

FEDERAL COMMUNICATIONS COMMISSION

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SEP 4 2008

Re: IHR Educational Broadcasting
KIHG(AM), Eureka, California
Facility Identification Number: 160910
Construction Permit: BNP-20050118AHP
As modified by BMP-20070124AKI
License Application: BL-20080821AEG
Program Test Authority ("PTA")

Dear Mr. Kelly:

This is in reference to your request of August 21, 2008, for program test authority, on behalf of IHR Educational Broadcasting ("IHR"), permittee of AM Class C Station KIHG(AM), Eureka, California, that was submitted along with a copy of the FCC Form 302-AM license application to cover Construction Permit BNP-20050118AHP as modified by BMP-20070124AKI. We note that IHR requests to change the KIHG(AM) status from "commercial" to "non-commercial", and to grant KIHG(AM) "satellite" status to permit its main studio to be co-located with that of proposed parent station KSMH(AM), West Sacramento, California, at IHR's headquarter in Fair Oaks, California. We also note that IHR does not comply with condition #6 and #7 of its construction permit but requests a waiver of condition # 5 and # 6.¹

¹ Condition # 5 states: Permittee shall accept such interference as may be imposed by other existing 250 watt Class C stations in the event that they are subsequently authorized to increase power to 1000 watts.

Condition # 6 states: Before program tests are authorized, sufficient data shall be submitted to show that adequate filters, traps and other equipment has been installed and adjusted to prevent interaction, intermodulation and/or generation of spurious radiation products which may be caused by common usage of the same antenna system by the proposed facility and stations KWSW ID# 19840 and there shall be filed with the license application copies of a firm agreement entered into by the two stations involved clearly fixing the responsibility of each with regard to the installation and maintenance of such equipment. In addition, field observations shall be made to determine whether spurious emissions exist and any objectionable problems resulting there from shall be eliminated. Following construction, and prior to authorization of program test under this grant, both stations shall each measure antenna or common point resistance and submit FCC Form 302 as application notifying the return to direct measurement of power.

Condition #7 states: Prior to construction of the tower authorized herein, permittee shall notify AM Station KWSW (BP-20070417AAT), and KINS (ID# 19841) so that, if necessary that AM station: may determine operating power by a method described in Section 73.51(a)(1) or (d), and/or request temporary authority from the Commission in Washington, D.C. to operate with parameters at variance in order to maintain monitoring point field strengths within authorized limits. Permittee shall be responsible for installation and continued maintenance of detuning apparatus

Based upon the specific representations contained in the application, the status of KIHG(AM) is changed from "commercial" to "non-commercial" and IHR is granted a waiver of Section 73.1125 to operate the proposed facility as a "satellite" of co-owned noncommercial educational AM station KSMH(AM), West Sacramento, California, (Facility ID Number: 87036) provided IHR shall abide by each representation proffered in the waiver request.

With respect to IHR's request to waive condition # 5 and # 6, IHR supports its request by stating that that KIHG(AM) uses an existing tower and no physical change or electrical change were made to the tower. However, this cannot be a basis to waive either condition. Condition #5 is the standard for Class C stations and does not require a showing for program test authority. Condition #6 is required to ensure the diplexing with KWSW(AM) will not cause any objectionable interference to other stations. We have afforded the waiver request the "hard look" called for under the doctrine of *Wait Radio*², but find that the facts and circumstances set forth in the waiver request are insufficient to establish that grant of the request for waiver of would be in the public interest. In addition, IHR did not cite any cases in which waivers of Condition #5 and # 6 have been granted under similar circumstances. Accordingly, the waiver request is denied.

Based on the foregoing, the IHR request for program test authority **IS DENIED** as Condition # 6 is not satisfied.³

In addition, a preliminary review of the application reveals that the authorized overall height of the tower (85.8 meters) and the overall height of the tower in the license application (86.8 meters) disagree.

Sincerely,



Son K. Nguyen
Supervisory Engineer
Audio Division
Media Bureau

cc: IHR Educational Broadcasting
William Richard Green

necessary to prevent adverse effects upon the radiation pattern of the AM station. Both prior to construction of the tower and subsequent to the installation of all appurtenances thereon, a partial proof of performance, as defined by Section 73.154(a) of the Commission's Rules, shall be conducted to establish that the AM array has not been adversely affected and prior to or simultaneous with the filing of the application for license to cover this permit, the results submitted to the Commission.

² See *WAIT Radio v. FCC*, 418 F 2d 1153 (D.C. Cir. 1969) ("Wait Radio").

³ IHR does not have to comply with condition #7 as this is an existing tower.