

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

In re Application of )  
 )  
CALIFORNIA STATE UNIVERSITY, )  
LONG BEACH FOUNDATION )  
 )  
For Minor Change in Licensed Facilities )  
Station KKJZ(FM), Long Beach, California )

File No. BPED-20070905ABF  
Facility ID No. 8197

To: Office of the Secretary  
Attn: Chief, Audio Division, Media Bureau

FILED/ACCEPTED

OCT 30 2007

Federal Communications Commission  
Office of the Secretary

**INFORMAL OBJECTION**

Santa Monica Community College District (“SMCCD”), licensee of radio station KCRY(FM), Mojave, California, acting pursuant to Section 73.3587 of the Commission’s rules, 47 C.F.R. §73.3587, hereby submits this informal objection (“Objection”) to the above-captioned application (the “Application”) filed September 5, 2007, by California State University, Long Beach Foundation (“CSU”) seeking to make minor changes in the licensed facilities of radio station KKJZ(FM), Long Beach, California. In support of this Objection, the following is stated:

**I. Introduction.**

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. BMLED-20050207AAJ. CSU proposes to increase the effective radiated power of KKJZ, amend its directional antenna pattern, move the station’s transmitter location significantly closer to KCRY’s licensed transmitter site, and increase KKJZ’s antenna’s height above average terrain.<sup>1</sup>

<sup>1</sup> SMCCD is filing this Objection because it is concerned that the proposed changes in KKJZ’s technical facilities may cause harmful interference to KCRY.

See Application, Section VII. In order to make these proposed changes, CSU requests a waiver of the contour overlap provisions contained in Section 73.509 of the Commission's rules. 47 C.F.R. §73.509.

CSU's Application involves prohibited contour overlap between KCRY's interfering 40 dBu contour and KKJZ's protected 60 dBu contour. Specifically, CSU proposes to receive contour overlap from KCRY over an area which, according to CSU, encompasses a population of 1,549,987 persons. Application at Exhibit 15. CSU claims that its requested waiver would serve the public interest because its proposed 60 dBu contour is associated with a gain area population of 2,434,299 persons and a loss area of 679,911 persons. *Id.* CSU asserts that the net gain in population before considering KCRY is 1,754,388 persons, while the net gain in population served after considering the KCRY is 204,401 persons. *Id.*

CSU also states that the prohibited contour overlap from KCRY lies on the south side of the Los Padres and Angeles National Forests which are separated from the KCRY transmitter site by elevations greater than 1,500 meters. According to CSU, those elevations prevent KCRY's signal from penetrating KKJZ's proposed 60 dBu contour. Application at Exhibit 15. In support of its position, CSU provides a Longley-Rice analysis of KCRY's 40 dBu interfering contour and KKJZ's 60 dBu contour which, according to CSU, indicates that KCRY's interfering contour extends only into "several small grid squares in the Northwest corner" of KKJZ's protected contour. *Id.* On this basis, CSU believes that its requested waiver warrants "serious study." *Id.* CSU also stated that it would supplement its Application "with terrain profile plots from KCRY to points on the proposed KKJZ 60 dBu with signal level calculations, to further substantiate the unique nature of the waiver request and the public interest benefits associated with such a grant." Application at Exhibit 15.

For the reasons stated herein, CSU's Application should be dismissed because it fails to comply with the contour overlap requirements set forth in Section 73.509 of the rules and the applicant failed to establish a satisfactory basis for a waiver of that rule provision.

**II. CSU's Application Fails to Qualify for Waiver Consideration.**

CSU's request for waiver of Section 73.509 of the rules is not supported by Commission precedent and should be denied. The Commission has previously instructed the then Mass Media Bureau to consider Section 73.509 waiver requests only where the area of prohibited overlap does 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, ¶56 (1985). As demonstrated in the Engineering Statement of Doug Vernier annexed hereto ("*Engineering Statement*"), the area of prohibited contour overlap covers 1,298.2 square kilometers. A review of CSU'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 therefore precludes CSU from waiver consideration.

Even where the area of prohibited contour overlap is less than 10%, a waiver of Section 73.509 requires a much stronger showing than merely demonstrating that a proposed gain in population served exceeds the population subject to interference. The Commission has consistently held that "enhanced service cannot overcome the longstanding prohibition against increases in harmful signal contour overlap, absent compelling facts and circumstances." *Lakeside*, 20 FCC Rcd at 765 (footnotes omitted). At a minimum, an applicant must show that the gain in service "heavily outweighs the potential for interference in very small areas." *Saddleback Community College*, 11 FCC Rcd 11938, 11939-940 (1996). CSU has failed to make such a showing. In this case, the alleged net gain in population is 204,401 persons. Application at Exhibit 15. However, as demonstrated in the accompanying Engineering

Statement, there are 1,626,789 persons in the prohibited contour overlap area. Thus, the potential gain in service is only slightly greater (127,599 persons) than those persons who are likely to receive interference from CSU's proposal. These data, therefore, fall woefully short of constituting the "compelling facts and circumstances" necessary to warrant a grant of the requested waiver.

