegations in the Objection and related pleadings. If so, provide full details of such complaints, including the dates the complaints or reports were received, a description of the complaint or report, and the contact information of the complainant or reporter. In addition, if Licensee has received any such complaints or reports, state what actions, if any, Licensee has taken in response.
3. Provide a description by category and location of all documents and tangible things that Licensee has in its possession, custody, or control that are responsive to the Inquiries herein.
4. Identify all locations from which the translator broadcast from October 25, 2017, to the present. If different from the location authorized by the Translator license granted on September 25, 2020 (BLFT-20140512AAL), explain the circumstances that led to the broadcast from a different location than authorized by the Translator’s current license. State whether such broadcast was authorized by the Commission and provide documentary proof, such as an application file number or other identifier, or a copy of the document if it isn’t readily accessible in the Media Bureau’s Consolidated Database System or Licensing and Management System.
5. Did Licensee discontinue operations of the Translator any time? If yes, answer the following:
 - a. Specify the dates for each instance during which Translator discontinued operations, and, if applicable, when Translator resumed operations.
 - b. Did Licensee notify the Commission on each occasion of discontinued operations? If so, provide documentary proof of such filings and also any Commission response thereto. If not, explain why not.
6. Identify all primary stations that the Translator has retransmitted from October 25, 2017, to the present.
7. Identify and provide a copy of all Documents that provide the legal authority for Translator to rebroadcast the primary stations identified in response to Inquiry 6.
8. Identify the dates on which the Translator transmitted each primary station identified in the response to Inquiry 6.

¹³ Notice of Consummation of Kenai Broadcasting, LLC, Application File No. BALFT-20170814AAZ (filed Oct. 30, 2017).

9. Did Licensee notify the Commission that Translator was rebroadcasting each of the primary stations identified in the response to Inquiry 6? If so, indicate when such notification(s) occurred, and provide documentary proof of each such notification filing.
10. Has the Translator originated its own programming or otherwise broadcast programming other than the simultaneous retransmission of the primary stations identified in the response to Inquiry 6?¹⁴ If yes, answer the following:
 - a. Identify any such programming.
 - b. Specify the dates and times on which Translator broadcast any such programming.
 - c. Indicate the duration of each instance noted in your response to Inquiries 10.a-b.
 - d. Explain fully the circumstances under which Translator originated programming or broadcast programming other than the simultaneous retransmission of any primary station identified in response to Inquiry 6, and identify whether any such programming complied with the exceptions set forth in section 74.1231 of the Commission's rules, 47 CFR § 74.1231.
11. Respond to the following Inquiries regarding monitoring and control of the Translator's facilities:
 - a. Describe fully Licensee's understanding of the Switch, including its installation and function. Identify who installed the Switch and state whether the Switch was installed with Licensee's knowledge or authorization. If the Switch was installed without Licensee's knowledge, explain how the Switch was installed without Licensee's knowledge and identify when the Licensee learned about the Switch.
 - b. Did Licensee monitor and maintain control of the Translator's facilities, including the tower and the Switch, at all times from October 25, 2017, through the present? If so, describe fully Licensee's efforts to monitor and control the operation of the Translator's facilities from October 25, 2017, through the present, and identify who was responsible for such monitoring. If not, explain why not, and if any other parties monitored the Switch or controlled its operation, identify all such parties.
 - c. Provide all documents relating to the Switch, including its installation, function, and control of the Switch.
12. Describe any relationship that currently exists or has existed between the Translator/Licensee and Pero Marinkovski/Pero Radio.¹⁵ If there are or have been any contractual agreements or

¹⁴ Translators may be used for the purpose of retransmitting the signals of a primary AM or FM radio broadcast station, but the Commission's rules prohibit an FM translator station from originating programming, except under very limited exceptions. See 47 CFR § 74.1231.

¹⁵ In the Opposition to the Objection, Licensee states that "Pero Radio <https://peroradio.com> is owned by Pero Marin[k]ov[s]ki of Soldotna AK." Opposition at 2, n.4.

understandings (including verbal agreements) between the parties, provide copies of all such agreements. If any agreement is oral, its substance should be reduced to writing.

