# Before the FEDERAL COMMUNICATIONS COMMISSION Washington, D.C. 20554

In re Application of	}	
Sainte 51, L.P. (KCSO-LP, Sacramento, California Facility ID No. 18998)	) File No	_
For a Construction Permit for Minor Changes	}	

To: Chief, Low Power Television Branch Video Services Division, Mass Media Bureau

## I. Petition for Waiver

Sainte 51, L. P. ("Sainte 51") hereby submits a request for waiver of Section 74.735(a)(2) of the Commission's Rules to allow Station KCSO-LP, Sacramento, California, to operate with an effective radiated power in excess of 150 kW, as indicated in the accompanying application for a construction permit for minor changes. Sainte 51 believes that such a grant is in the public interest, as the extra power is required to allow KCSO-LP to provide adequate service to its audience within the Sacramento area.

# II. Background

KCSO-LP provides valuable locally targeted service to the Hispanic community in Sacramento-Stockton-Modesto area. KCSO-LP's daily programming schedule includes locally produced 30 minute live newscasts, first run carriage of Telemundo programs, and an additional hour of live local programming.

Unfortunately, the signal produced under the 150 kW power limit at which KCSO-LP currently operates provides less than sufficient service to much of the target population. KCSO-LP is only the second Spanish language channel licensed to Sacramento, where the Hispanic population is over 87,000 people. See 2000 U.S. Census Report for Sacramento, California (attached as Exhibit 1). Furthermore, the Sacramento-Stockton-Modesto area, with nearly 178,000 Hispanic households, was ranked as the 14<sup>th</sup> largest U.S. Hispanic market in a 2001 study by Nielsen Media Research. See Exhibit 2. In light of these facts, Sainte 51 believes that it is in the public interest that it be allowed to increase power in order to provide that market with an adequate and truly competitive station, giving the Spanish speaking population of the Sacramento-Stockton-Modesto area a true viewing choice.

## III. Discussion

Waiver of 74.735(a)(2) is in the public interest because it would enable KCSO-LP to provide adequate service to its own community of license and become a competitive programming presence in the Sacramento-Stockton-Modesto market. Presently, signal reception is less than optimal in KCSO-LP's community of license, not even reaching it with a 74dBu contour. See Proposed Power Increase for KCSO-LP (attached to Engineering Exhibit as Exhibit 13A). In addition, it is important to note that KCSO-LP does not enjoy the benefits of the cable must-carry rules, and must pay for carriage on local cable systems (KCSO-LP, in fact, is only carried on cable in Modesto). Thus, KCSO-LP's over-the-air reception quality is critical in reaching its audience, most of which Sainte 51 does not believe to have cable TV service.

While the proposed modification will still not extend a 74 dBu contour to cover Sacramento completely, it will allow KCSO-LP to better serve its community of license, and in particular, its targeted Hispanic audience. In fact, it will increase its signal population coverage by 26%. See Engineering Exhibit, Exhibit 13A. The Hispanic community makes up 21.6% of the total Sacramento population, and ranks as the fourteenth largest U.S. Hispanic metropolitan area. See Exhibits 1 and 2. Though the Sacramento population percentage was established by the 2000 Census, it can be expected to grow quickly, as recent coverage of the rapidly rising Hispanic population indicates. Sacramento's Hispanic leaders, particularly, expect a boom in the number of people classifying themselves as Hispanic over the next few years, possibly even accounting for more than 30% of the population within the next 10 years.2 Yet, the television choices of Spanish-speaking viewers are very limited, with only one full power station available in addition to KCSO's low power signal. In contrast, there are at least 9 television stations serving English-speaking viewers available in the Sacramento community. See TV & Cable Factbook 2000, 153-161 and B25-B26 (2000 Ed.) In Sacramento alone, the disparity is clearthere is approximately one channel per 35,400 non-Spanish speaking viewers, yet almost 44,000 Hispanic viewers per Spanish language channel, or nearly 25% more broadcast stations percapita for non-Hispanics in the market. Though it does not have enough data to be certain, Sainte 51 posits that the disparity in the surrounding markets would be even greater, given the relatively rural nature and farm worker populations of the area. Thus, Sainte believes that this presents a strong showing that allowing KCSO-LP to improve its reception in the Sacramento-Stockton-Modesto area is in the public interest.

