

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In re Application of)
)
CALIFORNIA STATE UNIVERSITY,) File No. BPED-20070905ABF
LONG BEACH FOUNDATION) Facility ID No. 8197
)
For Minor Change in the Licensed Facilities)
of Station KKJZ(FM), Long Beach, California)

To: Office of the Secretary
Attention: The Commission

OPPOSITION TO APPLICATION FOR REVIEW

Santa Monica Community College District (“SMCCD”), licensee of noncommercial educational station KCRY(FM), Mojave, California, acting pursuant to Section 1.115(d) of the Commission’s rules, 47 C.F.R. §1.115(d), hereby submits this opposition (the “Opposition”) to an Application for Review filed February 5, 2009, by California State University, Long Beach Foundation (“CSLB”).¹ CSLB filed its Application for Review in response to a letter dated December 31, 2008 from the Audio Division, Media Bureau (the “Bureau”), which denied a Petition for Reconsideration filed by CSLB on January 22, 2008.² In support of this Opposition, the following is stated:

- I. Procedural Background.**
 - A. KKJZ Modification Application.**

¹ This Opposition is timely filed pursuant to Section 1.115(d) of the Commission’s rules. 47 C.F.R. §1.115(d).

² Public notice of the denial of CSLB’s Petition for Reconsideration and the issuance of the Bureau’s December 31, 2008 letter was provided by *Public Notice, Broadcast Applications*, Report No. 26896 (rel. January 6, 2009).

CSLB is the licensee of noncommercial educational station KKJZ(FM), Long Beach, California ("KKJZ"). Station KKJZ's licensed facility operates on Channel 201B with an effective radiated power of 30 kW at an antenna height of 137 meters above average terrain. File No. BMLD-20050207AAJ. On September 5, 2007, CSLB filed an application to make minor changes in the licensed facilities of KKJZ. File No. BPED-20070905ABF (the "Application"). CSLB proposed to increase KKJZ's effective radiated power from 30 kW to 40.84 kW, amend its directional antenna pattern, move the station's transmitter location over 19 miles closer to KCRY's licensed transmitter site, and increase KKJZ's antenna's height above average terrain by 27 meters (from 137 meters to 164 meters). *See* Application, Section VII. The Application did not comply with Section 73.509 of the Commission's rules and therefore CSLB requested a waiver of that rule provision.

B. Informal Objection.

On October 30, 2007, SMCCD filed an Informal Objection to the Application demonstrating that CSLB's request for a waiver of Section 73.509 was not supported by Commission precedent and should be denied. Specifically, SMCCD demonstrated that the Commission had previously instructed the former Mass Media Bureau to consider requests for waiver of Section 73.509 of the rules only where, *inter alia*, the area of prohibited contour overlap did not exceed 10% of the applicant's proposed service area. *See Lakeside Telecommunications, Inc.*, 20 FCC Rcd 763, 765 (2005) ("*Lakeside*"), citing *Changes in the Rules Relating to Noncommercial Educational FM Broadcast Stations*, 58 RR 2d 629, 639 (1985). It is clear from CSLB's Application that the extent of the prohibited contour overlap area clearly exceeds the 10% maximum limit. Application, Exhibit 15, Figure 4.

C. Bureau's Initial Decision.

The Bureau issued a letter dated December 17, 2007 (the "*Letter Ruling*"), in which it stated that KKJZ's proposed protected 60 dBu contour would receive prohibited contour overlap from the interfering 40 dBu contour of KCRY's licensed facility. In recognition of this violation, CSLB requested a waiver of the contour overlap provisions of Section 73.509, asserting that a grant of the waiver was in the public interest. CSLB sought to utilize Longley-Rice calculations to demonstrate the lack of interference to KCRY. *Letter Ruling* at 1.

