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In the matter of:

North Odessa Hispanic Education Family Fundation	KYOD-LP	BLL-20190822ABM
South Lawton Hispanic Education Family Fundation	KSLW-LP	BLL-20190822ABH
Temple of Power	KYEN-LP	BLL-20190822ABG
North Victoria Christi Hispanic Education Family Fundation	KZVI-LP	BLL-20190822AAM
South El Paso Hispanic Education Family Fundation	KPJU-LP	BLL-20190821ABQ
North Laredo Hispanic Education Family Fundation	KLDU-LP	BLL-20190821ABP
North Nashville Community Radio	WXNS-LP	BLL-20190815ABV
Little Rock Hispanic Education Family Fundation	KZLI-LP	BLL-20190815ABU
Pittsburgh Community Radio	WXSQ-LP	BLL-20190815ABT
Fundacion Esperanza Viva	KZGP-LP	BLL-20190815ABP
South Corpus Christi Hispanic Education Family Fudation	KPCH-LP	BLL-20190813ABP
San Pedro Hispanic Community Radio (supplement)	KUSP-LP	BLL-20190802ABA

INFORMAL OBJECTION

In accordance with §73.3587 of the Commission's Rules, REC Networks ("REC") is filing an *Informal Objection* on the above captioned applications for the reasons herein.¹

We have seen a large number of filings coming from Dan Alpert of the "Cesar Guel" applications that were filed in the 2013 LPFM filing window. These applications to cover the licenses very close to their expiration dates raises the question of whether these facilities were actually constructed.

As we had stated in our previous *Informal Objection* for San Pedro Hispanic Community Radio, we had found evidence which included photographic evidence and e-mail statements from the tower manager that the facility has never constructed.² Well, this just happened again in Bakersfield, CA.

Based on information that was received by REC, there were doubts that the application for Bakersfield Hispanic Education Family Fundation (Facility ID #196038) despite the certifications made on license application BLL-20190820AAW (now dismissed at applicant request,

¹ - See 47 C.F.R. §73.3587 ("Before FCC action on any application for an instrument of authorization, **any person** may file informal objections to the grant.") (emphasis added) Unlike *Petitions to Deny*, *Informal Objections* do not require the formal requirements for standing such as geographic location.

² - This pleading will be filed in *San Pedro Hispanic Community Radio*, BLL-20190802ABA as a supplement to the *Informal Objection* already filed by REC.

“Bakersfield License”) that the facility was constructed in accordance with the terms of the construction permit. In order to assure that REC has a fair opportunity to challenge the grant, REC filed a request to withhold processing. This request was filed in CDBS and an electronic mail copy was sent to James Bradshaw and Gary Loehrs in the Audio Division as well as upon Counsel, Dan Alpert. This request was made on August 22 at 9:55AM EDT.

Later that day, Counsel filed a modification application for a different location. Not only did Counsel file that application but they were able to get Audio Division staff to “push” the application through to CDBS. According to REC’s CDBSBOT real-time tracking program, application was pushed into CDBS within 5 minutes of 2:30 PM EDT. Subsequently, Counsel requested the Bakersfield License dismissed.³ The REC CDBSBOT program picked up the dismissal as happening within 5 minutes of 3:00PM EDT on August 22.

On August 22, 2019 at 2:16PM EDT, REC had heard from Rusty Burchfield, a broadcast engineer from the Bakersfield area who had traveled to the site and was able to verify that at the location for which the *Bakersfield License* application was requested, there was no tower and no evidence of construction of any broadcast facility at that location. Rusty’s statement and photos will be included as an appendix to this pleading.⁴ In the Bakersfield case, it was clear that based on the actions subsequent to REC’s request to withhold processing, that something was wrong and as a result, Counsel used a tactic to cover his tracks in this situation.

Based on Counsel’s conduct in San Pedro and Bakersfield, it is REC’s position that we need to put a hold on the processing of all subsequent license applications of the facilities originally identified by REC on the December 3, 2013 *Informal Objection*. It is REC’s further position that the Commission should open an inquiry to whether willful and misleading statements have been made in the above captioned applications to demand hard evidence from Counsel and third party sources such as tower owners, that these facilities were actually constructed and are operational or if the spectrum is simply being warehoused for future under the table trafficking as was the case in *South Miami Hispanic Community Radio*, one of the other applications in the original December 3, 2013 REC Informal Objection.⁵ If the Commission is satisfied that these stations were constructed *prior to the construction permit expiration dates* and are operational, then great, there’s no issue. But as we can see from San Pedro and now Bakersfield, we

³ - CDBSBOT is an internal system at REC networks that polls the application status data through the public access inquiry services for both CDBS and LMS. This data is captured in a transaction log and is used to update the real-time information at REC operated website <https://fcc.today> as well as real time and historical updates on another REC operated website, <https://fccdata.org>. The CDBSBOT system operates once every 5 minutes throughout the business day. Transaction log data is available to the public by visiting the facility record at <https://fccdata.org> and clicking on the red triangle to the left of the application reference number on the right side of the screen.