<sup>&</sup>lt;sup>1</sup> See "Census: Non-Hispanic whites now a minority in California," March 30, 2001 (available at http://www.cnn.com/2001/US/03/30/census.california.ap/index.html (attached as Exhibit 4).
<sup>2</sup> See "Leaders Emerge as Area Hispanic Population Increases," Gilka Romero (available at http://www.sacbee.com/ourtown/counties/sacramento2000/sacramento\_latino.html (attached as Exhibit 5)).

Importantly, the power increase will comply with all contour protection requirements and the Commission's de minimis interference requirements for LPTV stations. See 47 CFR §74.705 and Engineering Exhibit 13B.

In addition, Sainte 51 notes that it possesses many of the characteristics of a Class A licensee. In fact, it is relevant and important to note that KCSO-LP would have qualified easily for a Class A license, had it been in operation during the last open window for obtaining Class A licenses. Although it narrowly missed that window, KCSO-LP is clearly conforming to the programming content preconditions for Class A status and it will attempt to obtain that official recognition as soon as it is again permitted to file for it. Section 73.6001(b) requires Class A television broadcast stations to broadcast a minimum of 18 hours per day, while averaging at least three hours per week of locally produced programming each quarter. KCSO-LP broadcasts 24 hours a day, provides 4 hours of children's programming per week, and as described above, provides over 10.5 hours of locally produced programming a week.

Sainte 51 asks the Commission to take note of the Community Broadcasters Protection Act provisions governing the restrictions placed on Class A licensees. The Act instructed the Commission to enact rules that would allow Class A broadcasters to make modifications so long as no interference would be caused to specified protected analog and digital full power television stations and applications. See 47 U.S.C. §336(f)(1)(7). Sainte 51 respectfully suggests that the spirit of that legislation should be applied to the case of KCSO, particularly where, as here, there are substantial equities in favor of providing more robust video service to a demonstrably underserved population.

As noted above, the proposed change would cause no interference or contour protection problems with any other existing stations. No one will be harmed by the instant request. Sainte 51 urges the Commission to recognizes that it is not yet a Class A station only as result of a technicality of procedure, not a substantive deficiency in its status as a community broadcaster. Furthermore, Sainte 51 emphasizes that the Commission will conserve resources and serve the spirit of the Act by not rigidly applying the LPTV rules against KCSO-LP, but rather acting in conformance with the mandate of Congress and the spirit of its intent. As such, Sainte 51 respectfully requests that the Commission recognize that Congress intended that community-oriented stations such as KCSO-LP have maximum flexibility in serving their communities, and grant a waiver of the power limits so that KCSO-LP may provide optimal service to its Sacramento audiences.

# IV. Conclusion

The focus of this application is to improve service to an existing audience, rather than reaching out to other markets. As such, granting a waiver would carry great benefits for the Sacramento-Stockton-Modesto Spanish speaking community and no interference costs to the surrounding area. Accordingly, Sainte 51 requests that the Commission waive the requirements of §74.735(a)(2) and grant the accompanying application to increase the operating power of KCSO-LP.

Respectfully submitted,

Sainte 51, L.P.

By:

Gregg P. Skall Counsel for Sainte 51, L.P.

Pepper & Corazzini, L.L.P. 1776 K Street, N.W. Suite 200 Washington, D.C. 20006 (202) 296-0600

April 11, 2001

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# Basic Facts ▶ Quick Tables

Print / D

QT-PL. Race, Hispanic or Latino, and Age: 2000 Geographic Area: Sacramento city, California

NOTE: Data not adjusted based on the Accuracy and Coverage Evaluation. For information on confidentiality protection, sampling error, nonsampling error, and definitions see <a href="http://factfinder.census.gov/home/en/datanotes/expplu.html">http://factfinder.census.gov/home/en/datanotes/expplu.html</a>.

	All ages		18 years and o	ver
Total population  One race White Black or African American American Indian and Alaska Native Asian Native Hawaiian and Other Pacific Islander Some other race Two or more races	Number	Percent	Number	Percent
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Total manufation	407,018	100.0	295,728	100.0
	380,940	93.6	281,395	95.2
	196,549	48.3	159,546	54.0
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Bridge Co.	5,300	1.3	3,659	1.2
	67,635	16.6	46,292	15.7
7.10.00.	3,861	0.9	2,444	0.8
	44,627	11.0	28,505	9.6
Two or more races	26,078	6.4	14,333	4.8
HISPANIC OR LATINO AND RACE		_		- 95
Total population	407,018	100.0	295,728	100.0
Hispanic or Latino (of any race)	87,974	21.6	55,486	18.8
Not Hispanic or Latino	319,044	78.4	240,242	81.2
One race	300,988	73.9	229,883	77.7
White	164,974	40.5	138,429	46.8
Black or African American	61,136	15.0	40,120	13.6
American Indian and Alaska Native	3,149	0.8	2,315	8.0
Asian	66,598	16.4	45,731	15.5
Native Hawaiian and Other Pacific Islander	3,637	0.9	2,319	8.0
Some other race	1,494	0.4	969	0.3
Two or more races	18,056	4.4	10,359	3.5