The Bureau denied CSLB's waiver request, finding that acceptance of CSLB's supplemental showing was not warranted and would conflict with the Commission's policy as articulated in *Amendments of Parts 73 and 74 of the Commission's Rules to Permit Certain Minor Changes Without a Construction Permit*, 12 FCC Rcd 12371, 12401-12403 (1997) ("*Certain Minor Changes*"). The Bureau noted that the Commission's "longstanding prohibition against using supplemental analyses for predicting interference or contour overlap" had not changed. *Letter Ruling* at 2. As a result, because CSLB's proposal presented prohibited contour overlap as defined by Section 73.509 of the rules, the Application was unacceptable for filing and was therefore dismissed. *Id.*

D. Petition for Reconsideration.

CSLB filed a Petition for Reconsideration of the Bureau's *Letter Ruling* on January 22, 2008. In its reconsideration petition, CSLB claimed that the Bureau failed to address "several critical points" raised by the petitioner and that the authority cited by the Bureau is now a decade old. *Petition for Reconsideration* at 2. CSLB noted that Congress previously directed the Commission to adopt an up-to-date predictive model for determining the ability of individual locations to receive an over-the-air digital television signal.³ CSLB also cited *Hemet, California*,

³ *Id.* at 2-3, citing Satellite Home Viewer Improvement Act of 1999; 47 U.S.C. §339(c)(3).

22 FCC Rcd 19296, 19297 (MB 2007), where the Bureau permitted an allotment proponent to use actual terrain data (rather than the Commission's prediction methodology) pursuant to Section 73.313 of the rules in accordance with the *Woodstock* exception to calculate first and second NCE service benefits. Petition for Reconsideration at 3.

CSLB also argued that KKJZ has a "longstanding and unique mainstream jazz programming format that needs to reach more listeners to be economically healthy, . . ." and that, according to CSLB, it was arbitrary for the Bureau to deny CSLB's waiver request based on the Commission's allegedly outdated contour predictive methodology. *Id.*

SMCCD filed an Opposition to CSLB's Petition for Reconsideration on February 7, 2008, in which it demonstrated that the Bureau's *Letter Ruling* addressed CSLB's waiver request and afforded it the full consideration it was required to be given under *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969). SMCCD also demonstrated that CSLB's reconsideration petition was not entitled to consideration on its merits because CSLB had failed to show either a material error or omission in the Bureau's *Letter Ruling*, nor did it raise additional facts that either were not known or did not exist until after the petitioner's last opportunity to present such matters. *WWIZ, Inc.*, 37 FCC 685, 686 (1964), *aff'd sub. nom Lorain Journal Co. v. FCC*, 351 F.2d 824 (D.C. Cir. 1965), *cert. denied* 383 U.S. 967 (1966) ("*WWIZ, Inc.*"). *See also National Association of Broadcasters*, 18 FCC Rcd 24414, 24415 (2003); 47 C.F.R. §1.106.

CSLB filed a Reply to SMCCD's Opposition to Petition for Reconsideration on February 15, 2008, and a Supplement to Petition for Reconsideration on April 24, 2008.

E. Bureau's Reconsideration Decision.

In the Bureau's letter dated December 31, 2008 (the "*Reconsideration Ruling*"), the Bureau referenced its prior *Letter Ruling* and its conclusions regarding the prohibited contour overlap with respect to CSLB's Application and co-channel station KCRY in Mojave. After

noting the parties' positions as set forth in their respective pleadings, the Bureau initially addressed CSLB's argument concerning KKJZ's programming. The Bureau stated that the Commission has refused to grant waivers of its technical rules based on non-technical considerations. Accordingly, the Bureau gave no consideration to KKJZ's programming in evaluating CSLB's waiver request prior dismissing its Application and made clear that no consideration would be given to the station's programming in support of its waiver request on reconsideration. *Reconsideration Ruling* at 3.

