

Michael Wagner

From: Dan J. Alpert <dja@commlaw.tv>
Sent: Monday, April 17, 2017 2:52 PM
To: Michael Wagner
Subject: RE: Waiver request
Attachments: SRF Main Studio Distance Maps.pdf; getimportletter_exh.cgi-359.pdf

Michael:

- 1) A waiver is requested with respect to both stations
- 2) The distances are shown on the attached maps. For KTSN, the total distance from the community is 40.9 miles, so the waiver is for 15.9 miles. For KCTI-FM, the total distance from the center of the community of license is 62.78 miles, so the waiver is for 37.78 miles.
- 3) The cost savings is \$2,100 per month.

Also, the ruling with regard to the call sign matter is attached.

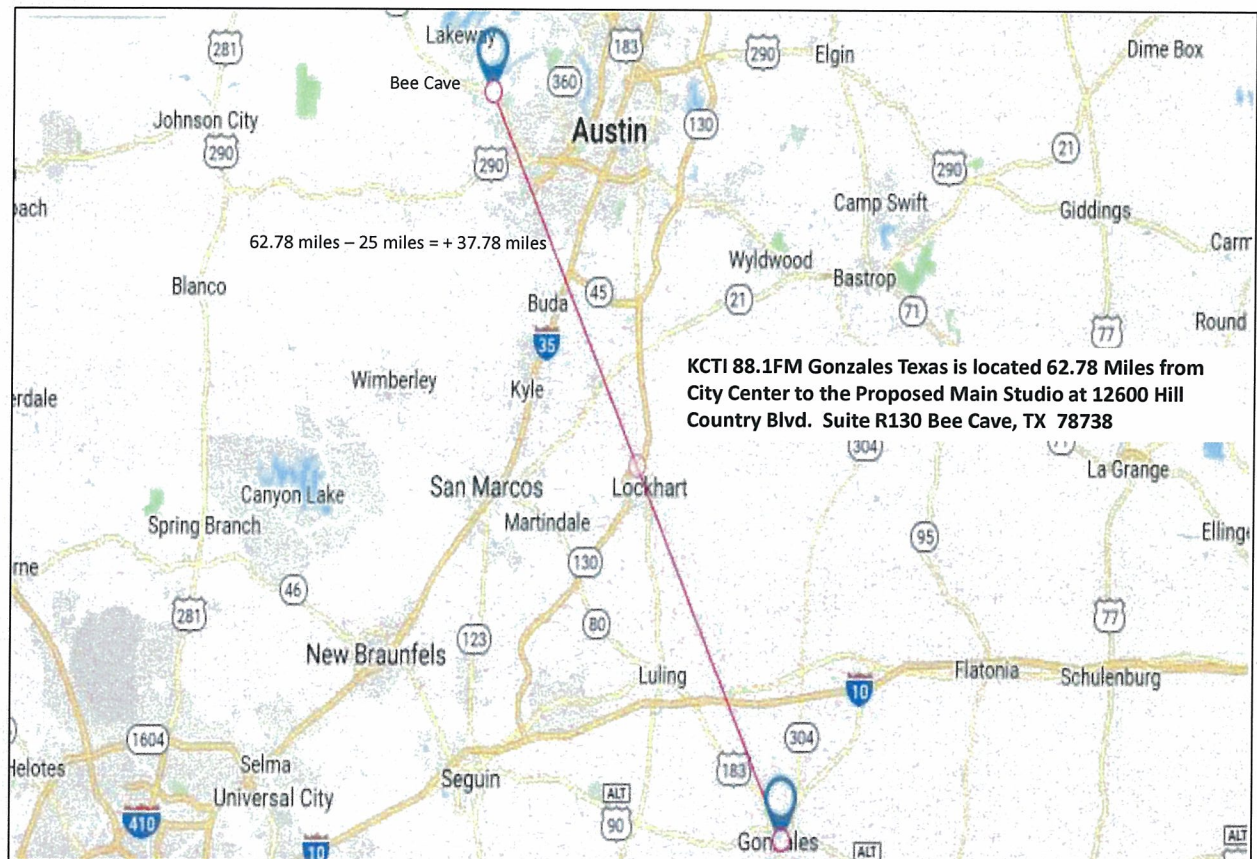
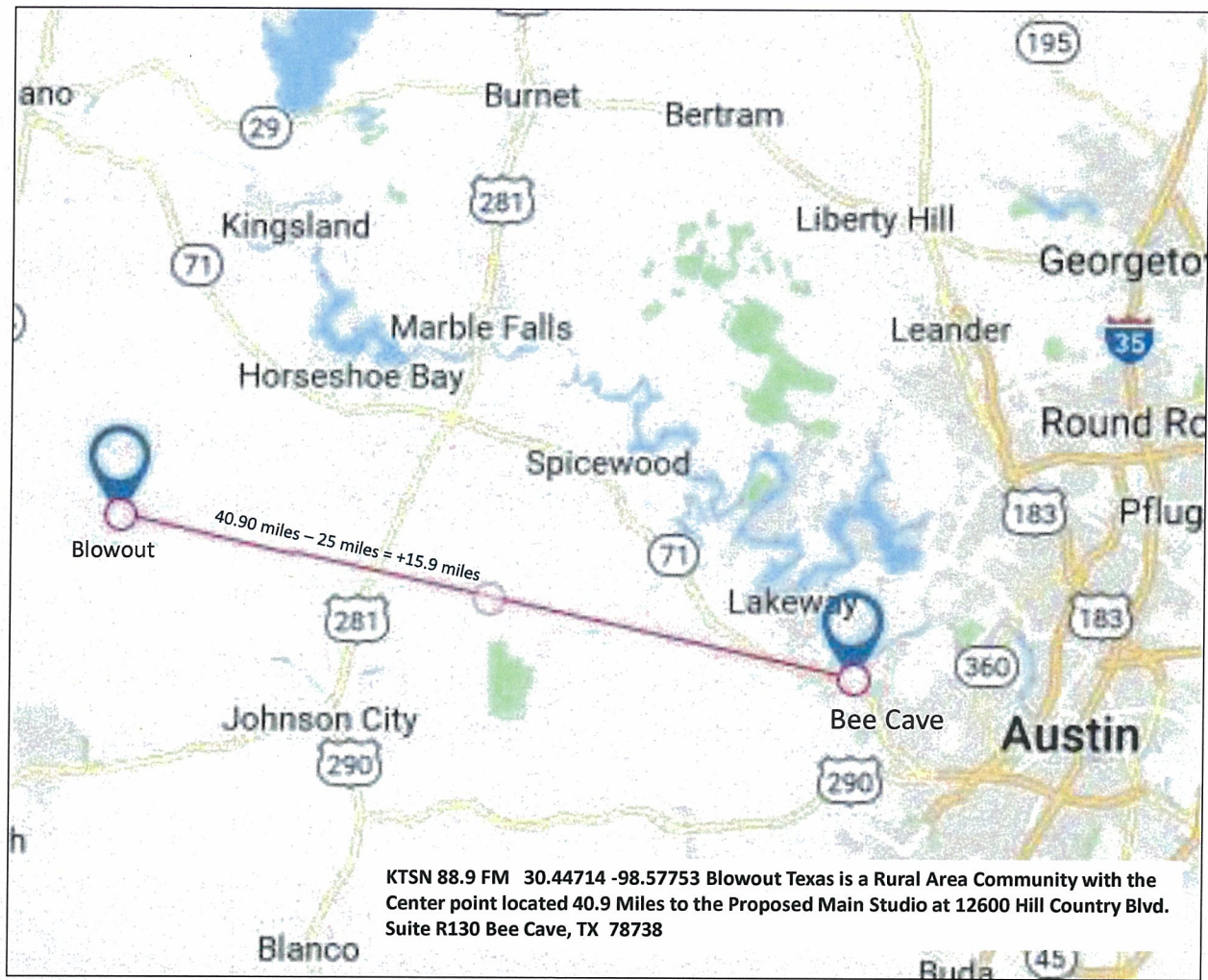
From: Michael Wagner [mailto:Michael.Wagner@fcc.gov]
Sent: Tuesday, April 11, 2017 4:39 PM
To: Dan J. Alpert (dja@commlaw.tv) <dja@commlaw.tv>
Subject: Waiver request

Several quick questions about the 2/13/2017 main studio rule waiver request, Dan.

