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Federal Communications Commission
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Hand Delivery

Mr. Hossein Hashemzadeh
Assistant Chief, Video Division
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Federal Communications Commission
Washington, D.C. 20554

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SUMMARY OF PLEADING

Roy William Mayhugh (“Mayhugh”) replies to the “Opposition” filed by EICB-TV West LLC (“EICB”) responding to Mayhugh’s Petition for Reconsideration and Informal Objection directed against applications filed concerning KTBV-LD, Los Angeles, California. EICB argues that, because the FCC has removed from its database Mayhugh’s authorizations to operate K67AO, Palmdale, California, on Digital Channel 12 in the Los Angeles area, that EICB can ignore Mayhugh’s applications.

Mayhugh shows herein that his authorizations and applications regarding Channel 12 in Los Angeles must be protected by EICB and other parties until the FCC resolves the issues set forth in Mayhugh’s pending Application for Review of the Video Division’s rescission of Mayhugh’s authorizations in 2007.

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of:)	
)	
EICB-TV WEST, LLC)	
	)	File No. BPDVL-20110314ACR
	)	Facility ID No. 125499
For Construction Permit)	
for Low Power Television Station)	
KTBV-LD, Los Angeles, CA)	
)	
For License to Cover Construction Permit	)	File No. BPLDVL-20110422ABV
for Low Power Television Station	)	Facility ID No. 125499
KTBV-LD, Los Angeles, CA)	
To: Office of the Secretary		
Attention: Associate Chief, Video Division, Media Bureau		

REPLY TO OPPOSITION

Roy William Mayhugh ("Mayhugh"), by counsel, files this Reply to the consolidated Opposition filed May 16, 2011, by EICB-TV West, LLC ("EICB"), applicant for both a construction permit and also a license application¹ for Station KTBV-LD, Channel 12, Los Angeles, CA, Facility ID No. 125499. The Opposition addresses Mayhugh's Petition for Reconsideration and Informal Objection relative to the captioned EICB applications.²

Initially, Mayhugh notes with appreciation the recent action by the Video Division in rescinding the prior GRANT to EICB of its Channel 12 license application. Such action is appropriate, given the serious questions that Mayhugh has raised in his Petition for Reconsideration and Informal Objection. Indeed, EICB has attempted to grab Channel 12 TV spectrum in the Los Angeles area prior to final FCC action on Mayhugh's unresolved appeals

¹ Grant rescinded, Public Notice Report No. 27481, released May 6, 2011.

² Mayhugh has filed uncontested motions seeking an extension of time until July 1, 2011, to respond.

regarding his previously licensed Channel 12 facility in Los Angeles -- appeals that have been pending at the FCC for more than four years.

A. EICB Has No Legal Claim to Channel 12 in Los Angeles Until the FCC Issues a Final Decision Regarding Mayhugh's 2007 Appeals of the FCC's Decisions Rescinding his Channel 12 Authorities in Los Angeles

EICB's main argument is that it properly filed its recent Channel 12 application in reliance on the Commission's rule and also on the Commission's Data Base, which no longer reflects the FCC's 2006 grants of permits and related applications for Mayhugh's K67AO, Palmdale, CA. See Opposition at 1-6.

EICB argues that the Video Division's 2007 actions -- in rescinding its own 2006 grants to Mayhugh, of both the 2004 displacement application and also his 2006 Channel 12 flash-cut application -- became "effective" and that Mayhugh erred in choosing not to file for a "stay" of the 2007 adverse Video Division orders. *Id.* Yet, EICB also asserts (*Opp.* at note 12), that Mayhugh "could not possibly[have met] the criteria for a stay." At a minimum, such contradictory assertions by EICB certainly imply that such a "procedural" request by Mayhugh at that early stage of this protracted proceeding would have been fruitless. Mayhugh agrees. In any event, EICB's argument is both irrational and irrelevant to the central question presented, namely, whether EICB can grab Ch. 12 spectrum in Los Angeles while Mayhugh's timely appeals from the FCC's 2007 rescissions of its Ch. 12 authority remain unresolved by the FCC.³

What EICB's entire Opposition conspicuously ignores is that Mayhugh's pending and never resolved 2007 appeals from the FCC's reversals of his Ch.12 grants for Los Angeles

³ As EICB notes in its citation to Section 1.102 of the Rules, the Video Division has the discretion to stay the effect of its action. By dismissing Mayhugh's request for special temporary authority to continue to operate his constructed and operating Channel 12 facility, the Video Division signaled that it would not stay its actions. Filing a request for stay would have been a useless gesture, as EICB concedes.

plainly preclude any current grant to EICB of Channel 12 authority that would be mutually exclusive with Mayhugh's rescinded Ch. 12 authority.

EICB's reliance on Section 1.102 of the Rules is misplaced. That provision addresses only the "effective date" of an FCC decision – not whether an FCC decision has become legally "final." In fact, this proceeding did not become "final" in 2007 or at any time since, as the voluminous subsequent Ch. 12 pleadings attest. The questions regarding the "lawfulness" of the FCC's 2007 decisions (reversing its prior grants of Channel 12 authority to Mayhugh) continue to this day; otherwise, there would have been no rational basis for the Video Division's recent rescission of its erroneous grant of EICB's Channel 12 license application.

In fact, Mayhugh has taken every required and, in fact, every timely legal action for reversal of the Video Division's 2007 actions -- even by filing a Petition for a Writ of Mandamus in 2007 with the U. S. Court of Appeals for the D.C. Circuit. To argue that Mayhugh abandoned his Channel 12 proceeding in 2007 or, at some point since then, is facially erroneous.

Moreover, EICB cannot complain about the FCC's rescission recently of its Channel 12 license application in 2011 -- some four years after the FCC's contested 2007 actions, and after Mayhugh's 2007 (and later) appeals -- on the faulty basis that it "relied on" the Commission's "Data Base." The FCC's various electronic (often flawed) databases are only secondary sources and never have served legally to define whether an FCC proceeding is final or that any FCC decision is legally "final."

What is uniquely disingenuous about EICB's Opposition is its imbedded but remarkably transparent request that the Commission simply ignore altogether its rules and fundamental principles of due process -- in short, a plea that the FCC ignore the pendency still today of Mayhugh's timely-filed 2007 Application for Review and related pleadings. A brief but

illuminating review of the extended history of this case -- since the FCC's erroneous 2007 rescission of its prior grants of authority to Mayhugh -- is appropriate.

The FCC originally licensed K67AO to operate on Channel 67, in Ridgecrest, California. As part of the digital television ("DTV") transition, the FCC reallocated channels 52-69 for use by public safety and wireless services. Channel 67 became an "out-of-core" channel. To remedy the situation, on November 29, 2004, the prior licensee, Indian Wells Valley Booster, Inc. ("Indian Wells"), filed a minor change displacement application ("Displacement Application") to change the station's authorized analog channel from 67 to 12. The FCC placed the Displacement Application on public notice on December 1, 2004 as "accepted for filing," affording any interested parties an opportunity to object to the application. No objections were filed, for the more than one year that the Channel 12 displacement application was pending.

On March 21, 2005,, Mayhugh acquired the license for K67AO and the pending Channel 12 Displacement Application from Indian Wells. One year later, on March 14, 2006, the FCC granted the Displacement Application.⁴ Again, no party filed an objection (and the grant eventually became final). The next day, on March 15, 2006, Mayhugh filed a request to change the city of license to Palmdale, California, and the FCC promptly granted Mayhugh's request.

With the DTV transition approaching, Mayhugh, on March 20, 2006, filed a minor modification application ("Flash Cut Application."), to permit him to cease operations on analog Channel 12 and commence operations on digital Channel 12. No objections were filed to that Flash Cut Application and, on May 3, 2006, the FCC granted Mayhugh's Flash Cut Application and issued a construction permit to operate on digital Channel 12. Mayhugh promptly constructed the Channel 12 digital facility, commenced operations and, on July 5, 2006, filed an

⁴ The grant appeared on a public notice, released March 20, 2006. With the change of operating channel to 12, the FCC also changed the station's call sign to "K12QD."

application for license to “cover” the Flash Cut construction permit. The FCC granted the license application on July 27, 2006. For almost a year, until May 1, 2007, K12QD broadcast the digital programming of KABC-TV Los Angeles, to viewers in the far northern parts of the Los Angeles DMA, an area serving approximately 550,000 persons (many of whom could not receive KABC-TV’s over-the-air ABC network programming).

Meanwhile, on May 5, 2006, Venture Technologies Group, Inc., (“VTG”) had filed an Informal Objection to the FCC’s May 3, 2006 grant of Mayhugh’s Channel 12 Flash Cut Application. This was the first objection filed by anyone against any of Mayhugh’s Ch. 12 grants of authority for Los Angeles. VTG waited until after the FCC had granted BOTH the Ch. 12 Displacement Application and also the Ch. 12 digital Flash Cut Application before it lodged any objection to Mayhugh’s Channel 12 TV service to half a million unique viewers in Los Angeles. In its Informal Objection, in addition to protesting the recently granted Flash Cut Application, VTG argued -- but only in a footnote -- that the Displacement Application (granted more than 45 days previously and which had become legally “final”), never appeared on a proposed grant list and, therefore, that the FCC’s prior grant (which had become final) should be set aside.

No FCC action on VTG's Informal Objection (and untimely challenge to the "final" decision on the Displacement Application) was taken for nearly one year. On May 1, 2007, the FCC’s staff issued a letter decision, concluding that the FCC staff had never placed Mayhugh’s Displacement Application on a proposed grant list. The decision claimed:

Section 309 of the Communications Act of 1934, as amended, required that the K67AO displacement application be placed on public notice for a minimum of 30 days, and [be] subject to the filing of petitions to deny. The staff has now discovered that the above-referenced displacement application for channel 12 never

appeared on a proposed grant list and accordingly, the staff's action granting the application is *void ab initio*.

Because the Displacement Application (which had become legally "final") had approved the channel change from analog Channel 67 to analog Channel 12, the FCC staff held that Mayhugh was no longer authorized to operate on Channel 12 and, thus that Mayhugh's Flash Cut Application (granted May 3, 2006), had to be dismissed as well. The net result of the Decision's (erroneous) conclusion was that a fully built and operating station (serving one-half million Los Angeles-area residents with new digital programming), was required to go off the air – on the sole (erroneous) basis of a perceived mistake made by the Video Division's staff some two (2) years previously.

Seeking to capitalize on the FCC's erroneous decision to rescind Mayhugh's Channel 12 grants of authority, on May 7, 2007, VTG filed its own displacement application -- to change K69AJ, Moreno Valley, CA from Channel 69 to Channel 12. On June 7, 2007, it placed VTG Channel 12 displacement application for a digital Channel 12 in Los Angeles on a proposed grant list.⁵

On May 8, 2007, Mayhugh filed an "Emergency Petition for Reconsideration and Immediate Reinstatement of Status Quo Ante."⁶ In the Emergency Petition for Reconsideration, Mayhugh argued that Section 309 of the Communications Act did not require the FCC staff to place the Displacement Application on public notice. Specifically, Section 309(c)(2)(a) of the

⁵ The practical consequence of VTG's filing is that Mayhugh immediately got "competition" that, as with EICB's similar preemptive attempt in this case to grab Channel 12, underscores the cumulative harm to Mayhugh from the FCC's inaction since 2007. (On May 26, 2011, the Video Division granted VTG's further displacement application for a construction permit for this station to operate on Channel 30.)

⁶ There is no doubt – and EICB does not assert – that Mayhugh's May 8, 2007 filing was a timely appeal of the FCC's May 1, 2007 rescission of his Channel 12 authorization.

Act excludes any application seeking only “a minor change in facilities of an authorized station.”⁷

On May 23, 2007, the Video Division released a second letter decision (“Denial”). That denial agreed with Mayhugh that Section 309 of the Communications Act did not require publication on a proposed grant list for minor change applications, but it stated a new basis to affirm the prior rescissions of Mayhugh’s Channel 12 authority and to deny Mayhugh’s petition.

Mayhugh, however, overlooks Section 73.3587(c) of the rules, which provides for the filing of a petition to deny against a displacement application within 30 days of the public notice proposing the displacement application for grant.

It first requires noting that Section 73.3587 of the FCC’s Rules has no subsection (c). Moreover, Section 73.3587 governs the filing only of informal objections to applications.⁸

On June 4, 2007, Mayhugh filed an “Emergency Application for Review and Immediate Reinstatement of Status Quo Ante,” (“Emergency Application for Review”).⁹ That timely appeal of the Video Division’s May 23, 2007, action, remains pending and unresolved -- more than four years later. Indeed, in 2007 Mayhugh even took the extreme step of filing a Petition for Writ of Mandamus with the U. S. Court of Appeals for the District of Columbia Circuit, arguing that, by unlawfully rescinding the (legally “final”) grant of Mayhugh’s Displacement Application and revoking Mayhugh’s operating authority to serve a half million unique Los Angeles viewers, the Video Division did not follow the plain requirements of its own rules. Mayhugh further noted Section 405 of the Communications Act, and the FCC’s Rules, bars such Commission’s action. Mayhugh argued that the Video Division had granted Mayhugh’s

⁷ See discussion of the merits of Mayhugh’s appeal *infra* (Argument “B”).

⁸ The May 23, 2007 Denial also dismissed Mayhugh’s request (BSTA-20070508ACB) for special temporary authority for digital operations on Channel 12, which would have permitted Mayhugh to continue its TV service to more than a half-million viewers, while the Video Division sorted out the legal issues.

Displacement Application and, more than 45 days later (when VTG raised the issue in a footnote), it became “final,” i.e. no longer subject to administrative or judicial review.