With respect to CSLB's supplemental showing, the Bureau stated that it did not consider the "critical points of [that] supplemental analysis before the dismissing the [A]pplication." *Id.* In the Bureau's view, such a review would have been "superfluous" because the Commission's prohibition against the acceptance of supplemental studies for purposes of predicting interference (or lack thereof) was made clear in *Certain Minor Changes*. *Id.*

The Bureau also stated that Section 73.509 is the Commission's "primary vehicle" for ensuring compliance with Section 307(b) of the Communications Act of 1934, as amended (the "Act"), and it is unclear what impact stations authorized under an alternative prediction methodology would have on this delicate balance. *Reconsideration Ruling* at 3-4. The Bureau explained that different supplemental methods are based on their own different assumptions about the effects of intervening terrain and other variables, which may produce a different result. The Bureau stated that "simple fairness" requires a procedure that all applicants can use that will produce consistent results and concluded that these considerations as well as others can only be properly considered in the context of a notice-and-comment rulemaking proceeding. *Id.* at 4. The Bureau therefore denied CSLB's Petition for Reconsideration.

II. Introduction.

As reflected above, as a result of the prohibited contour overlap between stations KKJZ and KCRY, CSLB seeks a waiver of Section 73.509 of the Commission's rules. It is well established that when an applicant seeks a waiver a Commission rule, it bears the burden of pleading with particularity the facts and circumstances which warrant the requested Commission action. *See Columbia Communications Corp. v. FCC*, 832 F.2d 189, 192 (D.C. Cir. 1987). An applicant requesting such a waiver therefore "faces a high hurdle even at the starting gate." *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969) ("*WAIT Radio*"). A waiver is appropriate, however, only if special circumstances warrant a deviation from the general rule and such deviation would serve the public interest. *Northwest Cellular Telephone Co. v. F.C.C.*, 897 F.2d 1164, 1166 (D.C. Cir. 1990), citing *WAIT Radio*, 418 F.2d at 1157. Although the Commission gives careful consideration to all waiver requests, such requests must be supported by a compelling showing in order to be granted. *Greater Media Radio Co., Inc.*, 15 FCC Rcd 7090 (1999), citing *Stoner Broadcasting System, Inc.*, 49 FCC 2d 1011, 1012 (1974). As demonstrated herein, CSLB has failed to present *any* compelling reasons to support its requested waiver or otherwise demonstrate what, if any, special circumstances are present that warrant deviation from the Commission's general rule.

III. CSLB's Application for Review Should Be Dismissed or Denied.

A. No Support for Supplemental Showing.

In its Application for Review, CSLB alleges that the Bureau did not consider the "critical points" of its supplemental analysis before dismissing its Application. Application for Review at 5. CSLB also contends that the Bureau failed to acknowledge its decision in *Centenary College*, DA 08-2630 (rel. December 3, 2008) ("*Centenary College*"), where, according to CSLB, the Bureau recognized a need for flexibility in granting waivers under

Section 73.509, particularly those for existing noncommercial educational stations, citing, *inter alia*, *Delegation of Authority to the Chief of the Broadcast Bureau to Waive Small Amounts of Interference Received by Non-Commercial Educational FM Proposals*, Public Notice, 49 RR 2d 1524 (1981), *modified by Changes In the Rules Relating to Noncommercial Educational FM Broadcast Stations*, MM Docket No. 20735, 50 Fed. Reg. 27954 (July 9, 1985) (limiting authority to 10 percent “overlap” received compared to five percent “interference” received under former policy) (1985) (“1985 Order”). Application for Review at 5-6.

CSLB’s reliance upon *Centenary College* is misplaced. Unlike the facts in this case, *Centenary College* involved an application filed for a new noncommercial educational station during a filing window seeking a waiver of Section 73.509 of the rules with respect to a co-owned station which operated on a third-adjacent channel. In denying the requested waiver, the Bureau stated that Centenary’s request involved a “fundamental policy change” which “would be most appropriately considered in a rulemaking proceeding.” *Centenary College* at 6.

CSLB’s citation to the *1985 Order* and *Educational Information Corp.*, 6 FCC Rcd 2207 (1991) (“*EIC*”), is also unavailing. In *Lakeside*, 20 FCC Rcd 763, the Commission made clear that the waiver of Section 73.509 in the Commission’s 1991 *EIC* decision was limited to second- and third-adjacent channel interference, which may result in the replacement of one station’s signal by another and is confined to a very small area around the transmitter of the interfering station. The Commission explicitly rejected any relaxation of the Section 73.509 waiver policy that could result in a complete loss of service over a wide area where the “more serious” co- and first-adjacent channel interference is concerned. *Id.* at 766.

