



Federal Communications Commission  
Washington, D.C. 20554

CERTIFIED MAIL – RETURN RECEIPT REQUESTED  
April 8, 2009

Richard D'Amico  
155 13<sup>th</sup> Street  
Del Mar, California 92014-2331

Re: Station K26FA, Vista, California  
Facility ID No. 14910

Dear Mr. D'Amico:

Commission records show that on November 30, 2006, you were granted a renewal of license for low power television station K26FA, Vista, California,<sup>1</sup> with an expiration date of December 1, 2014. The Commission received a complaint in April 2007 that the station was off-the-air, and, in fact, had not been on the air for many years.

It appears from the foregoing that you may have falsely certified in the renewal application that your station was currently operating. In addition, Section 312(g) of the Communications Act provides that if a station fails to transmit broadcast signals for any consecutive 12-month period, the station license automatically expires at the end of that period. As part of our ongoing investigation of this matter, we require certain information regarding the recent operations of K26FA. This information must be supported by affidavit of you or your agent with personal knowledge thereof. We request that the following documents and information be provided within fifteen (15) business days from the date of this letter:

- (1) Provide all dates during which K26FA broadcast both an aural and visual signal and transmitted programming during the past three years.<sup>2</sup> You must also provide documentation establishing these dates, such as program transmission agreements, station utility bills, and the affidavits of persons responsible for the continuing operation and monitoring of the station during this time.
- (2) If K26FA was not operating at the time the renewal application was filed, identify all persons who took part in the decision to file the renewal

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<sup>1</sup> File No. BRTTL-20060725ABY.

<sup>2</sup> The Communications Act defines "broadcasting" as "the dissemination of radio communications intended to be received by the public." 47 U.S.C. § 153(6). It is well settled that conducting equipment tests or transmitting an equipment test pattern does not prevent the automatic expiration of a license pursuant to Section 312(g). *See A-O Broadcasting Corporation*, 23 FCC Rcd 603, 609 (2008), *citing Carlos J. Lastra, Trustee*, Memorandum Opinion and Order, 16 FCC Rcd 17268 (2001), *aff'd sub nom. per curiam, Aerco Broadcasting Corp. v. FCC*, 51 Fed. Appx. 23 (D.C. Cir. 2002) (automatic expiration pursuant to Section 312(g) not prevented by transmission of a television test pattern).

application application, and explain the basis for the decision to certify that the station was operating, when it was not. Also provide any written materials, including correspondence, notes and email messages that pertain to the filing of the license application.

Failure to provide the following information, supported by the affidavit of a person with personal knowledge, may result in cancellation of the K26FA license.

Sincerely,

Hossein Hashemzadeh  
Associate Chief  
Video Division  
Media Bureau

cc: Joseph E. Dunne, III, Esq.