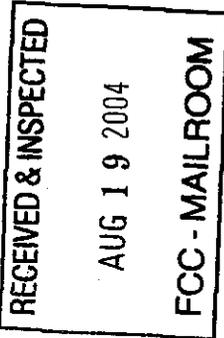


FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

August 17, 2004

IN REPLY REFER TO:
1800B3-ARE



John Wells King, Esquire
Garvey Schubert Barer
1000 Potomac Street NW
Fifth Floor
Washington, D.C. 20007

In Re: **KAEZ(FM), Amarillo, Texas**
Facility ID No. 33273
Kanza Society, Inc.

Application for Assignment of License
File No. BALH-20040513AAC

Application for Modification of License
File No. BMLED-20040514ABE

Request for Waiver of 47 C.F.R. § 73.1125
(Main Studio Rule)

Dear Mr. King:

This is in reference to the captioned application to: (1) assign the license of KAEZ(FM), Amarillo, Texas, from KXOJ, Inc. ("KXOJ"), to Kanza Society, Inc. d/b/a as High Plains Public Radio ("Kanza"), and (2) modify the KAEZ(FM) license by converting it from commercial to noncommercial educational status.¹ The modification of license application also contains a request for a waiver of the Commission's main studio requirement, 47 C.F.R. Section 73.1125, to permit Kanza to operate KAEZ(FM) as a satellite of co-owned station KANZ(FM), Garden City, Kansas,² from the existing studios of High Plains Public Radio ("HHPR") in Garden City.³ For the reasons set forth below, we grant the assignment application and the modification of license application as well as the concomitant waiver request. The latter two grants will become effective upon notification of consummation of the assignment application.

¹ Kanza is proposing to reclassify KAEZ(FM) from commercial to noncommercial educational status pursuant to Section 73.1690(c)(9).

² See Amendment dated August 16, 2004.

³ See Report and Order, Review of the Commission's Rules regarding main and local public inspection files of broadcast television and radio stations, 13 FCC Rcd 15691 (1998), recon granted in part, 14 FCC Rcd 11113 (1999) ("Reconsideration Order").

Assignment Application. We have reviewed the application BALH-20040323ASV) to assign the license of station KAEZ(FM) from KXOJ to Kanza. We find that KXOJ and Kanza are fully qualified to sell and acquire, respectively, the license for KAEZ(FM). We also find that Kanza is fully qualified to be the licensee of KAEZ(FM) and that the grant of the application would further the public interest, convenience and necessity. We will, therefore, grant the application below.

Modification of License application. Pursuant to *Amendments of Parts 73 and 74 of the Commission's Rules to Permit Certain Minor Changes in Broadcast Facilities Without a Construction Permit*,⁴ KANZA may apply to convert the KAEZ(FM) commercial authorization to noncommercial educational FM status. It may do so by filing a license application and a demonstration that it is a qualified educational organization pursuant to 47.C.F.R. Section 73.503(a) and that the station will be used to advance Kanza's educational program.⁵ We will accept the instant showing. An examination of Kanza's proposal reveals that Kanza is qualified to operate KOFR(FM) as a noncommercial educational facility and that grant thereof would serve the public interest, convenience and necessity. We will, therefore, convert KAEZ(FM) to noncommercial educational status with the effective date of the grant being the date that Kanza notifies the Commission of the consummation of its acquisition of the station.⁶

Main Studio Rule Waiver. Kanza seeks a waiver of Section 73.1125 of the Commission's Rules to operate KAEZ(FM) as a satellite of Kanza station KANZ(FM) from the existing HHPR studio complex in Garden City, Kansas, approximately 204 miles from Amarillo, Texas. Kanza demonstrates compelling circumstances to support its waiver request. Initially, Kanza states that due to "the very rural nature" of the High Plains region, of which Amarillo is a part, public radio service is only possible through "extreme efficiencies of operation." Kanza states that it would be financially infeasible to operate this station on a noncommercial basis from main studios in Amarillo, Texas.