Stations KKJZ and KCRY are co-channel stations. Thus, *EIC* offers no support for CSLB’s requested waiver of Section 73.509 of the rules. *Id.*

Furthermore, as demonstrated in the Engineering Statement of Doug Vernier annexed hereto, the area of prohibited contour overlap covers 1,298.2 square kilometers.⁴ A review of CSLB's Application reflects that the extent of the prohibited contour overlap area clearly exceeds the 10% maximum limit. Application, Exhibit 15, Figure 4. An overlap of this extent also precludes CSLB from waiver consideration. *Lakeside*, 20 FCC Rcd at 766, citing *1985 Order*, 58 RR 2d at 639. Therefore, for this additional reason CSLB is not entitled to a waiver of Section 73.509 of the rules.

B. FCC's Acceptance of Supplemental Showings in Other Contexts Irrelevant.

In support of its position that the Commission should accept its Longley-Rice study, CSLB argues that the Commission has expanded the use of Longley-Rice and other alternative terrain analyses in a variety of settings. CSLB noted that in the Satellite Home Viewer Improvement Act of 1999 ("SHVIA"), Congress directed the Commission to adopt a predictive method for reliably determining the ability of individual locations to receive an over-the-air DTV signal.⁵ Application for Review at 7. CSLB also noted that the DTV Table of Allotments was based on Longley-Rice propagation prediction methodology.⁶ *Id.*

With respect to matters governed by the Bureau's Audio Division, CSLB noted that in *Hemet, California*, 22 FCC Rcd 19296 (MB 2007), the Bureau permitted an allotment proponent to use actual terrain data pursuant to Section 73.313 of the rules and the *Woodstock and Broadway* policy to calculate first and second NCE service benefits. In the limited factual context presented in *Hemet*, the Bureau found that the actual terrain methodology provided a

⁴ Mr. Vernier's Engineering Statement was originally submitted as an attachment to SMCCD's Informal Objection, filed October 30, 2007. A copy of his October 23, 2007 statement is annexed hereto.

⁵ SHVIA was enacted as Title I of the Intellectual Property and Communications Omnibus Reform Act of 1999 (relating to copyright licensing and carriage of broadcast signals by satellite carriers, codified in scattered sections of 17 and 47 U.S.C.), PL 106-113, 113 Stat. 1501, Appendix 1 (1999).

⁶ *Id.*, citing *Advanced Television Systems and their Impact Upon the Existing Television Broadcast Service*, MM Docket No. 87-268, Sixth Report and Order, 12 FCC Rcd 14588 (1997).

“more reliable measure of NCE radio services” and would “better effectuate the Commission’s goal of promoting NCE service to underserved communities.” *Id.* at 19297. Application for Review at 7-8.

CSLB also cites *Creation of A Low Power Radio Service*, 22 FCC Rcd 21912 (2007), for the proposition that the Commission has altered its policy of treating LPFM stations as “always secondary,” stating, “[c]ircumstances have changed considerably since we last considered the issue of protection rights for LPFM stations from subsequently authorized full-service stations.” *Id.* at 21938. CSLB therefore argues that noncommercial educational stations are subject to a similar change of circumstances, claiming that the increased use of the NCE FM band in recent years requires the Commission to re-examine its prediction methodology to allow noncommercial educational FM stations to continue to develop. Application for Review at 8.

Despite CSLB’s effort to point to other areas in which the Commission accepts supplemental showings, each of those areas are easily distinguishable from this proceeding. The permitted use of Longley-Rice in the case of SHVIA,⁷ the Commission’s establishment of the DTV Table of Allotments,⁸ and *Hemet* all involved notice and comment rulemaking proceedings, which is the procedure that the Bureau (and the Commission) stated was required to change the Commission’s existing policy with respect to allowing supplemental showings to be used for purposes of determining interference or prohibited contour overlap between FM stations.

