



Federal Communications Commission  
Washington, D.C. 20554

April 10, 2014

*In Reply Refer to:*  
1800B3-RSS

**CERTIFIED MAIL-RETURN RECEIPT REQUESTED**

Mr. Antonio Cesar Guel  
2605 Hyacinth Drive  
Mesquite, TX 75181

In re: **KCIY(FM), Helendale, CA**  
Centro de Intercesion y Adoracion  
Internacional, Inc.  
Facility ID No. 176032  
File Nos. BLED-20131209WXR  
BNPED-20071022AIP

**Letter of Inquiry – Response Requested**

Mr. Guel:

The Media Bureau ("Bureau") is investigating potential statutory and rule violations and related instances of potential misrepresentation and/or lack of candor on the part of Centro de Intercesion y Adoracion Internacional, Inc. ("CIAI" or "Permittee"). Before us is the above-referenced application filed by CIAI on December 9, 2013, for a license to cover the new noncommercial educational ("NCE") Station KCIY(FM) ("KCIY" or "Station") in Helendale, California ("License Application").

This letter of inquiry is issued pursuant to Section 73.1015 of the Rules<sup>1</sup> and Section 403 of the Communications Act of 1934, as amended.<sup>2</sup> The information received in response to this letter of inquiry will be used by the Commission in determining whether to grant the License Application. In addition, the information received may be used to determine whether CIAI violated the Rules in a manner that warrants enforcement action.

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<sup>1</sup> 47 C.F.R. § 73.1015 ("The Commission or its representatives may, in writing, require from any applicant, permittee, or licensee written statements of fact relevant to a determination whether an application should be granted or denied, or to a determination whether a license should be revoked, or to any other matter within the jurisdiction of the Commission, or, in the case of a proceeding to amend the FM or Television Table of Allotments, require from any person filing an expression of interest, written statements of fact relevant to that allotment proceeding. Any such statements of fact are subject to the provisions of § 1.17 of this chapter").

<sup>2</sup> 47 U.S.C. § 403.

## Background

The staff issued CIAI a construction permit to build a new NCE FM station at Helendale, California on December 8, 2010.<sup>3</sup> Under its own terms and pursuant to Section 73.3598(a) of the Commission's Rules (the "Rules"), the Construction Permit was to expire on December 8, 2013.<sup>4</sup> CIAI filed the License Application on December 9, 2013.<sup>5</sup> In the License Application, CIAI certified, *inter alia*, that: 1) KCIY was "operating pursuant to automatic program test authority" ("PTA") under Section 73.1620(a)(1));<sup>6</sup> 2) "all terms, conditions, and obligations set forth in the underlying construction permit [had] been fully met";<sup>7</sup> 3) "the main studio location complie[d] with Section 73.1125";<sup>8</sup> and, 4) "the Station was constructed as authorized in the underlying construction permit or complie[d] with Section 73.1690" of the Rules.<sup>9</sup>

The Bureau received information that Permittee's Station was not constructed as of December 11, 2013, two days after CIAI filed its License Application certifying that not only was the Station constructed as authorized by the Construction Permit, but had already commenced operation.<sup>10</sup> At the request of the Bureau Staff, the Commission's Enforcement Bureau field agents (the "Agents") drove to the vicinity of the authorized transmitter site on December 13, 2013, to determine if radio frequency emissions from the Station could be detected. The Agents reported that the Station's signal was not detectable at all, and determined that KCIY was not, in fact, broadcasting. Due to KCIY's remote location, the Enforcement Bureau determined that a second visit was in order to ascertain with certainty whether the Station was indeed operating.