Additionally, although it does not plan to have specific production facilities for KAEZ(FM), Kanza states that Amarillo residents will have the benefit of an existing \$600,000 production studio facility as well as a public radio programming service that currently costs over \$800,000 per year to operate. Kanza states that, by maintaining only one primary studio location, HHPR has been able to concentrate the equipment and staffing needed to produce a professional 24-hour-a-day public radio service. It also states that access to a program service drawing from national and international sources such as National Public Radio, Public Radio International, Minnesota Public Radio, BBC, etc., will enable KAEZ(FM) to air programming "of a higher quality than would otherwise be possible."

Kanza also states that it has taken steps to ensure that the KAEZ(FM) will meet its public service obligations to the residents of Amarillo even without a local studio facility. To that end, Kanza states that it : (1) will have two full-time staff members in Amarillo, one of which will provide news reports, interviews and features, and the other staff of which will focus on

⁴ 12 FCC Red 12371 (1997).

⁵ See 47.C.F.R. § 73.1690(c)(9).

⁶ See 47 C.F.R. § 1.102

community outreach and maintain daily contact with local civic and community leaders in an effort to understand and respond to local community needs; (2) will regularly produce feature stories, conduct interviews, and community service announcements about activities and people in Amarillo; (3) will maintain a website which contains the current programming schedule, program information, local community announcements and an e-mail link between the two studios; (4) currently has four of its 12 board members residing in Amarillo, which helps to ensure that Amarillo community interests are served; and (5) will maintain a toll-free telephone number, as required by Section 73.1125(d) of the rules, and will maintain a public inspection file for the station as required by Section 73.3527 of the rules.

Pursuant to Section 73.1125(a), at a main studio must be located either (1) within a station's principal community contour, (2) within the contour of any other broadcast station licensed to its community, or (3) within 25 miles of the center of its community of license.⁷ However, under Section 73.1125(b)(2), the Commission will waive these requirements where good cause exists to do so and where the proposed studio location would be "consistent with the operation of the station in the public interest."⁸ While the provisions of Section 73.1125 apply to both commercial and noncommercial educational ("NCE") stations, the Commission has recognized the benefits of centralized operation for NCE stations, given their generally limited funding, and thus found that "good cause" exists to waive the main studio location requirement where satellite operations are proposed.⁹

In the circumstances presented here, we are persuaded that Kanza will meet its local service obligation and thus that grant of the requested waiver is consistent with the public interest. We remind EMF, however, of the requirement that it maintain the KAEZ(FM) public inspection file at the main studio of the "parent" station, KANZ(FM), Garden City, Kansas. It must also make reasonable accommodation to listeners wishing to examine the file's contents.¹⁰

Accordingly, in light of the above discussion, the application (File No. BALH-20040513AAC) to assign KAEZ(FM) from KXOJ, Inc. to Kanza Society, Inc., and the application (BMLED-20040514ABE) to convert the KAEZ(FM) license from commercial to noncommercial educational status, as well as Kanza's request for waiver of 47 C.F.R. Section 73.1125, ARE HEREBY GRANTED. The effective date of the license modification and 73.1125 waiver will be the date on which the Commission is notified that Kanza Society, Inc. has consummated the acquisition of the station.¹¹ The authorization to operate the station as a noncommercial educational facility will be sent at that time. In order to facilitate transmission of the authorization, Kanza Society, Inc., and counsel are requested to send a copy of the

⁷ See *Amendment of Section 73.1125*, 3 FCC Rcd 5024 (1980).

⁸ *Id.*

⁹ *Id.*

¹⁰ See *Reconsideration Order*, 14 FCC Rcd at 11129, ¶ 45.

¹¹ *Id.*

consummation notification to both Andree Ellis, Room 2-A165, and Druscilla Smalls, Room 2A140, at the Federal Communications Commission, 445 12th Street S.W., Washington, D.C. 20554.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter H. Doyle", with a long horizontal flourish extending to the right.

Peter H. Doyle, Chief
Audio Division
Media Bureau

cc: Kanza Society, Inc.
KXOJ, Inc.
Russell C. Powell, Esq.