After the Court of Appeals declined to grant extraordinary relief to Mayhugh in 2007, in a proceeding that had commenced in 2004, the FCC then proceeded to defy all reasonable expectations of a “timely” resolution of this longstanding proceeding by taking no further action on Mayhugh’s 2007 appeals to the present day – more than four (4) years after Mayhugh’s timely 2007 appeals were filed. Although the reasons for the FCC’s unreasonable delay are unclear, what IS clear is that Mayhugh’s timely appeals remain pending and unresolved. In such circumstances, it is also clear that EICB’s attempt to preempt the FCC’s ultimate decision in the Mayhugh case and nullify his pending appeals by taking Channel 12 spectrum that is legally not EICB’s to take, is patently unlawful.

B. Although Irrelevant Here, EICB’s Claim That Mayhugh’s Appeals will Fail, is Erroneous.

While the question for the FCC in this matter is solely whether EICB is entitled to any grant of Channel 12 authority for the Los Angeles DMA prior to the FCC’s resolution of Mayhugh’s pending Channel 12 appeal, there is no merit to EICB’s claim that Mayhugh’s pending appeal of the FCC 2007 actions will not succeed.

Although the FCC’s May 23, 2011, Denial abandoned the legal cases for the prior May 1, 2007 Decision (rescinding Mayhugh’s Channel 12 authority), the FCC’s substitution of a “new” legal basis for its Denial is equally flawed. In rescinding Mayhugh’s authorization, the Commission presumably relied on Section 73.3584(c), which states in pertinent part:

In the case of applications for new low power TV. . . stations, for major changes in the existing facilities of such stations, or for applications for a change in output channel tendered by displaced

⁹ There is no doubt – and EICB does not assert – that Mayhugh’s June 4, 2007 Emergency Application for Review was a timely appeal of the FCC’s May 23, 2007 Denial.

low power TV and TV translator stations pursuant to § 73.3572(a)(1), any party in interest may file with the FCC a Petition to Deny any application (whether as originally filed or if amended so as to require a new file number pursuant to § 73.3572(b)) for which local notice pursuant to § 73.3580 is required, provided such petitions are filed within 30 days of the FCC Public Notice proposing the application for grant. . .

That rule requires that an application be placed on a proposed grant list, subject to the filing of Petitions to Deny, if (1) it is for a new low power television station; (2) it proposes a major changes in existing facilities; or (3) it proposes to change the output channel pursuant to § 73.3572(a)(1), which requires a new file number and public notice in a local newspaper.

Mayhugh's May 20, 2006 Displacement Application was not an application for a "new" low power television station, nor was it an application for a major change in existing facilities. It was an application for a change in output channel, but not for a change in output channel pursuant to Section 73.3572(a)(1), i.e., a major change application. Indeed, a new file number properly was not assigned, nor was local public notice required. Section 73.3584(c) applies only to major change applications. Mayhugh's application was a minor change application and, thus, governed by a different section of the FCC's rules; i.e., Section 73.3572(a)(4)(ii).

The FCC gave out-of-core stations special consideration in furtherance of the "significant public interest in rapid band clearing."¹⁰ To facilitate band clearing the FCC afforded displacement applications priority over new station applications and other requests for modification.¹¹ For this reason, the FCC provided that a change of output channel from an out-of-core channel (channels 52 to 69) to an in-core channel was not a major change in facilities.

¹⁰ See *Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, 19 FCC Rcd 18,279, 18,319-322 (2004).

¹¹ See *Memorandum Opinion and Order on Reconsideration of Sixth Report and Order*, 13 FCC Rcd 7418, 7565-66 (1998).

Mayhugh's Displacement Application was filed pursuant to, and in full compliance with, Section 73.3572(a)(4)(ii), which states in pertinent part:

Provided further, that a low power TV . . . station authorized on a channel from channel 52 to 69, or which is causing or receiving interference or is predicted to cause or receive interference to or from an authorized DTV station . . . may at any time file a displacement relief application for a change in output channel. . . Such an application will not be considered as an application for a major change in those facilities. . . . (Emphasis added).

Mayhugh's 2006 Displacement Application was not a major change application. Therefore, it did not require a new file number or publication of local notice in a local newspaper.

Significantly, because it was not a major change application, no rule required that it be placed on a proposed grant list so as to give interested parties 30 days within which to file petitions to deny. Mayhugh's Displacement Application was properly placed on public notice both before and after the FCC granted it. The FCC gave interested parties two opportunities to protest the application. No one did -- that is, until after the FCC's grant of the Ch. 12 Displacement Application had become a "final" action.

Indeed, as a separate basis for granting its 2007 appeals, Mayhugh has argued that the Commission's March 14, 2006 decision granting the Displacement Application became "final" and not subject to administrative or judicial review, several weeks before VTG first raised the issue, in a footnote. Section 1.106(f) of the FCC's rules provides that a "petition for reconsideration . . . shall be filed within 30 days from the date of the public notice. . ." The grant of the Ch. 12 Displacement Application appeared on public notice, released March 20, 2006. VTG's Informal Objection was filed on May 5, 2006, well after the statutory 30-day period had passed. Indeed, that May 5, 2006 pleading by VTG was an Informal Objection to the Flash Cut Application, and not styled as an Objection to Mayhugh's Displacement Application, which

already had become “final,” in April of 2006.¹² Nor did the FCC exercise its own right to review the grant of the Displacement Application within 40 days after the grant.¹³ Section 405(a) of the Communications Act provides that “A petition for reconsideration must be filed within 30 days from the date upon which public notice is given of the order. *See A/B Financial, Inc., v. FCC*, 1995 U.S. App. LEXIS 37378, (D.C. Cir. 1995) (the Communications Act requires petitions for reconsideration to be filed within 30 days of public notice even if notice is defective.) *Evan Doss, Jr.*, 22 FCC Rcd 5361 (Media Bur. 2007) (The FCC has no discretion to waive the filing requirements of Section 405(a) of the Act for a petition for reconsideration.)

In sum, EICB’s gratuitous discussion of the merits of Mayhugh’s pending appeals from the FCC’s erroneous 2007 Decision and Denial are not only irrelevant in this proceeding but they are also palpably without merit.

C. EICB’s Other Arguments Are Without Merit.

The Opposition contains additional errors and misstatements that should be addressed, if only briefly.

EICB’s reliance on *American Trucking Ass’n v. Frisco Transp. Co.*, 358 U.S. 133, 145 (1958) is inapposite. Contrary to EICB’s interpretation, in that landmark case, the Supreme Court merely upheld the ICC’s right to correct ministerial, non-substantive errors after a decision was “final”. In that case, the Court had previously upheld the ICC’s grant of new operating authority to a trucking company that was a subsidiary of a railroad. The ICC simply forgot, however, to add routine verbiage to its authority and, thus, needed later merely to add boilerplate conditions to that prior decision’s grant. Unlike the FCC’s treatment of Mayhugh, the ICC in the

¹² In addition, VTG’s Informal Objection, which argued in a footnote that Mayhugh’s Displacement Application was not placed on a proposed grant list, is not a proper petition for reconsideration because, *inter alia* it did not state how VTG was adversely affected by the action taken. *See* Section 1.106(b)(1).

¹³ *See*, Section 1.117(a) of the Commission’s rules.

ATA case did not rescind a grant of operating authority. In fact, that Supreme Court decision was based on facts that were exactly the opposite of the FCC's unlawful actions in rescinding Mayhugh's Ch. 12 operating authorities. The FCC, by contrast, waited about one year after an untimely objection to a "final" grant of authority (because of the FCC's own error).

EICB's additional argument -- that it not only relied to its detriment on the FCC's database but, further, that it has expended time and money constructing KTBV-LP on Channel 12 in Los Angeles -- is also meritless. The fact that EICB has chosen to spend money in a blatant attempt to acquire a Channel 12 facility in Los Angeles before Mayhugh's timely appeals are resolved by the FCC (or the Courts) in a final order is no basis on which to argue that it "deserves" to be unlawfully granted such channel 12 authority by the FCC. EICB knew or should have known that Mayhugh's timely appeals had not been resolved by the FCC. Simply put, Mayhugh's appeals regarding Ch. 12 take priority; any action by EICB may lawfully be undertaken only after Mayhugh's appeals are finally resolved.

Finally and equally unavailing to EICB is its argument that the public interest requires that EICB's erroneous grants be sustained (at Mayhugh's expense) because EICB's TV service is arguably best for the public; i.e., that its programming proposed for 2011 is quantitatively or qualitatively better than was Mayhugh's brief programming service after the FCC's 2006 grants of authority (but pretermitted by the FCC's 2007 actions). A comparison of EICB's and Mayhugh's service contours and/or programming is, notwithstanding important First Amendment issues, wholly irrelevant to the question of whether Mayhugh's appellate and due process rights would be prejudiced by the relief that EICB seeks, in preempting Mayhugh's unresolved rights to Channel 12 authority.

Conclusion

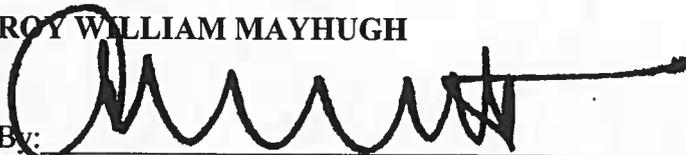
In sum, Mayhugh's appeals have been pending since 2007 and involve an almost unprecedented series of FCC grants and rescissions and then, out of thin air, even new grants to a party such as EICB, who was not even involved with Ch. 12 in Los Angeles in 2007. This case is a proverbial Gordian knot because of the FCC's extended temporizing. When considering that this case went to the Court of Appeals in 2007 and, despite implicit assurances to the Court that FCC action would certainly follow, Mayhugh's appellate arguments have yet even to be addressed by any level of the Commission, consistent with Administrative Procedure Act and FCC Rules.

In such a posture, with Mayhugh's applications being tossed about by the FCC and now in limbo for half a decade, EICB's argument that it should be granted Channel 12 in Los Angeles borders on the ridiculous. The equities in this matter are indisputably with Mayhugh, not EICB.

Mayhugh respectfully requests the Video Division to sustain its recent rescission of EICB's license grant, cancel EICB's Ch. 12 CP and proceed to a decision on the merits of Mayhugh's 2007 appeals regarding its channel 12 authority for Los Angeles.

Respectfully submitted,

ROY WILLIAM MAYHUGH

By: 

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Robert Lewis Thompson
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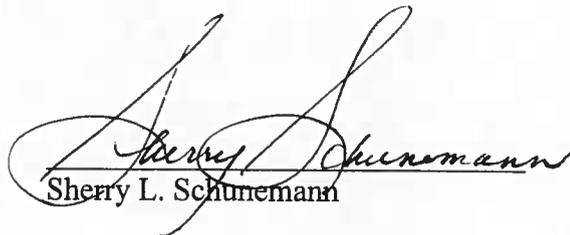
July 1, 2011

CERTIFICATE OF SERVICE

I, Sherry L. Schunemann, a secretary in the law office of Smithwick & Belendiuk, P.C., do hereby certify that on this 1st day of July, 2011, a copy of the foregoing "Reply to Opposition" was either hand delivered (as noted with an asterisk), or sent by First Class U.S. Mail, postage prepaid, to the following:

Mr. Hossein Hashemzadeh*
Assistant Chief, Video Division
Media Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Howard A. Topel, Esq.
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2000 K Street, NW
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Washington, DC 20006-1809
Counsel for EICB-TV West, LLC


Sherry L. Schunemann

Before the
Federal Communications Commission
Washington, DC 20554

FILED/ACCEPTED

JUN 27 2011

Federal Communications Commission
Office of the Secretary

In the Matter of:)

EICB-TV WEST, LLC)

For Construction Permit)
for Low Power Television Station)
KTBV-LD, Los Angeles, CA)

For License to Cover Construction Permit)
for Low Power Television Station)
KTBV-LD, Los Angeles, CA)

File No. **BPDVL-20110314ACR**
Facility ID No. 125499

File No. **BPLDVL-20110422ABV**
Facility ID No. 125499

To: Office of the Secretary
Attention: Associate Chief, Video Division, Media Bureau

THIRD MOTION FOR EXTENSION OF TIME

Roy William Mayhugh ("Mayhugh"), by counsel, files this third Motion for Extension of Time to **July 1, 2011**, to respond to a consolidated Opposition filed May 16, 2011, by EICB-TV West, LLC ("EICB"), applicant for a construction permit and covering license¹ for Station KTBV-LD, Channel 12, Los Angeles, CA, Facility ID No. 125499. On June 10, 2011, Mayhugh filed a second, unopposed, Motion for Extension of Time to respond by June 27, 2011.

When his Second Motion for Extension of Time was prepared, Mr. Mayhugh and counsel felt that a reply could be filed by today. Last week, counsel emailed a draft of the Reply to Mr. Mayhugh; however, he has not yet completed his review of the draft so as to provide counsel with his comments and approval to file. Mr. Mayhugh is working on the matter today. It is hoped that a reply can be filed earlier than Friday, July 1, 2011, but in an abundance of caution, Mayhugh seeks an extension of time to July 1, 2011, to respond.

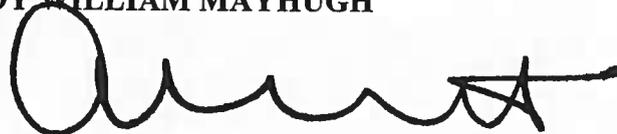
¹ Grant Rescinded.

Counsel for EICB has kindly stated he will interpose no objection to this motion.

For good cause shown, Mayhugh requests an extension of time to file a reply to EICB's
Opposition by **July 1, 2011**.

