

SECOND SUPPLEMENT TO REQUEST FOR WAIVER

KCBX, Inc., hereby further supplements the Request for Waiver accompanying its application for construction permit in FCC File No. BPED-20060413ABW, for changes in the facilities of its Noncommercial Educational FM Broadcast Station KSBX, Santa Barbara, California (the “Application”).

The Application is contingent upon grant of an application for construction permit filed by Shepherd Communications, Inc., for co-channel Noncommercial Educational FM Broadcast Station KLFH, Ojai, California, in FCC File No. BPED-20060413ABX.

Both applications seek to overcome the deleterious effects of destructive interference caused by co-channel Noncommercial Educational FM Broadcast Station KPBS-FM, San Diego, California.

On March 27, 2007, KPBS-FM filed an application for construction permit to move its transmitter site 33.35 km closer to KSBX and KLFH, and to increase its effective radiated power from 2.7 kW to 26 kW. The proposed power increase, coupled with the proposed reduction of the distance between KPBS-FM on the one hand, and KSBX and KLFH on the other, adds more than 15 dB to the strength of the KPBS-FM signal received in Santa Barbara and Ojai.

The proposed changes in the KPBS-FM facilities threaten severely to aggravate an already deleterious condition that KSBX and KLFH suffer in the heart of their service areas. For this reason, KCBX and Shepherd have requested that the Commission defer processing of the KPBS-FM proposal until such time as the Commission authorizes the changes proposed for

KSBX and KLFH. In order for the record in this matter to be complete for Commission consideration, a copy of the Request to Defer Processing is submitted herewith, attached.

KCBX respectfully renews its request that the Commission grant the subject application and thereby authorize the proposals for restoration of service by KSBX and KLFH.

May 18, 2007

DC_DOCS:664399.1



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May 11, 2007

VIA HAND DELIVERY

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

FILED/ACCEPTED

MAY 11 2007

Federal Communications Commission
Office of the Secretary

RE: Board of Trustees, California State University
For San Diego State University
Noncommercial Educational FM Broadcast Station KPBS-FM
San Diego, California
Facility ID No. 58823
FCC File No. BLED-20070327ADY

SUBJECT: **Request To Defer Processing**

Dear Ms. Dortch:

On behalf of KCBX, Inc., licensee of Noncommercial Educational FM Broadcast Station KSBX, Facility ID No. 33708, Santa Barbara, California, and on behalf of Shepherd Communications, Inc., licensee of Noncommercial Educational FM Broadcast Station KLFH, Facility ID No. 60140, Ojai, California, I transmit herewith the original and four copies of their Request to Defer Processing of the above-referenced application for construction permit, pending Commission action on earlier-filed construction permit applications pending for their co-channel facilities in FCC File Nos. BPED-20060413ABW and BPED-20060413ABX.

Kindly communicate any questions directly to this office.

Respectfully submitted,


John Wells King

cc: Todd D. Gray, Esquire
Counsel for KPBS-FM

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington DC 20554

FILED/ACCEPTED

MAY 11 2007

Federal Communications Commission
Office of the Secretary

In The Matter Of)
Application Of)
)
BOARD OF TRUSTEES,)
CALIFORNIA STATE UNIVERSITY)
FOR SAN DIEGO STATE UNIVERSITY)
)
Noncommercial Educational)
FM Broadcast Station KPBS-FM)
Facility ID No. 58823)
San Diego, California)
)
For Minor Changes In Facilities)

FCC File No. BPED-20070327ADY

To: The Chief, Media Bureau

REQUEST TO DEFER PROCESSING

KCBX, Inc. ("KCBX"), and Shepherd Communications, Inc. ("Shepherd"), through counsel, herewith request that the Commission defer processing of the above-captioned application for construction permit for minor changes in facilities, pending Commission action on earlier-filed minor change construction permit applications pending for co-channel facilities licensed to KCBX and Shepherd.¹ In support of this request, the following is shown.

KCBX operates Station KSBX(NCE-FM) at Santa Barbara, California. Shepherd operates Station KLFH(NCE-FM) at Ojai, California. KSBX and KLFH operate on the same channel as the applicant KPBS-FM, Channel 208, 89.5 MHz.

¹ FCC File Nos. BPED-20060413ABW and BPED-20060413ABX.