Source: U.S. Census Bureau, Census 2000 Redistricting Data (Public Law 94-171) Summary File, Matrices PL1, PL2, PL3, and PL4.

#### NHSI SACRAMENTO-STOCKTON-MODESTO, CA NHSI MARKET DATA **HISPANIC RANK # 14**

FEBRUARY 1 - FEBRUARY 28, 2001

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NHS	181 000	177,800	12,170	162,220	200	4.080

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TABLE 2 - PENETRATION ESTIMATES

DATA NOT AVAILABLE

TABLE 3 - SAMPLE SIZES: HISPANIC HOUSEHOLDS

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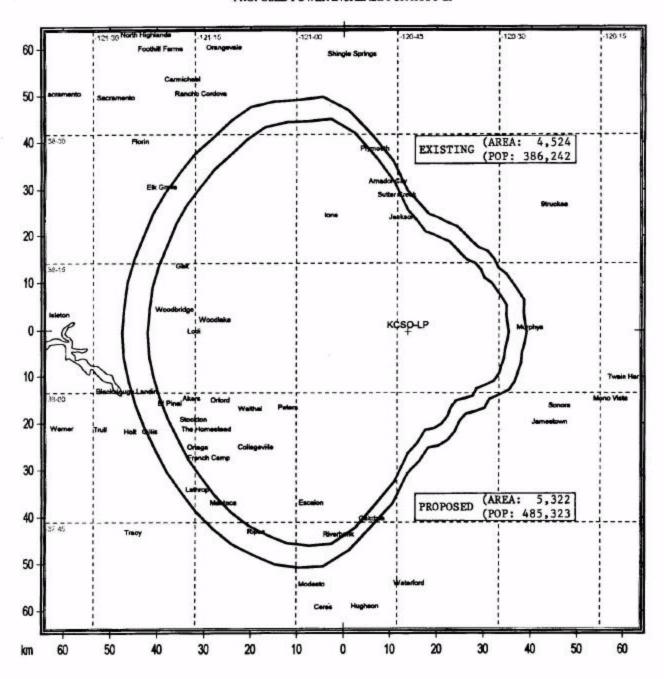
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The applicant is presently authorized, under File No. BLTTL-19991203ABW, to operate KCSO-LP at Sacramento, California, on Channel 34z with maximum effective radiated power of 150.0 kW from an antenna height above mean sea level of 952 meters. A pending (displacement) application seeks to change from Channel 34z to Channel 33-. In order to provide an improved service, it is now proposed to increase effective radiated power to 300.0 kW (please see attached Exhibit 13A). Although the area would increase by 17.6% and the population (1990 census) would increase by 25.7%, of greater import is the fact that a markedly better signal would be obtained over the cities of Sacramento and Modesto, homes to large numbers of Hispanic viewers.

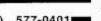
A review of all available records indicates that interference might occur with regard to five facilities (please see attached Exhibit 13B):

- 1. KMPT-DT(33) San Francisco, CA: Pending application.
- (2) KUVS(19-) Modesto, CA: Analyses per O.E.T. Bulletin No. 69 indicate that no population loss would occur.
- KAZV-LP(33z) Modesto, CA: Please see attached letter of assent.
- KXTL(40-) Sacramento, CA: Analysis per O.E.T. Bulletin No. 69 indicates that no population loss would occur.
- K33DJ(33+) Salinas, CA: Analysis per O.E.T. Bulletin No. 69 indicates that no population loss would occur.