Respectfully submitted,

ROY WILLIAM MAYHUGH

A handwritten signature in black ink, appearing to read 'Roy William Mayhugh', written over a horizontal line.

By: _____
Gary S. Smithwick
His Attorney

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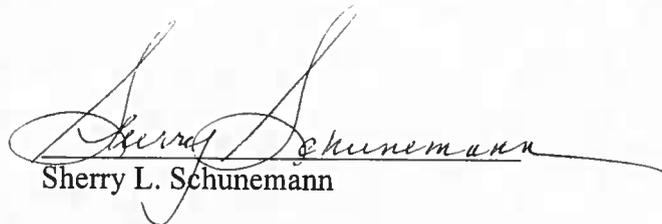
June 27, 2011

CERTIFICATE OF SERVICE

I, Sherry L. Schunemann, a secretary in the law office of Smithwick & Belendiuk, P.C., do hereby certify that on this 27th day of June, 2011, a copy of the foregoing "Third Motion for Extension of Time" was either hand delivered (as noted with an asterisk), or sent by First Class U.S. Mail, postage prepaid, to the following:

Mr. Hossein Hashemzadeh*
Assistant Chief, Video Division
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Federal Communications Commission
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Sherry L. Schunemann

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To: Office of the Secretary
Attention: Associate Chief, Video Division, Media Bureau

SECOND MOTION FOR EXTENSION OF TIME

Roy William Mayhugh ("Mayhugh"), by counsel, files this second Motion for Extension of Time to **June 27, 2011**, to respond to a consolidated Opposition filed May 16, 2011, by EICB-TV West, LLC ("EICB"), applicant for a construction permit and covering license¹ for Station KTBV-LD, Channel 12, Los Angeles, CA, Facility ID No. 125499. On May 25, 2011, Mayhugh filed a previous, unopposed, Motion for Extension of Time to respond by June 13, 2011.

A combination of pressing matters in counsel's office and other duties and obligations of Roy Mayhugh over the past two weeks has again resulted in a situation that would make it extremely difficult to respond adequately to EICB's Opposition by the deadline; however, Mayhugh and undersigned counsel are confident they can respond by June 27, 2011.

Counsel for EICB has kindly stated he will interpose no objection to this motion.

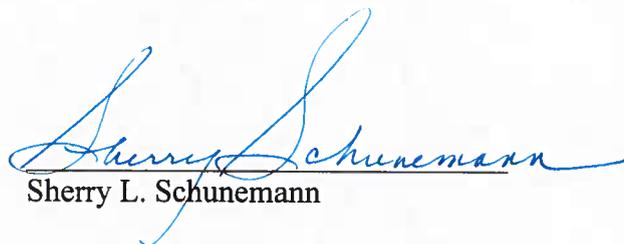
¹ Grant Rescinded.

CERTIFICATE OF SERVICE

I, Sherry L. Schunemann, a secretary in the law office of Smithwick & Belendiuk, P.C., do hereby certify that on this 10th day of June, 2011, a copy of the foregoing "Second Motion for Extension of Time" was either hand delivered (as noted with an asterisk), or sent by First Class U.S. Mail, postage prepaid, to the following:

Mr. Hossein Hashemzadeh*
Assistant Chief, Video Division
Media Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Howard A. Topel, Esq.
Lerman Senter PLLC
2000 K Street, NW
Suite 600
Washington, DC 20006-1809
Counsel for EICB-TV West, LLC


Sherry L. Schunemann

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of:)	
)	
EICB-TV WEST, LLC)	
	)	File No. BPDVL-20110314 ACR
	)	Facility ID No. 125499
For Construction Permit)	
for Low Power Television Station)	
KTBV-LD, Los Angeles, CA)	
)	
For License to Cover Construction Permit	)	File No. BPLDVL-20110422ABV
for Low Power Television Station	)	Facility ID No. 125499
KTBV-LD, Los Angeles, CA)	

To: Office of the Secretary
Attention: Associate Chief, Video Division, Media Bureau

FILED/ACCEPTED
MAY 25 2011
Federal Communications Commission
Office of the Secretary

MOTION FOR EXTENSION OF TIME

Roy William Mayhugh ("Mayhugh"), by counsel, files this Motion for Extension of Time to **June 13, 2011**, to respond to a consolidated Opposition filed May 16, 2011, by EICB-TV West, LLC ("EICB"), applicant for a construction permit and covering license¹ for Station KTBV-LD, Channel 12, Los Angeles, CA, Facility ID No. 125499. The Opposition addresses Mayhugh's Petition for Reconsideration and Informal Objection relative to the captioned applications.

Pursuant to the Commission's rules, a reply to the Opposition to the Petition for Reconsideration² would normally be due by May 30, 2011, but undersigned counsel's other commitments, including the preparation of several applications for renewal of license that are due by June 1, 2011, would make it extremely difficult to respond adequately to EICB's Opposition by the deadline.

¹ Grant Rescinded.

Counsel for EICB has kindly stated he will interpose no objection to this motion.

For good cause shown, Mayhugh requests an extension of time to file a reply to EICB's
Opposition by **June 13, 2011**.

Respectfully submitted,

ROY WILLIAM MAYHUGH

By: Gary S. Smithwick *Bg RUT*
Gary S. Smithwick
His Attorney

Smithwick & Belendiuk, P.C.
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May 25, 2011

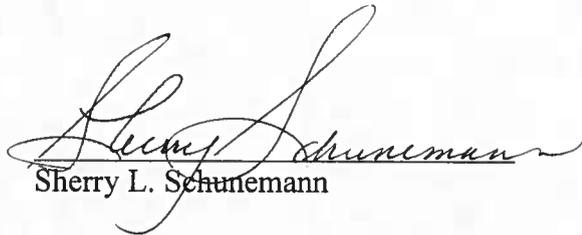
² There is no deadline to respond to an Opposition to an Informal Objection.

CERTIFICATE OF SERVICE

I, Sherry L. Schunemann, a secretary in the law office of Smithwick & Belendiuk, P.C., do hereby certify that on this 25th day of May, 2011, a copy of the foregoing "Motion for Extension of Time" was either hand delivered (as noted with an asterisk), or sent by First Class U.S. Mail, postage prepaid, to the following:

Mr. Hossein Hashemzadeh*
Assistant Chief, Video Division
Media Bureau
Federal Communications Commission
445 12th Street, S.W.
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Counsel for EICB-TV West, LLC


Sherry L. Schunemann

PLEASE HAND DELIVER TO:

**Mr. Hossein Hashemzadeh
Assistant Chief, Video Division
Media Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554**


RECEIVED - FCC

MAY 16 2011

Federal Communications Commission
Bureau / Office

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
EICB-TV WEST LLC	)	File No. BPDVL-20110314ACR
	)	Facility ID No. 125499
For Construction Permit for Low Power)	
Television Station KTBV-LD, Los Angeles, California)	
)	
For License to Cover Construction Permit	)	File No. BPLDVL-20110422ABV
For Low Power Television Station	)	Facility ID No. 125499
KTBV-LD, Los Angeles, California)	

To: Office of the Secretary
Attention: Associate Chief, Video Division, Media Bureau

OPPOSITION

EICB-TV WEST LLC

Howard A. Topel
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Lerman Senter PLLC
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2000 K Street, NW
Washington, DC 20006
202 429 8970

May 16, 2011

Its Attorneys

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SUMMARY

The Petition for Reconsideration and Informal Objection that Roy William Mayhugh has filed against the captioned-applications of EICB-TV West LLC for construction permit and license for Station KTBV-LD are without merit and must be denied. EICB properly filed its application in reliance on the Commission's Data Base, which correctly reflects that previously mistaken grants of Mayhew's displacement and flash-cut applications were rescinded and the flash-cut application dismissed in 2006.

In 2006, the Bureau made a simple and straightforward ministerial error – it granted displacement and flash-cut applications for Mayhugh's K67AO, Palmdale, California – without first providing notice to third parties of, along with the requisite opportunity to file petitions to deny against, the proposed grant of the displacement application. In 2007, the Bureau, applying the long-settled authority of an administrative agency to correct ministerial errors, rescinded grant of both applications, thereby restoring the *status quo ante* that existed prior to the mistake. No stay of the rescission was sought by Mayhugh, and the Bureau subsequently denied Mayhugh's petition to reconsider its rescission of both applications.

The Bureau then implemented the rescissions by dismissing the K67AO flash-cut application and removing it from the Data Base. That action was proper because the actions rescinding the mistaken grants to Mayhew were fully effective. Subsequent applications filed by other parties, including EICB-TV West, rightfully and correctly relied on the accuracy and integrity of the Commission's database, which, for nearly four years, has reflected no valid flash-cut application for K67AO.

KTBV-LD has now been validly constructed, is currently providing service to over 9 million viewers, and awaits processing of its license to cover. Mayhugh's Petition for Reconsideration and Informal Objection rest on arguments that are erroneous, arbitrary and capricious, and contrary to the public interest. Accordingly, Mayhugh's pleadings must be denied.

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
EICB-TV WEST LLC	)	File No. BPDVL-20110314ACR
	)	Facility ID No. 125499
For Construction Permit for Low Power)	
Television Station KTBV-LD, Los Angeles, California)	
)	
For License to Cover Construction Permit	)	File No. BPLDVL-20110422ABV
For Low Power Television Station	)	Facility ID No. 125499
KTBV-LD, Los Angeles, California)	

To: Office of the Secretary
Attention: Associate Chief, Video Division, Media Bureau

OPPOSITION

EICB-TV West LLC (“EICB”), by its counsel, hereby opposes: (1) the Petition for Reconsideration (“Mayhugh Petition”) that Roy William Mayhugh (“Mayhugh”) filed regarding the above-referenced construction permit application (“EICB CP Application”) on April 21, 2011, and (2) the Informal Objection (“Mayhugh IO”) that Mayhugh filed regarding the above-referenced license application (“EICB License Application”) on April 27, 2011. The Mayhugh Petition and Mayhugh IO are without merit and must be denied for the following reasons:

I. Introduction

On March 14, 2011, EICB filed the EICB CP Application to modify EICB’s licensed LPTV station KTBV-LD on Channel 12 in Los Angeles (“KTBV” or “EICB Station”). Since the EICB CP Application was fully consistent and compliant with the Commission’s LPTV Data Base (“FCC Data Base”), the Media Bureau (“Bureau”) properly granted the application on March 25, 2011. EICB implemented the KTBV construction permit and filed the EICB License

II. The Bureau's Actions Rescinding the Mistaken Grants of the Mayhugh Displacement (BPTTV-20041129ABP) and Flash-Cut (BDFCDTT-20060320AAE) Applications Were Effective and the Bureau's Dismissal of the Mayhugh Flash-Cut Application (BPTTV-20041129ABP) from the FCC Data Base Was Proper.

On March 20, 2006, the Bureau issued a Public Notice announcing that the Mayhugh Displacement Application (BPTTV-20041129ABP) was granted.³ Pursuant to the Commission's established displacement procedure, such a displacement application could not be granted until the Bureau issued a proposed grant list ("30-day proposed grant list") and afforded interested parties a 30-day period to file petitions to deny. The Commission has applied this procedure since its Report and Order in *Low Power Television and Television Translator Service*, 2 FCC Rcd 1278 (1987) and has declared, "Complete and acceptable displacement applications are announced in a Commission Public Notice called a 'Proposed Grant List.'" See *Class A Television Service*, 15 FCC Rcd 6355, 6396 (2000). See also *Low Power Television Service*, 9 FCC Rcd 2555, 2557 (1994) (non-mutually exclusive applications are placed on "a proposed grant list").⁴ However, because Mayhugh's Displacement Application (BPTTV-20041129ABP) had not yet been placed on a 30-day proposed grant list, the Bureau's grant of that application was a mistake.

Grant of the Mayhugh Displacement Application (BPTTV-20041129ABP) to operate on analog Channel 12 was a prerequisite to Mayhugh filing a flash-cut application for digital Channel 12. On the same day that the mistaken grant appeared on Public Notice, March 20, 2006, Mayhugh filed the Mayhugh Flash-Cut Application (BDFCDTT-20060320AAE). On

³ See Public Notice, Report No. 46195, released March 20, 2006, p. 1.

⁴ See also "FCC Opposition to 'Petition for Writ of Mandamus or, in the Alternative, a Writ of Prohibition'" ("FCC Judicial Comments"), filed by the Commission on October 3, 2007, in *In re: Roy William Mayhugh*, United States Court of Appeals for the District of Columbia Circuit, Case No. 07-1258, at 11-12 and n. 3, in which the Commission cited three Bureau deployments of this procedure during 2005, the time when the Mayhugh Displacement Application (BPTTV-20041129ABP) was pending but not yet on a 30-day proposed grant list. See also the Court's Order in that mandamus proceeding, Document 1088283, issued December 27, 2007 denying Mayhugh's attempt to have the Court intercede in the Commission's K67AO proceeding.

May 9, 2006, the Bureau issued a Public Notice announcing that the Mayhugh Flash-Cut Application (BDFCDTT-20060320AAE) was granted on May 3, 2006.⁵ However, because the grant of the Mayhugh Displacement Application (BPTTV-20041129ABP) that was a prerequisite to filing the Mayhugh Flash-Cut Application (BDFCDTT-20060320AAE) was mistaken, the grant of the Mayhugh Flash-Cut Application (BDFCDTT-20060320AAE) was essentially the fruit of the poisonous tree, and was mistaken too.