KSBX and KLFH currently suffer interference from KPBS-FM in the heart of their service areas, due to ducting of the KPBS-FM signal over a path which is almost entirely water. This is illustrated on the map included as part of the attached Engineering Statement of Telecommunications Consultant Doug Vernier, at page 3. Mr. Vernier observes:

It is well known that ducting signals following a water path on the coast where the surface refractivity is high* often travel in a manner that causes interference far from the distances expected under the FCC U/D standards. Such is the case for co-channel KPBS-FM which often inundates KSBX's 50 watt (directional) signal and KLFH's 97 watts.

* The refractivity value for California is 315, however for water paths in a temperate climate it increases to 350.

In order to overcome the effects of such interference, KSBX and Shepherd proposed modification of their facilities such that (i) KSBX would change channel to operate on Channel 210, 89.9 MHz, and (ii) KLFH would increase power by 10.1 dB, to 1.0 kW. The proposals are pending before the Commission.²

In the captioned application, KPBS-FM now proposes to move its transmitter site 33.35 km closer to KSBX and KLFH, and to increase its effective radiated power from 2.7 kW to 26 kW. According to Mr. Vernier, the magnitude of the power increase is 9.4 dB. The reduction of the distance between KPBS-FM on the one hand, and KSBX and KLFH on the other, adds another 5.3 dB to the signal received in Santa Barbara and Ojai, bringing the total increase to 15.14 dB.

² A waiver of the rules is requested to permit KSBX to operate on Channel 210, with respect to second adjacent channel overlap with KMRO(NCE-FM), Camarillo, California. Mr. Vernier points out that using the U/D method, there will be no persons within the interference area. KMRO has consented to the proposal.

Mr. Vernier explains that even a small change in the refractive index can have a dramatic effect on ducted signals that reach far beyond FCC-predicted distances. In some cases, such as the KPBS-FM case here, he observes:

. . . rays can be enhanced and this can cause unexpected interference between neighboring stations in the marine environment. To make matters worse KPBS-FM has selected a site with a direct path to the Ocean as compared with its previous in-land site. [Footnote omitted.]

Mr. Vernier concludes that KPBS-FM's change of transmitter site and increase in power will significantly raise the interference level to KSBX and KLFH. Indeed, he says, because of KSBX's small power of 50 watts ERP, the KPBS-FM proposal "could be a death blow to [KSBX's] at home services within its principal Community."

That the interference condition is serious there is no doubt. KSBX and KLFH have received, and have shown in their applications, numerous complaints of interference suffered in their home service areas. Significantly, the interference conditions are reported not simply within the outer range of the stations' primary service contours, but rather in the very heart of their communities.

Because the proposed changes in the KPBS-FM facilities threaten severely to aggravate an already deleterious condition, KCBX and Shepherd request that the Commission defer processing of the proposal until such time as it authorizes the changes proposed for KSBX and KLFH to overcome the existing interference in FCC File Nos. BPED-20060413ABW and BPED-20060413ABX. The public interest would best be served

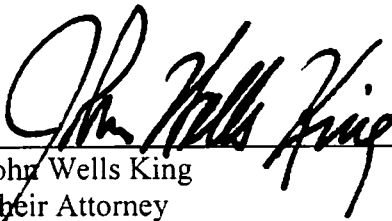
by enabling KCBX and Shepherd first to ameliorate the existing interference condition, prior to the authorization of improvements to the KPBS-FM facilities.

It is respectfully requested.

Respectfully submitted,

**KCBX, INC.
SHEPHERD COMMUNICATIONS, INC.**

By:



John Wells King
Their Attorney

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May 11 , 2007



ENGINEERING STATEMENT

Exhibit #1

Concerning the Applications of
KCBX, Inc. and Shepherd Communications, Inc.

Supporting Documentation to Change the Channel of KSBX, Santa Barbara, California to Channel 210, Increase ERP and Change Directional Antenna Pattern and to Increase the Power of KLFH, Ojai, California.

BPED-20060413ABW, BPED-20060413ABX

This engineering statement provides additional information in support of the above referenced applications in light of the application by the Board of Trustees, California State University to move station KPBS-FM closer to KSBX and KLFH and simultaneously increase power from 2.7 kW to 26 kW.

Background: Since KSBX signed on the air in 2002, the station has experienced severe interference from a co-channel station KPBS-FM, San Diego, California operating with 1.75 kW of power. The interference from KPBS-FM reaches KSBX's city of license over a path which is almost entirely water. (See map on page #3) It is well known that ducting signals following a water path on the coast where the surface refractivity is high¹ often travel in a manner that causes interference far from the distances expected under the FCC U/D standards. Such is the case for co-channel KPBS-FM which often inundates KSBX's 50 watt (directional) signal and KLFH's 97 watts. In a previous filing, the licensees of KSBX and KLFH have submitted maps of the permanent resident locations of listeners who have complained about the interference the stations are receiving on a regular basis.

