

FEDERAL COMMUNICATIONS COMMISSION
445 TWELFTH STREET, SW
WASHINGTON, DC 20554

MEDIA BUREAU
AUDIO DIVISION
APPLICATION STATUS: (202) 418-2730
HOME PAGE: www.fcc.gov/mb/audio/

JAN 13 2012

ENGINEER: GARY A. LOEHRS
TELEPHONE: (202) 418-2700
FACSIMILE: (202) 418-1410/1411
MAIL STOP: 1800B3
INTERNET ADDRESS: Gary.Loehrs@fcc.gov

Calvary Chapel of Twin Falls, Inc.
P.O. Box 391
Twin Falls, ID 83303

Re: KGSF(FM); Green Forest, AR
Facility ID No. 92987
Calvary Chapel of Twin Falls, Inc.
BPED-20111207AJW

Dear Applicant:

The staff has under consideration the above-captioned minor change application filed on behalf of Calvary Chapel of Twin Falls Inc. to modify the broadcast facilities of KGSF(FM). The application proposes to increase power and service area and requests waiver of the contour overlap provisions of 47 C.F.R § 73.509. For the reasons stated below, we grant KGSF's waiver request and the application.

Waiver Request

An engineering review of the application reveals that it is in violation of 47 C.F.R § 73.509 with respect to third-adjacent channel Class C3 license (BLED-20000713ABF) and Class C2 construction permit (BPED-20070907AEV) for KAYH(FM), Fayetteville, AR. Specifically, the proposed protected contour (60 dBu) would receive prohibited overlap from KAYH's interfering contour (100 dBu). KGSF recognizes this violation and requests waiver of the contour overlap provisions of § 73.509.

In support of its waiver request, KGSF states that it will not cause interference to KAYH. KGSF also claims that the total overlap area is 14.75 square kilometer and contains a population of 1670 persons within KGSF's proposed 60 dBu contour. In addition, KGSF believes that the proposed facilities service area would increase by 416 square kilometers, an increase of 16%. Furthermore, the application will provide service to an additional 24,824 persons, which is an increase of 42%. Finally, KGSF cites *Educational Information Corporation*, 6 FCC Rcd 2207 (1991), as evidence of the Commission's willingness to consider waivers of such overlap in certain instances. KGSF states that it considers the affected area as very small when considered along with the increased service area, and concludes that waiver of § 73.509 is warranted in this case.

Discussion

KGSF's request to receive third-adjacent channel overlap is similar to the request submitted by WCPE(FM), Raleigh, NC in the *Educational Information Corporation* case. In that case it was stated that:

The Commission has long recognized the unique characteristics of the noncommercial service and the need for flexibility to respond to the growing demand for such service. We are also more sensitive today to the increasing limitations within the reserved band which reflect the increased demand for service over the last 30 years. For these reasons, we are now inclined to grant waivers of second or third adjacent channel overlap in circumstances such as WCPE's, where the benefit of increased noncommercial educational service so heavily outweighs the potential for interference in very small areas. However, because of the concern for the ability of the stations causing interference to make any future changes in their own facilities, as discussed below, we believe that the waiver of interference received must be granted with the acknowledgement that future modifications proposed by the affected licensees will not be construed as a *per se* modification of the waiver recipient's license.

Accordingly, in light of the Commission's policy on this matter, the requested waiver of 47 C.F.R. § 73.509 will be granted.

Conclusion

We have afforded the request for waiver of § 73.509 the "hard look" called for under *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969), and find that the facts and circumstances presented in the applicant's justification are sufficient to establish that grant of the requested waiver would be in the public interest. Accordingly, KGSF's request for waiver of § 73.509 IS HEREBY GRANTED. Furthermore, application File No. BPED-20111207AJW IS HEREBY GRANTED subject to the following condition:

Further modification of KAYH(FM), (facility ID No. 79130), Fayetteville, AR will not be construed as a *per se* modification of KGSF's authorization. (See *Educational Information Corporation*, 6 FCC Rcd. 2207 (1991)).

The authorization is enclosed. These actions are taken pursuant to 47 C.F.R. § 0.283

Sincerely,



Edna V. Prado
Supervisory Engineer
Audio Division
Media Bureau