A pleading battle between VTG (*see* n. 2 above) and Mayhugh ensued.⁶ Upon review of those contested pleadings, the Bureau discovered its mistakes in granting the Mayhugh Displacement Application (BPTTV-20041129ABP) before it appeared on a 30-day proposed grant list, and then granting the Mayhugh Flash-Cut Application (BDFCDTT-20060320AAE) when the Mayhugh Displacement Application (BPTTV-20041129ABP) should have remained in pending, ungranted status.⁷

Acting responsibly to correct its application mistakes and to restore the *status quo ante* that existed prior to its mistaken grant of the Mayhugh Displacement Application (BPTTV-20041129ABP), the Bureau issued a letter rescinding the grants of both applications and dismissing the Mayhugh Flash-Cut Application (BDFCDTT-20060320AAE), which could not have been filed with the *status quo ante* of the ungranted Mayhugh Displacement Application (BPTTV-20041129ABP) in place.⁸ On May 4, 2007, the Commission released Public Notices announcing: (1) the rescission of the mistaken grant of the Mayhugh Displacement Application

⁵ See Public Notice, Report No. 46231, released May 9, 2006, p. 2.

⁶ See Mayhugh's Statement for the Record filed May 18, 2006; VTG's Petition for Reconsideration filed May 30, 2006; and Mayhugh's Opposition to Petition for Reconsideration filed June 14, 2006.

⁷ See VTG May 2006 IO, n. 2 above.

⁸ See Letter from Hossein Hashemzadeh, Associate Chief, Video Division, Media Bureau, to Roy William Mayhugh, dated May 1, 2007 ("May 1 Bureau Letter").

(BPTTV-20041129ABP),⁹ and (2) the Bureau's dismissal of the Mayhugh Flash-Cut Application (BPTTV-20041129ABP).¹⁰ On May 23, 2007, the Bureau denied Mayhugh's petition for reconsideration of the May 1 Bureau Letter.¹¹

The critical point in this proceeding is that, pursuant to §1.102 of the Commission Rules, the Bureau's rescission and dismissal actions in the May 1 Letter were effective immediately upon their release and public notice. The rule, in pertinent part, provides:

§ 1.102 Effective dates of actions taken pursuant to delegated authority. . . .

(b) *Non-hearing and interlocutory actions.* (1) Non-hearing or interlocutory actions taken pursuant to delegated authority shall, unless otherwise ordered by the delegated authority, be effective upon release of the document containing the full text of such action, or in the event such a document is not released, upon release of a public notice announcing the action in question.

(2) If a petition for reconsideration of a non-hearing action is filed, the designated authority may in its discretion stay the effect of its action pending disposition of the petition for reconsideration.

The Commission has well established procedures for staying the effectiveness of Bureau actions of which reconsideration is sought. Either the interested party can file a request for stay and demonstrate compliance with the rigid standards for granting that relief, or the Bureau can stay the effect of its action in its discretion. *See, e.g., New Bohemia Group, Inc.*, 24 FCC Rcd 1357 (MB 2009) ("NBG") (stay requests must be separately made and may not be integrated into other pleadings; petition denied where criteria for grant of a stay not addressed or met); Letter from Barbara A. Kreisman, Chief, Video Division, Media Bureau, to George S. Sebastian, DA 10-1161, released June 25, 2010 (petition denied where complaining party did not request and the Bureau did not grant a stay of the effect of the Bureau's dismissal letter). Here, Mayhugh did

⁹ See Public Notice, Report No. 26479, released May 4, 2007, p.7.

¹⁰ See Public Notice, Report No. 46479, released May 4, 2007, p.3.

¹¹ See Letter from Hossein Hashemzadeh, Associate Chief, Video Division, Media Bureau, to Roy William Mayhugh, dated May 23, 2007, denying Mayhugh's Emergency Petition for Reconsideration and Immediate Reinstatement of Status Quo Ante, filed May 8, 2007 ("May 23 Bureau Letter").

not file the requisite separate request for a stay of the Bureau's actions and the Bureau did not grant one.¹²

Accordingly, not later than the May 4, 2007 Public Notices (nn. 9 and 10 above), the Bureau's rescission actions and dismissal of the Mayhugh Flash-Cut Application (BDFCDTT-20060320AAE) were effective. When actions are effective and not stayed, it is the Bureau's *duty* to implement those actions. In dismissing the Mayhugh Flash-Cut Application (BDFCDTT-20060320AAE) from the FCC Data Base, the Bureau did nothing more than properly implement an effective action of which no stay had been requested or granted.

Mayhugh's effort to malign the Bureau for properly doing its job must be rejected.

III. Mayhugh's Arguments Are Erroneous, Arbitrary and Capricious; Do Not Undermine the Propriety of the Bureau's Actions; and are Contrary to the Public Interest.¹³

¹² As set forth in NBG, 24 FCC Rcd at 1361 n. 31, the proponent of a stay must show that (i) it is likely to prevail on the merits; (ii) it will suffer irreparable harm, absent a stay; (iii) other interested parties will not be harmed if the stay is granted; *and* (iv) the public interest would favor the grant of the stay. As shown in Part III below, Mayhugh could not possibly meet the criteria for a stay, particularly in light of the resulting harm to EICB and the public interest and the assessment in the FCC Judicial Comments (n. 4 above) of Mayhugh's unlikely likelihood of prevailing on the merits. See pp. 6-13 and n.14 below.

¹³ It should be noted initially that Mayhugh's Petition and IO against EICB's CP and License Applications are the products of a chain of Mayhugh cross-references. On October 27, 2007, Mayhugh appealed the May 1 and May 23 Bureau Letters to the full Commission by filing an Emergency Application for Review and Immediate Reinstatement of Status Quo Ante, or, in the Alternative, for Waiver of Section 73.3584(c) of the Rules ("Mayhugh AFR"). VTG and Mayhugh filed further pleadings. See VTG Comments filed June 19, 2007 ("VTG 2007 Comments"), and Mayhugh Reply to Comments filed July 3, 2007. On October 8, 2010, relying on the FCC Data Base, EICB filed a minor change application to modify KTBV. File No. BPDVL-20101008ACW ("EICB 2010 Application"). On October 27, 2010, Mayhugh filed an Informal Objection and Request To Correct Database against the EICB 2010 Application (BPDVL-20101008ACW) ("Mayhugh 2010 Opposition"), in which Mayhugh referenced and relied on the Mayhugh AFR. EICB opposed the Mayhugh 2010 Opposition on November 22, 2010. On January 5, 2011, the Bureau dismissed the EICB 2010 Application (BPDVL-20101008ACW), not on substantive grounds, but because EICB had multiple applications on file. See Letter from Hossein Hashemzadeh, Associate Chief, Video Division, Media Bureau, to EICB, dated January 5, 2011. On March 14, 2011, relying on the FCC Data Base, EICB filed the EICB CP Application now at issue. On March 25, 2011, the Bureau granted the EICB CP Application, and on March 30, 2011, the Commission issued Public Notice 47454, p. 10, announcing and making effective that grant.

On April 21, 2011, Mayhugh filed his post-grant Mayhugh Petition, which referenced and relied upon the Mayhugh 2010 Opposition, which referenced and relied on the Mayhugh AFR. In the Mayhugh Petition, at 3, Mayhugh asserts that "[g]ood cause exists for Mayhugh's not objecting to the application prior to its grant since Mayhugh was reasonably expectant that the captioned application would have no adverse impact on his station Channel 12, the prior virtually identical application having been previously dismissed." However, because the EICB 2010 Application was dismissed for procedural and not substantive reasons, Mayhugh had no such

Mayhugh's arguments are found, not in his late-filed Mayhugh Petition or Mayhugh IO, but in the Mayhugh AFR. *See* n. 13 above. There, Mayhugh argued that the Bureau could not correct the procedural error that led to the mistaken grant of the Mayhugh Displacement Application (BPTTV-20041129ABP) because the Commission did not rescind that grant on its own motion within 40 days of the March 20, 2006, Public Notice (n. 3 above) announcing that grant. Mayhugh AFR at 10-11. The Commission addressed and refuted this argument in the FCC Judicial Comments (n.4 above) where it accurately articulated the relevant law as follows:

It has been clearly established for many years that administrative agencies have the power to correct clerical or ministerial errors or judgments that were the result of inadvertence or mistake, and that was the basis for the action by the Commission's staff with respect to Mayhugh's application. *See, e.g., American Trucking Ass'n v. Frisco Transp. Co.*, 358 U.S. 133, 145 (1958). The *American Trucking Association* decision dealt with the Interstate Commerce Commission's approval of the acquisition, by a wholly-owned subsidiary of a railroad, of operating rights of several motor carriers. *Id.* at 135. When the ICC later issued certificates of public convenience and necessity, it failed to include language reserving to the ICC the power to impose restrictions and modifications. *Id.* at 137. The ICC discovered the oversight, reopened the acquisition proceedings, gave notice to the parties and, after further proceedings in which the parties participated, ordered the certificates modified to reflect this limitation. *Id.* at 137-38.

The Supreme Court affirmed the order. The Court noted that Federal Rule of Civil Procedure 60(a) grants courts the power to correct clerical errors, and held that the Commission possessed the same power by analogy and pursuant to its broad enabling statute instructing the Commission to serve the "ends of justice." 358 U.S. at 145, "To hold otherwise would be to say that once an error has occurred the Commission is powerless to take remedial steps." *Id.* Later decisions, using the same analogy to judicial proceedings, have sustained an agency's inherent power to correct errors in an adjudication. *See Howard Sober, Inc. v. ICC*, 628 F.2d 36, 41-42 (D.C.Cir. 1980); *United States v. Civil Aeronautics Bd.*, 510 F.2d 769, 772-76 (D.C.Cir. 1975). The Communications Act was derived in

reasonable expectation. Mayhugh's miscalculation does not excuse the fact that his Petition is unjustifiably late and may be summarily dismissed for precisely the same reasons that Mayhugh himself argued against VTG's filings during their pleading battle over the Mayhugh Flash-Cut Application (BDFCDTT-20060320AAE). *See* Mayhugh Statement for the Record filed May 18, 2006; Mayhugh Opposition to Petition for Reconsideration filed June 14, 2006; Mayhugh Reply to Comments filed July 3, 2007.

part from the Interstate Commerce Act and contains essentially the same language authorizing the FCC to “conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice.” 47 U.S.C. § 154(j).

The finality provisions of the Act and the Commission’s rules cited by Mayhugh limit the Commission’s authority to rescind or modify a final action because it has, in effect, “changed its mind.” *See* Pet. at 9, *citing* 47 U.S.C. § 405(a) and 47 C.F.R. §§ 1.106(f), 1.117(a). As the Court observed in *American Trucking Ass’n*, “the power to correct inadvertent ministerial errors may not be used as a guise for changing previous decisions because the wisdom of those decisions appears doubtful in the light of changing policies.” 358 U.S. at 146. The rulings by the FCC’s staff in this case do not involve any such change of mind, but merely the agency’s decision that grant of Mayhugh’s application had been a result of oversight, and that the lack of required public notice had to be corrected.

FCC Judicial Comments at 8-10. Mayhugh’s contention that the Commission cannot correct clerical and ministerial errors (like the one that produced the mistaken grants of the Mayhugh Displacement (BPTTV-20041129ABP) and Mayhugh Flash-Cut (BDFCDTT-20060320AAE) Applications) later than 40 days after a public notice announces the action would compel rigid memorialization of absurd and arbitrary results and is bogus.¹⁴

In asking the Commission to reinstate the *status quo ante* – which Mayhugh defines as the time after the Bureau’s mistaken grants of the Mayhugh Displacement (BPTTV-20041129ABP) and Flash-Cut (BDFCDTT-20060320AAE) Applications and before the Bureau’s rescission of those grants – Mayhugh arbitrarily and capriciously selects the status that serves his own self-interest and urges the Commission to follow suit.¹⁵ But the term “*status quo*

¹⁴ Moreover, with respect to the unlikelihood of Mayhugh succeeding on the merits, which *inter alia* has rendered him unable to meet that criterion for a stay (n. 12 above), the FCC Judicial Comments (at 11 and 12) state, “There is therefore strong evidence that the Commission intended for displacement applications by LPTV stations to be subject to the provisions in the current section 73.3584(c) calling for placement on a ‘proposed grant list’ and an opportunity for petitions to deny to be filed before the application may be granted. . . . The Commission staff’s reading of the regulations governing the processing of applications such as Mayhugh’s should easily be found reasonable under [the legal] standard.”

¹⁵ *See* Mayhugh AFR at 11-12; Mayhugh 2010 Opposition at 1-2; Mayhugh Petition at 1-2.

ante” has a specific meaning that is not synonymous with what a self-interested party like Mayhugh may assert.

“Judicial precedent confirms that ‘the status quo is the last uncontested status which preceded the pending controversy.’” *Consarc Corp. v. United States Treasury Dept.* 71 F.3d 909, 913 (D.C. Cir. 1995) (citations omitted). *See also Black’s Law Dictionary* (rev. 4th ed. 1968) 1581 (“*status quo*” means the “[l]ast actual, peaceable noncontested condition which preceded pending controversy”). Here, “the last uncontested status which preceded the pending controversy” is the status when the Mayhugh Displacement Application (BPTTV-20041129ABP) was pending, before the Bureau mistakenly granted it, for that grant is what triggered the VTG/Mayhugh controversy. Accordingly, in rescinding the grant of the Mayhugh Displacement Application (BPTTV-20041129ABP) and the resulting mistaken grant of the Mayhugh Flash-Cut Application (BDFCDTT-20060320AAE), and dismissing the Mayhugh Flash-Cut Application (BDFCDTT-20060320AAE) from the FCC Data Base, the May 1 and May 23 Bureau Letters properly restored the *status quo ante*.

