

FEDERAL COMMUNICATIONS COMMISSION

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JUL 19 2013

McKay International Group, LTD.
27200 Rancho San Carlos Road
Carmel, CA 93923

In re: K271BP, Carmel, CA
BPFT-20121227ADZ
Facility ID No. 151853

Dear Applicant:

This letter refers to the above-captioned application for K271BP, Carmel, CA. For the reasons set forth below, the waiver request to move to a non-adjacent channel is denied and the application is dismissed.

An engineering study of the application reveals that it is in violation of 47 C.F.R. § 74.1233(a)(1). The application requests waiver of Section 74.1233(a)(1) based on interference due to atmospheric ducting with co-channel station KUZX(FM), San Francisco, CA. KUZX has been operating with its current facilities since September 8, 1995 (BLH-19940914KA).¹

K271BP was granted construction permit BPFT-20100127AGO on February 1, 2010 to move to channel 271, making the facility co-channel to KUZX. License BLFT-20100201AHD was granted to cover construction permit BPFT-20100127AGO on February 19, 2010. K271BP requests to move to a non-adjacent channel to alleviate the interference with station KUZX based on "displacement".

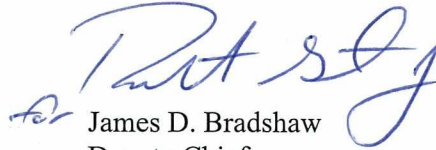
Displacement is justified only when a full service FM station commences operation in the vicinity of a translator and there is interference predicted or caused by the translator to the authorized FM station. Since KUZX has not moved from its initial licensed site, displacement is not warranted in this case and Section 74.1233(a)(1) will not be waived to allow K271BP to move to a non-adjacent channel.

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 McKay International Group, LTD'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 C.F.R. Section 74.1233(a)(1).

¹ BMLH-20120530ALA, BMLH-20030711ACC, and BLH-19940914KA have identical operating parameters. Modification of license applications BMLH-20120530ALA and BMLH-20030711ACC were filed to correct the effective radiated power and to replace the antennas respectively. The protected contour of KUZX has not been modified from its original license BLH-19940914KA.

Accordingly, the request for waiver of 74.1233(a)(1), IS HEREBY DENIED, and the Application BPFT-20121227ADZ IS HEREBY DISMISSED. This action is taken pursuant to 47 C.F.R. § 0.283.

Sincerely,

A handwritten signature in blue ink, appearing to read "J. Bradshaw", is written over the typed name.

James D. Bradshaw
Deputy Chief
Audio Division
Media Bureau

cc: Keith Leitch