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

Federal Communications Commission
Office of the Secretary

In re: application of:)
)
Barbara Brindisi) FCC File No. BPH-910703MI
)
For a New FM Construction)
Permit on Channel 265A)
at Beaumont, California)

To: The Chief, Mass Media Bureau

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INFORMAL OBJECTION

EXAMINED

Serna Broadcasting, Inc., an applicant for FM Channel 265A at Beaumont, California, by its attorneys, pursuant to Section 73.3587 of the Commission's Rules, hereby submits an informal objection against the application of Barbara Brindisi as unacceptable for filing as it is impermissibly short-spaced to an application for a minor modification of KATY-FM, Idyllwild, California.^{1/} In support thereof, the following is submitted:

1. Barbara Brindisi's application for FM Channel 265A at Beaumont, California is short-spaced to the pending application of KATY-FM, Idyllwild, California to make a change in its transmitter location (FCC File No. BMPH-910611IF). This short-spacing occurs under Section 73.207(b) of the Commission's Rules. As shown in Exhibit No. 1, using the calculation method set forth

^{1/} On October 22, 1991, Serna Broadcasting, Inc. filed petitions to deny against Robert M. Richmond, Lauryn Broadcasting Corporation and Edward L. Masry based upon a similar short-spacing to the pending KATY-FM application. At the time of the filing of these petitions, it was believed that the application of Barbara Brindisi was properly spaced due to rounding. It was just recently determined, however, that using the calculation method set forth in Section 73.208 of the Commission's Rules, the application of Barbara Brindisi is short-spaced to the KATY-FM application.

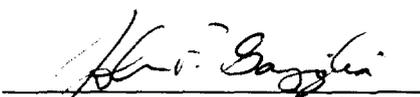
in Section 73.208 of the Commission's Rules, the required distance to the KATY-FM site is 31 kilometers, while the distance between the Barbara Brindisi site and the KATY-FM site is 30.4967288805 kilometers. Because this distance is less than 30.5 kilometers, it rounds down to 30 kilometers.

2. In the Report and Order allotting FM Channel 265A to Beaumont, it was noted that the provisions of Section 73.213(c)(1) of the Commission's Rules may be utilized with respect to the existing transmitter location of KATY-FM, Channel 267A, at the transmitter location of 33° 46' 05" North Latitude, 116° 44' 01" West Longitude. See Beaumont, California, 6 FCC Rcd 2049 (1991) at note 2. Barbara Brindisi, however, cannot avail herself of Section 73.213(c)(1) of the Commission's Rules with regard to the newly specified transmitter location of KATY-FM. The Commission makes it clear in Amendment of Part 73 of the Rules, 6 FCC Rcd 3417, 3418 n. 7 (1991), that applicants must meet the new spacing requirements in Section 73.207(b) with regard to all pending applications that are fully-spaced under the new rules to the reference point for the new allotment. As shown in Exhibit No. 2, the allocation reference point for Channel 265A at Beaumont, California is fully-spaced to the KATY-FM application. Accordingly, Barbara Brindisi is required to fully protect the application of KATY-FM pursuant to the provisions of Section 73.207(b) with an application that is properly spaced to the transmitter site change application of KATY-FM.

3. Accordingly, since the application of Barbara Brindisi is impermissibly short-spaced to the pending application of KATY-FM, Idyllwild, California, it cannot be granted as filed and it should be dismissed as unacceptable for filing.^{2/}

WHEREFORE, for the reasons above, a denial of the application of Barbara Brindisi is respectfully requested.

Respectfully submitted,
SERNA BROADCASTING, INC.

By: 
John F. Garziglia
Its Attorney

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November 5, 1991

^{2/} It is recognized that the application of KATY-FM may be found to be mutually exclusive with the application of Barbara Brindisi thus necessitating a comparative hearing with regard to the application of KATY-FM. FM Application Processing, 58 RR2d 776, 784 (1985) appears to suggest that an amendment would be acceptable at any time to the application of Barbara Brindisi. To date, however, Barbara Brindisi has not submitted such an amendment even though she had every opportunity to do so during the time period on and prior to September 20, 1991 when amendments were acceptable as a matter of right.

