FCC MAIL SECTION

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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IN REPLY REFER TO:
8920-DJF/DEB

Ms. Harriet Baskas
Bellevue Community College
Radio Station KBCS-FM
3000 Landerholm Circle
Bellevue, WA 98009-2037

In re: KBCS-FM; Bellevue, WA
Bellevue Community College
Petition for Reconsideration
of BPED-880712MW

Dear Ms. Baskas:

This letter is in reference to the above-captioned major change application, which was returned by the staff by letter dated February 23, 1990. The application requested authority to increase effective radiated power (ERP) from 1.2 to 2.8 kW, increase the antenna height above average terrain (HAAT) from 64 to 66 meters, and reorient the directional antenna pattern. Your petition for reconsideration (filed March 23, 1990) asks the Commission to reinstate the application nunc-pro-tunc and continue processing.

The staff's February 23, 1990 letter cited prohibited overlap in violation of 47 CFR § 73.509 with an unfilled Canadian allotment on Saturna Island, British Columbia as being the cause of the return of application BPED-880712MW. Specifically, staff studies had shown that were the cochannel Saturna Island allotment to be activated at maximum permitted facilities (50 kW ERP/150 meters HAAT), 30% of the proposed service area of KBCS would be subject to interference received. This application would have approximately doubled the area of interference received from the same source as compared to the presently licensed KBCS-FM operation. Consequently, the staff found that this proposal was in violation of 47 CFR § 73.509, did not address this issue, and was therefore unacceptable for filing.

The petition for reconsideration resubmits the application and amends it to provide new information to address the violation of 47 CFR § 73.509. KBCS-FM also cites Northern Sound Public Radio, 4 FCC Rcd 5495 (1989) as precedent for the waiver sought in this amended application. That case permitted the creation of a new noncommercial educational FM station to receive interference from a Canadian station despite 100% prohibited overlap in violation of 47 CFR § 73.509. As did the applicant in Northern Sound, KBCS-FM in its amended proposal has established that no alternate frequencies exist which would permit operation without causing greater interference than the present channel. Further, both Northern Sound and KBCS-FM show that no interference will occur to any Canadian stations, and have received Canadian clearance for their respective proposals. KBCS-FM has also noted that even were the Saturna Island allotment to be activated, a significant portion of the interference area would fall over the waters of Puget Sound, thus lessening the impact on KBCS-FM. KBCS-FM also calls attention to the fact that that the 30% prohibited overlap

waiver sought herein is substantially less than the 100% waiver granted to Northern Sound. Finally, KBCS states that its interference-free service area will increase to 367 sq. mi. and include a population to be served of 717,747.

Upon review, we believe that the precedent cited in Northern Sound applies to KBCS-FM's application BPED-880712MW since the circumstances and showings are virtually identical. Pursuant to the Commission's Public Notice dated August 4, 1984, 56 RR 2d 776, 49 Fed. Reg. 47331 (47 CFR § 73.4015), the Commission will reinstate applications nunc pro tunc where a petition for reconsideration is timely filed and where a minor curative amendment is submitted to rectify the noted deficiencies and all other deficiencies. The revised and resubmitted application meets this requirement. Accordingly, KBCS-FM's petition for reconsideration IS HEREBY GRANTED and the application as amended is REINSTATED NUNC PRO TUNC. Application BPED-880712MW will be placed on an upcoming "A" cutoff list in keeping with normal Commission procedure. These actions are taken pursuant to 47 CFR § 0.283.

Sincerely,

Larry D. Eads, Chief
Audio Services Division
Mass Media Bureau

cc: Haley, Bader & Potts
: Kenneth Williams, Jr., P.E.