MAIL BRANCH

FEDERAL COMMUNICATIONS COMMISSION 5 1987
WASHINGTON, D.C. 20554

signed by
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DEC 3 1 1986

IN REPLY REFER TO:

8920-DEB

Centennial Wireless, Inc.
4801 River Road
Boulder, Colorado 80301-2682

In re: KBCO-FM, Boulder, CO
Centennial Wireless, Inc.
BMLH-851220KB

Gentlemen:

This letter is in reference to the above-captioned application, which requests to use the former main facilities licensed under BLH-810916AC as an auxiliary facility. By Commission letter dated July 25, 1986, you were asked to provide a map to demonstrated compliance with Section 73.1675 (a)(2), which requires FM auxiliary facilities to have their 1 mV/m contour completely within the 1 mV/m contour of the licensed main station. On August 21, 1986, you submitted an amendment which showed that the 1 mV/m contour from the auxiliary exceeded that of the main station in areas north of Boulder, CO. A waiver of Section 73.1675 (a)(2) was requested.

In support of the requested waiver, you state that the directional antennas currently employed by both the main and proposed auxiliary facility are not used to protect any other station, but are instead used to protect the Table Mountain quiet zone. You note that the proposed auxiliary facility has previously been approved by the Department of Commerce, and thus would not require new coordination. The amendment also notes that were KBCO-FM licensed as a non-directional station, its 1 mV/m contour would completely encompass the 1 mV/m contour of the proposed auxiliary station.

When an applicant seeks waiver of a rule, it must plead with particularity the facts and circumstances which warrant such action. Rio Grande Family Radio Fellowship, Inc. v. FCC, 406 F2d 644 (D.C. Cir.1968).

We have afforded your waiver request the "hard look" called for under the WAIT Doctrine, WAIT Radio v. FCC, 418 F2d 1153 (D.C. Cir. 1969), but find that the facts and circumstances set forth in your justification are insufficient to establish that grant of the requested waiver would be in the public interest.

The maps provided with your waiver request clearly show the 1 mV/m auxiliary contour exceeding the 1 mV/m of the main station by a distance of 18 miles in areas north of Boulder, Colorado. The purpose for Section 73.1675 (a)(2) is to prevent other stations and services from receiving interference from the auxiliary station. Where the 1 mV/m contour of the auxiliary lies

within that of the main, any interference caused by the auxiliary will be less than or equal to that caused by the licensed main station. However, where the 1 mV/m contour of the auxiliary exceeds that of the main station, interference may be caused to stations and services in areas which normally would not receive interference from the main station. Also, any interference generated by such an auxiliary would be difficult to trace due to the intermittent use of the auxiliary station. While your proposed auxiliary was formerly a main station without causing interference, there is no certainty that future users in various services would not be adversely affected by your auxiliary operations.

Further, it appears that potential alternatives to this request have not been considered, such as different auxiliary sites, a reduction in effective radiated power, or a new directional antenna pattern. No compelling reasons have been advanced which would lead us to consider granting of this request. The fact that Table Mountain had previously approved this facility is not sufficient justification to allow a grant of this waiver. In fact, our records indicate that this former facility has not been in operation since July 5, 1985 when the present main became operational.

In view of these considerations, your request for waiver IS HEREBY DENIED. Because you have failed to present adequate reasons to justify the requested waiver, you are not entitled to an evidentiary hearing as a matter of law. United Stated v. Storer Broadcasting Company, 351 U.S. 192, 205 (1956). Therefore, your application IS HEREBY DISMISSED.

Sincerely,

Dennis Williams

Dennis Williams
Acting Chief, FM Branch
Audio Services Division
Mass Media Bureau

cc: Cohn & Marks