

## Continuance of K251BC Waiver Request

This application for consent to assignment does not request any new waiver but only a continuance of two waivers which have already been granted for K251BC.

K251BC proposes to be a partial "fill-in" translator for KPGX as a portion of the FM translator 60 dbu contour lies outside the KPGX 60 dbu contour. The Commission's rules generally prohibit common ownership of the primary station and a fill-in translator station whose 60 dbu contour lies outside the 60 dbu contour of the primary station. However the Commission's rules permit waivers of ¶74.1232(d):.

*"In general, commercial primary stations and anyone associated with a commercial primary station may neither own nor provide direct or indirect support to non-fill-in translator stations, both before and after the translator commences operation. See 47 CFR Section 74.1232(d). However, in order to facilitate service to white (or unserved) areas, the Commission is favorably disposed toward waiver of this rule to permit a commercial primary station to support its own translator, or an independently owned translator, which provides service to these unserved areas."*

K251BC serves "white area" and is currently licensed as a "white area" translator. A map depicting the licensed contour of K251BC and contours of relevant commercial stations is attached along with a copy of the original waiver request of §74.1232(d) which was granted in FCC File No. BPFT-20190214ABJ, as licensed by LMS File No 0000095482.

Across Nations respectfully requests a continued waiver of §74.1232 to permit Across Nations to be licensee of a *partial* non-fill in translator which will translate primary station KPGX owned by Across Nations and provide commercial service to an unserved Native American Community.

A continued waiver of §74.1235(b)(2) of the Commission's Rules is also requested. K251BC does not meet the requirements of this section along certain radials which exceed the maximum permitted power for the HAAT. However, the 60 dbu contour of K251BC is a white area except for that portion which lies within the proposed primary station's (KPGX) 60 dbu contour which should be considered "fill-in". The original application requested and was granted a waiver of §74.1235(b)(2). See, FCC File No. BPFT-20190214ABJ, as licensed by LMS File No 0000095482

K251BC will serve an unserved or underserved community on the Navajo reservation and continuation of waivers of §74.1232(d) and §74.1235(b)(2) is in the public interest. Across Nations respectfully requests the waivers.

BPT-20190214ABJ

**REQUEST FOR WAIVERS OF §74.1232 and §74.1235**  
**OF THE COMMISSION'S RULES**  
**PROPOSED FACILITY ENTIRELY IN "WHITE AREA"**

K251BC  
 Kayneta, AZ  
 Channel 251D (98.1 MHz)

The instant translator application meets the technical and administrative requirements of the Commission's Rules with the exception of §74.1232(d) and §74.1235(b)(2).

§74.1232(d) of the Commission's Rules requires that an authorization for a FM translator whose coverage contour extends beyond the protected contour of the commercial primary station will not be granted to the licensee or permittee of a commercial FM broadcast station. In the instant application, Redrock Radio Group, LLC (RRG) is currently the licensee of primary station KBDX, Blanding, Utah (Facility ID #89048) as well as the licensee of the instant translator. The 60 dBu coverage contour of the proposed translator is fully outside of the 60 dBu protected contour of KBDX.

§74.1235(b)(2) of the Commission's Rules set specific power limits for non-fill in translators based on the radial height above average terrain along 12 equally-spaced radials. The instant application does not meet the requirements of §74.1235(b)(2) along the 330, 0 and 30 degree radials as shown:

Radial	HAAT along radial	§74.1235(b)(2) maximum ERP along radial	Proposed rounded ERP along radial
0	621	10 watts	248 watts
30	647	10 watts	134 watts
60	678	10 watts	10 watts
90	582	10 watts	6 watts
120	200	62 watts	7 watts
150	199	62 watts	4 watts
180	281	34 watts	9 watts
210	285	34 watts	5 watts
240	299	28 watts	7 watts
270	441	13 watts	6 watts
300	370	19 watts	8 watts
330	419	15.5 watts	122 watts

*Translator is proposed to serve a "white area"* – Currently, there are significantly large areas of northern Arizona and southern Utah that are not in the 60 dBu protected service contour of any full-service FM broadcast station, either commercial or non-commercial. A lack of broadcast service can result in population not receiving EAS alerts and other critical information. To address the concerns of serving white areas, the Commission is favored towards waiving



§74.1235(b)(2) if it can be demonstrated that the service to a greater distance only reaches a "white area".<sup>1</sup> Also in the *Translator Order*, the Commission stated that:

[w]ith respect to service issues, an FM translator may not be licensed to a commercial broadcast station if the translator's coverage contour goes beyond the primary station's coverage contour. However, in "white area" situations, beyond the protected service contour of any full-time aural service, we will be favorably disposed toward requests for waivers of our rules to permit commercial primary station ownership.<sup>2</sup>

In the instant application, the proposed translator's (60 dBu) coverage contour is entirely in areas that does not receive any full-time FM broadcast service from any full-service commercial or noncommercial educational station. RRG will demonstrate this "white area" in the maps that follow in this exhibit.

The ability to provide Emergency Alert System and other vital information to all parts of America is in the public interest as it helps residents and visitors prepare for an impending emergency, encourage safety and improve the quality of life. Local radio stations like KBDX are offering to come to the plate to provide reliable full-time FM radio service in those remote parts of our country that would otherwise not be served. RRG recognizes that applicants seeking a rule waiver have the burden to plead with particularity the facts and circumstances that warrant such action.<sup>3</sup> RRG also recognizes that an application for waiver does face a "high hurdle even at the starting gate"<sup>4</sup> and must support its waiver request with a compelling showing.<sup>5</sup> In the *Translator Order*, the Commission already recognizes that providing some form of reliable full-time FM radio service into "white areas" without restrictions on outer limits on translator service areas and ownership of translators in these underserved areas is in the public interest.

