

FEDERAL COMMUNICATIONS COMMISSION
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FEB 04 2016

Playa Del Sol Broadcasters
Post Office Box 1300
Fair Oaks, CA 95628

In re: K238AK, Palm Desert, CA
BPFT-20160126ACX
Facility ID # 147714

Dear Applicant:

This refers to the above-captioned application for K238AK, Palm Desert, California. Based on the below, we will dismiss the application BPFT-20160126ACX.

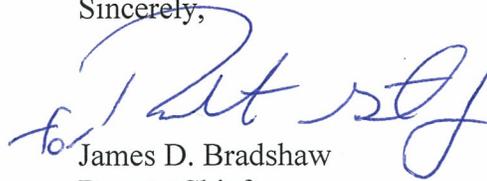
An engineering study has revealed the application is a major change application pursuant to 47 C.F.R. § 74.1233(a)(1). Specifically, the Section states that “a major change is any change in frequency (output channel) except changes to first, second or third adjacent channels, or intermediate frequency channels”. K238AK is authorized to operate on channel 238. This modification application proposes channel 274 by requesting a waiver of Section 74.1233(a)(1) based on interference caused from first adjacent channel KAJI-LP, Palm Desert, California.

We have allowed FM translators to waive Section 74.1233(a)(1) only when “displacement” occurs. Displacement occurs when a full service commences operation and there is interference predicted or caused by an existing translator. KAJI-LP is considered a “secondary” service station, therefore Section 74.1233(a)(1) will not be waived.

When an applicant seeks waiver of the rules, it must plead with particularity the facts and circumstances which warrant such action. *Columbia Communications Corp. v. FCC*, 832 F.2d 139, 192 (D.C. Cir. 1987), quoting *Rio Grande Family Radio Fellowship, Inc. v. FCC*, 406 F. 2d 644, 666 (D.C. Cir 1968 (per curiam)). We have afforded Ivan Rene Moore’s waiver request the “hard look” called for under *WAIT Radio v. FCC*, 418 F. 2d 1153 (D.C. Cir. 1969), but find that the facts and circumstances presented are not sufficient to warrant waiver of 47 CFR Section 74.1233.

Accordingly, the request for waiver of 74.1233(a)(1), IS HEREBY DENIED, and the Application BPFT-20160126ACX IS HEREBY DISMISSED. This action is taken pursuant to 47 C.F.R. § 0.283.

Sincerely,

A handwritten signature in blue ink, appearing to read "to J. Bradshaw". The signature is written in a cursive style with a large initial "J" and a long horizontal stroke.

James D. Bradshaw
Deputy Chief
Audio Division
Media Bureau