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IN THE MATTER OF:

Zuma Beach FM Emergency & Community Broadcasters KBUU-LP 195574

**REQUEST FOR SPECIAL TEMPORARY AUTHORITY
WAIVER OF §73.879 OF THE COMMISSION'S RULES**

Introduction

In the instant application, Zuma Beach FM Emergency and Community Broadcasters (Zuma FM) is requesting a waiver of §73.879 of the Commission's Rules in order to accommodate the rebroadcast of full-service FM noncommercial full-service broadcast station KCRW, Santa Monica (Facility ID # 59086) on a part-time basis with an option to operate on a full-time basis if the situation worsens. Zuma FM is requesting this STA to waive §73.879 for the duration of the federal declaration of a state of emergency as well as the State of California state of emergency declaration due to the current state of pandemic related to the COVID-19 coronavirus.

Since the declaration by the World Health Organization that the COVID-19 Coronavirus is a pandemic and the eventual Presidential declaration of a state of emergency in the United States, many localities are taking drastic actions in order to prevent the spread of the virus. This includes restrictions on establishments that could include large gatherings, the encouragement of telework and even the self-quarantine of persons over a particular age as being suggested in California. Some locations have already given "shelter in place" orders to citizens. The declarations have also resulted in a wide scale closures of schools from kindergarten to college. Local municipalities, such as Malibu are imposing additional closures on public places such as non-essential private businesses.

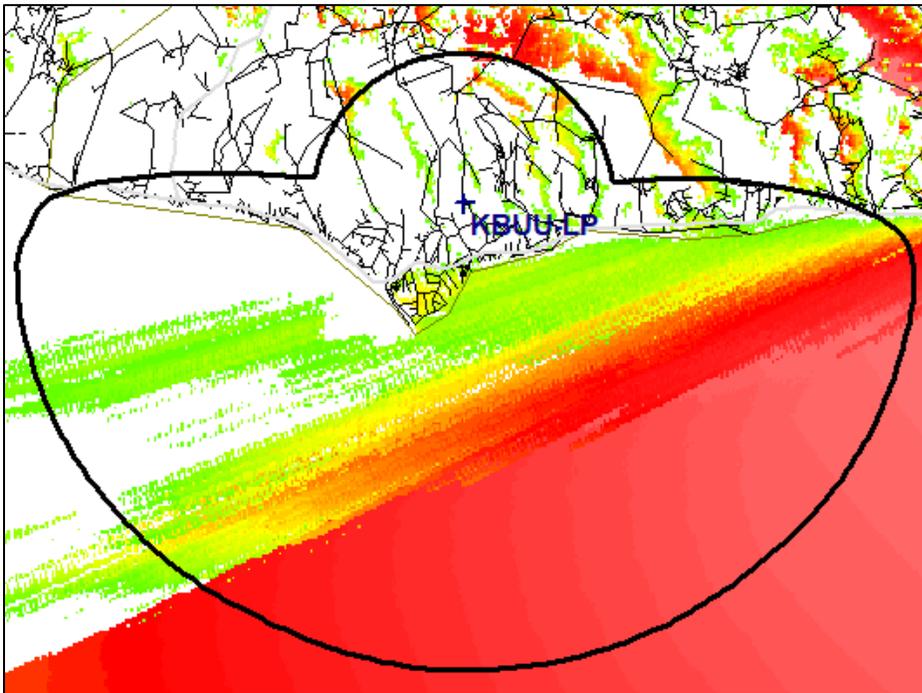
About Malibu, California

The city of Malibu is in a very distinct situation. Located along the westernmost coastal region of Los Angeles County, the area's topography is in a manner which defeats FM broadcasting solutions because the mountains descend to the ocean. Although squarely in the Los Angeles metro market, most Los Angeles FM stations do not provide coverage into Malibu. Because of this regional topography, the reception of FM broadcast stations along the main Pacific Coast Highway and especially into the many homes situated inside of canyons that empty to the south is very difficult. A study conducted by REC Networks shows that despite the fact that 25 FM broadcast stations place a service contour entirely over the Malibu area, the actual reception of those stations are impeded by intervening terrain meaning that Malibu does not get even a 54 dBu field strength signal (based on Longley/Rice terrain data). Based on field research