Reconsideration Ruling at 4. *Hemet* involved a limited extension of the *Woodstock and*

⁷ See, e.g., *Establishment of an Improved Model for Predicting the Broadcast Television Field Strength Received at Individual Locations*, ET Docket No. 00-11, 15 FCC Rcd 12118 (2000) (prescribing an improved point-to-point predictive model for determining the ability of individual locations to receive an over-the-air television broadcast signal of a specific intensity through the use of a conventional, outdoor rooftop receive antenna).

⁸ See *Advanced Television Systems and their Impact Upon the Existing Television Broadcast Service*, MM Docket No. 87-268, Seventh Report and Order and Eighth Further Notice of Proposed Rule Making, 22 FCC Rcd 15581 (2007).

Broadway policy which did not alter the Commission's FM allotment procedures. The Bureau made clear that, under the policy announced in *Hemet*, the NCE reservation proponent must "demonstrate that it has reasonable assurance of site availability of the specified transmitter site; and obtain FAA approval and local zoning, if necessary, for the required tower at the requested site in compliance with our *Woodstock and Broadway* policy." 22 FCC Rcd at 19297. Although the Bureau permitted the use of actual terrain data in *Hemet*, it was not used for purposes of determining interference or prohibited contour overlap as CSLB proposes to have the Commission do in this adjudicatory proceeding.

As the Bureau properly noted in its December 17, 2007 *Letter Ruling*, the Commission's language in *Certain Minor Changes* could not be more clear:

For clarity, we will here state our policy on supplemental showings. First and foremost, we want to emphasize that supplemental showings have not been accepted, nor will be accepted, for the purpose of determining interference or prohibited contour overlap between FM broadcast stations. . . . To employ supplemental showings for FM stations in this matter would represent a fundamental change as to how contour protection applications are processed, and *would require a separate rulemaking proceeding* to specify standards, methods and assumptions, and possibly revised definitions for protected service areas and interference (*e.g.*, as is ongoing for television in MM Docket 87-268 . . .). This is far beyond the scope of this rulemaking proceeding and will not be considered herein.

12 FCC Rcd at 12402 (emphasis added).

If the Commission were to elect to re-examine its existing policy with respect to the acceptance of supplemental showings for purposes of determining interference, it cannot do so outside the context of a notice and comment rulemaking proceeding. Indeed, as the Bureau stated in its *Reconsideration Ruling*, the Commission has never granted an application based on a Longley-Rice or similar alternative terrain analysis which was submitted for purposes of determining interference or prohibited contour overlap. *Reconsideration Ruling* at 3. CSLB's request that the Commission accept its supplemental showing in this adjudicatory proceeding

ignores the practical implications presented by its proposal. There is nothing unique about CSLB's Application and CSLB has made no effort to demonstrate otherwise. The Bureau properly recognized that there are likely hundreds of stations with terrain barriers similar to those affecting KKJZ in at least one if not more directions. If the Commission were to accept supplemental showings for purposes of determining interference or prohibited contour overlap, there would be many new and modified stations that could be authorized as a result of the Commission's acceptance of those supplemental studies. As the Bureau also stated, those new and modified stations would not be adequately protected from interference under the Commission's present rules.⁹ *Reconsideration Ruling* at 3.

The Commission's determination of whether to accept supplemental showings for purposes of evaluating interference or prohibited contour overlap must be considered in the context of a notice and comment rulemaking because, among other reasons, it is necessary to ensure compliance with Section 307(b) of the Act.

The goal of Section 73.509 is to prevent overcrowding of FM stations and provide a consistent, fair, efficient, and equitable distribution of FM facilities as required by Section 307(b) of the Communications Act of 1934, as amended (the "Act"). [footnote omitted] The Act mandates that the "Commission shall make such distribution of licenses, frequencies, hours of operation, and of power among the several States and communities as to provide a fair, efficient, and equitable distribution to each of the same."

