Federal Communications Commission

Washington, D.C. 20554

In reply refer to:
1800B3-DEB

October 13, 1994

Gold Country Communications, Inc.
P.O. Box 609
Jackson, CA 95642

Idaho Broadcasting Consortium, Inc.
10 Fourth Street
Santa Rosa, CA 95401

In re: KRAZ; Sutter Creek, CA
Idaho Broadcasting Consortium, Inc.
BMPH-940311IZ

Gentlemen:

This letter is in reference to construction permit application BMPH-940311IZ for new unbuilt station KRAZ (formerly KMAT), Sutter Creek, CA, which was filed by Idaho Broadcasting Consortium, Inc. ("IBC"), the permittee of that station. The application proposes to change the transmitter site to a location 4.9 km away from that authorized in the station's initial permit BPH-850711MQ, as extended by permits BMPH-920720JG and BPH-931220JB. Gold Country Communications, Inc. ("GCC"), licensee of station KNGT, Jackson, CA and a competitor to KRAZ, filed an informal objection on May 31, 1994 against application BMPH-940311IZ.[1]

[1] GCC apparently failed to serve a copy of the informal objection on IBC. Therefore, the staff faxed a copy of the informal objection and attached exhibits to Mr. Peter Casciato, counsel for IBC, on July 15, 1994.

GCC's informal objection states that KRAZ will not be able to provide 70 dBu coverage to 80% or more of its community of license, as required for substantial compliance with 47 CFR § 73.315(a)[2], because of terrain obstructions between the transmitter site and Sutter Creek, in violation of 47 CFR § 73.315(a).[3] An engineering showing attached to the informal objection states that KMAT will only be able to provide line-of-sight coverage to only 2.2% of the area within Sutter Creek's boundaries. Additionally, the engineering showing stated that only 28.6% of Sutter Creek would receive 70 dBu coverage, using an NBS Technical Note 101 analysis (in which a 3 dB vegetation loss is included); the field strength at the Sutter Creek centroid point is found to be 67.2 dBu. GCC concludes that since IBC did not request waiver of § 73.315(a) for this "overwhelming violation", and since the line-of-sight requirement in § 73.315(b) is also not met, IBC's application must be dismissed.

IBC filed a response on July 1, 1994 to GCC's informal objection. IBC notes that the Commission has held in numerous cases that line-of-sight between the transmitter site and the community of license is not an absolute requirement, citing as examples Rush County Broadcasting Co., Inc., 26 FCC 2d 480, 26 FCC 2d 783 (1980); Memorandum Opinion and Order in Docket 89-580, 7 FCC Rcd 5527, 5530 (1992); and the Hearing Designation Order in MM Docket 90-160, 5 FCC Rcd 2023 (1990). IBC states that only where a major terrain obstruction exists will the Commission require an alternate propagation analysis to be made. According to IBC, GCC has not shown that a major terrain obstruction exists. IBC's engineer states that the Δh terrain roughness factor along the radial to the most distant point of Sutter Creek, CA is 88 meters, which is not a substantial departure from the Δh factor of 50 meters already accounted for by the F(50,50) curves in 47 CFR § 73.333. See § 73.333(i). According to IBC's engineer, the Δh correction would reduce the field strength at Sutter Creek by only 1.7 dBu. IBC's engineer also faults GCC's use of a 3 dB adjustment for vegetation as being unsubstantiated and chosen merely to produce the desired result (a less-than-70 dBu field strength). Additionally, IBC states that GCC's engineer has not provided the Commission with all of the assumptions on which it based its NBS Technical Note 101 study, as has been required by the Commission in past cases. IBC has conducted its own NBS Tech Note 101 study and has found that the field strength at the Sutter Creek centroid point to be 76.9 dBu, well above the 70 dBu minimum required by § 73.315(a). Consequently, IBC urges the denial of the informal objection and the grant of application BMPH-940311IZ.

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[2] See, e.g., Barry Skidelsky, 70 RR 2d 722, 734 (1992).

[3] We note that Sutter Creek itself lies well within the 70 dBu contour as predicted by the standard contour prediction method in 47 CFR § 73.313. GCC does not dispute this in its informal objection.

As IBC has noted, line-of-sight from the transmitter site to all of the community of license is not an absolute requirement. Rush County Broadcasting Co., Inc., supra. Thus, the IBC application cannot be denied solely for failing to provide line-of-sight coverage. Rather, the determining factor is the field strength being placed over the community of license. As IBC has also noted, where the 70 dBu F(50,50) contour is predicted to encompass the community of license (as here), the Commission has not required past applicants to submit supplemental showings to demonstrate 70 dBu coverage throughout the community of license unless a major terrain obstruction exists between the transmitter site and the community of license. Unless a major obstruction is shown to exist, waiver of § 73.315(a) need not be requested. Further, we agree with IBC that GCC has not proved here the presence of a major terrain obstruction between the KRAZ proposed transmitter site and Sutter Creek, nor has it established that a substantial drop in signal strength would occur from the intervening terrain.[4] Nor has it shown why a 3 dB adjustment solely for vegetation is valid in this instance. Therefore, we find that application BMPH-940311IZ complies with § 73.315(a), and GCC's informal objection will be denied.

Accordingly, the informal objection filed on May 31, 1994 by Gold Country Communications, Inc. IS HEREBY DENIED. Application BMPH-940311IZ, being found acceptable for filing, IS HEREBY GRANTED to KRAZ. These actions are taken pursuant to 47 CFR § 0.283.

Sincerely,

Dennis Williams

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

cc: Peter A. Casciato
: Haley, Bader & Potts
: Lawrence L. Morton, P.E.
: duTreil, Lundin & Rackley

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[4] GCC has not considered whether the proposed KRAZ operation represents an improvement in that station's coverage as compared to KRAZ's permit BPH-850711MQ (as extended). However, using the standard contour prediction method in § 73.313, we note that the field strength over Sutter Creek is predicted to be greater than that of KRAZ's permit. It appears likely that a similar result would obtain were a supplemental analysis to be applied to KRAZ's outstanding construction permit.