In order to provide vital services into this underserved area of Navajo County, RRG requests a waiver of §74.1232(d) and §74.1235(b)(2) of the Commission's Rules.

Prepared by:  
Michelle Bradley  
REC Networks  
202 621-2355

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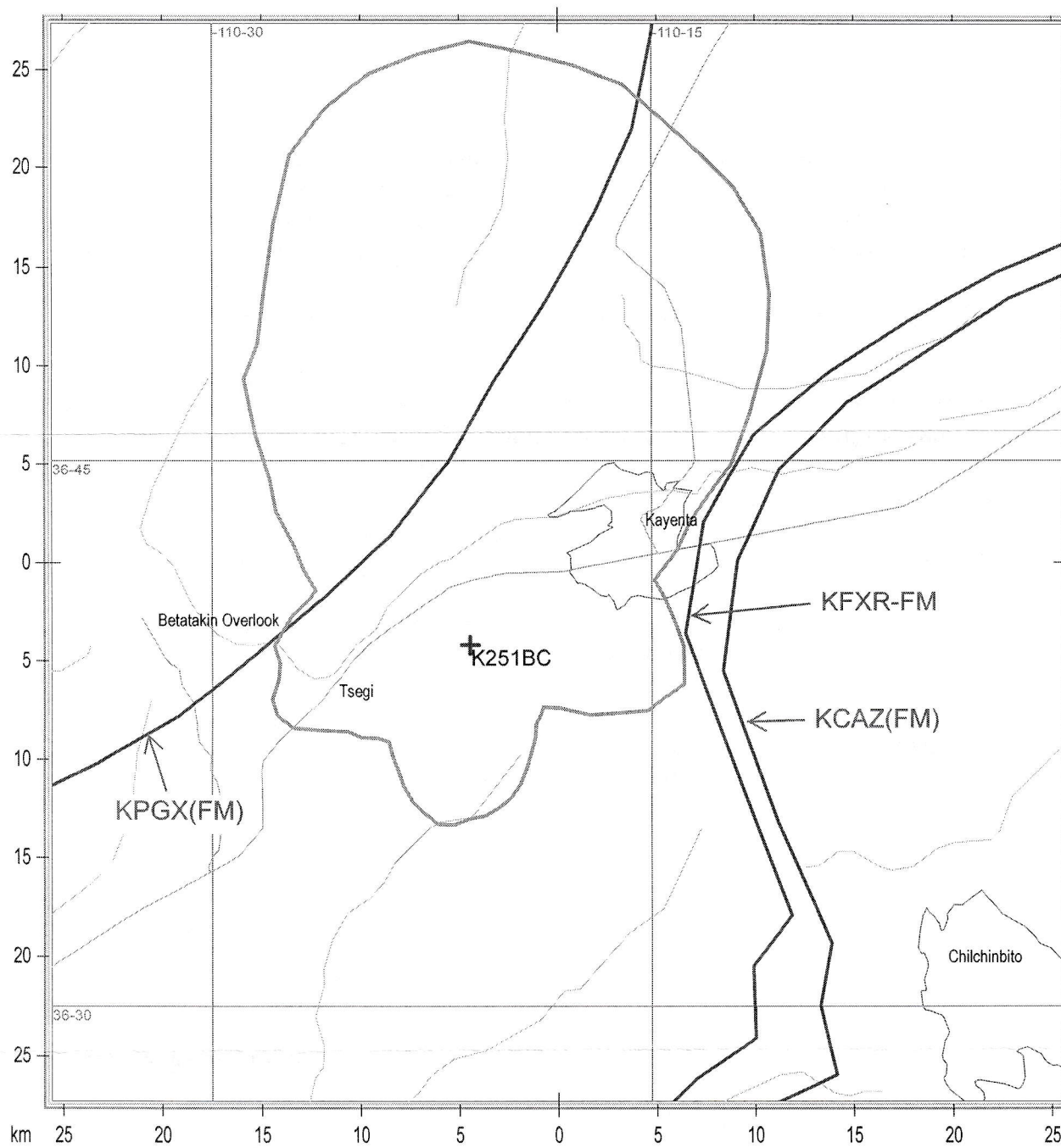
<sup>1</sup> - See *Amendment of Part 74 of the FM Commission's Rules Concerning Translator Stations*, Report and Order, 5 FCC Rcd 7212, 7213 ("Translator Order") (November 8, 1990) at para. 7.

<sup>2</sup> - See *Id.* at para. 6.

<sup>3</sup> - See *Columbia Communications Corp. v. FCC*, 832 F. 2d 189, 192 (D.C. Cir, 1987) (citing *Rio Grande Family Fellowship v. FCC*, 406 F. 2d 644, 666 (D.C. Cir. 1968)).

<sup>4</sup> - See *WAIT Radio v. FCC*, 418 F. 2d 1153, 1157 (D.C. Cir. 1969), *aff'd*, 459 F. 2d 1203 (1972), *cert. denied*, 93 S. Ct. 41 (1972) ("*WAIT Radio*"). See also *Thomas Radio v. FCC*, 716 F. 2d 921, 924 (D.C. Cir 1983).

<sup>5</sup> - See *Greater Media Radio Co., Inc.*, Memorandum Opinion and Order, 15 FCC Rcd. 7090 (1999) (citing *Stoner Broadcasting System, Inc.*, Memorandum Opinion and Order, 49 FCC 2d. 1011, 1012 (1974)).



State Borders
  City Borders
  Highways
  Water Features
  Lat/Lon Grid