

FEDERAL COMMUNICATIONS COMMISSION
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AUDIO DIVISION
TECHNICAL PROCESSING GROUP
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MAR 24 2015

Ted W. Austin, Jr.
P. O. Box 17
St. Anthony, ID 83445

In re: K259CL, Victor, ID
BMPFT-20150203ABY
Facility ID # 146320

Dear Applicant:

This refers to the above-captioned application for K259CL, Victor, Idaho. Based on the below, we will dismiss the application BMPFT-20150203ABY.

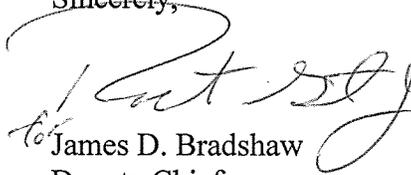
An engineering study has revealed the application is a major change application pursuant to 47 C.F.R. § 74.1233(a)(1). Specifically, the Section states that “a major change is any change in frequency (output channel) except changes to first, second or third adjacent channels, or intermediate frequency channels”. The unlicensed/unbuilt facility K259CL is authorized to broadcast on channel 259. The application proposes channel 243 requesting a waiver of Section 74.1233(a)(1) based on displacement since KUPY(FM) commenced operation on channel 260.

We have allowed FM translators to waive Section 74.1233(a)(1) only when “displacement” occurs. Displacement occurs when a full service commences operation and there is interference predicted or caused by an existing translator. Since the proposed translator is an unbuilt/unlicensed facility, the proposed facility is not being displaced therefore Section 74.1233(a)(1) will not be waived.

When an applicant seeks waiver of the rules, it must plead with particularity the facts and circumstances which warrant such action. *Columbia Communications Corp. v. FCC*, 832 F.2d 139, 192 (D.C. Cir. 1987), quoting *Rio Grande Family Radio Fellowship, Inc. v. FCC*, 406 F. 2d 644, 666 (D.C. Cir 1968 (per curiam)). We have afforded Ivan Rene Moore’s waiver request the “hard look” called for under *WAIT Radio v. FCC*, 418 F. 2d 1153 (D.C. Cir. 1969), but find that the facts and circumstances presented are not sufficient to warrant waiver of 47 CFR Section 74.1233.

Accordingly, the request for waiver of 74.1233(a)(1), IS HEREBY DENIED, and the Application BMPFT-20150203ABY IS HEREBY DISMISSED. This action is taken pursuant to 47 C.F.R. § 0.283.

Sincerely,

A handwritten signature in black ink, appearing to read "James D. Bradshaw", written over a large, stylized flourish that extends to the left and right.

to James D. Bradshaw
Deputy Chief
Audio Division
Media Bureau