

**High Desert Broadcasting LLC
KGMX (FM), Lancaster, California
FCC Form 301 Minor Change
Exhibit 1**

**TECHNICAL BACKGROUND OF KGMX AND SHOWING OF
QUALIFICATION FOR PROCESSING UNDER SECTION 73.213(c)**

High Desert Broadcasting LLC (“High Desert”) is the licensee of radio station KGMX(FM), Channel 292A, in Lancaster, California. By this application, and pursuant to Section 73.213(c) of the Commission’s Rules, High Desert proposes to increase the facilities of this station, at its current transmitter site, to 3 kW at 100 meters.

The following history of the station is offered to demonstrate that this application is properly processed under Section 73.213(c). KGMX went on the air in 1970 at the allocation coordinates for Channel 292A in Lancaster, California. At that time, under the Section 73.207 then in effect, KGMX was not short-spaced to any station. KGMX is still operating from this original transmitter site, and this application proposes an increase in tower height at the current site.

Prior to October 1, 1989, both KROQ-FM, Channel 294B, and KPWR, Channel 290B, filed applications to relocate from their Flint Peak transmitter sites to Verdugo Peak and Mount Wilson, respectively. The grant of these applications – and both were ultimately granted by the FCC -- required a waiver of the FCC’s rules because the new transmitter sites were short-spaced to KGMX. Additionally, the FCC revised Section 73.207 in MM Docket 88-375, effective June 1, 1989, which increased the shortspacing to these stations.¹ In addition, KGMX became shortspaced to both KRAB, Channel 291B1; and KALI-FM, Channel 292A, though these stations operate pursuant to Section 73.215 and the changes proposed in this application fully protect the contours of these stations under Section 73.215.

KGMX is a Class A station that became short-spaced after November 16, 1964, and the short-spacing was not caused by the grant of applications filed after October 1, 1989. Therefore it qualifies for processing under Section 73.213(c). In this application KGMX is not proposing to change its existing distance separations. Rather it is merely proposing to raise its antenna height to 100 meters HAAT at its current transmitter site and to continue operating at 3 kW ERP. In the introductory paragraph of Section 73.213(a), it is stated that stations that became shortspaced in the period between 1964 and 1989, “including stations that do not meet the minimum distance separations of Section 73.213(c)(1),” may be modified if they maintain or increase their current spacings. As KGMX is such a station, its application for the increased tower height is permissible under the rules.

¹ The KROQ application was granted prior to the revision of Section 73.207, while the KROQ application was not granted until after the revision of 73.207 became effective.

The Commission has already recognized this fact. In 1992 the previous licensee of KGMX filed an application similar to the present application. At the time FCC staff advised KGMX to file the application under Section 73.213(c)(1). The FCC granted the application on February 24, 1994, but the previous licensee of KGMX allowed the construction permit to lapse (See File No: BPH-920430IE). More recently, the FCC granted a similar construction permit in File No: BPH-20061121AIO and in BPH-20100301ACF, both of which are being superseded by the present application.² Thus, as the Commission has already determined that Section 73.213(c) applies to this station, this application should be treated in the same manner.

Moreover, as demonstrated in the attached Engineering Statement, KGMX's proposed 3 kW ERP/100 meter HAAT operation does provide contour protection to all four of the stations to which it is short-spaced.

Accordingly, pursuant to Section 73.213(c), High Desert respectfully requests the Commission to grant this application.

² The prior construction permits for this proposed increase in the KGMX antenna height were not built out because High Desert was waiting for local land use approvals. High Desert has been working with the local authorities to obtain these approvals and expects these local approvals to be issued soon.