Mayhugh’s request for a waiver retroactive to the 2004-2006 timeframe of the requirement that the Mayhugh Displacement Application (BPTTV-20041129ABP) be placed on a 30-day proposed grant list and subject to petitions to deny is also without merit. *See* Mayhugh AFR at 10. The mere boilerplate citation of “good cause” and general argument of public interest that Mayhugh makes is wholly inadequate to support a waiver request. *See Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164 (D.C. Cir. 1990). As that case made clear, grant of a waiver requires the proponent to plead compliance with identifiable Commission standards for granting the requested waiver, the Commission must have and apply such standards, and a general argument of public interest is insufficient. The Commission in fact has specific

identifiable standards for granting waivers,¹⁶ but Mayhugh's request in the AFR failed to cite any of them or demonstrate that any of them support granting him a waiver to turn the clock back to 2004 when the Mayhew Displacement Application (BPTTV-20041129ABP) was filed, or to 2006 when the mistaken grant of the Mayhew Displacement Application (BPTTV-20041129ABP) was correctly rescinded.

Mayhugh's argument that the Mayhugh Displacement Application (BPTTV-20041129ABP) and Mayhugh Flash-Cut Application (BDFCDTT-20060320AAE) are "pending" applications for purposes of the Mayhugh Petition and Mayhugh IO against the EICB CP and EICB License Applications is erroneous.¹⁷ Mayhugh stated his claim for that position in footnote 3 of the Mayhugh AFR, where he sought refuge in §1.65 of the Commission Rules' definition that, "with regard to an applicant's duty to report changes" (Mayhugh's words), the Mayhugh Displacement (BPTTV-20041129ABP) and Flash-Cut (BDFCDTT-20060320AAE) Applications "remain pending." The Commission has made crystal clear, however, that (as the preceding quote from Mayhugh's AFR indicates) "[t]he purpose of Sec. 1.65 is merely to ensure that applicants inform the Commission of any information in their applications which is inaccurate." *Cellular Radio Service (Procedures)*, 53 RR2d 1198, ¶6 (1983). The obligation under §1.65 is limited to amendments to report changes and has no bearing on other matters or "for other purposes" involving the application, including the effectiveness of the Bureau's rescission and dismissal actions regarding the Mayhugh Displacement (BPTTV-20041129ABP) and Mayhew Flash-Cut (BDFCDTT-20060320AAE) Applications. *Id.* Simply put, Mayhugh's "duty to report changes" in his applications does not in any way alter the critical fact that the

¹⁶ 47 C.F.R. §1.925.

¹⁷ See Mayhugh Petition at 3; Mayhugh IO at 1-2.

Bureau's actions which Mayhugh wrongly criticizes were effective and therefore properly implemented.

Indeed, the relief that Mayhugh requests is decidedly contrary to the public interest. First, the ripple effect of amending the FCC Data Base retroactively to 2007 will create chaos. The Commission's very purpose in creating its displacement procedures was to "ensure that easy reference to our data base can be made to determine whether there are other pending applications on the new channel and whether the permittee or licensee can operate on that channel without causing interference to other authorized stations." *Low Power Television and Television Translator Service*, Notice of Proposed Rule Making, 104 FCC 2d 1368, 1379 (1986) ("LPTV NPRM"). See also *Private Carrier Paging Systems at 929-930 MHz*, 8 FCC Rcd 8318, 8332 (1993) (with respect to a data base on which the Commission relies, "future licensing requires the creation, maintenance, and constant updating of the coordination data base to reflect pending applications").

For four years, EICB and other parties have relied on the integrity of the FCC Data Base, as it reflected the effective and proper dismissal of the Mayhugh Flash-Cut Application, to make critical and costly business and human decisions. To try to trace back all the decisions involving applications and daisy chains of applications filed and not filed, which have been made based on the proper and timely dismissal of the Mayhugh Flash-Cut Application, and thereby to recreate the world, is totally unworkable. Indeed, just the suggestion of trying to do so is contrary to the vital public interest in an orderly Commission process. See, e.g., *Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Rosendale, New York*, 13 FCC Rcd 308,

310 (MB 1998) (such an unstable procedure “would be contrary to the public interest benefit of an orderly and efficient transaction of Commission business”).¹⁸

Furthermore, the goal that Mayhugh seeks to achieve is contrary to Commission policy. “Displacement applications are required to be filed in the same area as the displaced facility.”¹⁹ The Commission expects such applications to be constructed and operated.²⁰ Here, Mayhugh sought to move K67AO 125 km without ever constructing and operating the displacement facility, and to operate with a service contour that failed to overlap the station’s licensed analog operation.²¹ The relief Mayhugh requests is the antithesis of the Commission’s public interest policy.²²

Mayhugh’s public interest arguments are untenable. He alleges significance in the fact that no objections to the Mayhugh Displacement Application (BPTTV-20041129ABP) were made between the filing of that application in 2004 and its mistaken grant in 2006.²³ However, that fact is not at all momentous because many interested parties defer review of a displacement application until the 30-day proposed grant list has been issued and the petition to deny deadline

¹⁸ The FCC Data Base remains a record that must, if responsibly and timely used by applicants, remain the single authoritative record which guides applicants, licensees, and FCC staff alike in dealings with the Commission and one another. Unless the FCC Data Base is accurate and trustworthy, the loss of faith in the document will impede all actions, including filings, interference studies or technical analysis that would otherwise be taken by industry stakeholders.

¹⁹ Letter from Hossein Hashemzadeh, Associate Chief, Video Division, Media Bureau, to MS Communications, LLC, document number 1800E3-JLB, regarding BPTTL-20020212AAH, dated December 28, 2005.

²⁰ See Letter from Hossein Hashemzadeh, Associate Chief, Video Division, Media Bureau, to MS Communications, LLC, document number 1800E3-A, regarding Low Power Television Authorizations held by MS Communications, LLC, dated October 28, 2010.

²¹ See p. 2 and n. 2 above; VTG 2007 Comments, n. 13 above, and Exhibit 1 thereto. The May 23 Bureau Letter reflects the expectation that Mayhugh build out the Mayhugh Displacement Application (BPTTV-20041129ABP), offering him an STA to do so (“Mayhugh may file for an STA to operate on the analog facilities proposed in the now pending displacement application”), which he failed to pursue.

²² See LPTV NPRM, 104 FCC 2d at 1379 (“the application may not propose a significant change in the station’s service area”); §73.3572(a)(4)(ii) of the Commission Rules (displacement applications are to “continue serving the station’s protected service area.”)

²³ See Mayhugh’s Emergency Petition for Reconsideration and Immediate Reinstatement of Status Quo Ante filed May 8, 2007 (“Mayhugh 2007 Petition for Reconsideration”), at 4; Mayhugh AFR at 9 and 10.

has been established. Since the grant was mistakenly made without the issuance of a 30-day proposed grant list, the absence of complaints during that time is unremarkable.

Mayhugh also argued in the AFR that no complaints of interference were filed while he operated with the facilities proposed in the mistakenly granted Mayhugh Digital Flash-Cut Application (BDFCDTT-20060320AAE) and that 550,000 people received that signal.²⁴ However, that too is unremarkable because, as VTG demonstrated, Mayhugh's signal was a duplication of KABC-TV, the contour of which fundamentally encompassed Mayhugh's contour.²⁵

Very significant, however, is the fact that the record reflects no complaints, correspondence, or outcry made by anyone about the loss of Mayhugh's signal after the grant of the Mayhugh Digital Flash-Cut Application (BDFCDTT-20060320AAE) was rescinded. That fact also is readily explained by the redundancy of the ABC network programming to Mayhugh's viewers. In sharp contrast, grant of the Mayhugh Petition and Mayhugh IO will take away EICB's service to over 9.4 million viewers, *17 times more viewers* than Mayhugh's proposed service, and will deprive those viewers of four unduplicated and diverse program streams. The public interest clearly is best served by denial of Mayhugh's pleadings.

²⁴ See AFR at 10, 11-12.

²⁵ See VTG 2007 Comments, n. 13 above, and Exhibit 1 thereto.

IV. Conclusion

For the foregoing reasons, Mayhugh's Petition for Reconsideration and Informal Objection should be denied.

Respectfully submitted,

EICB-TV WEST, LLC

By Howard A. Topel
Howard A. Topel
F. Scott Pippin

Lerman Senter PLLC
Suite 600
2000 K Street, NW
Washington, DC 20006
202 416 1098

May 16, 2011

Its Attorneys

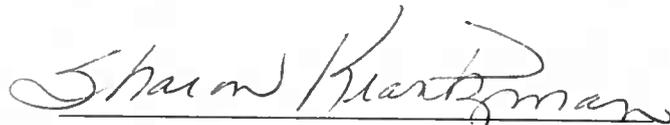
EXHIBIT 1

CERTIFICATE OF SERVICE

I, Sharon Krantzman, hereby certify that on this 16th day of May, 2011, a copy of the foregoing Opposition was sent by first-class, postage prepaid mail, to the following:

*Mr. Hossein Hashemzadeh
Assistant Chief, Video Division
Media Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Gary S. Smithwick, Esquire
Suite 301
5028 Wisconsin Avenue, NW
Washington, DC 20016



Sharon Krantzman

* By Hand Delivery

STAMP & RETURN

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of:)
)
EICB-TV WEST, LLC)
)
)
For Construction Permit)
for Low Power Television Station)
KTBV-LD, Los Angeles, CA)

File No. BPDVL-20110314ACR
Facility ID No. 125499

FILED/ACCEPTED

APR 21 2011

To: Office of the Secretary
Attention: Associate Chief, Video Division, Media Bureau

Federal Communications Commission
Office of the Secretary

PETITION FOR RECONSIDERATION

Roy William Mayhugh ("Mayhugh"), by counsel, pursuant to 47 CFR § 1.106, files this Petition for Reconsideration of the grant of the above-captioned application (**File No. BPDVL-20110314ACR**) filed by EICB-TV West, LLC ("EICB") for construction permit for Station KTBV-LD, Channel 12, Los Angeles, CA, Facility ID No. 125499, to modify its license.¹

EICB's construction permit must be canceled and its application cannot be accepted or granted because it is in conflict with Mayhugh's pending application: File No. BDFCDTT-20060320AAE for Channel 12 at Palmdale, CA, for Channel 12 service. See the attached Engineering Report. On June 1, 2007, Mayhugh filed an Emergency Application for Review and Immediate Reinstatement of the Status Quo Ante, or, in the Alternative, for Waiver of Section 73.3584(c) of the Rules" ("Emergency Application"), which sought review and reversal of the Media Bureau, Video Division's Letter Denial, dated May 23, 2007 ("Denial"), which denied Mayhugh's Emergency Petition for Reconsideration and Immediate Reinstatement

¹ The above-captioned grant appeared on public notice March 30, 2011 (Report No. 47454), so this petition is timely filed by April 29, 2011.

of Status Quo Ante, directed to the Video Division's Letter Decision in the captioned proceedings, dated May 1, 2007 ("Decision"). The Denial also dismissed Mayhugh's request (BSTA-20070508ACB) for special temporary authority for digital operations on Channel 12 on the erroneous grounds that Mr. Mayhugh no longer had a pending application for a digital construction permit on Channel 12. That application for review has been pending for nearly four years without any Commission action.

Based on an assertion that the staff's failure to place an "out-of-core" low power television displacement application (File No. BPTTV-20041129ABP) ("Displacement Application") on a "proposed grant list" was contrary to Section 309 of the Communications Act and its own Rules, the Decision: (1) rescinded the Video Division's 2006 [sic] grant of the Displacement Application for channel 12 analog operations, (2) rescinded the Division's grant of that analog channel 12 facility's subsequent Flash-Cut application for digital operations on channel 12 (BDFCDTT-20060320AAE) and (3) dismissed the 2006 Flash Cut application." The Decision also held that the 2004 Displacement Application would be returned to "pending status" and placed on "public notice" (a future proposed grant list). Mayhugh showed that the Decision was erroneously based on a misapplication of the pertinent FCC rules regarding the processing of displacement applications involving low power TV ("LPTV") stations operating on "out-of-core" channels 52-69.

In an Informal Objection and Request to Adjust Database, filed October 27, 2010, Mayhugh raised these identical objections to a previous application filed by EICB (FCC File No. BPDVL-20101008ACW) and that application was dismissed on January 5, 2011. On March 14, 2011, EICB filed its captioned application. Only 13 days after appearing on public notice², the Commission granted the application. Mayhugh did not learn that the application adversely

affected his station until the grant appeared on public notice. Mayhugh brings this matter to the Commission's attention promptly after learning of the problem in the form of this Petition for Reconsideration. Good cause exists for Mayhugh's not objecting to the application prior to its grant since Mayhugh was reasonably expectant that the captioned application would have no adverse impact on his station on Channel 12, the prior virtually identical application having been previously dismissed.

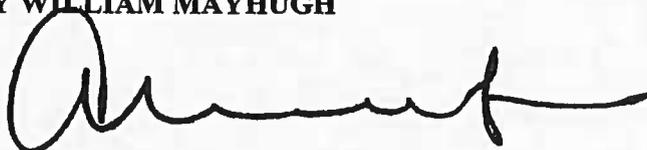
It is clear that the Commission must rescind the grant and must dismiss the captioned application until it (and the Courts, if necessary) finally acts on Mayhugh's pending applications, the rights to which are preserved by the long-pending Application for Review. For that reason, the Commission should cancel EICB's construction permit and dismiss EICB's application as inadvertently accepted for filing.

Mayhugh has noticed that his applications have been removed from the FCC's database. It appears that EICB may not originally have realized that Mayhugh has an application for review pending; however, since EICB was served with a copy of Mayhugh's previous Informal Objection, EICB has long had actual notice of Mayhugh's long-pending application for review. To avoid a recurrence of this problem, Mayhugh, once more, respectfully requests the Video Division to restore his application coordinates to the Commission's database.