- 1) Waiver requested for both KTSN(FM), Blowout, Texas and KTCI-FM, Gonzalez, Texas? Third paragraph states that "Sun Radio hereby requests a waiver of the main studio rule for this station." Which, or both.
- 2) How far will be the deviation from compliance with the geographic parameters of Section 73.1125? How far outside the area in which Sun Radio is permitted to locate its main studio for those stations, viz., how far outside the principal community contours of the stations (or other stations licensed to those communities) and how far beyond the 25-mile limit? We need to know the magnitude of the waiver.
- 3) The cost savings. \$2,100. Is that per week? Per month? Per year? \$2,100 per year is not such a substantial cost saving warranting a waiver.

Please amend the waiver request to supply this information.

Michael Wagner
Assistant Chief, Audio Division
Media Bureau





Federal Communications Commission
Washington, D.C. 20554
April 11, 2017

Dan J. Alpert, Esq.
The Law Office of Dan J. Alpert
2120 North 21st Road
Arlington, VA 22201

Brad C. Deutsch, Esq.
Colin Black Andrews, Esq.
Garvey Schubert Barber
1000 Potomac St. NW
Suite 200
Washington, DC 20007

Re: Sun Radio Foundation
KCTI-FM, Laredo, TX
Facility ID No. 91220

Dear Counsel:

By this letter, we dismiss, as a late-filed petition for reconsideration, a December 22, 2016, letter request, filed by Texas Public Radio (TPR), licensee of radio station KCTI (AM), Gonzales, Texas, to rescind station KCTI-FM's call sign assignment. The KCTI-FM call sign was requested by Maranatha Church of Laredo, Incorporated (Maranatha), the licensee of the station at the time, via the FCC Radio and Television Call Sign Reservation and Authorization System. The Commission announced the modified call sign in a Public Notice issued on April 7, 2016.¹

Pursuant to Section 405(a) of the Communications Act, as amended, and Section 1.106 of the Commission's rules, an interested party has 30 days "[a]fter an order, decision, report, or action," to file a petition for reconsideration.² The United States Court of Appeals for the District of Columbia Circuit has consistently held that the Commission, absent extraordinary circumstances, does not have the authority to waive or excuse the statutory 30-day filing period for petitions for reconsideration.³ Based on the Public Notice release date, petitions for reconsiderations were due on May 9, 2016. TPR's challenge to the Commission's action on the call sign change was approximately 227 days late. TPR has failed to show that extraordinary circumstances justified the extremely untimely petition for reconsideration. The call sign change was announced via Public Notice per the Commission's ordinary practice.⁴

¹ Media Bureau Call Sign Actions, Report No. 589, Public Notice (Media Bureau 2016).

² 47 U.S.C. § 405(a); 47 C.F.R. § 1.106(a)(1).

³ See *Reuters, Ltd. v. FCC*, 781 F.2d 946, 952 (D.C. Cir. 1986) (the Commission does not have statutory authority to act on a petition for reconsideration filed after the 30 day filing period); *Gardner v. FCC*, 530 F.2d 1086, 1091 (D.C. Cir. 1976) (*Gardner*) (the Commission may only act on late-filed petitions for reconsiderations when "extraordinary circumstances indicate that justice would be thus be served").

⁴ See *Gardner*, 530 F.2d at 1086 (where late filing of petition seeking reconsideration of Commission decision finding radio station had not violated personal attack rule was substantially due to the Commission's failure to give personal notice of its decision, the Commission abused its discretion in rejecting petition as untimely); *Virgin Islands Telephone Corporation v. FCC*, 989 F.2d 1231 (D.C. Cir. 1993); *Metromedia, Inc.*, 56 FCC2d 909 (1975) (distinguishing *Gardner* and finding that the Commission may not waive the thirty day filing period to accept a petition for reconsideration filed one day late); *Ole Brook Broadcasting, Inc.*, Memorandum Opinion and Order, 15

Accordingly, IT IS ORDERED that pursuant to Section 405(a) of the Communications Act, as amended, and Section 1.106 of the Commission's rules, TPR's Petition for Reconsideration IS DISMISSED.

Sincerely,

A handwritten signature in black ink, appearing to read "David Brown". The signature is fluid and cursive, with a large initial "D" and a long horizontal stroke at the end.

David J. Brown
Deputy Chief, Video Division
Media Bureau

FCC Rcd 20644 (2000); Letter from Peter Doyle, Chief, Audio Division, Media Bureau to Henry Cotton, Jamie Patrick Broadcasting, Ltd., 22 FCC Rcd 18610 (2007); Letter from Peter Doyle, Chief, Audio Division, Media Bureau to Martin L. Hensley, 22 FCC Rcd 8377 (2007)