13. For the period beginning on October 25, 2017, through the present, submit any documents that name Pero Marinkovski as having any role or relationship with the Translator and/or the Licensee, including but not limited to documents identifying that person as a contact, consultant, owner, employer, employee, contractor, or representative.
14. Provide a narrative identifying the dates and nature of any interaction Pero Marinkovski had with Licensee concerning the Switch or any Translator broadcast, including but not limited to (a) telephone calls, (b) e-mails, and (c) in-person meetings. Provide copies of written records of each such communication. If there are no written records of a communication, its substance should be reduced to writing.
15. Identify any other instance in which Licensee or any parent and/or affiliate companies of Licensee received or were issued a Letter of Inquiry, Citation, Warning Letter, Notice of Apparent Liability, Forfeiture Order, or Admonishment from the Commission, or entered into a Consent Decree with the Commission.
16. Identify any efforts by Licensee to resolve or correct any noncompliance with the rules, as identified in Licensee's response to this LOI, prior to Licensee's receipt of this LOI. Identify any efforts by Licensee to disclose to the Commission any noncompliance with the Act or the Commission's rules prior to this LOI.
17. To the extent not otherwise provided in response to the preceding Inquiries, provide any additional information that Licensee believes may be helpful in our consideration and resolution of this matter.

Requests for Documents from Licensee. Provide copies of all Documents that serve as the basis for or otherwise support the responses to all the Inquiries above, to the extent not already provided.

We direct the Licensee to support its response with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of the Licensee with personal knowledge of the representations provided in the Licensee's response, verifying the truth and accuracy of the information therein and that all of the information and/or recordings requested by this letter which are in the Licensee's possession, custody, control or knowledge have been produced. If multiple people contribute to the response, in addition to such general affidavit or declaration of the authorized officer of the Licensee noted above, if such officer (or any other affiant or declarant) is relying on the personal knowledge of any other individual, rather than his or her own knowledge, provide separate affidavits or declarations of each such individual with personal knowledge that identify clearly to which responses the affiant or declarant with such personal knowledge is attesting. All such declarations provided must comply with section 1.16 of the Commission's rules,¹⁶ and be substantially in the form set forth therein. To knowingly and willfully make any false statement or conceal any material fact in reply to this inquiry

¹⁶ 47 CFR § 1.16.

is punishable by fine or imprisonment.¹⁷ Failure to respond appropriately to this Media Bureau letter of inquiry may constitute a violation of the Communications Act and the Rules.¹⁸

The response shall be organized and indexed according to the number of the specific inquiries. The Licensee shall direct its response to Federal Communications Commission, Office of the Secretary, 45 L Street, N.E., Washington, D.C. 20554, with a courtesy copy by e-mail to the following staff members of the Commission's Media Bureau, Audio Division: Albert Shuldiner, Abert.Shuldiner@fcc.gov; Christopher Clark, Christopher.Clark@fcc.gov; and Kimia Nikseresht, Kimia.Nikseresht@fcc.gov.

No decision has been reached in this matter. In order that we may be more fully informed and because this matter is time-sensitive, we direct Licensee to provide the requested information in writing within sixty (60) days of the date of this letter.

Sincerely,

Albert Shuldiner

Albert Shuldiner
Chief, Audio Division
Media Bureau

Cc: Via E-mail
William Martin Holzheimer
rokjok55@yahoo.ca

¹⁷ See 18 U.S.C. § 1001; *see also* 47 CFR § 1.17.

¹⁸ See *SBC Communications, Inc.*, Forfeiture Order, 17 FCC Rcd 7589 (2002); *Globcom, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 18 FCC Rcd 19893, n.36 (2003); *World Communications Satellite Systems, Inc.*, Forfeiture Order, 19 FCC Rcd 2718 (EB 2004); *Donald W. Kaminski, Jr.*, Forfeiture Order, 18 FCC Rcd 26065 (EB 2003).