Centenary College at 4-5, quoting 47 U.S.C. §307(b). It is premature to predict what impact new and/or modified stations authorized under alternative predictive methodologies might have with respect to overcrowding in the FM band. As the Bureau stated, however, different alternative

⁹ The Bureau properly recognized that, if the Commission were to accept supplemental showings for purposes of determining interference or prohibited contour overlap, SMCCD could be limited with respect to potential transmitter sites if it were required to protect CSLB's proposed station. *Reconsideration Ruling* at 4, n.4. The likelihood of that scenario becoming a reality is a concern to SMCCD and, in fact, is one of the reasons that SMCCD has opposed CSLB's Application. This is especially the case in the Los Angeles-area where available transmitter sites are an increasingly scarce commodity.

propagation techniques require different assumptions about the effects of intervening terrain and other variables, which often produce varying results. To prevent overcrowding in the FM band and to ensure compliance with Section 307(b) of the Act, it is imperative that, if the Commission were to accept supplemental showings for purposes of determining interference or prohibited contour overlap, the Commission must implement a procedure that is fair, available to all applicants on an equal basis,¹⁰ and one that will produce consistent and accurate results. Accordingly, the acceptance of supplemental showings for purposes of determining interference or prohibited contour overlap between FM stations can only properly be considered in the context of a notice-and-comment rulemaking proceeding.

C. Non-Technical Considerations Not Justify Waiver of Technical Rules.

CSLB contends that its proposal would potentially bring KKJZ's "mainstream jazz programming format to some 2.4 million new listeners, with a net gain of some 1.7 million . . ." listeners. Application for Review at 9. CSLB claims that noncommercial educational stations like KKJZ are dependent upon public contributions for support which, according to CSLB, means they need to reach as many listeners as possible. CSLB therefore argues that the areas of West Los Angeles and the San Fernando Valley would gain a reliable signal from KKJZ, which is a benefit that the Commission should take into account in considering its waiver request. *Id.*

CSLB's assertion that KKJZ's programming warrants a waiver of Section 73.509 of the rules is without merit. It is well established that the Commission will not waive its technical rules based on non-technical considerations such as ownership or programming. *Lakeside*, 20

¹⁰ Aside from the Section 307(b) and other considerations articulated herein, it would be grossly inequitable for the Commission to change its policy with respect to the acceptance of supplemental showings in the context of this adjudicatory proceeding. If it had been aware of a potential change in the Commission's policy, SMCCD would have filed an application to improve the coverage of station KCRC in the same manner as CSLB has done with respect to KKJZ. The same undoubtedly would be true in the case of many other Commission licensees which operate stations that are subject to similar terrain obstruction.

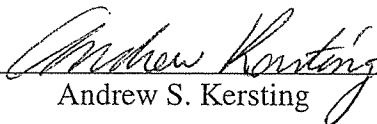
FCC Rcd at 765, citing *Open Media Corporation*, 8 FCC Rcd 4070, 4071 (1993).¹¹ The Bureau therefore properly gave no consideration to CSLB's programming in support of its request for waiver of Section 73.509 of the rules.

WHEREFORE, in view of the foregoing and the entire record herein, it is respectfully requested that CSLB's Application for Review be dismissed or denied and that the Bureau's *Reconsideration Ruling* be affirmed in all respects.

Respectfully submitted,

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By: 
Andrew S. Kersting

February 20, 2009

¹¹ In *Open Media Corporation*, the Commission stated the following:

. . . [I]t is well established that our policy of refusing to base waivers of rules designed to prevent interference upon non-technical considerations such as ownership or programming is a rational implementation of our mandate to "[m]ake such regulations not inconsistent with law as [we] may deem necessary to prevent interference between stations"

8 FCC Rcd at 4071, quoting 47 U.S.C. §303(f).

Engineering Statement of Douglas L. Vernier

October 23, 2007

Engineering Statement

On behalf of the Santa Monica Community College District (SMCCD), licensee of KCRY, Mojave, California, this statement is being provided in support of SMCCD's informal objection to the application filed by California State University, Long Beach Foundation (CSU) to make minor changes in the licensed facility of radio station KKJZ, Long Beach, California.