DISTANCE COMPUTATION EXAMPLE USING METHOD OF §73.208

Reference Point 1 - KATY-FM Proposed Site

$$LAT1 = 33^{\circ} 43' 33''$$

$$LON1 = 116^{\circ} 44' 58''$$

Reference Point 2 - Barbara Brindisi Proposed Site

$$LAT2 = 33^{\circ} 54' 29''$$

$$LON2 = 116^{\circ} 59' 46''$$

§73.208(c)(1) - Convert to decimal degrees

$$LAT1_{dd} = 33.7258333333 \text{ degrees}$$

$$LON1_{dd} = 116.7494444444 \text{ degrees}$$

$$LAT2_{dd} = 33.9080555555 \text{ degrees}$$

$$LON2_{dd} = 116.9961111111 \text{ degrees}$$

§73.208(c)(2) - Calculate middle latitude

$$ML = (LAT1_{dd} + LAT2_{dd}) \div 2$$

$$ML = (33.7258333333 + 33.9080555555) \div 2$$

$$ML = 33.8169444444 \text{ degrees}$$

§73.208(c)(3) - Calculate number of kilometers per degree latitude difference

$$KPD_{lat} = 111.13209 - 0.56605 \cos(2ML) + 0.00120 \cos(4ML)$$

$$KPD_{lat} = 110.915842207 \text{ kilometers/degree of latitude}$$

§73.208(c)(4) - Calculate number of kilometers per degree longitude difference

$$KPD_{lon} = 111.41513 \cos(ML) - 0.09455 \cos(3ML) + 0.00012 \cos(5ML)$$

$$KPD_{lon} = 92.5845618553 \text{ kilometers/degree of longitude}$$

§73.208(c)(5) - Calculate north-south distance in kilometers

$$NS = KPD_{lat}(LAT1_{dd} - LAT2_{dd})$$

$$NS = 110.915842207(33.7258333333 - 33.9083333333)$$

$$NS = 110.915842207(-0.1822222222)$$

$$NS = -20.2113312552 \text{ kilometers}$$

§73.208(c)(6) - Calculate east-west distance in kilometers

$$EW = KPD_{lon}(LON1_{dd} - LON2_{dd})$$

$$EW = 92.5845618553(116.7494444444 - 116.9961111111)$$

$$EW = 92.5845618553(-0.2466666667)$$

$$EW = -22.8375252885 \text{ kilometers}$$

§73.208(c)(7) - Calculate final distance

$$DIST = (NS^2 + EW^2)^{0.5}$$

$$DIST = (-20.2113312552^2 + -22.8375252885^2)^{0.5}$$

$$DIST = 30.4967288805 \text{ kilometers}$$

§73.208(c)(8) - Round to the nearest kilometer

If $DIST < 30.5$, then $DIST$ rounds down to 30 kilometers
 If $DIST \geq 30.5$, then $DIST$ rounds up to 31 kilometers

$DIST$ is 0.0032711195 kilometers less than 30.5 kilometers
 This is equal to a shortspacing of 3.2711195 meters or 10.732019357 feet

$\therefore DIST = 30$ kilometers

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WASHINGTON D.C. 20006

Beaumont Allocation Reference Point

REFERENCE		CLASS A	DISPLAY DATES
33 56 06 N		Current rules spacings	DATA 09-25-91
116 58 24 W		CHANNEL 265 -100.9 MHZ	SEARCH 10-21-91

