

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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MAR 30 2007

Federal Communications Commission
Bureau / Office

In the Matter of)
)
Radio Goldfield Broadcasting Inc.)
)
Special Temporary Authorization for KGFN-LP)
Goldfield, Nevada)
(Facility ID # 170355))

File No. BSTA-20061206AFZ

To: Audio Division, Media Bureau

REPLY TO OPPOSITION TO PETITION FOR RECONSIDERATION

Leventhal Senter & Lerman PLLC (“LS&L”), pursuant to 47 C.F.R. § 1.106, hereby submits its reply to the March 20, 2007 filing of Radio Goldfield Broadcasting Inc. (“RGB”) opposing the Petition for Reconsideration (“Petition”) filed by LS&L with regard to the issuance of the above-captioned special temporary authority (“STA”). The STA permits RGB to operate a low power FM (“LPFM”) facility serving Goldfield, Nevada. Since RGB’s submission was not a timely filed opposition under the rules, by letter dated March 23, 2007 LS&L requested an extension of time to submit its reply until March 30, 2007.

As explained in the Petition, the grant of the STA permits Rodney D. Moyes, an individual who is affirmatively and permanently disqualified from holding an LPFM license, to have an interest in a party operating an LPFM station. The Commission’s rules state, clearly and unequivocally, that no LPFM application may be granted if the applicant or any party to the application has engaged in the unlicensed operation of any station.¹ Mr. Moyes’s conditional

¹ 47 C.F.R. § 73.854. That Mr. Moyes engaged in the unlicensed operation of an LPFM station is undisputed.

offer to resign from RGB, set forth in the opposition filing, even if accepted, will not cure the character disqualification of RGB as an LPFM licensee.²

By granting an STA to RGB, the Commission is creating an LPFM licensing procedure by which the mere allegation of a purported emergency situation would be adequate to justify issuance of operating authority outside of a filing window. Although in theory there might be some exigent circumstances under which special operating authority would be justified, no continuing emergency situation has been alleged or shown to exist in Goldfield, Nevada. If the need for an STA was in fact due to snowy road conditions, TIS stations could have provided any necessary warnings. In any event, the STA was not conditioned in any way on the continuation of an emergency, such that operation would terminate at the end of the winter season, for example, and there is no emergency justification for RGB's continuing authorization.

The Commission's grant of the STA to RGB establishes a precedent in LPFM licensing policies which completely undermines the Commission's rules. And despite the sudden policy change represented by the FCC's action, the grant of the STA was not accompanied by any explanation for this complete reversal in what had been a consistent refusal to grant operating requests made by pirate operators. As documented in the Petition, the failure to apply § 73.854 of the rules to RGB frustrates the purpose of the rule and creates a dangerous precedent under which other former pirate operators will seek similar operating authority, and in reliance of which individuals may begin operating unlicensed radio facilities when "emergency" circumstances purportedly merit doing so.

² See *New LPFM, Cave Junction, OR*, 20 FCC Rcd 12005, 12007 (2005), in which board members of an LPFM applicant were previously involved in the operation of an unlicensed station. The applicant offered to cure the defect in its application by means of the resignation of those board members, but the Commission flatly rejected that approach, stating that applicants may not "retain their basic qualifications simply by removing the principals that participated in the unlicensed operation of a radio station."

CONCLUSION

For the foregoing reasons, and for the reasons set forth in the Petition, the STA grant should be reconsidered and reversed.

Respectfully submitted,

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March 30, 2007

CERTIFICATE OF SERVICE

I, Genevieve F. Edmonds, certify that a true and correct copy of the foregoing Reply to Opposition to Petition for Reconsideration was sent by first-class, postage prepaid mail this 30th day of March, 2007, to the following:

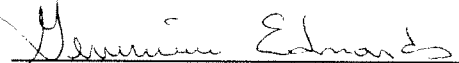
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