² Report No. 27445, released March 17, 2011.

Respectfully submitted,

ROY WILLIAM MAYHUGH

A handwritten signature in black ink, appearing to read 'Roy William Mayhugh', written in a cursive style.

By: _____
Gary S. Smithwick
His Attorney

Smithwick & Belendiuk, P.C.
Suite 301, 5028 Wisconsin Avenue, N.W.
Washington, DC. 20016
(202) 363-4560

April 21, 2011

ATTACHMENT
ENGINEERING REPORT

DELAWDER COMMUNICATIONS, INC.

P.O. Box 1095
Ashburn, Virginia 20146-1095
(703) 299-9222

ENGINEERING REPORT

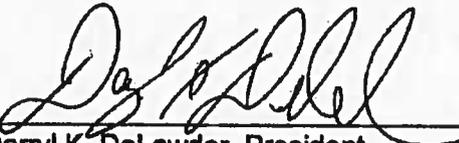
Roy William Mayhugh

Support for Petition for Reconsideration of Grant of BPDVL-20110314ACR (KTBV-LD)

ENGINEERING STATEMENT

This Engineering Statement is submitted in support of Roy William Mayhugh's Petition for Reconsideration of the grant of KTBV-LD application BPDVL-20110314ACR, for channel 12 LPTV digital service at Los Angeles, CA. Figure 1, attached, are OET-69 study results demonstrating interference from the BPDVL-20110314ACR facility to Mr. Mayhugh's K67AO digital LPTV flash-cut facility (BDFCDTT-20060320AAE, at Palmdale, CA, also for channel 12 digital service). As demonstrated by Figure 1, the predicted interference increase to Mayhugh's channel 12 flash-cut facility that results from the KTBV-LD application facility is 39.0% (well above the allowed 2% de minimis standard).

The undersigned, whose qualifications are a matter of record before the Commission, hereby certifies that the foregoing statement was prepared by him or under his direction, and that it is true and correct to the best of his knowledge and belief.


Darryl K. DeLawder, President
DeLawder Communications, Inc.

Date: April 19, 2011

FIGURE 1 (17 Pages)

Percent allowed new interference: 0.500
Percent allowed new interference to non Class A LPTV: 2.000
TW Census data selected 2000
Data Base Selected
/space/software/cdbs/pt_tvdb.sff
TV INTERFERENCE and SPACING ANALYSIS PROGRAM

Date: 04-19-2011 Time: 12:30:43

Record Selected for Analysis

KTBV-LD BPDVL -20110314ACR LOS ANGELES CA US
Channel 12 ERP 0.3 kW HAAT 918 m RCAMSL 01507 m STRINGENT MASK
Latitude 034-23-10 Longitude 0118-19-42
Status CP Zone Border M Site number: 01
Dir Antenna Make CDB Model 00000000104362 Beam tilt N Ref Azimuth 180.0
Last update 00000000 Cutoff date 20110314 Docket
Comments
Applicant EICB-TV WEST, LLC

Cell Size for Service Analysis 1.0 km/side

Distance Increments for Longley-Rice Analysis 1.00 km

Not full service station
Service Class = LD
Maximum height/power limits not checked

Site number	1			
Azimuth	ERP	HAAT	48.0 dBu F(50,90)	
(Deg)	(kW)	(m)	(km)	
0.0	0.001	726.3	18.9	
45.0	0.004	636.7	30.5	
90.0	0.000	49.9	3.8	
135.0	0.088	525.7	47.6	
180.0	0.300	852.6	66.5	
225.0	0.088	917.8	57.9	
270.0	0.000	872.5	11.1	
315.0	0.004	903.7	34.5	

NO LANDMOBILE SPACING VIOLATIONS FOUND

Checks to Site Number 01

Proposed facility OK to FCC Monitoring Stations

Proposed facility OK toward West Virginia quiet zone

Proposed facility OK toward Table Mountain

Proposed facility is beyond the Canadian coordination distance

Proposed facility is within the Mexican coordination distance
Distance to border = 234.2km

Proposed station is OK toward AM broadcast stations

Start of Interference Analysis

Channel	Proposed Station Call	City/State	ARN	
12	KTBV-LD	LOS ANGELES CA	BPDVL	20110314ACR

Stations Potentially Affected by Proposed Station

Chan	Call	City/State	Dist(km)	Status	Application Ref. No.
12	K67AO	PALMDALE CA	60.1	APP	USERRECORD-01

%%%

Analysis of Interference to Affected Station 28

Analysis of current record

Channel	Call	City/State	Application Ref. No.
12	K67AO	PALMDALE CA	USERRECORD-01

Stations Potentially Affecting This Station

Chan	Call	City/State	Dist(km)	Status	Application Ref. No.
11	KTTV	LOS ANGELES CA	38.4	CP MOD	BMPCDT -20100506AFJ
11	KTTV	LOS ANGELES CA	38.4	CP MOD	BMPCDT -20080616AAK
11	KTTV	LOS ANGELES CA	38.4	CP	BPCDT -20080319ACL
12	KJOI-LP	BAKERSFIELD CA	154.9	CP	BDFCDVL -20090821ADI
12	KJOI-LP	BAKERSFIELD CA	154.9	LIC	BLTVL -20080819ABF
12	KTBV-LD	LOS ANGELES CA	60.1	CP	BPDVL -20110314ACR
12	KVTU-LP	LOS ANGELES CA	47.1	APP	BDISDVL -20101026AAA
12	KNLA-LP	LOS ANGELES CA	38.8	APP	BDISTVL -20090630AHD
12	K12JI	NEWBERRY SPRINGS CA	105.6	LIC	BLTTV -5052
12	KYAV-LP	PALM SPRINGS CA	126.3	LIC	BLTVL -20011030AAD
12	KYAV-LP	PALM SPRINGS CA	126.3	CP	BDFCDVL -20090326AAM
12	K20IU	SAN BERNARDINO CA	55.7	CP MOD	BMPTVL -20110121ABZ

12	K12PO	TEMECULA CA	97.3	LIC	BLTTV	-20040219ACC
12	K12PO	TEMECULA CA	97.4	CP	BDFCDTV	-20070615ACR
13	KCOP-TV	LOS ANGELES CA	38.4	CP MOD	BMPCDT	-20080319ACJ

Total scenarios = 15

Result key: 35
 Scenario 1 Affected station 28
 Before Analysis

Results for: 12A CA PALMDALE USERRECORD01 APP

HAAT 917.0 m, ATV ERP 0.3 kW

	POPULATION	AREA (sq km)
within Noise Limited Contour	5460483	6625.8
not affected by terrain losses	4654772	6107.5
lost to NTSC IX	373235	137.4
lost to additional IX by ATV	218869	136.4
lost to ATV IX only	586724	242.5
lost to all IX	592104	273.9

Potential Interfering Stations Included in above Scenario 1

12N CA PALM SPRINGS	BLTVL	20011030AAD	LIC
12N CA SAN BERNARDINO	BMPTVL	20110121ABZ	CP
12N CA TEMECULA	BLTTV	20040219ACC	LIC
11A CA LOS ANGELES	BMPCDT	20100506AFJ	CP
13A CA LOS ANGELES	BMPCDT	20080319ACJ	CP

After Analysis

Results for: 12A CA PALMDALE USERRECORD01 APP

HAAT 917.0 m, ATV ERP 0.3 kW

	POPULATION	AREA (sq km)
within Noise Limited Contour	5460483	6625.8
not affected by terrain losses	4654772	6107.5
lost to NTSC IX	373235	137.4
lost to additional IX by ATV	1801889	536.9
lost to ATV IX only	2169744	644.9
lost to all IX	2175124	674.4

Potential Interfering Stations Included in above Scenario 1

12N CA PALM SPRINGS	BLTVL	20011030AAD	LIC
12N CA SAN BERNARDINO	BMPTVL	20110121ABZ	CP
12N CA TEMECULA	BLTTV	20040219ACC	LIC
11A CA LOS ANGELES	BMPCDT	20100506AFJ	CP
13A CA LOS ANGELES	BMPCDT	20080319ACJ	CP
12A CA LOS ANGELES	BPDVL	20110314ACR	CP

The following station failed the de minimis interference criteria.

12D CA LOS ANGELES BPDVL 20110314ACR
 ERP 0.30 kW HAAT 918.0 m RCAMSL 1507.0 m
 Antenna CDB 00000000104362

Due to interference to the following station and scenario: 1
 12D CA PALMDALE USERRECORD01

ERP 0.30 kW HAAT 917.0 m RCAMSL 2600.0 m
Antenna usr K67AO_12FLASH

Percent new interference from proposal: 38.9650 to USERRECORD01

Result key: 36
Scenario 2 Affected station 28
Before Analysis

Results for: 12A CA PALMDALE USERRECORD01 APP
HAAT 917.0 m, ATV ERP 0.3 kW

	POPULATION	AREA (sq km)
within Noise Limited Contour	5460483	6625.8
not affected by terrain losses	4654772	6107.5
lost to NTSC IX	373235	137.4
lost to additional IX by ATV	218869	136.4
lost to ATV IX only	586724	243.4
lost to all IX	592104	273.9

Potential Interfering Stations Included in above Scenario 2

12N CA PALM SPRINGS	BLTVL	20011030AAD	LIC
12N CA SAN BERNARDINO	BMPTVL	20110121ABZ	CP
12N CA TEMECULA	BLTTV	20040219ACC	LIC
11A CA LOS ANGELES	BMPCDT	20080616AAK	CP
13A CA LOS ANGELES	BMPCDT	20080319ACJ	CP

After Analysis

Results for: 12A CA PALMDALE USERRECORD01 APP
HAAT 917.0 m, ATV ERP 0.3 kW

	POPULATION	AREA (sq km)
within Noise Limited Contour	5460483	6625.8
not affected by terrain losses	4654772	6107.5
lost to NTSC IX	373235	137.4
lost to additional IX by ATV	1801889	536.9
lost to ATV IX only	2169744	645.9
lost to all IX	2175124	674.4

Potential Interfering Stations Included in above Scenario 2

12N CA PALM SPRINGS	BLTVL	20011030AAD	LIC
12N CA SAN BERNARDINO	BMPTVL	20110121ABZ	CP
12N CA TEMECULA	BLTTV	20040219ACC	LIC
11A CA LOS ANGELES	BMPCDT	20080616AAK	CP
13A CA LOS ANGELES	BMPCDT	20080319ACJ	CP
12A CA LOS ANGELES	BPDVL	20110314ACR	CP

The following station failed the de minimis interference criteria.

12D CA LOS ANGELES BPDVL 20110314ACR
ERP 0.30 kW HAAT 918.0 m RCAMSL 1507.0 m
Antenna CDB 00000000104362

Due to interference to the following station and scenario: 2

12D CA PALMDALE USERRECORD01
ERP 0.30 kW HAAT 917.0 m RCAMSL 2600.0 m

Antenna usr K67AO_12FLASH

Percent new interference from proposal: 38.9650 to USERRECORD01

Result key: 37
Scenario 3 Affected station 28
Before Analysis

Results for: 12A CA PALMDALE USERRECORD01 APP

HAAT 917.0 m, ATV ERP 0.3 kW

	POPULATION	AREA (sq km)
within Noise Limited Contour	5460483	6625.8
not affected by terrain losses	4654772	6107.5
lost to NTSC IX	373235	137.4
lost to additional IX by ATV	218869	136.4
lost to ATV IX only	586724	243.4
lost to all IX	592104	273.9

Potential Interfering Stations Included in above Scenario 3

12N CA PALM SPRINGS	BLTVL	20011030AAD	LIC
12N CA SAN BERNARDINO	BMPTVL	20110121ABZ	CP
12N CA TEMECULA	BLTTV	20040219ACC	LIC
11A CA LOS ANGELES	BPCDT	20080319ACL	CP
13A CA LOS ANGELES	BMPCDT	20080319ACJ	CP

After Analysis

Results for: 12A CA PALMDALE USERRECORD01 APP

HAAT 917.0 m, ATV ERP 0.3 kW

	POPULATION	AREA (sq km)
within Noise Limited Contour	5460483	6625.8
not affected by terrain losses	4654772	6107.5
lost to NTSC IX	373235	137.4
lost to additional IX by ATV	1801889	536.9
lost to ATV IX only	2169744	645.9
lost to all IX	2175124	674.4

Potential Interfering Stations Included in above Scenario 3

12N CA PALM SPRINGS	BLTVL	20011030AAD	LIC
12N CA SAN BERNARDINO	BMPTVL	20110121ABZ	CP
12N CA TEMECULA	BLTTV	20040219ACC	LIC
11A CA LOS ANGELES	BPCDT	20080319ACL	CP
13A CA LOS ANGELES	BMPCDT	20080319ACJ	CP
12A CA LOS ANGELES	BPDVL	20110314ACR	CP

The following station failed the de minimis interference criteria.