To make matters worse, in August of 2005 KPBS-FM was granted a power increase from 1.75 kW to 2.7 kW. Soon after the power increase, KSBX began receiving an increased volume of complaints about the KPBS-FM interference.

KLFH, co-channel to KPBS-FM is licensed to Ojai, California. This station also experiences the KPBS-FM interference over its city of license. Like KSBX, the path from KPBS-FM to KLFH is essentially all over water. KLFH has documented wide-spread interference that has significantly increased since the KPBS-FM construction permit was granted.

¹ The Refractivity value for California is 315, however for water paths in a temperate climate it increases to 350.

The harm of the KPBS-FM Proposal:

Now, KPBS-FM has filed an application with the Commission (BPED-20070327ADY) to move its transmitter 33.35 km closer to KSBX and KLFH while increasing the station's ERP from 2.7 kW to 26 kW. The power increase amounts to 9.84 dB, while the reduction of distance between the stations will also add 5.3 dB to the signal received in Santa Barbara and Ojai for a total increase of 15.14 dB.

Small changes in the refractive index of only a few parts per million can have a dramatic effect on ducted signals that reach far beyond distances predicted under the standard FCC method. In some cases, such as the one at hand, rays can be enhanced and this can cause unexpected interference between neighboring stations in the marine environment.² To make matters worse KPBS-FM has selected a site with a direct path to the Ocean as compared with its previous in-land site.

The increase of ERP and its move of transmitter site closer to KSBX and KLFH will significantly raise the interference level already experienced by these stations. With KSBX's small power of 50 watts ERP, this proposal by KPBS-FM could be a death blow to its at home services within its principal Community.

The KSBX/KLFH proposal seeks relief of this interference by a channel move of KSBX from 208 to 210 and an increase in ERP of 8.45 dB to 0.35 kW. KLFH has requested a power increase on its current 89.5 MHz frequency to 1 kW, (an increase of 10.1 dB.) which is contingent on the grant of the KSBX application. Under our proposal, the significant power increase of KLFH should increase its signal strength above the interfering co-channel signal of KPBS-FM, therefore helping to alleviate the interference the station now endures. Further, by moving off frequency, KSBX will completely eliminate any interference it now receives from KPBS-FM. A waiver of the 2nd adjacent contour overlap rules is required for KSBX to use channel 210. As previously presented, when using the U/D method, there will be no people within the interference area to KMRO, Camarillo. (A letter of agreement has been received from KMRO.)

In summary, KPBS-FM's proposed increase of ERP and move of its transmitter closer to KSBX and KLFH will significantly increase the on-going interference it causes KSBX and KLFH within their licensed principal communities. The KSBX and KLFH proposals will eliminate the ducting interference completely for KSBX and will significantly improve it for KLFH.

Doug Vernier

² See "Statistical Modeling of Atmospheric Refractivity for Ducting Channel from Meteorological Observations Data in Marine Environment", Nam-Ho Joeng and Jeong-Ki Pack, IEEE, 2003

Ducting Paths Over Pacific Ocean

KPBS-FM.A

BPED20070327ADY
 Latitude: 32-50-17 N
 Longitude: 117-14-57 W
 ERP: 26.00 kW
 Channel: 208
 Frequency: 89.5 MHz
 AMSL Height: 271.4 m
 Horiz. Pattern: Omni