On December 17, 2013, Enforcement Bureau Agents returned to CIAI's authorized transmitter site. Due to the rugged terrain, this time the Enforcement Bureau agents used a specialty vehicle to get as close to the purported transmitter coordinates as possible. The Enforcement Bureau reported absolutely no evidence of a radio station ever being constructed in the area. Agents also observed that there were no utility poles to provide power for a radio station within several miles of the site. These observations were documented and photographed during this site visit.<sup>11</sup> The area specified in Permittee's Construction Permit and License Application is entirely desert. It is under control of the U.S. Government's Bureau of Land Management ("BLM"). Enforcement Bureau Agents spoke with the BLM administrator who indicated that he did not recall any party requesting a permit for construction of a communications site in the area, further indicating that such a request would likely be denied because the BLM seeks to retain the land's undeveloped character. The Enforcement Bureau later received confirmation by email that the BLM had not authorized any communications site where the Station allegedly was constructed.

The Enforcement Bureau's inspection raises serious questions about the veracity of Permittee's

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<sup>3</sup> See 47 C.F.R. § 73.3598(a).

<sup>4</sup> See File No. BNPED-20071022AIP ("Construction Permit").

<sup>5</sup> The License Application was timely filed. See 47 C.F.R. § 1.4(j) (providing, "... if ... the filing date falls on a holiday [including Sunday], the document shall be filed on the next business day").

<sup>6</sup> License Application at Section I, Question 5 (47 C.F.R. § 73.1620(a)(1) provides that a "... permittee of a nondirectional ... FM station ... may begin program tests upon notification to the FCC in Washington, DC provided that within 10 days thereafter, an application for a license is filed with the FCC in Washington, DC").

<sup>7</sup> *Id.* at Section II, Question 2.

<sup>8</sup> *Id.* at Section III, Question 5.

<sup>9</sup> *Id.* at Section III, Question 7.

<sup>10</sup> License Application at Section I, Question 5.

<sup>11</sup> We have appended copies of several of the photographs taken during the site visit to this letter. See Enforcement Bureau Photographs of Alleged Construction Site for KCIY(FM) ("Photographs").

certifications. Consequently, we direct the Permittee, pursuant to Sections 4(i), 4(j), 308(b) and 403 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 154(j), 308(b), and 403, to provide responses to the following inquiries, within thirty (30) calendar days from the date of this letter. Note that the Permittee may supplement its responses with additional relevant information pursuant to Sections 1.17 and 1.88 of the Rules.<sup>12</sup>

### **Definitions**

For purposes of this letter, in addition to the terms defined elsewhere in this letter, the following definitions apply:

The word “any” shall be construed to include the word “all,” and the word “all” shall be construed to include the word “any.” Additionally, the word “or” shall be construed to include the word “and,” and the word “and” shall be construed to include the word “or.” The word “each” shall be construed to include the word “every,” and the word “every” shall be construed to include the word “each.”

The words “document(s),” “documentation,” and “photograph(s)” shall mean the complete original (or in lieu thereof, exact copies of the original) and any non-identical copy (whether different from the original because of notations on the copy or otherwise), regardless of origin or location, of any taped, recorded, transcribed, written, typed, printed, filmed, punched, computer-stored, or graphic matter of every type and description, however and by whomever prepared, produced, disseminated, or made, including but not limited to any broadcast, radio or television program, advertisement, book, pamphlet, periodical, contract, correspondence, letter, facsimile, e-mail, file, invoice, memorandum, note, telegram, report, record, handwritten note, working paper, routing slip, chart, graph, photograph, paper, index, map, tabulation, manual, guide, outline, script, abstract, history, calendar, diary, agenda, minutes, marketing plan, research paper, preliminary drafts, or versions of all of the above, and computer material (print-outs, cards, magnetic or electronic tapes, disks and such codes or instructions as will transform such computer materials into easily understandable form).

The word “Permittee” shall mean Centro de Intercesion y Adoracion Internacional, Inc. and any affiliate(s), parent company, wholly or partially owned subsidiary, other affiliated company or business, and all owners, including but not limited to, partners or principals, and all directors, officers, employees, or agents, including consultants and any other persons working for or on behalf of the foregoing at any time during the period covered by this letter.