Furthermore, a waiver is particularly inappropriate where, as here, the net gain touted by CSU would be achieved by depriving 679,911 people in the loss area of a primary noncommercial educational service they currently receive, and CSU has made no showing that the proposed gain area is underserved. *Lakeside*, 20 FCC Rcd at 765. When confronted with a choice between an increase in coverage on one hand, and lesser, but adequate coverage without prohibited interference on the other, the Commission favors the latter. *Lakeside*, 20 FCC Rcd at 765, n.20, citing *City of Atlanta (WABE-FM)*, 82 FCC 2d 125, 127 (1980) (denying overlap waiver where service to community of license is adequate and gain area is well served). Therefore, because the prohibited contour overlap proposed to be received by CSU exceeds the 10% maximum limit necessary to qualify for a waiver under Section 73.509 of the rules, the asserted net gain in population served (1,754,388) without considering KCRY is only marginally greater than the population within the prohibited contour overlap area (1,626,789 persons), and there is no showing that the proposed gain area is underserved, CSU's request for waiver of Section 73.509 of the rules would not serve the public interest and should be summarily denied.

### **III. Use of Alternative Propagation Method Not Warranted.**

CSU claims that the prohibited contour overlap between stations KKJZ and KCRY "is wholly illusory" because intervening terrain will prevent any actual interference to KKJZ. As stated above, CSU contends that:

the area of prohibited overlap from KCRY lies on the south side of the Los Padres and Angeles National Forests at elevations predominantly in the coastal plane separated from the KCRY site by elevations of 1500 to

greater than 2000 meters which essentially prevent the KCRY signal from penetrating the proposed 60 dBu contour.

Application at Exhibit 15. CSU further contends that a Longley Rice study shows that “there is no 40 dBu signal inside the proposed KKJZ 60 dBu [sic] except for several small grid squares in the northwest corner of the predicted 60 dBu contour.” *Id.*

As demonstrated in the attached Engineering Statement, CSU’s alternative terrain analysis is flawed and fails to comply with the Commission’s requirements. As a threshold matter, CSU failed to define the extent of the terrain roughness or delta h between KCRY’s transmitter site and the area of prohibited contour overlap. *See generally Letter to Mark Lipp dated August 8, 2002 (File No. BPH-20000316ACF)*. That failure is significant. Without such a showing, CSU should not be permitted to rely upon an alternative propagation methodology such as Longley-Rice. CSU also makes no effort to define the impact of resulting knife-edge refractions within the protected service contour of either KKJZ or KCRY. The combination of these failures severely limits the credibility of CSU’s technical showing, and, thus, its resulting waiver request. *See Engineering Statement.*

#### **IV. Field Strength Studies Not Accepted for Interference Purposes.**

Even assuming, *arguendo*, that CSU’s technical showing could overcome the deficiencies noted above, the Commission has long recognized that field strength studies are of limited utility and therefore does not permit them to be used to justify a waiver of its interference rules:

[F]ield strength measurements can vary over time and are subject to changing environmental conditions. Thus, generally they are not a reliable means of locating a particular protected or interfering contour. *Field Strength Curves*, 53 FCC 2d 866, 867-70 (1975). Accordingly, such measurements, as a general matter, have limited utility in analyzing specific waiver requests. *See* 47 C.F.R. Sec. 73.314(a) (limiting field strength measurement submissions to rulemaking proceedings concerning general technical standards). *Cf. Golden West Broadcasters*, 11 FCC Rcd 3377 (1995) (recognizing rule restriction on alternative measurement data but accepting such data where extreme topography makes standard

prediction coverage methodology unreliable and other unique factors are present).

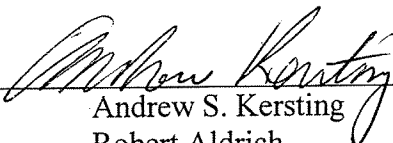
*Application of Board of Education of the City of Atlanta*, 11 FCC Rcd 7763 n.3 (1996). *Golden West Broadcasters* involved an exception based on coverage, not interference. In that case, the Commission expressly stated that the field strength measurements were used “to demonstrate only coverage, not interference.” 11 FCC Rcd 3377, 3384 (1995) (emphasis added). The Commission’s decision should not be construed as authority for the use of field strength measurements in lieu of the interference contour prediction methods set forth in the Commission’s rules. Therefore, as a matter of law, CSU’s field strength measurements cannot be used as an alternative to the interference contour prediction methodology specified on Section 73.509 of the rules.

WHEREFORE, in light of the foregoing, CSU’s request for waiver of Section 73.509 of the rules should be summarily denied and its Application should be dismissed forthwith.

Respectfully submitted,

Dickstein Shapiro LLP  
1825 Eye Street, NW  
Washington, DC 20006-5403  
(202) 420-3631

Attorneys for  
SANTA MONICA COMMUNITY  
COLLEGE DISTRICT

By:   
Andrew S. Kersting  
Robert Aldrich

October 30, 2007



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.

