

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/

ENGINEER: Dale Bickel
TELEPHONE: (202) 418-2706
FACSIMILE: (202) 418-1410
E-MAIL: dale.bickel@fcc.gov

July 28, 2014

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

Re: KBYN (FM), Arnold, CA
La Favorita Radio Network, Inc.
Facility Identification Number: 15005
Request for Special Temporary Authorization
BSTA-20140708ACG

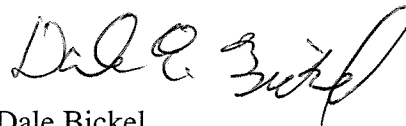
Dear Counsel:

This is in reference to the request filed July 8, 2014, on behalf of La Favorita Radio Network, Inc. ("La Favorita"). By letter dated July 23, 2014 (copy attached), I denied the STA request based on the information provided. On July 25, 2014, you provided additional details of the antenna damage and explain that the directional operation will only be needed for a limited time, while the antenna is being repaired (copy attached).

Because the proposed directional STA operation will not be permanent, with a return to nondirectional licensed operation expected within several weeks using the licensed antenna, I conclude that a limited time STA is justified to facilitate KBYN's antenna repairs. Accordingly, the July 23, 2014 denial IS SET ASIDE, and the requested STA operation IS GRANTED for operation with the Antenna Concepts antennas oriented at 210° and 330°, at 58 meters above ground level, and at an effective radiated power (ERP) of 8.4 kW.

This authority expires November 28, 2014. Extensions of this authority are not contemplated. La Favorita must notify the Commission when licensed operation is restored. La Favorita must use whatever means are necessary to protect workers and the public from radiofrequency exposure in excess of the Commission's exposure guidelines. See 47 CFR § 1.1310.

Sincerely,



Dale Bickel
Senior Engineer
Audio Division
Media Bureau

cc: La Favorita Radio Network, Inc.

From: Dan J. Alpert
To: Dale Bickel
Subject: FW: KBYN BSTA -20140708ACG OK to file?
Date: Friday, July 25, 2014 12:52:02 AM

Dale:

It was noticed that there are some extraneous noises (hissings, etc.) being broadcast as a part of the KBYN transmissions. Due to the elevation of the site, the antenna could not be inspected until late spring. It is believed that severe winter weather last winter caused either moisture damage or damage to some of the soldering of the current KBYN antenna, and is creating the broadcast problem currently being experienced.

It was determined by the station's contract engineer that the best course of action was to send the antenna out for repair. The time required to get the antenna sent out and repaired is believed to be about 8 weeks. The station wishes to stay on the air during that period of time, necessitating grant of this STA.

In order to receive the antenna back in time before winter weather interferes with its re-installation, the station needs to receive the antenna back by early October. The antenna proposed for use in conjunction with the STA operation is an antenna already owned by the licensee. No long term operation with the proposed STA antenna by the licensee is anticipated.

It is requested that the STA denial be reversed and granted.

An e-mail message from:
Dan J. Alpert
The Law Office of Dan J. Alpert
2120 N. 21st Rd.
Arlington, VA 22201

703-243-8690 (business)
703-539-5418 (fax)

(Please note: This is a message sent by an attorney. It is confidential. It may contain privileged attorney-client communication or work product intended only for the individual or entity named within the message. If you are not the intended recipient, or the agent responsible to deliver it to the intended recipient, any review, dissemination, distribution, or copying of this message is prohibited. If this email message was received in error, it would be appreciated if you would notify me by reply e-mail and delete the original message from your system. Thank you for your cooperation.)

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July 23, 2014

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

Re: KBYN (FM), Arnold, CA
La Favorita Radio Network, Inc.
Facility Identification Number: 15005
Request for Special Temporary Authorization
BSTA-20140708ACG

Dear Counsel:

This is in reference to the request filed July 8, 2014, on behalf of La Favorita Radio Network, Inc. ("La Favorita"). La Favorita states that "the KBYN antenna has been damaged" without explanation of the circumstances that caused the damage. As a replacement for the licensed nondirectional antenna, La Favorita seeks to use a two section Antenna Concepts directional antenna at slightly reduced power. La Favorita provides an exhibit to demonstrate that the 60 dBu contour using the directional antenna would remain within the 60 dBu contour of the presently licensed operation.¹

Section 73.3538(a)(3) requires permittees and licensees to file a construction permit application for "[a]ny change in ... [the] directional radiating characteristics of the antenna or antenna system."² Consciously or not, the present STA request implicitly seeks to circumvent this longstanding requirement. No compelling circumstances have been advanced for exempting KBYN from this explicit requirement, even on a temporary basis.³

¹ KBYN's licensed operation is fully spaced under Section 73.207 of the FCC's rules and directional operation is not required.

² The focus of the rule is on the characteristics of the *antenna*, not on the resulting *coverage*.

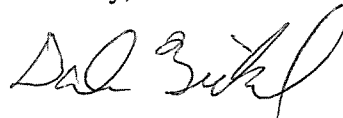
³ In response to a rulemaking filed by the previous licensee, in 2006 KBYN's license was modified from Channel 240A at Arnold, CA to Channel 240A at City of Angles, CA. See the *Report and Order* in MB Docket 05-316, 21 FCC Rcd 4843 (2006). That licensee was granted construction permit BPH-20060828AFP which expired September 8, 2009 after a three year period. La Favorita acquired the station in March of 2009. On July 16, 2014 – eight days after filing this STA request – La Favorita filed construction permit application BPH-20140716AEN, seeking a new three year construction period for the facilities in the expired construction permit. Consequently, it is clear that the licensed facility will have to be used for an extended period.

The directional antenna substitution appears to be for the licensee's benefit and convenience only. The directional antenna would reduce the transmitter power required, and so make the facility cheaper to operate.

Section 309(f) of the Communications Act of 1934, as amended, authorizes the Commission to grant STA in cases of "extraordinary circumstances requiring temporary authorizations in the public interest and when delay in the institution of the temporary operations would seriously prejudice the public interest." However, Section 309(f) is not a means by which a licensee/permittee may circumvent established processing procedures which require the filing of an application, nor is it a means by which a broadcaster may enhance his facility or make operation more convenient for the broadcaster. Economic advantages to the licensee are not justification for an STA. Nor is the STA process appropriate for long term or permanent operation of facilities, as is intended here.

Accordingly, the request for STA IS HEREBY DENIED. Please be aware that KBYN yet retains the flexibility to replace its existing nondirectional antenna with a similar antenna, followed by the filing of a modification of license application on FCC Form 302-FM. *See* Section 73.1690(c)(1). This process will permit KBYN to retain the full coverage presently licensed to the station.

Sincerely,

A handwritten signature in black ink, appearing to read "Dale Bickel", written in a cursive style.

Dale Bickel
Senior Engineer
Audio Division
Media Bureau

cc: La Favorita Radio Network, Inc.