### **Inquiries: Documents and Information Must be Provided**

- 1) State unequivocally whether the certification in the License Application, Section I, Question 5, that Station KCIY was operating pursuant to automatic PTA was true or false at the time of certification.
  - a) If the answer is “true,” submit a detailed explanation in light of the information set forth above. The requested explanation must be signed under penalty of perjury. Additionally, if the answer is “true,” submit the following:
    - i) Provide a copy of all documents relating to the operation of Station KCIY, including copies of all leases, personnel records, engineering records, the Station’s public inspection file,

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<sup>12</sup> 47 C.F.R. §§ 1.17, 1.88.

records relating to Station operation, including, but not limited to, invoices, bills, checks written or received, credit card charges, wire transfers, or deposits of funds.

- ii) Provide a copy of all documents relating or referring to any programming, both planned and/or executed, on the Station since it has been in operation. Specifically, provide a copy of KCIY's Issues/Programs list,<sup>13</sup> and documentation of any programming logs, schedules, or other information concerning KCIY's programming since it has commenced broadcasting.
- b) If the answer is "false," explain the reason(s) for submitting false certifications.
- 2) State unequivocally whether the following certifications in the License Application were true or false at the time of the certification:
- Section II, Question 2 Certification: that all terms, conditions, and obligations set forth in the underlying construction permit have been fully met;
  - Section III, Question 5 Certification: that the main studio location complies with Section 73.1125 of the Rules;
  - Section III, Question 7 Certification: that the Station was constructed as authorized under the construction permit or complies with Section 73.1690 of the Rules.
- a) If the answer is "true" for any of the above certifications, submit a detailed explanation in light of the information set forth above. The requested explanation must be signed under penalty of perjury. Additionally, if the answer is "true," submit the following:
- i) Provide a copy of all documents referring or relating to the construction of Station KCIY, including, but not limited to, copies of all leases, blueprints, receipts, estimates, appraisals, invoices, bills, checks written or received, credit card charges, wire transfers, or deposits of funds relating to construction. The submitted documentation should account for all equipment acquisition, design and labor costs incurred, and all permits and leases associated with the construction. The documentation should also include proof of lawful right to construct on the specified land, either through ownership or rental agreement, and any written correspondence with the BLM reflecting its consent to the Station's construction and intended use. The documentation should also account for the delivery of electricity to the authorized transmitter site.
  - ii) List all transmission equipment used specifically (make, model, manufacturer) by the Station.
  - iii) Provide photographs of all KCIY facilities, if available, at the time CIAI filed the License Application. The photographs must include the date and time at which taken. The photographs must be properly authenticated as true as correct by an individual with personal knowledge, in a sworn statement, signed under penalty of perjury.
  - iv) If the Station is currently constructed, provide a satellite, aerial view screen-printout<sup>14</sup> of KCIY's facilities from at least three different magnifications. Each depiction should clearly identify KCIY's facilities and must include the date and time at which taken. The screen-

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<sup>13</sup> See 47 C.F.R. § 73.3527(e)(8).

<sup>14</sup> Several software programs may be used, for example the "satellite view" option on Google Maps.

printouts must be properly authenticated as true as correct by an individual with personal knowledge, in a sworn statement, signed under penalty of perjury.

- v) Provide the address for the KCIY's Main Studio location as of December 17, 2013.
  - vi) Provide a full and complete copy of all documents relating to the Main Studio Location, including a copy of the dated and executed lease agreement, any personnel records, engineering records, invoices, bills, checks written or received, credit card charges, wire transfers and deposits of funds relating to the purchase and installation of equipment at or for the Main Studio Location.
  - vii) Provide all records relating to the preparation and filing of the License Application.
- b) If the answer is "false" with respect to any of the certifications above, explain the reason(s) for submitting false certifications.
- 3) Provide copies of all documents that provide the basis for or otherwise support the responses to the questions specified above. Highlight any dates in all documents submitted.