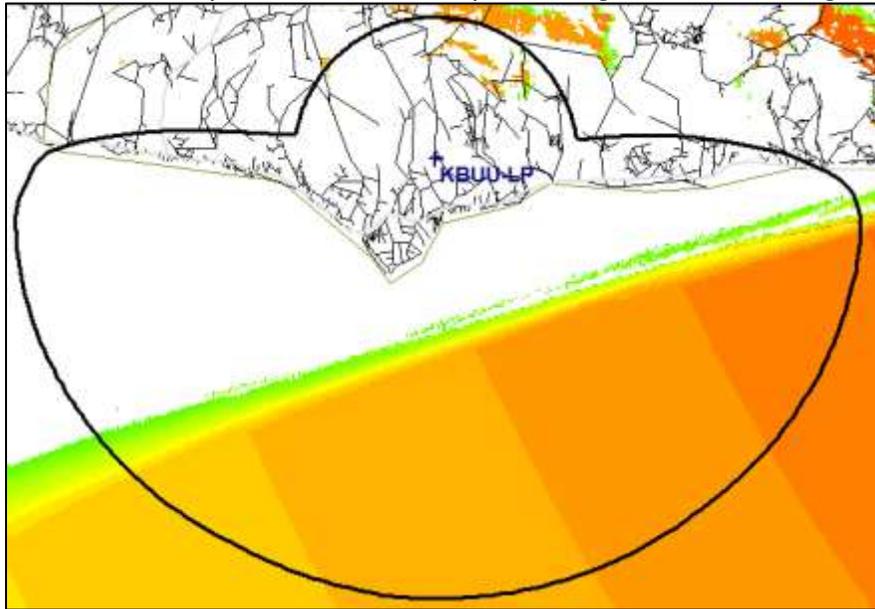
conducted by REC in 2019, it was determined that in some canyon areas, the only station that is receivable with a standard portable radio was KBUU-LP, Malibu.

Currently, there are thousands of residents in Malibu that are practicing self-isolation and thousands of children confined to their home. While KBUU-LP has been providing hyperlocal news coverage of events that are specific to the Malibu area, the area currently lacks national and international coverage of the pandemic from National Public Radio (NPR). The two public radio stations carrying NPR programming in Los Angeles is KCRW, Santa Monica and KPCC, Pasadena.

As shown in the following Longley/Rice study, KCRW's signal does not reach most of the land area around Malibu due to intervening terrain (*all points with 54 dB or greater shown in color*):



For KPCC, reception is even worse (54 dB or greater field strength shown):



The following graphic shows Longley/Rice field strength readings taken at various places along Pacific Coast Highway from Santa Monica (outside of Malibu), through Malibu and to the Los Angeles/Ventura County Line for the two NPR stations (KPCC and KCRW) as well as the top 10 Los Angeles market commercial FM broadcast stations:

	Predicted field strength in decibels (dB) along Pacific Coast Highway:	NPR		Top 10 Los Angeles market FM stations									
		KPCC (NPR, Pasadena)	KCRW (NPR, Santa Monica)	KCBS-FM	KTTW	KLOS (HD; KABC-AM)	KXOL-FM	KLAX-FM	KRTH (HD; KMG-AM (EAS LP-1))	KIIS-FM	KOST (HD; KHJ-AM (EAS LP-1))	KBIG	KLVE
S.M.	McClure Tunnel	67	86	84	87	87	60	83	86	78	80	88	84
	California Incline	40	68	58	59	60	54	55	59	50	52	60	56
LA City	Chautauqua	53	76	72	72	73	63	67	72	63	65	73	68
	Temescal Canyon	25	69	44	43	45	58	38	44	34	37	44	40
	Sunset Blvd.	33	57	51	52	53	47	42	52	43	45	52	48
	Topanga Canyon	25	50	44	44	45	42	32	44	35	37	44	40
CITY OF MALIBU	La Tuna Canyon	43	62	61	62	62	54	48	61	52	55	62	57
	Las Flores	21	40	39	39	40	37	30	39	30	33	40	35
	Carbon Canyon	23	40	41	41	42	38	32	41	32	34	42	37
	Sweetwater Canyon	36	47	53	55	55	49	46	54	45	47	55	51
	Cross Creek	40	55	58	59	60	52	53	58	50	52	59	55
	Malibu Canyon	33	51	50	52	52	56	47	51	42	44	52	48
	Laligo Canyon	41	49	54	59	60	48	47	58	50	52	59	55
	Paradise Cove	25	37	42	44	44	37	32	43	35	37	44	50
	Kanan Dume	40	46	56	59	59	49	45	58	49	51	59	55
	Heathercliff	31	38	48	50	50	41	35	49	40	42	50	45
	Trancas Canyon	27	35	43	45	46	37	34	45	35	38	45	41
	Decker Canyon	23	31	41	42	42	33	26	41	32	34	41	37
	Mulholland Hwy.	24	27	33	43	43	28	26	41	33	35	43	36
	County Line	13	17	29	32	31	22	16	30	22	24	31	27

Malibu is the only municipality in the area that comprises the 34 counties of central and southern California that does not receive an NPR signal.

