

MEMORANDUM

TO: Pamela Gallant (pamela.gallant@fcc.gov)
FROM: Lee J. Peltzman
DATE: October 12, 2015
RE: KNBX-CD, Las Vegas, Nevada

The purpose of this Memorandum is to respond on behalf of Mako Communications, LLC to a September 22 email request from yourself, as Assistant Chief of the Video Division, Media Bureau of the FCC, regarding the pending renewal application (BRDTA-20140528AAM) of Station KNBX-CD, Las Vegas, Nevada. You have requested additional information regarding apparent filing inconsistencies with respect to the dates that Station KNBX-CD operated between July 2009 and March 2012.

As Amanda Mintz, a principal of Mako Communications, relates in her attached Declaration, Mako Communications acquired KNBX-CA on June 30, 2009 and, on July 13, 2009 first filed an STA Silent Authority Request on behalf of KNBX-CA for approval for the station to be silent (BLSTA-20090713ABQ). A second Silent Authority STA Request was filed in January 2010 (BSTA-20100106AAH). The reason for the STA Requests was that Mako purchased Station KNBX-CA at a bankruptcy auction. Neither equipment nor an antenna site was included in the assets that were acquired by Mako. After successfully filing an Engineering STA Request on April 28, 2010 (BSTA-20100428AAT) to relocate KNBX-CA, Mako moved KNBX-CA to an existing site and resumed broadcasting on May 26, 2010. On May 26, 2010, Mako filed a Resumption of Operations notification with the Commission.

As you correctly point out, Children's Television Programming Reports and other public file Reports filed by Mako Communications for Station KNBX-CA for the last two quarters of the calendar year 2009 and all four quarters of the calendar year 2010, reported that Station KNBX-CA was silent.

As Amanda Mintz further states, Mako Communications filed an additional request for silent authority STA for Station KNBX-CA on October 12, 2010 (BLSTA-20101012ABG), reporting that KNBX-CA had temporarily ceased broadcast operations on October 8, 2010 in order to convert analog KNBX-CA to digital operation. Mako completed construction of KNBX-CA as a digital facility and filed a station license application on October 5, 2011 (a National holiday) (BLDTA-20111006ACF). Mako also filed a Resumption of Operations notification on October 5, 2011, reporting that Station KNBX-CD had resumed broadcast operations on that date. Again, you correctly point out that Children's Television Programming Reports which were filed during this time period reported that Station KNBX-CD was silent.

In view of these inconsistencies, you have requested a detailed response to explain what occurred and when KNBX-CD was silent and when it was broadcasting from 2009 through the first quarter of 2012. As the attached Declaration of Amanda Mintz states, those filings made in CDBS by Mako for KNBX-CD regarding the station's broadcast history are correct. Station KNBX-CA was silent during the last two quarters of 2009, the first quarter of 2010 and a portion of the second quarter of 2010 through May 26, 2010. Station KNBX-CA operated from May 26, 2010 through the end of the second quarter of 2010, the entire third quarter of 2010 and until October 8, 2010, when the station went silent.

Station KNBX-CA was also silent from October 8, 2010 through the remainder of the fourth quarter of 2010, plus the entire first, second and third quarters of 2011 and the October 1

through October 5 portion of the fourth quarter of 2011. Station KNBX-CD broadcast the remainder of the fourth quarter of 2011, beginning on October 5, and has continued to broadcast, including the first quarter of 2012, until and including the present date.

Public file Reports filed by Mako Communications for KNBX-CD for the second, third and fourth quarters of 2010 and the first quarter of 2012 are incorrect in stating that KNBX-CD was silent and that the station had filed STA silent authority requests to remain silent during the entirety of those periods. As explained by Amanda Mintz, these public file filings were incorrect because of a misunderstanding by the Mako Compliance person responsible for filing the public file Reports.

The Compliance person, incorrectly, believed that the April 28, 2010 Engineering STA Request filed by Mako Communications for Station KNBX-CA and approved by the Commission was, instead, a Silent Authority STA Request. She, therefore, notified the Commission in the public file Reports filed for the second, third and fourth quarters of 2010 that KNBX-CA was silent pursuant to that STA. That was a mistake. Similarly, she assumed, incorrectly, that an STA Request actually filed by unrelated Station KNBX(FM) and approved by the Commission in January 2012 was, instead, an STA Silent Authority Request filed and approved for KNBX-CD. She, therefore, notified the Commission that Station KNBX-CD was silent during the first quarter of 2012 when, in fact, Station KNBX-CD broadcast during that entire period.

