

FEDERAL COMMUNICATIONS COMMISSION
445 Twelfth Street, S.W.
WASHINGTON DC 20554

AUG 07 2015

MEDIA BUREAU
AUDIO DIVISION
APPLICATION STATUS: (202) 418-2700
HOME PAGE: WWW.FCC.GOV/MB/AUDIO

PROCESSING ENGINEER: Darrell Bauguess
TELEPHONE: (202) 418-2182
FACSIMILE: (202) 418-1410
MAIL STOP: 1800B3
EMAIL ADDRESS: darrell.bauguess@fcc.gov

Saint Francis High School of Mountain View
1885 Miramonte Avenue
Mountain View, CA 94040

In re: KSFH(FM), Mountain View, CA
Facility ID No.: 62118
St. Francis High School of Mountain View
BPED-20150219ABM

Dear Applicant:

This letter is in reference to the above-captioned application to change from Channel 200D to Channel 264D, while maintaining the effective radiated power ("ERP") at a new transmitter site.¹ KSFH also requests waiver of the contour overlap provisions of 47 C.F.R § 73.509. For the reasons stated below, we grant KSFH's waiver request and the application.

Section 73.509 Waiver Request

An engineering study of the application reveals that KSFH's proposed facilities would cause prohibited contour overlap with the following facilities: (1) second-adjacent channel Class B license (BMLH-19980504KC) for KBRG(FM), San Jose, CA; and (2) third-adjacent channel Class B license (BLH-6225) for KIOI(FM), San Francisco, CA, in violation of § 73.509. Specifically, KSFH's interfering contour (100 dBu)² is entirely encompassed by the protected contours (60 dBu) of KBRG and KIOI, respectively. KSFH recognizes this violation and requests waiver of the contour overlap provisions of § 73.509.

In support of the waiver request, KSFH states that the proposed channel change is necessary because KSFH is being displaced by extensive first-adjacent channel interference from TV-6 Station KBKF-LP, San Jose, CA. In addition, KSFH believes that the proposal is consistent with the *Notice of Proposed Rule Making and Order*; 13 FCC Rcd 14849 (1998), ("Class DNPRM"), which proposed allowing displaced Class D stations to move to interference-free channels or, in

¹ KSFH is licensed on CH 200D with a maximum ERP of 10 watts and an antenna height above average terrain ("HAAT") of -75 meters, 4.4 kilometers from the licensed site.

² Section 73.509 requires second adjacent Class D stations to use the 80 dBu interfering contour. However our experience with low power interfering stations protecting full-power stations shows that the 100 dBu contour is more appropriate. The waiver we grant herein allows KSFH(FM) to use the 100 dBu contour.

the absence of an interference-free channel, to a channel that would result in only second or third adjacent channel overlap. Thus, KSFH claims that after an extensive channel search there are no channels available from the proposed transmitter site except for Channel 264. Using the signal strength ratio method, KSFH indicates that the proposed relocation will not cause any interference at ground level to either KBRG or KIOI. Accordingly, KSFH concludes that the overlap is *de minimis* and that grant of this waiver request would serve the public interest.

Discussion

KSFH's proposal is both unique and compelling and warrants a waiver of § 73.509(b). First, KSFH was displaced by KBKF-LP and cannot specify fully rule compliant alternative facilities in this very congested radio market. In addition, our studies indicate that the interference area will consist of only 0.22 square kilometers,³ much less than 1 percent of the protected contour of either KBRG and KIOI. KSFH has also submitted an extensive analysis of the entire FM band in this market and it is clear that Channel 264 is the best available channel. Furthermore, we note that KBRG and KIOI have not filed an objection to the application and KSFH has agreed to resolve any instances of actual interference. Finally, the proposal put forth by KSFH satisfies the criteria presented in the Class D NPRM.

In *Educational Information Corporation*, the Commission observed that co- or first adjacent channel overlap is a more serious matter than second or third adjacent channel overlap because "the interference that may occur results in the loss of service over a wide area." "Second or third adjacent Channel overlap may result in the replacement of one signal by another (not the complete loss of service) and is confined to a very small area around the transmitter of the interfering station. In the case of low power Class D stations, the potential interference area would be exceedingly small. Accordingly, we believe that a waiver of § 73.509 is warranted to permit second- and third-adjacent overlap where there is no available interference-free channel for a displaced class D station.

The Commission has long recognized that Class D stations provide a valuable service to local listeners and the changes proposed in the instant application would serve the public interest allowing KSFH to continue its local service. Furthermore, while the Commission has not yet adopted the new rules in the Class D NPRM, the proposal set forth by KSFH to change channels is the best possible outcome for preserving a unique service while minimizing the potential for interference. Accordingly, in light of the unique circumstances involved here, we will grant the requested waiver of 47 C.F.R. § 73.509. We note, however, Class D stations have an obligation not to cause any interference to full service facilities. Therefore, to prevent any unforeseen authorization requiring it to remedy any complaints of interference to KBRG or KIOI caused by its operation on Channel 264.

Conclusion

When an applicant seeks waiver of the rules, it must plead with particularity the facts and circumstances which warrant such action. *Columbia Communications Corp. v. FCC*, 832 F.2d 189, 192 (D.C. Cir. 1987) (quoting *Rio Grande Family Radio Fellowship, INC. v. FCC*, 406 F.2d

³ This value is calculated after determining the radius of a 100 dBu contour using the free space equation

644, 666 (D.C. Cir. 1968) (per curiam)). 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, KSFH's request for waiver of § 73.509 IS HEREBY GRANTED. Furthermore, application File No. BPED-20150219ABM IS HEREBY GRANTED subject to the following conditions:

KSFH will not be permitted to continue to operate if it causes any objectionable interference to KBRG(FM), San Jose, CA (Facility ID No. 68839) or KIOI(FM), San Francisco, CA (Facility ID No. 34930). If interference cannot be eliminated to the satisfaction of KBRG or KIOI by the application of suitable techniques, operation of KSFH shall be suspended and shall not be resumed until the interference has been eliminated.

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

Sincerely,

A handwritten signature in blue ink, appearing to read 'Rodolfo F. Bonacci', with a stylized flourish at the end.

Rodolfo F. Bonacci
Assistant Chief
Audio Division
Media Bureau

cc: Frank R. Jazzo, Esq (via email)
Erik C. Swanson, P.E. (via email)
Christopher Wood, counsel for Univision Radio License Corporation (KBRG) (via email)
Troy Langham, counsel for AMFM Broadcasting Licenses, LLC (KIOI) (via email)