### **Submission Instructions**

We direct Permittee to support each of its responses with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of any covered business entity responding on behalf of such entity or by the affiant or declarant responding individually with personal knowledge of the representations provided in such response, verifying the truth and accuracy of the information therein and that all of the information and/or recordings requested by this letter which are in such respondent's possession, custody, control or knowledge have been produced. If multiple Permittee employees contribute to the response, in addition to such general affidavit or declaration of the authorized officer of Permittee noted above, if such officer (or any other affiant or declarant) is relying on the personal knowledge of any other individual, rather than his or her own knowledge, provide separate affidavits or declarations of each such individual with personal knowledge that identify clearly to which responses the affiant or declarant with such personal knowledge is attesting. All such declarations provided must comply with Section 1.16 of the Rules,<sup>15</sup> and be substantially in the form set forth therein.

**To knowingly and willfully make any false statement or conceal any material fact in reply to this inquiry is punishable by fine or imprisonment.<sup>16</sup> Failure to respond appropriately to this Media Bureau letter of inquiry may constitute a violation of the Communications Act and our Rules.<sup>17</sup>**

The Permittee shall direct its response, if by messenger or hand delivery, to the attention of Raphael Sznajder, Audio Division, Media Bureau, Federal Communications Commission, Office of the Secretary, 445 12<sup>th</sup> Street, S.W., Room TW-A325, Washington, D.C. 20554. If sent by mail, the response should be sent to of Raphael Sznajder, Audio Division, Media Bureau, Federal Communications

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<sup>15</sup> 47 C.F.R. § 1.16.

<sup>16</sup> See 18 U.S.C. § 1001; see also 47 C.F.R. § 1.17.

<sup>17</sup> See *SBC Communications, Inc.*, Forfeiture Order, 17 FCC Rcd 7589 (2002); *Globcom, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 18 FCC Rcd 19893, n. 36 (2003); *World Communications Satellite Systems, Inc.*, Forfeiture Order, 19 FCC Rcd 2718 (EB 2004); *Donald W. Kaminski, Jr.*, Forfeiture Order, 18 FCC Rcd 26065 (EB 2003).

Commission, 445 12<sup>th</sup> Street, S.W., Room 2-A140, Washington, D.C. 20554.

If Permittee requests that any information or documents, as defined herein, responsive to this letter be treated in a confidential manner, it shall submit, along with such information or documents a request for confidential treatment which complies with the requirements of Section 0.459 of the Rules,<sup>18</sup> including the standards of specificity set forth therein. Accordingly, "blanket" requests for confidentiality of a large set of documents are unacceptable. Pursuant to Section 0.459(c), the Bureau will not consider requests that do not comply with the requirements of Section 0.459.

If Permittee withholds any information or documents under claim of privilege, it shall submit, together with any claim of privilege, a schedule of the items withheld that states, individually as to each such item, the numbered inquiry to which each item responds and the type, title, specific subject matter, and date of the item; the names, addresses, positions, and organizations of all authors and recipients of the item; and the specific ground(s) for claiming that the item is privileged.

Each requested document (including photographs), as defined herein, shall be submitted in its entirety, even if only a portion of that document is responsive to an inquiry made herein, unless the document is a recording or transcript, in which case it should be provided only for the period of time of the broadcast specified in the pertinent inquiry herein. The document shall not be edited, cut, or expunged, and shall include all appendices, tables, or other attachments, and all other documents referred to in the document or attachments. All written materials necessary to understand any document responsive to these inquiries must also be submitted.

If a document responsive to any inquiry made herein existed but is no longer available, or if Permittee is unable for any reason to produce a document responsive to any inquiry, Permittee shall identify each such document by author, recipient, date, title, and specific subject matter, and explain fully why the document is no longer available or why Permittee is otherwise unable to produce it.

With respect only to documents responsive to the specific inquiries made herein and any other documents relevant to those inquiries, Permittee is directed to retain the originals of those documents for twelve (12) months from the date of this letter unless Permittee is directed or informed by the Media Bureau in writing to retain such documents for some shorter or longer period of time.