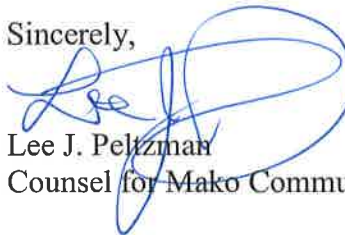
Mako Communications has filed amended public file Reports for the second, third and fourth quarters of 2010 and the first quarter of 2012, including Children's Television Programming Reports for these quarters, Certifications of Continued Eligibility for the years 2009 through the present, Commercial Limit Certifications in Children's Programming for the

second, third and fourth quarters of 2010 and the first quarter of 2012 and Local Programming Reports for the second, third and fourth quarters of 2010 and the first quarter of 2012.

As noted, Mako Communications erred with respect to filing its public file Reports for Station KNBX-CD. Those mistakes were filing errors and not operational errors. At those times when Station KNBX-CD was operating after submitting a properly filed Resumption of Operations notification, Station KNBX-CD did satisfy the requirements of Class A eligibility, did program children's programming without broadcasting excessive advertising and did air local programming.

Mako Communications believes that it has complied with Class A operational requirements. Should the Commission have questions regarding any of the public file Reports filed by Mako from the third quarter of 2009 forward, please contact undersigned counsel. While Mako believes that it has provided a full response to your inquiry, should you believe additional information is required or should you have additional inquiries regarding Station KNBX-CD, please feel free to contact me.

Sincerely,



Lee J. Peltzman
Counsel for Mako Communications, LLC

Enclosure

DECLARATION

My name is Amanda Mintz. I am a principal of Mako Communications, LLC, licensee of Station KNBX-CD, Las Vegas, Nevada as well as over 40 other Class A and LPTV stations. I have knowledge regarding the operation of Station KNBX-CD during its most recent license term. My responsibilities at Mako Communications involve making sure that its stations are operated pursuant to the FCC's rule and policies and serve the public interest and ensuring that appropriate filings are made at the Commission. This Declaration is true and correct to the best of my knowledge and is made under penalty of perjury.

Mako has recently received an inquiry from Commission staff personnel regarding filings made during the most recent license term for Station KNBX-CD. The Commission inquiry has pointed out apparent inconsistencies between filings made at the Commission reporting when Station KNBX-CD operated and was silent and Reports posted in the station's FCC public file.

As will be demonstrated in this explanation, the short answer to the Commission's inquiry is that Mako made mistakes in a few of the reports that were posted on its FCC public file. The filings made by Mako in CDBS regarding the periods of operation and non-operation by Station KNBX-CD are accurate.

It will be helpful to the Commission if I provide a historical description of Mako's involvement with Station KNBX-CD. Mako filed an assignment application on May 1, 2009 to acquire Station KNBX-CA from Nevada Channel 6, Inc., Debtor in Possession. Mako purchased Station KNBX out of a Chapter 11 Bankruptcy as a result of a bankruptcy auction. The KNBX assignment application was approved by the FCC and the parties consummated the assignment on June 30, 2009.

Mako filed a Request for Silent Authority STA on July 13, 2009, reporting that it needed to locate a new tower in order to resume broadcast operations on KNBX-CA. This was due to the

fact that the former bankrupt licensee's tower lease was in default. Station KNBX-CA was auctioned off to Mako with neither equipment nor a tower site.

On April 28, 2010, Mako filed its Request for an Engineering STA to relocate KNBX-CA to an existing tower site under Mako's control as part of a combined array. Mako obtained a lease at that site for KNBX to operate. The Engineering STA was approved by the Commission on May 4, 2010. On May 26, 2010, Mako notified the Commission that KNBX had resumed broadcast operations that day utilizing the parameters included in its Engineering STA. The station operated in an analog mode, since it had not been licensed to operate digitally. Mako filed an application to operate as a digital station on June 22, 2010, which was approved by the Commission on December 3, 2010.

Station KNBX-CA continued to operate as an analog station until October 8, 2010, when the station temporarily discontinued broadcasting. Mako filed a Request for Silent Authority STA on October 12, 2010, noting that Station KNBX-CA would be silent while waiting for the station's conversion to digital. At that time, Mako's application to operate KNBX as a digital station was pending. Mako discontinued broadcasting as an analog station because, in view of the full power television conversion to digital, there were very few television receivers that could receive the station's analog signal.

The Commission approved the KNBX-CA digital application on December 3, 2010 and Mako commenced the process of converting KNBX to digital. It should be noted that, during this time, Mako was simultaneously converting over a dozen of its Class A and LPTV stations to digital. Mako completed its digital conversion of KNBX and filed a license application on October 6, 2011 (the day after Federal Holiday Columbus Day), ten months after grant of the KNBX digital application. Mako also filed a Notice of Resumption of Operations on October 6,

stating that KNBX had resumed broadcast operations on October 5, 2011. Since that October 5, 2011 date, when KNBX began to operate digitally, Station KNBX has continued to broadcast. Other than the periods running from July 2009 through late May 2010 and October 8, 2010 through October 5, 2011, Station KNBX has been on the air broadcasting.

