



**STATEMENT OF WILLIAM J. GETZ
IN SUPPORT OF A PETITION FOR RECONSIDERATION
AND AN AMENDMENT TO AN
APPLICATION FOR CONSTRUCTION PERMIT
FOR A NEW FM BOOSTER STATION
TO SERVE SANTA BARBARA, CALIFORNIA
FCC FILE NO. BNPFTB-20040603ACC
CH 252B1, 0.55 KW (H)(DA-MAX), 247 M HAAT**

I am a Radio Engineer, an employee in the firm of Carl T. Jones Corporation, with offices located in Springfield, Virginia. My education and experience are a matter of record with the Federal Communications Commission.

This office has been authorized by ATEP Radio, Inc., licensee of KDAR(FM), Oxnard, California, to prepare this amendment to the above-referenced Application for Construction Permit seeking authority to construct a new FM booster station to serve Santa Barbara, California. Radio station KDAR(FM) is presently licensed to operate on Channel 252B1 pursuant to FCC License BLH-970528KA.

By letter dated December 20, 2004, the Audio Division dismissed the above-referenced application because the proposed booster's 57 dBu contour extended beyond the KDAR(FM) main 57 dBu contour on Santa Cruz Island in the Pacific Ocean. This amendment, filed in connection with a Petition for Reconsideration and a request for reinstatement *nunc pro tunc*, reduces the booster's maximum Effective Radiated Power (ERP) such that the booster's 57 dBu contour does not reach Santa Cruz Island.

The proposed booster station will provide fill-in service to an area which is terrain shadowed from the main KDAR(FM) facility. In accordance with Section 74.1203(c) of the FCC Rules, the proposed booster station will not disrupt the existing KDAR(FM) service or cause interference within Oxnard, California, the KDAR(FM) community of license.

The FM booster facility proposed herein was designed to limit its signal toward the KDAR(FM) main facility, limit its signal toward Oxnard, California, and ensure that the booster's 57 dBu (0.7 mV/m) contour is wholly within the presently licensed KDAR(FM) 57 dBu contour except, as described herein, over water. In the event this proposed booster's 57 dBu contour extension requires a waiver of Section 74.1235, a waiver is respectfully requested.

PERMISSIBLE POWER LEVEL

The booster's primary station is KDAR(FM), a full-service, Class B1 FM facility. Pursuant to Section 74.1235(c) of the FCC Rules, the proposed booster station is permitted to operate with an Effective Radiated Power (ERP) up to "20% of the maximum allowable ERP for the primary station's class". The maximum allowable ERP for a Class B1 facility is 25 kW. Accordingly, a booster station for a Class B1 facility is permitted to operate with an ERP up to 5 kW. The booster station proposed herein requests a maximum ERP of only 0.55 kW (DA-MAX).

TECHNICAL FACILITY

The applicant proposes herein to mount an off-the-shelf Scala, horizontally polarized, CL-FM antenna, mounted on a wooden support pole such that the antenna is located 9 meters above ground level. The antenna will be oriented at 184 degrees true. The Scala CL-FM antenna proposed herein is capable of an antenna input power of 1 kW and can easily achieve the proposed ERP. The CDBS standard pattern data for the proposed antenna is as follows:

Antenna Make:	SCA
Antenna Model:	CL-FM
Antenna ID:	16150
Standard Pattern:	YES
Antenna Orientation:	184 degrees

PREDICTED COVERAGE CONTOUR

The predicted 57 dBu (0.7 mV/m) coverage contours of the proposed booster facility and the associated main facility are shown on Exhibit 1. The service contours were calculated in accordance with the method described in Section 73.313 of the FCC Rules utilizing the appropriate F(50,50) propagation curves, effective radiated power, and antenna height above average terrain as determined for each profile radial at one degree intervals.

As required by Section 74.1235 of the FCC rules, the booster's predicted 57 dBu field strength contour is wholly within the 57 dBu protected service contour of the primary station except over water.

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FCC Staff, on delegated authority, routinely grants waivers of FCC protection requirements when the proposed overlap area or contour extension would lie entirely over water or a foreign country. Precedent has been clearly established, as evidenced in the following construction permit applications:

(1) Channel 233B: WKLQ(FM), Holland, Michigan, short-spaced to WKTI(FM), Milwaukee, Wisconsin. Power increase authorized, although new overlap would result to WKTI over Lake Michigan [See WKLQ(FM) (formerly WJBL) Application for Construction Permit, FCC File No. BPH-830802AB, granted 11/29/83].