CSU proposes to increase the radiated power of station KKJZ, amend its directional pattern, move its transmitter location significantly closer to KCRY, and increase its HAAT. In order to make these changes, CSU seeks a waiver of the contour overlap provisions contained in section 73.509 of the rules. SMCCD is concerned that the proposed transmission levels from KKJZ will cause interference to KCRY in Mojave.

Moreover, the map exhibit annexed hereto shows that the extent of the proposed overlap between KCRY's 40 dBu interfering contour and KKJZ's 60 dBu protected service contour is significant, encompassing an area of 1,298.2 square kilometers with a population of 1,626,789. CSU argues that, due to intervening terrain, real interference will not exist. We note, however, that CSU's argument fails to define the extent of terrain roughness or delta h between KCRY's transmitter site and the area of prohibited contour overlap. That failure is significant and, without such a showing, CSU should not be permitted to rely upon the use of an alternative propagation method such as Longley-Rice. Further, the proposal fails to define the impact of resulting knife-edge refractions within KKJZ's protected signal area and within KCRY's protected contour. Consequently, the rationale for granting a waiver has not been presented in this case.

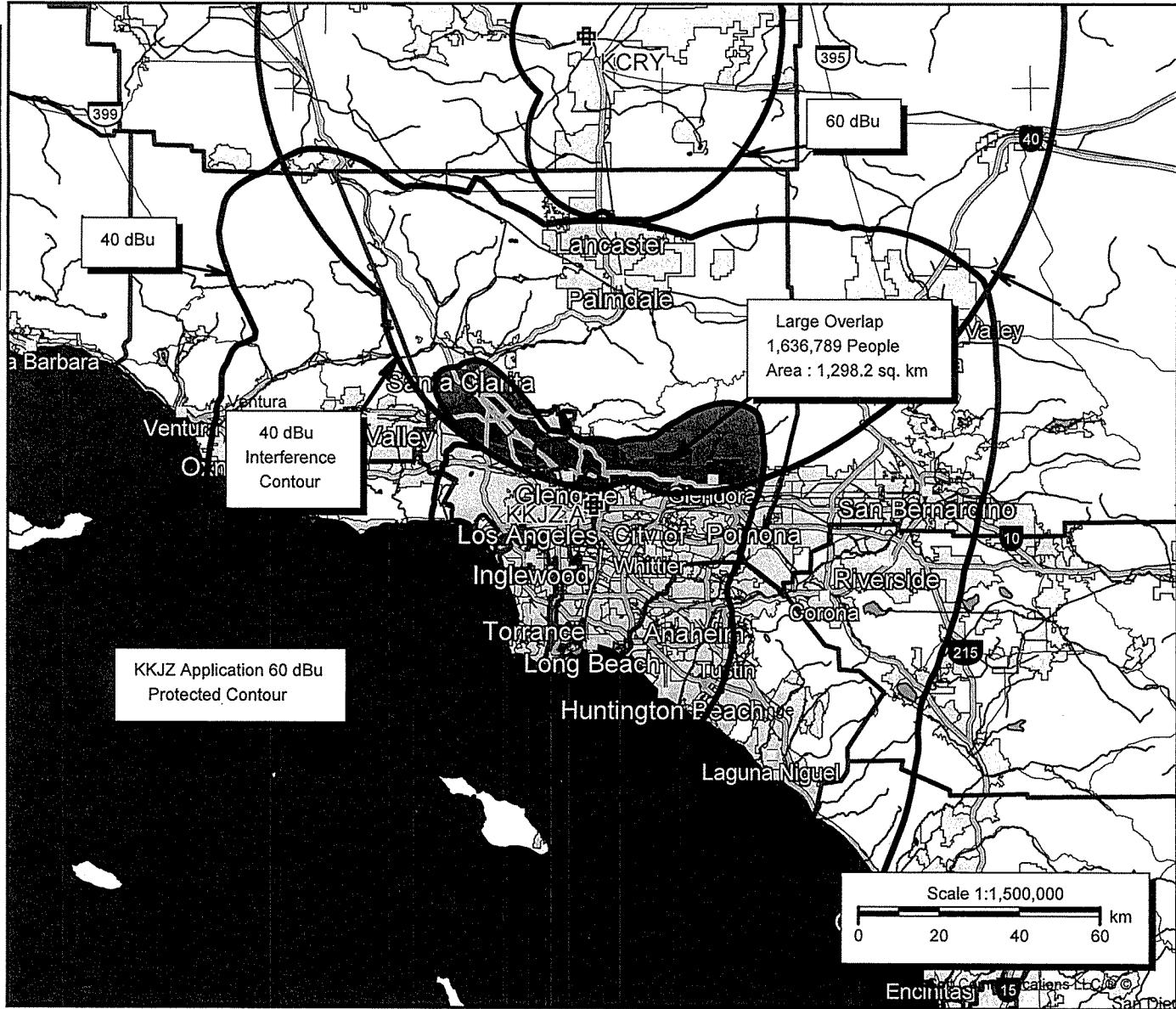
The FCC has stood by its proven allocation system for many years by preventing contour overlap and seldom grants such waivers, particularly for the most serious co-channel relationships. If this waiver request were granted, there could be a flood of such applications which would pray havoc on the Commission's allocation scheme which has always approached protecting stations' 60 dBu contours by the most conservative means.

