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FEDERAL COMMUNICATIONS COMMISSION
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April 20, 1998

VIA HAND DELIVERY

Ms. Magalie R. Salas
Secretary
Federal Communications Commission
1919 M Street, N.W. Room 222
Washington, D.C. 20554

Re: MM Docket No. 87-268

Dear Ms. Salas

Transmitted herewith, on behalf of Channel 51 of San Diego, Inc., the licensee of Television Broadcast Station KUSI-TV, San Diego, CA are an original and four copies of its Petition for Reconsideration of the Allotment of DTV Channel 51 to Station KRPA-TV, Rancho Palos Verdes, CA in the above-referenced proceeding.

Questions regarding this matter should be addressed to undersigned counsel.

Very truly yours


Kevin M. Goldberg

Encl.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BEFORE THE

Federal Communications Commission

In the Matter of)
)
Advanced Television Systems and Their)
Impact Upon the Existing Television)
Broadcast Service)

MM Docket No. 87-268

TO: The Commission

PETITION OF CHANNEL 51 OF SAN DIEGO, INC. FOR RECONSIDERATION OF ALLOTMENT OF DTV CHANNEL 51 TO KRPA-TV, RANCHO PALOS VERDES, CA.

Channel 51 of San Diego, Inc., Licensee of Television Broadcast Station KUSI-TV (Channel 51), San Diego CA, respectfully requests that the Sixth Report and Order in the above-captioned proceeding be modified to delete the allotment of DTV Channel 51 to Rancho Palos Verdes Broadcasters, Inc., Permittee of station KRPA-TV (Channel 44), Rancho Palos Verdes, CA. Channel 51 of San Diego, Inc. will demonstrate that the DTV Channel 51 allotment is unwarranted because it is solely based on the existence of a paired channel status with NTSC Channel 44, Rancho Palos Verdes, CA. Channel 51 of San Diego, Inc. is petitioning the Commission in a separate pleading to amend the NTSC Table of Allotments to delete the allocation of Channel 44 to Rancho Palos Verdes, CA. Without a permit for Channel 44, there is no basis for the DTV allocation of Channel 51 to Rancho Palos Verdes Broadcasters, Inc. In support of its position, Channel 51 states:

1. Station KUSI-TV is licensed to Channel 51 of San Diego, Inc. for NTSC operation on Channel 51 at San Diego, CA. An unbuilt Construction Permit for Station KRPA-TV has been granted to Rancho Palos Verdes Broadcasters, Inc. for NTSC operation on Channel 44 at Rancho Palos Verdes, CA. In the Sixth Report and Order in this proceeding the Commission allotted Channel 51 as station KRPA-TV's paired DTV channel.

2. Rancho Palos Verdes Broadcasters, Inc. has never commenced operation on NTSC Channel 44. The Permittee filed its application for a Construction Permit in March 1983 and received the permit in July 1985. Thirteen years after receiving a Construction Permit for NTSC Channel 44 at Rancho Palos Verdes, CA, the station remains unbuilt. The stated reason for the failure to construct is the absence of a transmitter site. In that time, Rancho Palos Verdes Broadcasters, Inc. has filed thirteen Motions to Extend the Completion Date of its Construction Permit.

3. A close examination of these Motions to Extend reveals that Rancho Palos Verdes Broadcasters, Inc. is no closer today to obtaining a transmitter site than the Permittee was fifteen years ago--when the Construction Permit application was filed. The same problem that existed in 1983--obtaining government approvals for the proposed transmitter site--still exists in 1998. No quantifiable progress has been demonstrated by Rancho Palos Verdes Broadcasters, Inc.