12D CA LOS ANGELES BPDVL 20110314ACR
ERP 0.30 kW HAAT 918.0 m RCAMSL 1507.0 m
Antenna CDB 00000000104362

Due to interference to the following station and scenario: 3

12D CA PALMDALE USERRECORD01
ERP 0.30 kW HAAT 917.0 m RCAMSL 2600.0 m
Antenna usr K67AO_12FLASH

Percent new interference from proposal: 38.9650 to USERRECORD01

Result key: 38
Scenario 4 Affected station 28
Before Analysis

Results for: 12A CA PALMDALE USERRECORD01 APP

HAAT 917.0 m, ATV ERP 0.3 kW

	POPULATION	AREA (sq km)
within Noise Limited Contour	5460483	6625.8
not affected by terrain losses	4654772	6107.5
lost to NTSC IX	2599300	759.8
lost to additional IX by ATV	267887	135.5
lost to ATV IX only	1139140	452.5
lost to all IX	2867187	895.2

Potential Interfering Stations Included in above Scenario 4

12N CA LOS ANGELES	BDISTVL	20090630AHD	APP
12N CA PALM SPRINGS	BLTVL	20011030AAD	LIC
12N CA SAN BERNARDINO	BMPTVL	20110121ABZ	CP
12N CA TEMECULA	BLTTV	20040219ACC	LIC
11A CA LOS ANGELES	BMPCDT	20100506AFJ	CP
12A CA LOS ANGELES	BDISDVL	20101026AAA	APP
13A CA LOS ANGELES	BMPCDT	20080319ACJ	CP

After Analysis

Results for: 12A CA PALMDALE USERRECORD01 APP

HAAT 917.0 m, ATV ERP 0.3 kW

	POPULATION	AREA (sq km)
within Noise Limited Contour	5460483	6625.8
not affected by terrain losses	4654772	6107.5
lost to NTSC IX	2599300	759.8
lost to additional IX by ATV	285363	152.1
lost to ATV IX only	2429866	753.9
lost to all IX	2884663	911.9

Potential Interfering Stations Included in above Scenario 4

12N CA LOS ANGELES	BDISTVL	20090630AHD	APP
12N CA PALM SPRINGS	BLTVL	20011030AAD	LIC
12N CA SAN BERNARDINO	BMPTVL	20110121ABZ	CP
12N CA TEMECULA	BLTTV	20040219ACC	LIC
11A CA LOS ANGELES	BMPCDT	20100506AFJ	CP
12A CA LOS ANGELES	BDISDVL	20101026AAA	APP
13A CA LOS ANGELES	BMPCDT	20080319ACJ	CP
12A CA LOS ANGELES	BPDVL	20110314ACR	CP

Percent new IX = 0.9776%

Result key: 39
Scenario 5 Affected station 28
Before Analysis

After Analysis

Results for: 12A CA PALMDALE USERRECORD01 APP
 HAAT 917.0 m, ATV ERP 0.3 kW

	POPULATION	AREA (sq km)
within Noise Limited Contour	5460483	6625.8
not affected by terrain losses	4654772	6107.5
lost to NTSC IX	2599300	759.8
lost to additional IX by ATV	34194	51.0
lost to ATV IX only	2169744	645.9
lost to all IX	2633494	810.8

Potential Interfering Stations Included in above Scenario 7

12N CA LOS ANGELES	BDISTVL	20090630AHD	APP
12N CA PALM SPRINGS	BLTVL	20011030AAD	LIC
12N CA SAN BERNARDINO	BMPTVL	20110121ABZ	CP
12N CA TEMECULA	BLTTV	20040219ACC	LIC
11A CA LOS ANGELES	BMPCDT	20080616AAK	CP
13A CA LOS ANGELES	BMPCDT	20080319ACJ	CP
12A CA LOS ANGELES	BPDVL	20110314ACR	CP

Percent new IX = 1.5066%

Result key: 42
 Scenario 8 Affected station 28
 Before Analysis

Results for: 12A CA PALMDALE USERRECORD01 APP
 HAAT 917.0 m, ATV ERP 0.3 kW

	POPULATION	AREA (sq km)
within Noise Limited Contour	5460483	6625.8
not affected by terrain losses	4654772	6107.5
lost to NTSC IX	2599300	759.8
lost to additional IX by ATV	267887	135.5
lost to ATV IX only	1139140	453.5
lost to all IX	2867187	895.2

Potential Interfering Stations Included in above Scenario 8

12N CA LOS ANGELES	BDISTVL	20090630AHD	APP
12N CA PALM SPRINGS	BLTVL	20011030AAD	LIC
12N CA SAN BERNARDINO	BMPTVL	20110121ABZ	CP
12N CA TEMECULA	BLTTV	20040219ACC	LIC
11A CA LOS ANGELES	BPCDT	20080319ACL	CP
12A CA LOS ANGELES	BDISDVL	20101026AAA	APP
13A CA LOS ANGELES	BMPCDT	20080319ACJ	CP

After Analysis

Results for: 12A CA PALMDALE USERRECORD01 APP
 HAAT 917.0 m, ATV ERP 0.3 kW

	POPULATION	AREA (sq km)
within Noise Limited Contour	5460483	6625.8
not affected by terrain losses	4654772	6107.5
lost to NTSC IX	2599300	759.8

lost to additional IX by ATV	285363	152.1
lost to ATV IX only	2429866	754.8
lost to all IX	2884663	911.9

Potential Interfering Stations Included in above Scenario 8

12N CA LOS ANGELES	BDISTVL	20090630AHD	APP
12N CA PALM SPRINGS	BLTVL	20011030AAD	LIC
12N CA SAN BERNARDINO	BMPTVL	20110121ABZ	CP
12N CA TEMECULA	BLTTV	20040219ACC	LIC
11A CA LOS ANGELES	BPCDT	20080319ACL	CP
12A CA LOS ANGELES	BDISDVL	20101026AAA	APP
13A CA LOS ANGELES	BMPCDT	20080319ACJ	CP
12A CA LOS ANGELES	BPDVL	20110314ACR	CP

Percent new IX = 0.9776%

Result key: 43
 Scenario 9 Affected station 28
 Before Analysis

Results for: 12A CA PALMDALE USERRECORD01 APP

HAAT 917.0 m, ATV ERP 0.3 kW

	POPULATION	AREA (sq km)
within Noise Limited Contour	5460483	6625.8
not affected by terrain losses	4654772	6107.5
lost to NTSC IX	2599300	759.8
lost to additional IX by ATV	3275	19.6
lost to ATV IX only	586724	243.4
lost to all IX	2602575	779.4

Potential Interfering Stations Included in above Scenario 9

12N CA LOS ANGELES	BDISTVL	20090630AHD	APP
12N CA PALM SPRINGS	BLTVL	20011030AAD	LIC
12N CA SAN BERNARDINO	BMPTVL	20110121ABZ	CP
12N CA TEMECULA	BLTTV	20040219ACC	LIC
11A CA LOS ANGELES	BPCDT	20080319ACL	CP
13A CA LOS ANGELES	BMPCDT	20080319ACJ	CP

After Analysis

Results for: 12A CA PALMDALE USERRECORD01 APP

HAAT 917.0 m, ATV ERP 0.3 kW

	POPULATION	AREA (sq km)
within Noise Limited Contour	5460483	6625.8
not affected by terrain losses	4654772	6107.5
lost to NTSC IX	2599300	759.8
lost to additional IX by ATV	34194	51.0
lost to ATV IX only	2169744	645.9
lost to all IX	2633494	810.8

Potential Interfering Stations Included in above Scenario 9

12N CA LOS ANGELES	BDISTVL	20090630AHD	APP
12N CA PALM SPRINGS	BLTVL	20011030AAD	LIC
12N CA SAN BERNARDINO	BMPTVL	20110121ABZ	CP

12N CA TEMECULA	BLTTV	20040219ACC	LIC
11A CA LOS ANGELES	BPCDT	20080319ACL	CP
13A CA LOS ANGELES	BMPCDT	20080319ACJ	CP
12A CA LOS ANGELES	BPDVL	20110314ACR	CP

Percent new IX = 1.5066%

Result key: 44
 Scenario 10 Affected station 28
 Before Analysis

Results for: 12A CA PALMDALE USERRECORD01 APP

HAAT 917.0 m, ATV ERP 0.3 kW	POPULATION	AREA (sq km)
within Noise Limited Contour	5460483	6625.8
not affected by terrain losses	4654772	6107.5
lost to NTSC IX	373235	137.4
lost to additional IX by ATV	771285	342.6
lost to ATV IX only	1139140	452.5
lost to all IX	1144520	480.0

Potential Interfering Stations Included in above Scenario 10

12N CA PALM SPRINGS	BLTVL	20011030AAD	LIC
12N CA SAN BERNARDINO	BMPTVL	20110121ABZ	CP
12N CA TEMECULA	BLTTV	20040219ACC	LIC
11A CA LOS ANGELES	BMPCDT	20100506AFJ	CP
12A CA LOS ANGELES	BDISDVL	20101026AAA	APP
13A CA LOS ANGELES	BMPCDT	20080319ACJ	CP

After Analysis

Results for: 12A CA PALMDALE USERRECORD01 APP

HAAT 917.0 m, ATV ERP 0.3 kW	POPULATION	AREA (sq km)
within Noise Limited Contour	5460483	6625.8
not affected by terrain losses	4654772	6107.5
lost to NTSC IX	373235	137.4
lost to additional IX by ATV	2062011	642.9
lost to ATV IX only	2429866	753.9
lost to all IX	2435246	780.4

Potential Interfering Stations Included in above Scenario 10

12N CA PALM SPRINGS	BLTVL	20011030AAD	LIC
12N CA SAN BERNARDINO	BMPTVL	20110121ABZ	CP
12N CA TEMECULA	BLTTV	20040219ACC	LIC
11A CA LOS ANGELES	BMPCDT	20100506AFJ	CP
12A CA LOS ANGELES	BDISDVL	20101026AAA	APP
13A CA LOS ANGELES	BMPCDT	20080319ACJ	CP
12A CA LOS ANGELES	BPDVL	20110314ACR	CP

The following station failed the de minimis interference criteria.
 12D CA LOS ANGELES BPDVL 20110314ACR
 ERP 0.30 kW HAAT 918.0 m RCAMSL 1507.0 m
 Antenna CDB 00000000104362

Due to interference to the following station and scenario: 10
 12D CA PALMDALE USERRECORD01
 ERP 0.30 kW HAAT 917.0 m RCAMSL 2600.0 m
 Antenna usr K67AO_12FLASH

Percent new interference from proposal: 36.7702 to USERRECORD01

Result key: 45
 Scenario 11 Affected station 28
 Before Analysis

Results for: 12A CA PALMDALE USERRECORD01 APP
 HAAT 917.0 m, ATV ERP 0.3 kW

	POPULATION	AREA (sq km)
within Noise Limited Contour	5460483	6625.8
not affected by terrain losses	4654772	6107.5
lost to NTSC IX	373235	137.4
lost to additional IX by ATV	218869	136.4
lost to ATV IX only	586724	242.5
lost to all IX	592104	273.9

Potential Interfering Stations Included in above Scenario 11

12N CA PALM SPRINGS	BLTVL	20011030AAD	LIC
12N CA SAN BERNARDINO	BMPTVL	20110121ABZ	CP
12N CA TEMECULA	BLTTV	20040219ACC	LIC
11A CA LOS ANGELES	BMPCDT	20100506AFJ	CP
13A CA LOS ANGELES	BMPCDT	20080319ACJ	CP

After Analysis

Results for: 12A CA PALMDALE USERRECORD01 APP
 HAAT 917.0 m, ATV ERP 0.3 kW

	POPULATION	AREA (sq km)
within Noise Limited Contour	5460483	6625.8
not affected by terrain losses	4654772	6107.5
lost to NTSC IX	373235	137.4
lost to additional IX by ATV	1801889	536.9
lost to ATV IX only	2169744	644.9
lost to all IX	2175124	674.4

Potential Interfering Stations Included in above Scenario 11

12N CA PALM SPRINGS	BLTVL	20011030AAD	LIC
12N CA SAN BERNARDINO	BMPTVL	20110121ABZ	CP
12N CA TEMECULA	BLTTV	20040219ACC	LIC
11A CA LOS ANGELES	BMPCDT	20100506AFJ	CP
13A CA LOS ANGELES	BMPCDT	20080319ACJ	CP
12A CA LOS ANGELES	BPDVL	20110314ACR	CP

The following station failed the de minimis interference criteria.
 12D CA LOS ANGELES BPDVL 20110314ACR
 ERP 0.30 kW HAAT 918.0 m RCAMSL 1507.0 m
 Antenna CDB 0000000104362

Due to interference to the following station and scenario: 11

12D CA PALMDALE USERRECORD01
ERP 0.30 kW HAAT 917.0 m RCAMSL 2600.0 m
Antenna usr K67AO_12FLASH

Percent new interference from proposal: 38.9650 to USERRECORD01

Result key: 46
Scenario 12 Affected station 28
Before Analysis

Results for: 12A CA PALMDALE USERRECORD01 APP
HAAT 917.0 m, ATV ERP 0.3 kW

	POPULATION	AREA (sq km)
within Noise Limited Contour	5460483	6625.8
not affected by terrain losses	4654772	6107.5
lost to NTSC IX	373235	137.4
lost to additional IX by ATV	771285	342.6
lost to ATV IX only	1139140	453.5
lost to all IX	1144520	480.0

Potential Interfering Stations Included in above Scenario 12

12N CA PALM SPRINGS	BLTVL	20011030AAD	LIC
12N CA SAN BERNARDINO	BMPTVL	20110121ABZ	CP
12N CA TEMECULA	BLTTV	20040219ACC	LIC
11A CA LOS ANGELES	BMPCDT	20080616AAK	CP
12A CA LOS ANGELES	BDISDVL	20101026AAA	APP
13A CA LOS ANGELES	BMPCDT	20080319ACJ	CP

After Analysis

Results for: 12A CA PALMDALE USERRECORD01 APP
HAAT 917.0 m, ATV ERP 0.3 kW

	POPULATION	AREA (sq km)
within Noise Limited Contour	5460483	6625.8
not affected by terrain losses	4654772	6107.5
lost to NTSC IX	373235	137.4
lost to additional IX by ATV	2062011	642.9
lost to ATV IX only	2429866	754.8
lost to all IX	2435246	780.4

