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September 5, 2013

Francisco Montero
Fletcher, Heald & Hildreth, P.L.C.
1300 North 17th Street, 11th Floor
Arlington, Virginia 22209-3801

Re: WLUZ (FM), Levittown, PR
La Gigante Siembra
Facility Identification Number: 11520
Special Temporary Authority
BSTA-20130904ACH
Construction permit application
BPED-20130903AAZ

Dear Counsel:

On September 3, 2013, La Gigante Siembra, licensee of WLUZ (FM), filed a construction permit application seeking a change in transmitter site, an increase in power, and the use of a directional antenna. This was followed on September 4 by an STA request seeking authority to use the same facilities immediately under Special Temporary Authority (STA). These filings were occasioned by notice given to the licensee on August 28, that WLUZ must vacate its licensed transmitter site within 15 days. Prompt processing is needed for the station to maintain service.

The Special Temporary Authority request. STA requests which involve a change in transmitter site must include four critical elements: (1) Loss of the licensed site must be beyond the licensee's control; (2) STA facilities must continue to provide service¹ to the licensed community; (3) STA facilities must maintain, as closely as practicable, the licensed service area² without extending it; (4) STA facilities cannot involve the construction of towers intended for permanent use by the station requesting the STA. In the present instance, the increased power proposed by the licensee, coupled with the 18.9 km site move, causes the proposed 60 dBu contour to extend far beyond the presently licensed 60 dBu contour in most directions (except for a small area to the east of the licensed transmitter site). It is not possible, at the transmitter site proposed, to keep the STA service area within the licensed service area. Further, as an STA, the proposal suffers from prohibited contour overlap, as described in the next section, and so is not acceptable. Consequently, no STA can be authorized.

¹ For noncommercial educational FM - 1.0 mV/m (60 dBu).

² For FM - 1.0 mV/m (60 dBu) contour.

The construction permit application. As a construction permit application, the proposal also suffers from fatal deficiencies. We find that the applicant used the wrong protected and service contour values in conducting its analysis. Under Section 73.509, the protected service contour for noncommercial educational stations in the reserved portion of the FM band (Channels 201-220) is the 60 dBu F(50,50) contour, while the F(50,10) interfering contours are the 40 dBu (cochannel), 54 dBu (first-adjacent channel), and the 100 dBu (second and third adjacent channels). Using the correct contours, we find that prohibited contour overlap will exist between the proposed 60 dBu service contour for WLUZ and the 40 dBu interfering contour of the pending application for a new station at Viques, application file no. BNPED-20071019AZH (see attachment).³ Therefore the proposal is unacceptable for filing.

Similarly, in the applicant's waiver request for second-adjacent channel prohibited contour overlap with WCRP, the applicant incorrectly uses the 94 dBu contour instead of the 100 dBu contour. This understates both the area and the population within the existing and proposed second-adjacent channel interfering contours.

Conclusion. The STA request BSTA-20130904ACH is unacceptable for filing and IS DISMISSED. Construction permit application BPED-20130903AAZ, being also unacceptable for filing, IS DISMISSED.

Given the circumstances, we are willing to expedite consideration of a new minor change application that corrects the listed deficiencies.

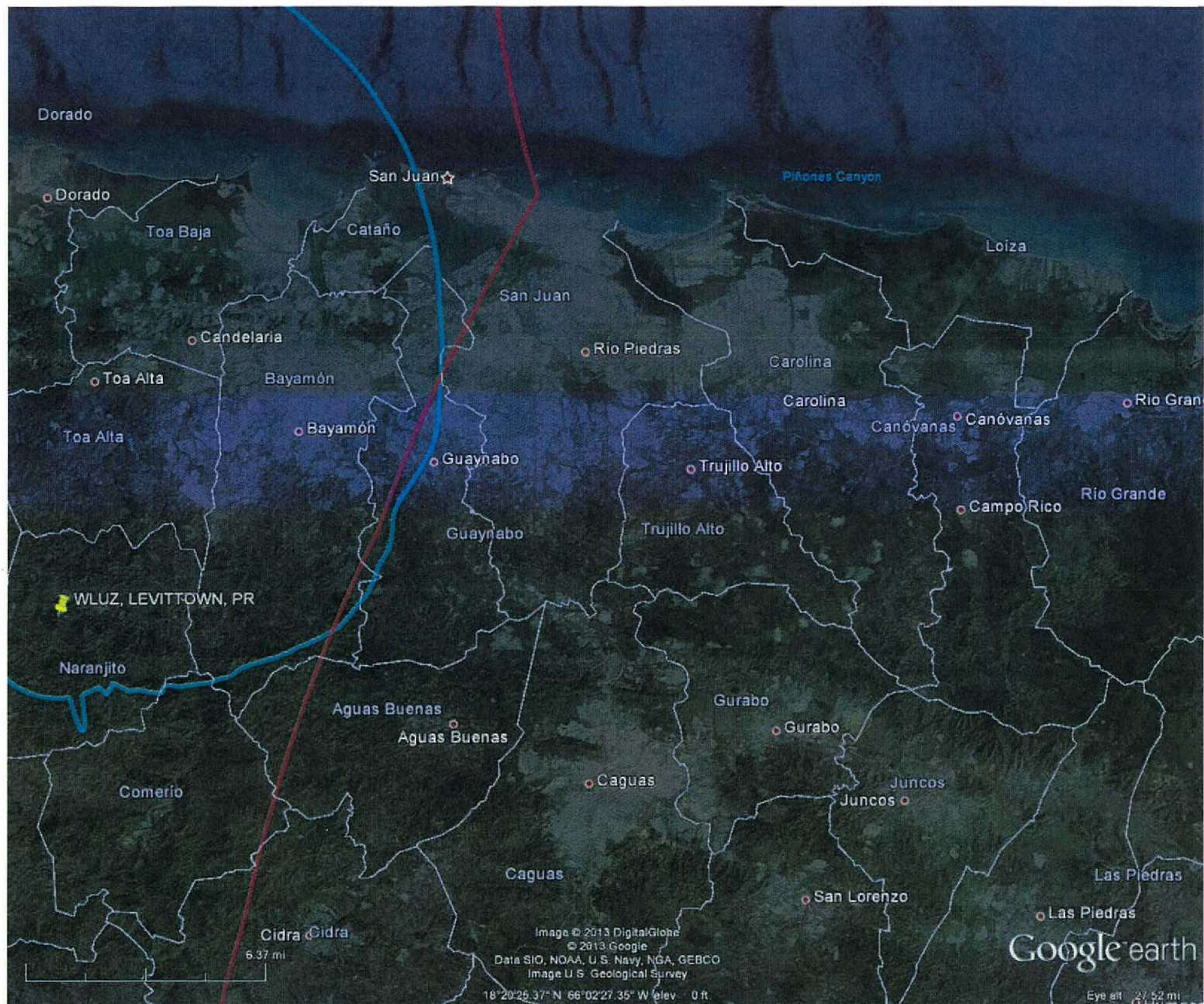
Sincerely,



Dale Bickel
Senior Engineer
Audio Division
Media Bureau

cc: La Gigante Siembra

³ It appears that the applicant relied upon the alternate contours for Puerto Rico and the Virgin Islands in Section 73.215(a)(4), however, those contours are only applicable to FM commercial stations, and those relatively few FM noncommercial educational stations on Channels 218, 219, and 220 that are protecting commercial FM stations. All noncommercial educational stations on Channels 201 to 220 remain governed by the provisions of Section 73.509, NOT Section 73.215.



40 dBu interfering contour
from BNED-20071019 AZH