KPBS-FM

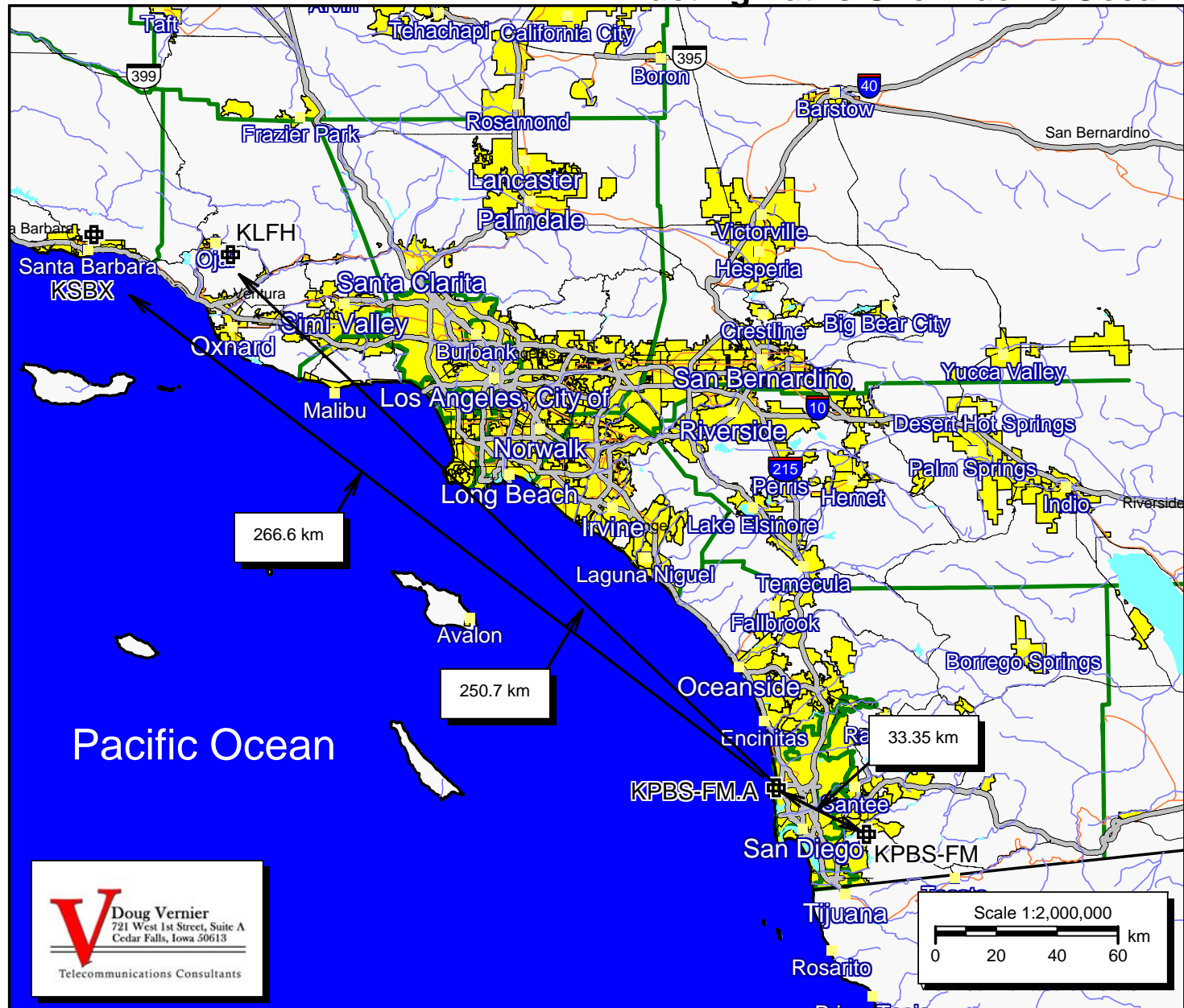
BLED20050803ABE
 Latitude: 32-41-53 N
 Longitude: 116-56-03 W
 ERP: 2.70 kW
 Channel: 208
 Frequency: 89.5 MHz
 AMSL Height: 794.0 m
 Horiz. Pattern: Omni

KSBX

BLED20030807AGF
 Latitude: 34-27-57 N
 Longitude: 119-40-37 W
 ERP: 0.05 kW
 Channel: 208
 Frequency: 89.5 MHz
 AMSL Height: 661.0 m
 Horiz. Pattern: Directional

KLFH

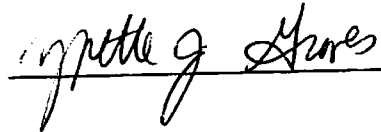
BLED20030305AAI
 Latitude: 34-24-45 N
 Longitude: 119-11-16 W
 ERP: 0.097 kW
 Channel: 208
 Frequency: 89.5 MHz
 AMSL Height: 885.0 m
 Horiz. Pattern: Directional



CERTIFICATE OF SERVICE

The undersigned, an employee of Garvey Schubert Barer, hereby certifies that the foregoing document was mailed this date by First Class U.S. Mail, postage prepaid, to the following:

Todd D. Gray, Esquire
Dow Lohnes PLLC
1200 New Hampshire Avenue NW
Washington DC 20036-6802



May 11, 2007