⁴ - See Appendix A.

⁵ - See file number BNPL-20131112BEE, Letter from Peter Doyle (MB, July 13, 2017).

appear to have at least two attempts at warehousing. How many more of these are warehoused?⁶

Also, while REC, being a remote informal objector has no standing to seek reconsideration on the grants of prior license applications, it would be worthwhile for the Commission, through delegated authority to review the circumstances that lead to facilities being granted and whether counsel or the signatories of the applications (if they are even real people actively involved with the “facilities”) were truthful in their self-certifications that these facilities were actually constructed in accordance with their underlying construction permits.

REC is actively promoting the Commission to implement filing windows for new full-service NCE stations followed by a filing window for new LPFM stations. The applications filed by Counsel as well as applications filed by various speculators across the country amounted to nearly 15 percent of all LPFM applications filed in the 2013 window. This warehoused spectrum would be best served being used in a future filing window or even to resolve interference complaints due to the increase in cross-service FM translators as a result of AM Revitalization. We can't have this kind of fraud run rampant in the next set of filing windows.

The LPFM service was proposed in 1999 in an effort to increase citizen's access to the airwaves, address unmet needs for community-oriented radio broadcasting, foster opportunities for *new broadcast ownership* and promote additional diversity in radio voices and program services.⁷ This service was never intended for speculators and as we can now see, speculation is damaging this service. REC's position has always remained that this issue should have been addressed in 2014 with the large number of pattern filings as a potential indicator to questionable and possibly fraudulent abuse of Commission's processes and resources. The writing has been on the wall the entire time. Now, we are seeing the true colors come out.

For now, we must stop this hemorrhaging of abuse of Commission resources and further tarnishment of the LPFM service through this act of tycoonism. REC is asking that a *Letter of Inquiry* be initiated on all pending applications for which REC can object to. In that *Letter of Inquiry*, it needs to be determined that the parties who are actual people and that they consented to being a board member of the organization (including a *requirement* of notarized statements and identity documents), statements from site owners that sites have been constructed and even independent third party reports from either a state broadcasters association, Society of Broadcast Engineers chapter or if feasible, through monitoring by the

⁶ - It is important to realize that Counsel is not only involved with the LPFM stations that were “consulted” by Antonio Cesar Guel (Guel) but is also involves FM translators that are opened by entities headed by familial interests of Guel as well as organizations like Centro Cristiana de Vida Eterna, headed by Hector Guevara. Therefore, even if these facilities are never used for LPFM stations, some may be potential places for future FM translator operations.

⁷ - See *Creation of a Low Power Radio Service*, Notice of Proposed Rulemaking, 14 FCC Rcd 2471 (1999) at 1.

field Enforcement Bureau that these stations were actually constructed. A determination must be made whether these “entities” lack candor to be Commission licensees.

Until this pleading has been resolved by the Commission, it is REC’s intention to include any subsequent license applications for original construction permits from the original 245 applications due to this suspicion of false statements being made on these applications. REC requests that the license applications be dismissed, their underlying construction permits be forfeited and any call signs be deleted.

Our service is not for sale.

Respectfully submitted,

/S/

Michelle Bradley
Founder
REC Networks
August 23, 2019

A copy of this pleading has been served by First Class Mail on counsel for the “applicants” on August 23, 2019.

Dan J. Alpert
2120 N 21st Rd
Arlington, VA 22201

/S/

Michelle Bradley

APPENDIX A

Statement from Rusty Burchfield, CPBE, CBNT, CBRE regarding the original Bakersfield facility reported as constructed in now-dismissed application BLL-20190820AAW.

From: Rusty Burchfield <rusty@engineer.com>

Subject: KFBA-LP CP

Date: August 22, 2019 at 11:16:39 AM PDT

In reviewing the CP for KFBA-LP, I have found the coordinates listed on the CP to be inaccurate. The coordinates listed are of a site where a tower no longer exists.

Attached you will find pictures taken today, 22 August 2019 of the site listed on the KFBA-LP CP. Please note that there is no tower present.

I certify that the above statement to be true and accurate as I personally viewed the submitted Google Earth coordinates.

Regards,







Rusty W. Burchfield
Tel:661-428-8888

Certifications Held:
CPBE,CBNT,CBRE

Proud Member of:
SBE•ARRL•AES•IEEE•

Proud Member of:
Bakersfield West Rotary, Since 2015

Past National President 2008-2009
Active 2030 U.S & Canada

Past Active Life Member,
Bakersfield Active 2030 Club #27

Chair, KERN COUNTY FCC Local Emergency Communications Committee, State of California