



Federal Communications Commission
Washington, D.C. 20554

September 20, 2006

In Reply Refer To:
1800B3-RDH

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

University of Washington Board of Regents
240 Gerberding Hall
Box 351208
Seattle, Washington 98195

G. Bradley Conger
10416 Southeast Woverine Way
Bellevue, Washington 98004

Todd D. Gray, Esq.
Dow, Lohnes and Albertson, PLLC
1200 New Hampshire Avenue, N.W.
Washington, DC 20036-6802

Re: KASB(FM), Bellevue, Washington
Facility ID: 4631
BPED-20060327AID

KEXP-FM, Seattle, Washington
Facility ID: 68668

Dear Licensees and Counsel:

In 2004, the Media Bureau released a *Report and Order* which involved 24 FM channel allotments for radio stations in Oregon and Washington.¹ One of the actions in that case was to modify the license of Station KMCQ(FM) from Channel 283C3 at The Dalles, Oregon, to Channel 283C3 at Covington, Washington. Implementation of that reallocation would require Class D FM Station KMIH(FM), Mercer Island, Washington, which is licensed to operate on Channel 283D, to cease operations. Mercer Island School District #400 ("Mercer Island S.D."), the licensee of KMIH(FM), has sought reconsideration of the *Covington Report and Order*.

On March 27, 2006, several parties to the FM allotment proceeding filed a "Joint Request for Approval of Settlement Agreement" ("Joint Request"). The Joint Request proposed, among other things, the dismissal of the Mercer Island S.D. Petition for Reconsideration and the grant of a Mercer Island S.D. minor change application to specify operations on Channel 205D in lieu of Channel 283D. Pursuant to

¹ *Arlington, The Dalles, Moro, Fossil, Astoria, Gladstone, Portland, Tillamook, Springfield-Eugene, Coos Bay, Manzanita and Hermiston, Oregon, and Covington, Trout Lake, Shoreline, Bellingham, Forks, Hoquiam, Aberdeen, Walla Walla, Kent, College Place, Long Beach and Ilwaco, Washington, Report and Order*. 19 FCC Rcd 12803 (2004)(the "*Covington Report and Order*").

that Joint Request, Mercer Island S.D. filed the Channel 205D application simultaneously with the Joint Request.² To accommodate that change, Bellevue School District # 405 (Bellevue S.D.), the licensee of Non-Commercial Educational Station KASB(FM), Bellevue, Washington, which operates on Channel 207D at Bellevue, Washington, has filed a minor change application (the "Application") to specify operation of KASB(FM) on Channel 210D.³

Grant of the Application would result in KASB (FM) causing second adjacent channel interference to KEXP-FM, Seattle, Washington, which is licensed to the University of Washington (the "University") and, therefore, would constitute a modification of the KEXP-FM license.⁴ The staff determined, however, that interference is predicted to occur only in the immediate vicinity to the KASB(FM) transmitter site. Accordingly, on May 23, 2006, Media Bureau staff issued an Order to Show Cause to the licensees of KEXP-FM requiring it to show cause why the Commission should not grant the Application.

The University responded to the Order to Show Cause. It did not object to the modification of its license by grant of the Application. It asked, however, that the Commission include a condition in the Bellevue construction permit requiring it to resolve any complaints of actual interference from KASB(FM) to the reception of KEXP-FM by listeners, including by going off the air until the matter is resolved. It also asked the Commission to make it clear that the KEXP-FM license would not be modified to compromise in any manner its right to be protected against any actual interference that might be caused by KASB(FM), or to prevent the University from making future changes in KEXP-FM's facilities otherwise permitted by FCC rules due to any possible adverse impact on KASB.⁵ By Response to Reply to Order to Show Cause dated September 15, 2006, Bellevue S.D. has consented to the conditions requested by the University.

We will grant the Bellevue S.D. minor modification application to specify operations on Channel 210D in lieu of Channel 207D. This will promote the public interest by allowing KMIH(FM), Mercer Island, Washington, to operate on Channel 205D in lieu of Channel 283D. Without that modification, operations of KMIH(FM) would have to be terminated. The construction permit also will include a condition which requires KASB(FM) to eliminate promptly any interference it causes to KEXP-FM. In the event that such interference cannot be resolved promptly by the use of suitable techniques, KASB(FM) will be required to cease operations.

By this action we do not change the secondary status of Class D FM station KASB(FM). Specifically, the University shall not be required to protect KASB(FM) in future facility applications and our action herein will not limit any future changes to the facilities of KEXP-FM.

Conclusion/Actions: Accordingly, IT IS ORDERED that Bellevue School District #405's application for a minor change of facilities to specify operation on Channel 210D at Bellevue, Washington (BPED-20060327AID), IS GRANTED.

² BPED-20060327AIM.

³ BPED-20060327AID.

⁴ 47 U.S.C. §316. See *R&S Media*, 19 FCC Rcd 6300, 6306 (2004).

⁵ University of Washington's "Statement in Response to Order to Show Cause" at 3.

IT IS FURTHER ORDERED, that the license for FM radio Station KEXP-FM, Seattle, Washington, IS MODIFIED as specified herein.

IT IS FURTHER ORDERED that a copy of this *Letter* shall be sent by Certified Mail – Return Receipt Requested to:

University of Washington Board of Regents
240 Gerberding Hall
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For additional information, please contact Roger Holberg or Peter H. Doyle of the Audio Division, Media Bureau.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter H. Doyle", with a stylized flourish at the end.

Peter H. Doyle
Chief, Audio Division
Media Bureau