# PROPOSED POWER INCREASE FOR KCSO-LP



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■ 2731 lowa Ave. Modesto CA 95358 • (209) 577-0743 • Fax (209) 577-0401

7 March 2001

Mr. Chester Smith, General Partner Sainte 51, L.P. P.O. Box 4159 Modesto, CA 95352-4159

Dear Chester:

We understand that Sainte 51 is proposing to change KCSO-LP from Channel 34 to Channel 33. Since KJEO-DT at Fresno has changed from Channel 14 to Channel 34 there is no longer a reason for KAZV-LP to utilize its outstanding Channel 33 construction permit. In view of this, we intend to surrender that permit and have no objection to Sainte 51's application.

Sincerely yours,

Frank Azevedo

Owner

Weicome!













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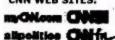


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# Census: Non-Hispanic whites now a minority in California

March 30, 2001

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Web posted at: 6:25 AM EST (1125 GMT)

SACRAMENTO, California (AP) -- Fueled by an increase in Hispanic births and Asian immigration, minorities have become the majority for the first time in California.

Hispanics accounted for more than three-quarters of the state's growth during the 1990s and now account for nearly one in three residents, according to new census figures released Thursday. Non-Hispanic whites slipped to 47 percent of the state's population.

"I think it's kind of peculiar and kind of comical that people are shocked that the number of Latinos are going up," said Gregory Salcido, 32, a history teacher at El Rancho High School outside Los Angeles. "No matter where you go, you'll see people my skin shade."

E ALSO

Study: U.S. immigrants faring worse

Asians now make up about 11 percent of the state's population.

The Golden State added 4.1 million people during the 1990s -- more than the individual populations of 26 other states. But the state's 13.8 percent growth rate ranked only 18th nationally.

With 33.9 million people, California is easily the most populous state. Nearly one of every eight Americans is a Californian and the state's booming economy, fueled in part by a huge labor force, is ranked sixth in the world.

California is gaining one congressional seat because of its growth, its smallest delegation increase in 80 years.

The Hispanic population nationally grew by 58 percent to 35.3 million, or about 13 percent of the U.S. population. Nearly one in every three Hispanics nationwide lives in California.

California joins New Mexico, Hawaii and the District of Columbia where non-Hispanic whites are also in the minority.

Near-miss collision, P says

Grand For as Red Riv

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The Asian population in California increased about 40 percent, due mostly to immigration.

The black population remained steady at 7 percent of the total population, while the non-Hispanic white population continued to shrink, partly due to an exodus during the recession of the early 1990s.

As recently as 1970, non-Hispanic whites accounted for nearly 80 percent of the state's population. But the census figures show non-Hispanic whites now account for only 47 percent of the state's population, knocking them out of the majority for the first time since 1860, when accurate census data started being recorded.

"If there is no majority, maybe there are no minorities," said Lt. Gov. Cruz Bustamante, the first Hispanic elected to statewide office since 1871. "The time has finally come for us to simply refer to ourselves as Californians."

California remains a key destination for newly arrived Hispanic immigrants and growth also is occurring among Hispanics who have long made the state their home, said Albert Camarillo, a history professor at Stanford University.

"We're also seeing the second- and third-generations are moving to the suburbs, which has been true for the last 20 years," Camarillo said. "When people have the economic means, they will leave the more concentrated Mexican-American barrios."

In the 1990s, suburban San Bernardino County registered a 77 percent increase in Hispanics, who now make up 39 percent of the county's 1.7 million residents.

In Los Angeles County, the Hispanic population increased 27 percent to 4.2 million -- or about 45 percent of the 9.5 million county residents.

In the city of Los Angeles, about 47 percent of the 3.7 million residents identified themselves as Hispanics. In San Diego, 25 percent of the city's 1.2 million residents were Hispanic, and in San Francisco, 14 percent of its 776,733 residents identified themselves as Hispanic.

The census data also showed that state demographers overestimated the growth of urban areas and underestimated suburban growth.

"People are continuing to move away from the central city areas," said Mary Heim, a state demographer. "It's been a trend going on since the 1980s. It's even stronger than what we estimated."

Los Angeles County and San Francisco grew by 7 percent, about half the state average, while places like San Benito County, south of San Jose, and Placer County, east of Sacramento, grew by more than 43 percent.

Lured by the promise of affordable homes, bigger lots and open space, more Californians moved over the Coast ranges and into the arid agricultural valleys.

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In Northern California, people from the San Francisco Bay area pushed into the Central Valley, benefiting from home prices that dropped about \$4,000 for every mile traveled east of the Bay area.

The quest for cheaper housing, however, has come with a price. Residents of these so-called "exurbs," beyond the suburbs, have traded congestion and higher housing prices for nightmarish commutes that keep them in the car as much as four hours a day.