CALL	CH#	CITY	STATE	BEAR'	D-KM	R-KM	MARGIN
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CLASS A

CALL TYPE	CH# LAT	CITY LNG	STATE	BEAR' HT	D-KM D-Mi	R-KM R-Mi	MARGIN (KM)
APG CN	34 13 38	118 04 00		58.000 kW	893M	65.9 70.2	
	Future Broadcasting, Inc.					BPH800924AA	840329
AP266	266B	Los Angeles	CA	287.8		105.99 113.0	-7.01 *
APD CN	34 13 38	118 04 00		58.000 kW	893M	65.9 70.2	
	Valley Radio 670 Limited Part					BPH830506AG	840329
>MX With Renewal of KRTH-ERP Exceeds Class B							
AP266	266B	Los Angeles	CA	287.8		105.99 113.0	-7.01 *
APD CN	34 13 38	118 04 00		58.000 kW	893M	65.9 70.2	
	Cozzin Communications, Corp,					BPH830512BC	840329
>MX With Renewal of KRTH-ERP EXCEEDS CLASS B							
KRTHFM	266B	Los Angeles	CA	287.8		105.99 113.0	-7.01 *
LI CN	34 13 38	118 04 00		51.000 kW	954M	65.9 70.2	
	Beasley FM Acquisition Corp.					BLH841030BY	
>EQUIVALENT TO GRANDFATHERED LICENSE							
AP266	266B	Los Angeles	CA	287.8		105.99 113.0	-7.01 *
APD CN	34 13 38	118 04 00		58.000 kW	893M	65.9 70.2	
	South Jersey Radio, Inc.					BPH830512BZ	840329
>MX With Renewal of KRTH-ERP Exceed Class B							
AP266	266B	Los Angeles	CA	287.9		106.08 113.0	-6.92 *
APD CN	34 13 45	118 04 01		50.000 kW	966M	65.9 70.2	
	Radio Radio, Inc.					BPH830512BE	840329
KATYFM	267A	Idyllwild	CA	129.8		28.90 31.0	-2.10 *
CPM CN	33 46 05	116 44 01		0.078 kW	480M	18.0 19.3	
	Kay Sadlier-Gill					BMPH901115ID	920829
KATYFM	267A	Idyllwild	CA	138.2		31.11 31.0	0.11 <
AP CN	33 43 33	116 44 58		1.150 kW	225M	19.3 19.3	
	Kay Sadlier-Gill					BMPH910611IF	
>ERP/HAAT combination exceeds maximum value for International Agreem							
KLRD	211A	Yucaipa	CA	9.5		11.65 10.0	1.65 <
LI CN	34 02 19	116 57 09		0.300 kW	312M	7.2 6.2	
	Shepherd Communications, Inc.					BLED860804KB	
AP266	266B	Los Angeles	CA	282.7		115.72 113.0	2.72 <
AP CN	34 09 50	118 11 46		31.000 kW	205M	71.9 70.2	
	Marisol Broadcasting, Ltd.					BPH830512CZ	840329
>MX WITH THE RENEWAL OF KRTH							
KPSIFM	263B1	Palm Springs	CA	88.7		52.15 48.0	4.15

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CLASS A

CALL TYPE	CH# LAT	CITY LNG	STATE PWR	BEAR' HT	D-KM D-Mi	R-KM R-Mi	MARGIN (KM)
CPM CN	33 56 44	116 24 34	25.000 kW	37M	32.4	29.8	
KPSI Radio Corporation					BMPH901002MB		910622
>From Channel 265A per D87-302							
KATJ	264A	George	CA	338.8	80.35	72.0	8.35
LI CN	34 36 38	117 17 18	0.085 kW	472M	49.9	44.8	
Crown Broadcasting Services,					BLH890713KA		
>Accepted by Mexico 910313							
KATJ.C	264A	George	CA	338.8	80.35	72.0	8.35
CP CN	34 36 38	117 17 18	0.260 kW	472M	49.9	44.8	
Crown Broadcasting Services,					BPH900710ID		
>Proposed to Mexico as Class B on 901003-Accepted by Mexico 910313-E							
>combination exceeds maximum value for International agreements							
KFMBFM	264B	San Diego	CA	191.9	124.33	113.0	11.33
LI CN	32 50 17	117 14 56	30.000 kW	189M	77.3	70.2	
Midwest Television, Inc.					BMLH830406AF		
KQLZ	262B	Los Angeles	CA	287.8	105.93	69.0	36.93
LI CN	34 13 37	118 03 58	5.300 kW	916M	65.8	42.9	
Westwood One Stations-LA, Inc					BLH850528KC		
>GRANDFATHERED AT 5.3KW @ 916M HAAT							
>Proposed to Mexico as C 910610							
KSSB.C	265A	Calipatria	CA	123.7	163.01	115.0	48.01
CP CN	33 07 12	115 30 47	3.000 kW	45M	101.3	71.5	
Salton Sea Communications					BPH900830JR		

CERTIFICATE OF SERVICE

I, Tracey Westbrook, a secretary in the law firm of Pepper & Corazzini, do hereby certify that true copies of the foregoing "Informal Objection" were sent this 5th day of November, 1991, by first-class United States mail, postage prepaid, to the following:

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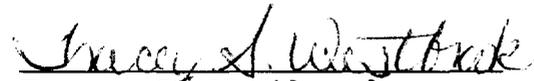
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