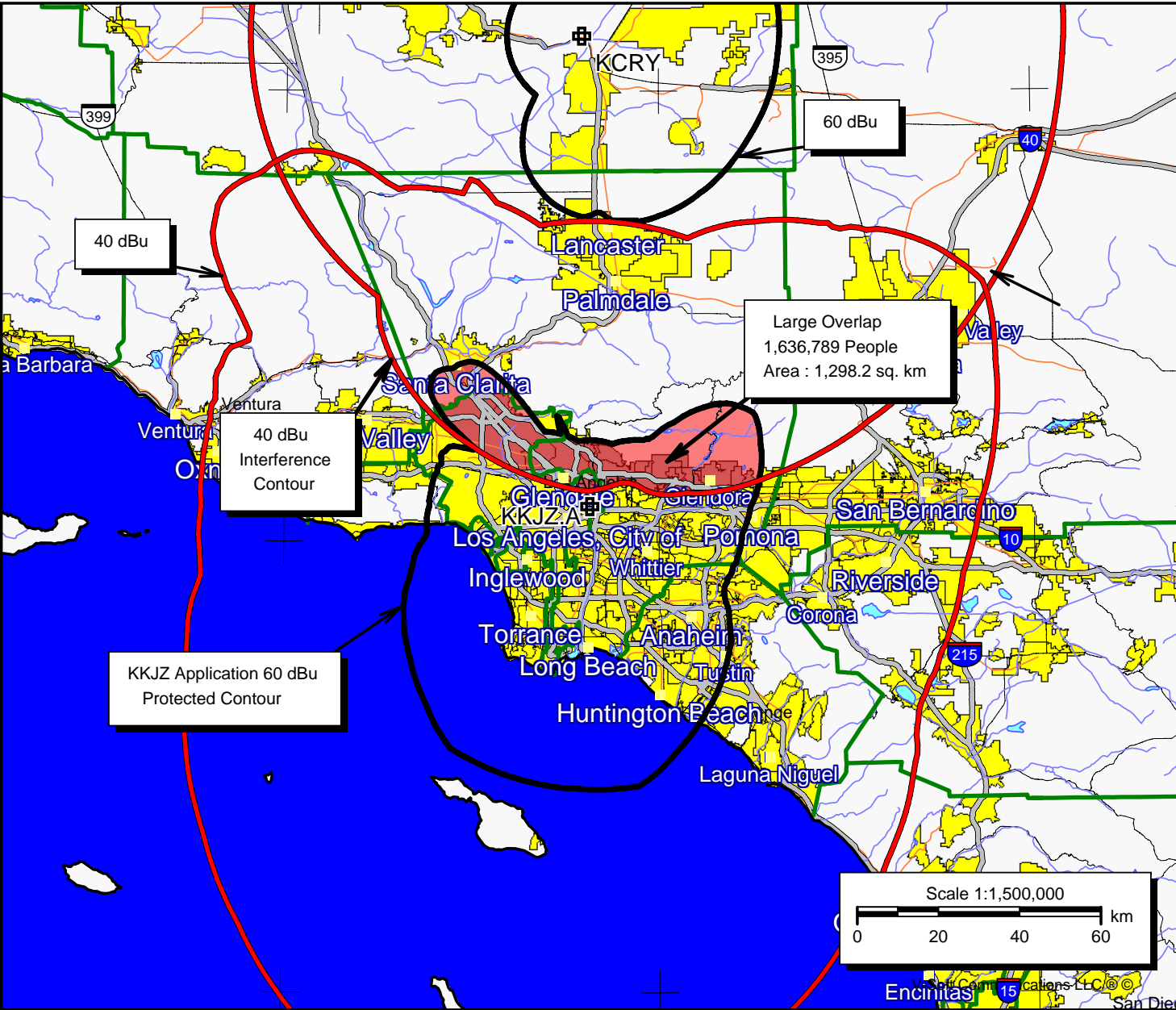
The FCC has stood by its proven allocation system for many years by preventing contour overlap and seldom grants such waivers, particularly for the most serious co-channel relationships. If this waiver request were granted, there could be a flood of such applications which would pray havoc on the Commission's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

Doug Vernier

# Overlap Area Calculation

**KKJZ.A**  
 BPE20070905ABF  
 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



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**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.



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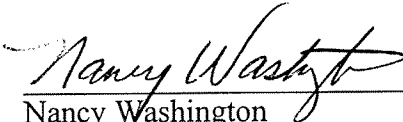
Douglas L. Vernier

Executed on October 23, 2007

**CERTIFICATE OF SERVICE**

I hereby certify that on this 30th day of October, 2007, a copy of the foregoing  
“Informal Objection” was mailed first-class, postage prepaid, to the following:

Peter Tannenwald, Esquire  
Irwin Campbell & Tannenwald, P.C.  
1730 Rhode Island Avenue, NW  
Suite 200  
Washington, DC 20036-3120  
(Counsel for California State  
University, Long Beach Foundation)

  
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Nancy Washington