

FEDERAL COMMUNICATIONS COMMISSION

**445 12th STREET SW
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AUG 19 2016

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In re: KIMX(FM), Nunn, CO
Facility ID No. 82007
Appaloosa Broadcasting Company, Inc.
BLH-20160217AAB

Program Test Authority

Informal Objection

Dear Counsel:

This letter is in reference to: (1) KIMX's request for program test authority ("PTA") filed February 17, 2016 by Appaloosa Broadcasting Company, Inc. ("Appaloosa") and the simultaneously filed above captioned application for license to cover Construction Permit BPH-20070822AAL, as modified by Construction Permit BMPH-20141029AAP; and (2) the February 29, 2016 Informal Objection filed by Christian Media, Inc. ("Christian"), and (3) all other related pleadings.¹

A review of KIMX's request for program test authority reveals that the facilities were constructed pursuant to the terms and conditions of Construction Permit BMPH-20141029AAP, and the provisions of 47 C.F.R. § 73.1690(c)(2). Accordingly, Program Test Authority IS HEREBY

¹ Related pleadings include the March 3, 2016 Opposition to Informal Objection filed by Appaloosa (Erratum filed March 9, 2016); the April 7, 2016 Reply to Opposition filed by Christian; the June 2, 2016 Request for Program Test Authority filed by Appaloosa; the June 6, 2016 Response filed by Christian; the June 7, 2016 Response filed by Appaloosa; and the June 8, 2016 Second Request for Expedited Construction filed by Appaloosa.

GRANTED to commence operation pending further action on KIMX's license application.² The maximum effective radiated power is 4.3 kilowatts (H&V) and the transmitter power output is 3.8 kilowatts. This letter does not imply any judgement on the February 29, 2016 Informal Objection filed by Christian Media, Inc.

Sincerely,

A handwritten signature in blue ink, appearing to read "Rodolfo F. Bonacci".

Rodolfo F. Bonacci
Assistant Chief
Audio Division
Media Bureau

² Please note, in Construction Permit BNPH-20070822AAL, as modified by Construction Permit BMPH-20141029AAP, Appaloosa stated its willingness to reimburse Christian the reasonable costs incurred in connection with the proposed channel change consistent with the *Circle* policy (*Circle*, Ohio, Second Report and Order, 8 FCC 2d 159, 163 (1967)). Under *Circle* and subsequent cases, determination of what constitutes legitimate and prudent expenses for reimbursement is left to the expeditious good faith negotiation of the parties, subject to Commission adjudication if the parties are unable to reach agreement or to enter into binding arbitration (*See, e.g., Peter Wayne Lechman*, Memorandum Opinion and Order, 8 FCC Rcd 3058, 3058 (MMB 1993), *rev. denied*, Memorandum Opinion and Order, 11 FCC Rcd 4104 (1996), *appeal denied sub nom. Lechman v. FCC*, 107 F.3d (D.C. Cir. 1997), *rehearing denied* (Mar. 4, 1997)).