(2) Channel 258B: WOWF(FM), Detroit, Michigan, short-spaced to WGAR-FM (formerly WKSX), Cleveland, Ohio. Power increase authorized, although new overlap would result to WGAR-FM over Lake Erie [See WOWF(FM) (formerly WDFX and WABX) Application for Construction Permit, FCC File No. BPH-830719AA, granted 12/12/83, waiver continued through subsequent WOWF(FM) modifications].

The two cases cited above are not the only instances where FCC Staff has waived protection requirements/contour extension over water. This is a routine practice, although specific case cites (similar to the two shown above) are difficult to locate. This has been confirmed by the Commission in State University of New York, 56 FCC 2d 433 (1975) (SUNY), where an application for a new noncommercial educational FM station was opposed by two stations which would receive interference from the proposed operation:

"Lest there be any confusion about our policy of waiving FM interference that occurs entirely over water, we wish to explain that we have allowed interference to occur over bodies of water in the past on the basis that very few listeners, if any, would be affected. Few of these cases, however, are to be found in the law digests, since our processing staff, acting under our instructions have routinely ignored interference over water and proposals involving this type of interference have been granted by delegated authority. Nevertheless, we affirm our statements in The Board of Trustees of the Leland Stanford Junior University (KLSU), 25 RR 2d 6

(1972) and Corporation for Community Radio, 25 RR 2d 8 (1972) that interference between broadcast stations over water is not considered objectionable."

The instant proposal involves a proposed booster station extending its proposed 57 dBu contour slightly beyond the main KDAR(FM) 57 dBu contour over the Pacific Ocean, not toward any broadcast station. Prohibited overlap and/or interference is not an issue. If the Commission routinely allows *interference* to occur over water, it should follow that the booster's slight extension of the KDAR(FM) 57 dBu contour is also a permissible change. Accordingly, it is submitted that if a waiver of 73.1235 is necessary, it would be consistent with established FCC policy and in the public interest.

FIRST-ADJACENT CHANNEL CONSIDERATIONS

Pursuant to Section 74.1204(i), the proposed booster station is not permitted to cause prohibited overlap to any first-adjacent channel station. The only first-adjacent channel station of concern is KKJG(FM), San Luis Obispo, CA, (Channel 251B). As shown on Exhibit 2, the proposed booster station's 48 dBu F(50,10) interfering contour does not overlap the KKJG(FM) 54 dBu protected contour. Accordingly, Exhibit 2 demonstrates that the KKJG(FM) signal exceeds the signal of the proposed booster station by 6 dB at all points within the KKJG(FM) protected contour as required by Section 74.1204(i) of the FCC Rules.

FAA NOTIFICATION & TOWER REGISTRATION

The applicant proposes to add a new 9.1 meter (30 foot) wooden pole in the remote mountaintop area where there are already a number of these support structures in use (wooden poles are the only type of support structure permitted on the mountain). Because the pole is less than 200 feet above ground level and satisfies the slope test to nearby airports, FAA notification and FCC tower registration is not required.

RADIOFREQUENCY IMPACT

The proposed booster station will be located on Gibraltar Peak, a multi-user, mountaintop communications site. There are 7 licensed full service FM stations, 10 TV translator/LPTV licenses and 4 authorized FM translators within 1 kilometer of the proposed booster station. The site is posted and fenced with a locked gate. It is accessible only to authorized personnel.

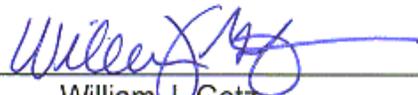
This amended proposal produces a predicted power density at 2 meters above ground level which represents 37.5% of the FCC's occupational guideline value. In the event workers require access to the proposed booster antenna or the area immediately surrounding the proposed booster antenna, the Applicant is committed to reducing power or ceasing operation to ensure the safety of on-site personnel. The Applicant will cooperate and coordinate with other site users as necessary to further ensure the safety of workers.

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SUMMARY

It is submitted that the proposal described herein complies with the Rules and Regulations of the Federal Communications Commission. This statement, FCC Form 349, Section III, and the attached exhibits were prepared by me or under my direct supervision and are believed to be true and correct.

DATED: January 14, 2005



William J. Getz