



Federal Communications Commission  
Washington, D.C. 20554

January 31, 2017

*In Reply Refer to:*  
1800B3-TH

Mr. Michael Ruddick  
1276 Logan Lane  
Sebastopol, CA 95472

In re: KOWS Community Radio  
KOWS-LP, Occidental, CA  
Facility ID No. 124420  
File Nos. BMPL-20161212AAC  
and BMPL-20150828ABW

Dear Mr. Ruddick:

We have before us the Petition to Deny (Petition) filed on December 19, 2016 by you as an individual and as a representative of Sebastopol Hills Alliance for Rural Preservation (SHARP). The Petition was filed with respect to the referenced application (Application) for a minor modification of low power FM station KOWS-LP, Occidental, California (Station), licensed to KOWS Community Radio (Licensee).<sup>1</sup> For the reasons stated below, we dismiss the Petition in part as moot, otherwise deny the Petition, and grant the Application.

**Background.** The Application, proposing a minor modification of the Station's facilities, was filed on December 12, 2016, and amended on December 19, 2016.<sup>2</sup> The amendment corrected the name of the applicant and provided a new waiver exhibit to support a waiver request relating to potential interference to an existing radio station on a second-adjacent channel. The Petition objects to the Application as filed, primarily focusing on the original waiver exhibit.<sup>3</sup> The Petition also claims that the Application incorrectly identifies the Licensee and lists the Station as licensed to Occidental, California, even though the Station has a main studio in Sebastopol.<sup>4</sup> The Petition also cites instances of what it describes as the "Applicant's inattentiveness with local ordinance, process, and environmental

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<sup>1</sup> We also have before us a Petition for Reconsideration filed by you on December 1, 2016, with respect to an earlier modification application for the Station that was granted on September 14, 2015, with public notice of the grant released on September 17, 2015. See FCC File No. BMPL-20150828ABW. We dismiss this Petition for Reconsideration as an untimely petition for reconsideration of that grant. See 47 U.S.C. § 405(a); 47 CFR § 1.106(f); *Christian Family Network, Inc.*, Memorandum Opinion and Order, 31 FCC Rcd 2459, 2460-61, para. 3 (2016).

<sup>2</sup> The filing of the Application was placed on public notice on December 14, 2016. See Broadcast Applications, Rep. No. 28881 (MB Dec. 14, 2016). The Application, proposing a minor modification of facilities, was not subject to petitions to deny. See 47 U.S.C. § 309(c)(2)(A). Accordingly, we will treat the Petition as an informal objection pursuant to 47 CFR § 73.3587. We also received your supplement filed on January 26, 2017, showing a certified mail receipt.

<sup>3</sup> Petition at 2-4.

<sup>4</sup> *Id.* at 4. The Petition also claims that the section of the Application involving parties to the Application is not completed. *Id.*

safeguards” such as conducting trenching work for a power line to the proposed transmitter site without the necessary local permitting and without approval of a trenching plan or on-site supervision by an arborist to protect existing trees.<sup>5</sup>

**Discussion.** We dismiss as moot the portions of the Petition that deal with the Application as originally filed instead of the amended Application.<sup>6</sup> With respect to the Station’s community of license, we note that neither our rules nor the Station’s license require the Station to maintain a main studio in the community of license. Likewise, our rules do not require the parties to the application to be listed in a minor modification application.<sup>7</sup>

With respect to the Petition’s environmental objections, the Petition does not challenge the Application’s certification that the proposed facility is categorically excluded from environmental processing pursuant to the Commission’s rules.<sup>8</sup> Additionally, compliance with local ordinances or regulations will generally be considered pursuant to the Commission’s character qualifications policy.<sup>9</sup> The Petition fails to show any matter that presents a material question of fact under that policy.<sup>10</sup>

**Conclusion/Action.** Accordingly, IT IS ORDERED that the Petition for Reconsideration filed on December 1, 2016 by Michael Ruddick with respect to the application for minor modification of facilities for KOWS-LP, Occidental, California (File No. BMPL-20150828ABW) IS DISMISSED as untimely.<sup>11</sup>

IT IS FURTHER ORDERED that the Petition to Deny filed on December 19, 2016 by Michael Ruddick with respect to the application for minor modification of facilities for KOWS-LP, Occidental, California (File No. BMPL-20161212AAC) IS TREATED AS AN INFORMAL OBJECTION,<sup>12</sup> IS DISMISSED as moot to the extent it relates to the application as originally filed, and otherwise IS DENIED.<sup>13</sup>

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<sup>5</sup> *Id.* at 4-5.

<sup>6</sup> Petition at 2-4 (paragraphs 1.a – 1.e and 2.b). Our examination of the amendment to the Application shows that the Application complies with the Commission’s policy with respect to second-adjacent channel waivers for low power FM stations. *See* 47 CFR § 73.807(e)(1).

<sup>7</sup> *See* Instructions to FCC Form 318 at 1 (General Instructions, para. B).

<sup>8</sup> *See* Application, Section VI, Question 10; 47 CFR § 1.1306.

<sup>9</sup> *See Policy Regarding Character Qualifications in Broadcast Licensing*, Report, Order, and Policy Statement, 102 FCC 2d 1179 (1986), *recon. granted in part*, 1 FCC Rcd 421 (1986), *modified in part*, Policy Statement and Order, 5 FCC Rcd 3252 (1990), *recon. granted in part*, 6 FCC Rcd 3448 (1991), *modified in part*, Memorandum Opinion and Order, 7 FCC Rcd 6564 (1992).

<sup>10</sup> To the extent the Petition alleges that Licensee engaged in premature construction by undertaking trench work (Petition at 5, para. 3), we disagree. Pre-authorization construction is allowed to the extent any work done has no intrinsic broadcast use. *See, e.g., Wendell & Assoc.*, Memorandum Opinion and Order, 14 FCC Rcd 1671, 1679-80, para. 24 (1998) (tower site preparation, such as site clearance, pouring footings for a tower, installation of a tower base and anchors, and installation of a new power line to the tower site, does not constitute premature construction).


<sup>11</sup> 47 U.S.C. § 405(a); 47 CFR § 1.106(f).

<sup>12</sup> 47 CFR § 73.3587.

<sup>13</sup> 47 CFR § 73.3591.

IT IS FURTHER ORDERED that the application for minor modification of facilities for KOWS-LP, Occidental, California (File No. BMPL-20161212AAC) IS GRANTED.

Sincerely,

A handwritten signature in blue ink that reads "Peter H. Doyle" with a small "PH" monogram at the end.

Peter H. Doyle  
Chief, Audio Division  
Media Bureau

cc: KOWS Community Radio  
Michael Couzens, Esq.