Doug Vernier

Overlap Area Calculation

KKJZ.A
 BPED20070905ABF
 Latitude: 34-04-44 N
 Longitude: 118-11-05.70 W
 ERP: 41.00 kW
 Channel: 201
 Frequency: 88.1 MHz
 AMSL Height: 310.9 m
 Horiz. Pattern: Directional
 Vert. Pattern: No

KCRY
 BLED20000518AAZ
 Latitude: 35-07-20 N
 Longitude: 118-12-25 W
 ERP: 10.50 kW
 Channel: 201
 Frequency: 88.1 MHz
 AMSL Height: 1113.0 m
 Horiz. Pattern: Omni
 Vert. Pattern: No



Declaration:

I, Douglas L. Vernier, declare that I have received training as an engineer from the University of Michigan School of Engineering. That, I have received degrees from the University in the field of Broadcast Telecommunications. That, I have been active in broadcast consulting for over 30 years;

That, I have held a Federal Communications Commission First Class Radiotelephone License continually since 1964. In 1985, this license was reissued by the Commission as a lifetime General Radiotelephone license no. PG-16-16464;

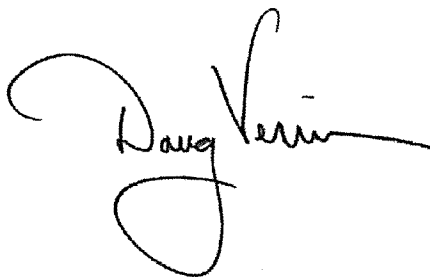
That, I am certified as a Professional Broadcast Engineer (#50258) by the Society of Broadcast Engineers, Indianapolis, Indiana. (Re-certified 1/2006.)

That, my qualifications are a matter of record with the Federal Communications Commission;

That, I have been retained by Santa Monica College District to prepare the engineering showings appended hereto:

That, I have prepared these broadcast engineering showings, the technical information contained in same and the facts stated within are true of my knowledge;

That, under penalty of perjury, I declare that the foregoing is correct.



Douglas L. Vernier

Executed on October 23, 2007

CERTIFICATE OF SERVICE

I, Nancy Washington, do hereby certify that copies of the foregoing Opposition to Application for Review have been sent via first-class U.S. mail, postage prepaid, this 20th day of February, 2009, to the office of the following:

The Honorable Jonathan S. Adelstein*
Federal Communications Commission
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