4. The problem of locating and building on an adequate transmitter site stems from the fact that the only location where KRPA-TV can be built while complying with Commission separation requirements is on Santa Catalina Island, which is located 20 miles off the coast of California. Santa Catalina Island is principally owned by the Santa Catalina Island Conservancy ("Conservancy"), a non-profit entity that was chartered to maintain the island in an undeveloped

state. Therefore, to obtain permission to locate a transmitter site on Santa Catalina Island requires the permission of more than simply the State and Local governments. Los Angeles County has delegated some land use controls to the Conservancy, so the approval of that “quasi-governmental” body is required. Despite repeated assurances by Rancho Palos Verdes Broadcasters, Inc. in every passing Motion to Extend that the Permittee is making progress toward obtaining government consent to build a transmitter on Santa Catalina Island, no specific steps forward have been demonstrated.^{1/}

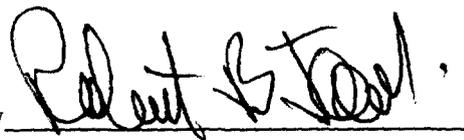
5. The continued filing of extension applications reflects persistence; good cause, however, is determined by action, not words. The allotment of DTV Channel 51 depends entirely on the existence of the outstanding Construction Permit for NTSC Channel 44. For this reason, Channel 51 of San Diego, Inc. is filing a separate Petition for Rulemaking to request that the Commission put an end to the charade occurring in Rancho Palos, Verdes, CA by deleting the allotment of Channel 44 to that community.

^{1/} Indeed, one may assert that in the absence of forward progress, backward progress has occurred. Rancho Palos Verdes Broadcasters, Inc. originally intended to co-locate its transmitter on the only tower currently located on Santa Catalina Island, a tower owned by Pacific Bell; because Pacific Bell has decided not to allow co-existence on its monopole, the Permittee has had to modify its original Construction Permit. In its most recent Motion to Extend (filed in 1996), Rancho Palos Verdes Broadcasters, Inc. states that it is “in the process of preparing a revised engineering proposal, in order to present the monopole alternative to pertinent public and private bodies in conjunction with land use approvals” and that it is “in the process of completing a survey to determine the precise location of the monopole construction alternative.” In the absence of more current information having been filed over the last two years, it can be fairly presumed that Rancho Palos Verdes Broadcasters, Inc. has been unsuccessful. After fifteen years, it appears the Permittee is back at square one.

6. The allotment of DTV Channel 51 to Rancho Palos Verdes Broadcasters, Inc. must be reconsidered and deleted. The history of that permit and its present status provide no basis upon which the Commission might believe that a Channel 44 operation is possible; indeed, the fifteen year record, evidenced by thirteen extension applications, proves to the contrary. The pairing of any DTV Channel with NTSC 44 constitutes an inefficient use of valuable spectrum--especially in Southern California where there is a shortage of sufficient spectrum. The availability of NTSC Channel 44 clearly would have alleviated this problem. Pragmatically, there will be no NTSC Channel 44 at Rancho Palos Verdes, CA. Therefore, it is respectfully requested that the Commission delete Channel 51 from the DTV Table of Allotments.

Respectfully submitted

Channel 51 of San Diego, Inc.

By 

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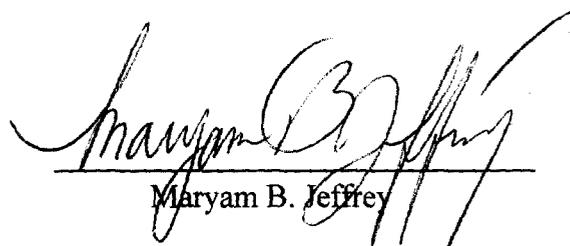
April 20, 1998

Its Attorneys

CERTIFICATE OF SERVICE

I, Maryam B. Jeffrey, do hereby certify that a true and correct copies of the foregoing PETITION OF CHANNEL 51 OF SAN DIEGO, INC. FOR RECONSIDERATION OF ALLOTMENT OF DTV CHANNEL 51 TO KRPA-TV, RANCHO PALOS VERDES, CA were mailed, first-class postage prepaid, this 20th day of April, 1998 to the following:

Rancho Palos Verdes Broadcasters, Inc.
15304 Sunset Boulevard
Suite 204
Pacific Palisades, CA 90272


Maryam B. Jeffrey