Potential Interfering Stations Included in above Scenario 12

12N CA PALM SPRINGS	BLTVL	20011030AAD	LIC
12N CA SAN BERNARDINO	BMPTVL	20110121ABZ	CP
12N CA TEMECULA	BLTTV	20040219ACC	LIC
11A CA LOS ANGELES	BMPCDT	20080616AAK	CP
12A CA LOS ANGELES	BDISDVL	20101026AAA	APP
13A CA LOS ANGELES	BMPCDT	20080319ACJ	CP
12A CA LOS ANGELES	BPDVL	20110314ACR	CP

The following station failed the de minimis interference criteria.
12D CA LOS ANGELES BPDVL 20110314ACR
ERP 0.30 kW HAAT 918.0 m RCAMSL 1507.0 m
Antenna CDB 00000000104362

Due to interference to the following station and scenario: 12
12D CA PALMDALE USERRECORD01
ERP 0.30 kW HAAT 917.0 m RCAMSL 2600.0 m
Antenna usr K67AO_12FLASH

Percent new interference from proposal: 36.7702 to USERRECORD01

Result key: 47
Scenario 13 Affected station 28
Before Analysis

Results for: 12A CA PALMDALE USERRECORD01 APP

HAAT 917.0 m, ATV ERP 0.3 kW

	POPULATION	AREA (sq km)
within Noise Limited Contour	5460483	6625.8
not affected by terrain losses	4654772	6107.5
lost to NTSC IX	373235	137.4
lost to additional IX by ATV	218869	136.4
lost to ATV IX only	586724	243.4
lost to all IX	592104	273.9

Potential Interfering Stations Included in above Scenario 13

12N CA PALM SPRINGS	BLTVL	20011030AAD	LIC
12N CA SAN BERNARDINO	BMPTVL	20110121ABZ	CP
12N CA TEMECULA	BLTTV	20040219ACC	LIC
11A CA LOS ANGELES	BMPCDT	20080616AAK	CP
13A CA LOS ANGELES	BMPCDT	20080319ACJ	CP

After Analysis

Results for: 12A CA PALMDALE USERRECORD01 APP

HAAT 917.0 m, ATV ERP 0.3 kW

	POPULATION	AREA (sq km)
within Noise Limited Contour	5460483	6625.8
not affected by terrain losses	4654772	6107.5
lost to NTSC IX	373235	137.4
lost to additional IX by ATV	1801889	536.9
lost to ATV IX only	2169744	645.9
lost to all IX	2175124	674.4

Potential Interfering Stations Included in above Scenario 13

12N CA PALM SPRINGS	BLTVL	20011030AAD	LIC
12N CA SAN BERNARDINO	BMPTVL	20110121ABZ	CP
12N CA TEMECULA	BLTTV	20040219ACC	LIC
11A CA LOS ANGELES	BMPCDT	20080616AAK	CP
13A CA LOS ANGELES	BMPCDT	20080319ACJ	CP
12A CA LOS ANGELES	BPDVL	20110314ACR	CP

The following station failed the de minimis interference criteria.
12D CA LOS ANGELES BPDVL 20110314ACR
ERP 0.30 kW HAAT 918.0 m RCAMSL 1507.0 m
Antenna CDB 00000000104362

Due to interference to the following station and scenario: 13

12D CA PALMDALE USERRECORD01
ERP 0.30 kW HAAT 917.0 m RCAMSL 2600.0 m
Antenna usr K67AO_12FLASH

Percent new interference from proposal: 38.9650 to USERRECORD01

Result key: 48
Scenario 14 Affected station 28
Before Analysis

Results for: 12A CA PALMDALE USERRECORD01 APP
HAAT 917.0 m, ATV ERP 0.3 kW

	POPULATION	AREA (sq km)
within Noise Limited Contour	5460483	6625.8
not affected by terrain losses	4654772	6107.5
lost to NTSC IX	373235	137.4
lost to additional IX by ATV	771285	342.6
lost to ATV IX only	1139140	453.5
lost to all IX	1144520	480.0

Potential Interfering Stations Included in above Scenario 14

12N CA PALM SPRINGS	BLTVL	20011030AAD	LIC
12N CA SAN BERNARDINO	BMPTVL	20110121ABZ	CP
12N CA TEMECULA	BLTTV	20040219ACC	LIC
11A CA LOS ANGELES	BPCDT	20080319ACL	CP
12A CA LOS ANGELES	BDISDVL	20101026AAA	APP
13A CA LOS ANGELES	BMPCDT	20080319ACJ	CP

After Analysis

Results for: 12A CA PALMDALE USERRECORD01 APP
HAAT 917.0 m, ATV ERP 0.3 kW

	POPULATION	AREA (sq km)
within Noise Limited Contour	5460483	6625.8
not affected by terrain losses	4654772	6107.5
lost to NTSC IX	373235	137.4
lost to additional IX by ATV	2062011	642.9
lost to ATV IX only	2429866	754.8
lost to all IX	2435246	780.4

Potential Interfering Stations Included in above Scenario 14

12N CA PALM SPRINGS	BLTVL	20011030AAD	LIC
12N CA SAN BERNARDINO	BMPTVL	20110121ABZ	CP
12N CA TEMECULA	BLTTV	20040219ACC	LIC
11A CA LOS ANGELES	BPCDT	20080319ACL	CP
12A CA LOS ANGELES	BDISDVL	20101026AAA	APP
13A CA LOS ANGELES	BMPCDT	20080319ACJ	CP
12A CA LOS ANGELES	BPDVL	20110314ACR	CP

The following station failed the de minimis interference criteria.

12D CA LOS ANGELES BPDVL 20110314ACR
ERP 0.30 kW HAAT 918.0 m RCAMSL 1507.0 m
Antenna CDB 00000000104362

Due to interference to the following station and scenario: 14
 12D CA PALMDALE USERRECORD01
 ERP 0.30 kW HAAT 917.0 m RCAMSL 2600.0 m
 Antenna usr K67AO_12FLASH

Percent new interference from proposal: 36.7702 to USERRECORD01

Result key: 49
 Scenario 15 Affected station 28
 Before Analysis

Results for: 12A CA PALMDALE USERRECORD01 APP

HAAT 917.0 m, ATV ERP 0.3 kW

	POPULATION	AREA (sq km)
within Noise Limited Contour	5460483	6625.8
not affected by terrain losses	4654772	6107.5
lost to NTSC IX	373235	137.4
lost to additional IX by ATV	218869	136.4
lost to ATV IX only	586724	243.4
lost to all IX	592104	273.9

Potential Interfering Stations Included in above Scenario 15

12N CA PALM SPRINGS	BLTVL	20011030AAD	LIC
12N CA SAN BERNARDINO	BMPTVL	20110121ABZ	CP
12N CA TEMECULA	BLTTV	20040219ACC	LIC
11A CA LOS ANGELES	BPCDT	20080319ACL	CP
13A CA LOS ANGELES	BMPCDT	20080319ACJ	CP

After Analysis

Results for: 12A CA PALMDALE USERRECORD01 APP

HAAT 917.0 m, ATV ERP 0.3 kW

	POPULATION	AREA (sq km)
within Noise Limited Contour	5460483	6625.8
not affected by terrain losses	4654772	6107.5
lost to NTSC IX	373235	137.4
lost to additional IX by ATV	1801889	536.9
lost to ATV IX only	2169744	645.9
lost to all IX	2175124	674.4

Potential Interfering Stations Included in above Scenario 15

12N CA PALM SPRINGS	BLTVL	20011030AAD	LIC
12N CA SAN BERNARDINO	BMPTVL	20110121ABZ	CP
12N CA TEMECULA	BLTTV	20040219ACC	LIC
11A CA LOS ANGELES	BPCDT	20080319ACL	CP
13A CA LOS ANGELES	BMPCDT	20080319ACJ	CP
12A CA LOS ANGELES	BPDVL	20110314ACR	CP

The following station failed the de minimis interference criteria.

12D CA LOS ANGELES BPDVL 20110314ACR
 ERP 0.30 kW HAAT 918.0 m RCAMSL 1507.0 m
 Antenna CDB 00000000104362

Due to interference to the following station and scenario: 15

12D CA PALMDALE USERRECORD01
ERP 0.30 kW HAAT 917.0 m RCAMSL 2600.0 m
Antenna usr K67AO_12FLASH

Percent new interference from proposal: 38.9650 to USERRECORD01

Worst case new IX 38.9650% Scenario 1

#####

FINISHED FINISHED FINISHED FINISHED FINISHED FINISHED

CERTIFICATE OF SERVICE

I, Sherry L. Schunemann, a secretary in the law office of Smithwick & Belendiuk, P.C., do hereby certify that on this 21st day of April, 2011, a copy of the foregoing "Petition for Reconsideration" was either hand delivered (as noted with an asterisk), or sent by First Class U.S. Mail, postage prepaid, to the following:

Mr. Hossein Hashemzadeh*
Assistant Chief, Video Division
Media Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Mr. Randy Weiss
EICB-TV West, LLC
406 Copeland Drive
Cedar Hill, TX 75104


Sherry L. Schunemann

COPY SENT TO REF. ROOM

DU 5-10-11

DUPLICATE COPY

FILED/ACCEPTED

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

MAY - 3 2011

Federal Communications Commission
Office of the Secretary

In the Matter of)	
)	
EICB-TV WEST LLC	)	File No. BPDVL-20110314ACR
	)	Facility ID No. 125499
For Construction Permit for Low Power)	
Television Station KTBV-LD, Los Angeles, California)	

To: Office of the Secretary
Attention: Associate Chief, Video Division, Media Bureau

CONSENT MOTION FOR EXTENSION OF TIME

EICB-TV West LLC ("EICB"), by its counsel, respectfully requests a 12-day extension of time from the current due date of May 4, 2011, to and including May 16, 2011, to respond to the Petition for Reconsideration ("Petition") that Roy William Mayhugh ("Mayhugh") filed regarding the above-referenced application on April 21, 2011. In support of this motion, EICB respectfully states as follows:

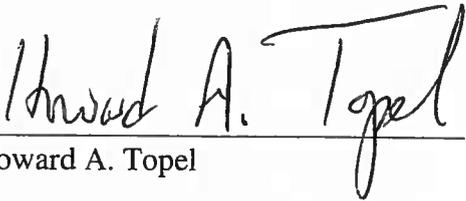
The undersigned counsel has been retained to represent EICB in preparing EICB's response to the Petition. The additional time requested is needed in order for counsel to review the record of the proceedings leading up to the Petition, which involved other parties and other captioned applications, and to prepare EICB's response.

Counsel for Mayhugh has graciously authorized the undersigned to state that Mayhugh interposes no objection to the grant of this Motion.

Accordingly, for the foregoing reasons, EICB respectfully requests that the date for filing its response to the Petition be extended to and including May 16, 2011.

Respectfully submitted,

EICB-TV WEST, LLC

By 
Howard A. Topel

Lerman Senter PLLC
Suite 600
2000 K Street, NW
Washington, DC 20006
202 416 1098

May 3, 2011

Its Attorneys

CERTIFICATE OF SERVICE

I, Sharon Krantzman, hereby certify that on this 3rd day of May, 2011, a copy of the foregoing Petition for Reconsideration was sent by first-class, postage prepaid mail, to the following:

*Mr. Hossein Hashemzadeh
Assistant Chief, Video Division
Media Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Gary S. Smithwick, Esquire
Suite 301
5028 Wisconsin Avenue, NW
Washington, DC 20016


Sharon Krantzman

* By Hand Delivery



Application Search Details

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Application Search Details

File Number: BLDVL-20110422ABV
Call Sign: KTBV-LD
Facility Id: 125499
FRN: 0015474893
Applicant Name: EICB-TV WEST, LLC
Frequency:
Channel: 12
Community of License: LOS ANGELES, CA
Application Type: LICENSE TO COVER
Status: APPLICATION GRANT RESCINDED
Status Date: 05/02/2011
Expiration Date:
Tolling Code:
Application Service: LD
Disposed Date:
Accepted Date: 04/25/2011
Last Public Notice: 05/06/2011
Last Report Number: 27481
Authorization [Authorization not available](#)
Engineering Data [View Engineering Data](#)
Legal Actions [View Legal Actions](#)
PN Comment [Public Notice Comment](#)
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Please send comments via standard mail to the Federal Communications Commission, Consumer and Governmental Affairs Bureau, 445 12th Street, S.W., Washington, D.C., 20554. Questions can also be answered by calling the FCC's National Call Center, toll free, at 1-888-Call FCC (1-888-225-5322).

Federal Communications Commission
 445 12th Street SW
 Washington, DC 20554
[More FCC Contact Information...](#)

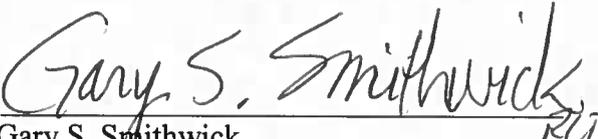
Phone: 1-888-CALL-FCC (1-888-225-5322)
 TTY: 1-888-TELL-FCC (1-888-835-5322)
 Fax: 1-866-418-0232
 E-mail: fccinfo@fcc.gov

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For good cause shown, Mayhugh requests an extension of time to file a reply to EICB's
Opposition by **June 27, 2011**.

Respectfully submitted,

ROY WILLIAM MAYHUGH

By: 
Gary S. Smithwick
His Attorney

Smithwick & Belendiuk, P.C.
5028 Wisconsin Avenue, N.W.
Suite 301
Washington, DC. 20016
(202) 363-4560

June 10, 2011