George Nava, 48, moved to Temecula from Los Angeles County five years ago to "get away from all the housing." He bought a home in a new neighborhood for his family of five, but when he couldn't endure the additional driving as a telecommunications technician, his dream crumbled.

"The stress of driving is just tremendous," he said.

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# SACRAMENTO COUNTY

Leaders emerge as area Hispanic population increases

By Gilka Romero Neighbors staff writer

With the success of area politicians such as Assemblywoman Deborah Ortiz and the late Sacramento Mayor Joe Serna Jr., Hispanic leaders say this is an exciting time to live in Sacramento County.

"I am 47, and I wish I were 10 years old because the opportunities for us will be vast and plentiful for the next 10 to 20 years," said Jose Perez, president of the Sacramento Hispanic Chamber of Commerce and publisher of Latino Magazine, a monthly publication catering to Hispanic professionals.

The Hispanic population could easily surpass the 30 percent mark in Sacramento County and more Hispanics could climb the political ladder during the next 10



Griselda Barajas, owner of Texas Mexican Restaurant, discusses a reservation with a customer. Neighbors/A.C. Santos

to 20 years, the Hispanic chamber and other Hispanic leaders foresee.

Perez has seen Hispanics take on new roles in areas such as politics and government in Sacramento County during the past 20 years. In fact, Serna motivated Perez to move to the area and pursue his career as a businessman.

Perez, a South Texas native, predicts that the

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Hispanic population will continue to increase.

"We pretty much won't be one group of the minority," Perez said. "It mirrors what's happening in the rest of the state. We are becoming more multi-ethnic. Latinos make up the second-largest segment, and as a result, it brings forth new challenges."

Such challenges will never end for Latinos because challenges are part of their roots, Perez said.

"In the business arena, one of the reasons (we are growing) is because of our strong work ethic, primarily in the Mexican-American population. It's the same kind of ethics you see in Central and South America — entrepreneurship and strong family values," he said.

The Hispanic chamber and the Hispanic community keep Sema's spirit alive by using the late mayor as a role model. Sema died Nov. 7, 1999 from kidney cancer.

"A lot of people leaned on him to take the next step forward," Perez said. "Not having the mayor was the biggest downer of '99 for the Latino community in Sacramento and probably the state."

Griselda Barajas, owner of Texas Mexican Restaurant at 1114 Eighth St. and former vice president of the Hispanic chamber's Business Advocacy, was one of many Hispanics who looked up to Serna and, through him, gained confidence to succeed in her career.

"I feel excited being Latina because there's a big wave of energy — all the positive things that we represent are coming together and are being recognized," said Barajas, who opened her business in 1993 at age 21.

Joseph Martel, the immediate past president of the Hispanic chamber, said Latinos mark the fastest-growing segment among ethnic groups in Sacramento County. From the business perspective, the chamber calculates that more Arden/Carmichael
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than 6,000 Hispanic-oriented businesses are established within the Sacramento region, with 1,000 chamber members. Membership is increasing by an average 15 percent per month, Martel said.

According to 1999 Market Statistics figures from the Map Information Systems, Hispanics made up 14.9 percent of the population in Sacramento County with 172,852 people in 1999.

Nationwide, in 1995 California ranked first by far in Hispanic population, compared with other states, with 9.2 million. The state is expected to nearly double that number to 21.2 million by 2025, according to statistics from the U.S. Census Bureau Population Division, which were last revised on the Internet on April 22, 1999.

The area growth rate has motivated the growth of Spanish-speaking radio and television stations because of the demands in marketing and advertising to serve the large Hispanic audience.

Amparo Perez-Cook, president of Aztec Media Inc., which began broadcasting the Spanish-language radio station 97.9 KE BUENA in July 1999, said company officials saw an opportunity to operate a station that targets news within the Hispanic community.

State Sen. Deborah Ortiz, a Sacramento Democrat who is the grandchild of a farm worker and daughter of a first-generation Mexican family, said she envisions more Hispanics stepping into leadership positions, but she doesn't think the county's Hispanic population will ever exceed 30 percent.

"We will never be the large significant (ethnic group) that we see in Los Angeles or in San Diego," Ortiz said.

"It would be difficult to imagine that we would reach anywhere near 50 percent, but it shows the same patterns everywhere — that Latinos are everywhere throughout the country at a solid 20 to 30 percent."