The Commission has questioned Mako because the KNBX-CD FCC public file does not reflect the station's broadcast operations between May 26 and October 8, 2010 and between October 5, 2011 and March 31, 2012. In fact, as previously noted, Station KNBX broadcast during these periods. Because of filing errors, however, Mako did not file appropriate public inspection file Reports during these periods until recently.

The reason for the initial filing error for the period beginning in late May 2010 and running through the first week of October, 2010, is that the Mako Compliance person responsible for filing public file Reports with the Commission was fairly new to the job and, incorrectly, assumed that the April 28, 2010 Engineering STA Request filed by Mako for Station KNBX-CA was a Silent Authority STA Request. The April 28, 2010 Engineering STA Request sought Commission approval to relocate KNBX to the Mako combined array as a result of Mako's acquisition of KNBX at the bankruptcy auction.

The Mako Compliance person assumed that the April 28, 2010 Engineering STA filing was a request for an STA for KNBX-CA to remain silent. She relied on the FCC CDBS Application Search Results function in order to determine the operational status of Mako stations. CDBS reflected that an "STA" had been requested on April 28, 2010. Mako notified the Commission on May 26, 2010 that it had resumed broadcast operations. However, that Notice of Resumption of Operations did not appear when the Compliance person ran a filing search on FCC CDBS Application Search Results. The employee was unfamiliar with Engineering STA

Requests and incorrectly believed that the “STA” reference in CDBS Application Search Results corresponded with KNBX-CA being silent. (She had no part in the filing of applications and STA Requests or Notifications of Resumption in CDBS.) As such, she continued filing quarterly reports for KNBX in the mistaken belief that the station was still silent. It was only upon seeing the October 6, 2011 Station License Application filed by Mako to cover the KNBX-CD digital buildout in CDBS Application Search Results, that the Mako Compliance person understood that KNBX was broadcasting.

Accordingly, the Mako FCC public inspection file filings for KNBX-CA for the second quarter of 2010, specifically, for the period from May 26, 2010 and June 30, 2010, as well as the entire third quarter of 2010 and the fourth quarter of 2010 for the one week period between October 1, 2010 and October 8, 2010, are incorrect in that they state that KNBX-CA was dark during these periods when KNBX was actually broadcasting throughout those periods. The omissions have been corrected by the filing of Amended Reports to reflect the programming that KNBX broadcast. It is believed that the KNBX public inspection file is currently accurate for those periods.

As noted, Station KNBX-CD has been operational as a digital facility since October 5, 2011. The failure to file required Reports in the FCC public file during the first quarter of 2012 is, again, due to a filing error by Mako. As previously noted, because Mako is the licensee of several stations which need to file quarterly public inspection file Reports, Mako’s Compliance person relied on the FCC CDBS Applications function in order to determine the operational status of Mako’s stations. Typically, to check on a station’s status, she inputted the call letters of the station with the universal character “%” in CDBS Applications (here, KNBX%). She used the universal character because there can often be different suffixes to a Class A and LPTV

station in the Commission database, depending on whether a station is analog or digital, and she wished to avoid missing a station or filing by inputting the wrong suffix.

Inputting the call sign in this manner created a problem in this case because there is another operating station using the KNBX call letters, which is listed in the CDBS Applications database and is unrelated to Mako. Station KNBX(FM), San Ardo, California, uses the same basic call letters as KNBX-CD. FM Station KNBX filed an STA Request on January 27, 2012 (BSTA-20120127AEO).

Seeing that “KNBX” had filed an STA Request, the Mako Compliance staff person assumed, again incorrectly, that this STA Request reflected that KNBX-CD was silent. Therefore, when she prepared first quarter 2012 filings for Mako stations, she incorrectly listed KNBX-CD as being silent and did not file the appropriate public inspection file Reports. Proof of this is shown by the filings themselves. The Quarterly Issues/Programs Lists, Local Programming Certification and Commercial Time Limitation Certification for the 1st Quarter of 2012 all refer to KNBX-CD being silent “due to the STA filed 1/27/2012; BLSTA-20120127AEO.” Contrary to this statement, KNBX-CD actually broadcast throughout the entire first quarter of 2012. Mako has amended its public file reports for the first quarter 2012 to reflect the programming that KNBX-CD broadcast during that period.

In sum, Mako erred in filing Reports in its FCC public inspection file. However, these mistakes were filing mistakes, not operational mistakes by KNBX-CD. The only periods in which Station KNBX-CD was silent occurred while Mako was searching for and then relocating to a new station antenna site (because the auction sale of the KNBX-CD station assets did not include an antenna site) and when Mako chose to discontinue broadcasting in analog on KNBX-CA when most station viewers could not receive the analog signal while the KNBX-CA

digital application was pending. Mako apologizes for its filing errors and any confusion they have engendered. As noted, Mako has filed amended Reports in its FCC public inspection file in an attempt to remedy the situation.

A handwritten signature in black ink, appearing to read 'Amanda Mintz', written over a horizontal line.

Amanda Mintz

October 5, 2015