The specific inquiries made herein are continuing in nature. Permittee is required to produce in the future any and all documents and information that are responsive to the inquiries made herein but not initially produced at the time, date and place specified herein. In this regard, Permittee must supplement its responses if (a) Permittee learns that, in some material respect, the documents and information initially disclosed were incomplete or incorrect, or if (b) additional responsive documents or information are acquired by or become known to Permittee after the initial production. The requirement to update the record will continue for twelve (12) months from the date of this letter unless Permittee is directed or informed by the Media Bureau in writing that Permittee's obligation to update the record will continue for some shorter or longer period of time.

For each document or statement submitted in response to the inquiries below, Permittee shall indicate, by number, to which inquiry it is responsive and identify the person(s) from whose files the document was retrieved. If any document is not dated, Permittee shall state the date on which it was prepared. If any document does not identify its author(s) or recipient(s), state, if known, the name(s) of the author(s) or recipient(s). Permittee must identify with reasonable specificity all documents provided

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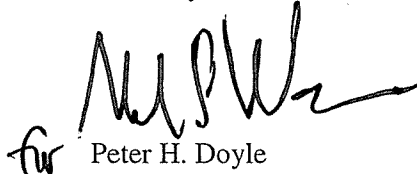
<sup>18</sup> 47 C.F.R. § 0.459.

in response to these inquiries.

### Conclusion

Failure to respond within the time period specified may result in dismissal of the subject application for failure to respond to official correspondence pursuant to Section 73.3568 of the Rules and a declaration that the Construction Permit has expired pursuant to Section 73.3598 of the Rules.<sup>19</sup> Note that even if Permittee ultimately decides not to prosecute the License Application by not timely submitting the requested documentation in response to this Letter of Inquiry, the Audio Division hereby requests that the Permittee nonetheless affirmatively respond to the questions regarding the veracity of its certifications by answering "YES" or "NO" to each question regarding its certifications posed above. We will defer action on the License Applications pending receipt of the requested response.

Sincerely,

  
for Peter H. Doyle  
Chief, Audio Division  
Media Bureau

Enclosures

cc: Dan J. Alpert, Esq.

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<sup>19</sup> 47 C.F.R. § 73.3568; 47 C.F.R. § 73.3598.

# **Enforcement Bureau Photographs of Alleged Construction Site for KCIY(FM)**

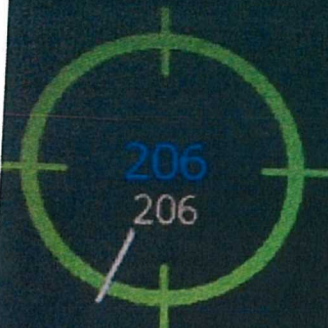












HEADING SRC: VEC 224  
12/17/2013 11:39:50

MODULATOR AMPLIFIER	MINIMIZE MDFX
MENU	DEL LST BNG
HISTOGRAM	MAP
MISSION	CLEAR BEARINGS
CAPTURE	ZOOM OUT
	ZOOM IN

SPAN: 500 kHz

INC: 62 kHz

LATITUDE (deg): 34.7211643333 34:43:16.19 N  
LONGITUDE (deg): -117.1753020000 117:10:31.09 W  
TRACK (deg): 337  
HEADING (deg.N): 224  
HEADING SOURCE: VEC-BEST  
SPEED (MPH): 0  
ALTITUDE (ft): 3266  
MAG DEC (deg): 12.3  
MAG DEC Direction: E  
# SATELLITES: 10  
DATE/TIME (LOCAL): 12/17/2013 11:39:50  
DATE/TIME (UTC): 12/17/2013 19:39:50  
STATUS: GPS VALID

BEARING (deg): 206  
MOD BAND: 0  
MOD AMP: ON  
RX AMP: ON  
FREQ (MHz): 0091.7000  
POWER (-dBm): -76

Software Rev.: 1.2.2.0  
Software Date: 03/19/2013

RX TX  
☐ RECEIVER ☐  
☒ MDFX ☐  
☐ GPS  
☐ KNOB BOX

DONE X RAW DATA SETTINGS EXIT OF SYSTEM

0091.7000 250k FM STEP SIZE AUTO  
SO MIN Preset Menu  
Rx Preamp

LX1200T

1 2 3 4 5