About §73.879

In order to prevent the influence of full-service stations that would significantly undercut a fundamental basis for the establishment of LPFM, the Commission put in place §73.879 which simply states that “an LPFM licensee may not retransmit, either terrestrially or via satellite, the signal of a full-power radio broadcast station.”¹ 20 years ago, REC staunchly supported this rule as it would prevent speculation in the LPFM service by prohibiting LPFM stations from being used as translators. To this day, REC continues to staunchly support §73.879 as a means of preventing speculation, warehousing and the trafficking of LPFM construction permits and licenses.

Zuma FM’s request for a §73.879 waiver is about educating and informing an isolated community, not spectrum speculation

Under the waiver operation, Zuma-FM will continue to provide local Malibu-specific news and information but would enhance it with more robust information from larger local (KCRW) and national resources (NPR). Zuma FM has already received initial consent by Santa Monica Community College District, licensee of KCRW to retransmit their noncommercial educational signal in the Malibu area without any consideration.

Waiver request analysis

Zuma FM acknowledges that any request for a waiver faces a high hurdle at the starting gate and that waivers are only appropriate where special circumstances warrant a deviation from the general rule and if such deviation would serve the public interest and that the Commission may also take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.²

Special Circumstances and Hardship - In the instant case, the United States is currently facing a global pandemic in which the Centers for Disease Control (CDC) states that the virus is through to spread between people who are in close contact with one another.³ LPFM stations and the communities they serve are currently facing a hardship because of restrictions on gatherings, self-quarantine, shelter in place, business closures, school closures and the availability of public services including public transportation. Zuma FM faces specific hardship due to a rule that was put in place to assure that local groups, and not speculators receive an LPFM station. This rule, while well intended to prevent speculation, prevents LPFM stations from advancing the radio art and providing crucial and necessary services in times of major emergencies, such as the current COVID-19 pandemic. An additional hardship for the residents of Malibu is just the mere fact that every few FM stations are able to place a stable usable signal into the Malibu area, especially the canyons.

High Hurdle - The high hurdle LPFM stations are currently faced with were those to maintain a level of distinction between LPFM and full-service broadcast stations and to

¹ 47 C.F.R. §73.879; See also *Creation of Low Power Radio Service*, Report and Order, 15 Rcd. 2205 et seq. (2000) (“Order”) at ¶ 172.

² See *WAIT Radio v. FCC*, 418 F. 2d 1153 (D.C. Cir. 1969). See also *Northeast Cellular Telephone Co. v. FCC*, 897 F. 2d 1164, 1166 (D.C. Cir. 1990).

³ <https://www.cdc.gov/coronavirus/2019-ncov/prepare/prevention.html>

prevent full-service “influence” in the day to day operations of an LPFM station. LPFM advocacy groups, such as REC Networks, time and time again, have supported such restrictions to assure that LPFM stations would not be influenced from non-local resources. However, that support never anticipated a widespread public health emergency and at this time, it is a hinderance. LPFM stations, such as KBUU-LP, should be given, on a very temporary basis, the flexibility to operate their stations in the way that is best for their current situation and the overall public health. It is Zuma FM’s position that it is in the public interest that the public remain well-informed in the latest events on a county, state, national and worldwide level especially in areas that get limited noncommercial service from larger cities due to intervening terrain.

More Effective Implementation - The proposed waiver request would promote equity as it would permit all LPFM stations to take these measures if they deem it necessary to best serve their community in this time of emergency.

Equity - This proposed waiver request causes no harm to other broadcast stations as it involves administrative rules that are exclusive to the LPFM service and does not propose any technical changes to stations such as power increases or site changes, nor does it provide LPFM with any special privileges that are not available to other broadcast licensees.

Conclusion

For the foregoing reasons, Zuma FM is requesting that the Commission provide a temporary waiver of §73.879 for the purposes of rebroadcasting full-service FM station KCRW for the duration of the federal state of emergency, a statewide state of emergency or for a fixed period, which can be reviewed at a future time for renewal of the authorization based on the status of the national or state emergency effort. From a public interest standpoint, informing the public with accurate pandemic information while avoiding social contact far outweighs the reasons for the various LPFM administrative regulations meant to distinguish LPFM from full-service radio. With that, Zuma FM requests that the Commission grant this waiver request.

Respectfully submitted,

/S/

Hans Laetz

Board Member

Zuma Beach FM Emergency and Community Broadcasters

Report prepared by:
Michelle Bradley, CBT
Founder
REC Networks

March 17, 2020

On Sat, Mar 14, 2020 at 11:37 AM Jennifer Ferro <jennifer.ferro@kcrw.org> wrote:
Yes. Let me know what you need.

On Mar 14, 2020, at 10:19 AM, Hans Laetz <hanslaetz@gmail.com> wrote:

May KBUU simulcast Morning Edition and All Things Considered during this emergency?

We are holding our own with continuous coverage but we're only 2 people.

We can cover the legal IDs.

--

Hans Laetz

General Manager KBUU-FM Malibu / KSRW-FM Bishop / KSRW-TV Bishop/Mammoth Lakes

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