

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

In the Matter of:)
)
Amendment of Section 73.202(b),) MM Docket No. 09-189
Table of Allotments,) RM-11564 **FILED/ACCEPTED**
FM Broadcast Stations.)
(Kahuku, HI and Kualapuu, HI))

MAR 21 2011

To: Marlene H. Dortch, Secretary
Office of the Secretary, Federal Communications Commission

Federal Communications Commission
Office of the Secretary

PETITION FOR RECONSIDERATION

Kona Coast Radio, LLC (“Kona Coast”), files this Petition for Reconsideration of the Commission’s Report and Order released February 18, 2011 (the “Report and Order”). Kona Coast seeks reconsideration of dismissal of its Petition for Rule Making (the “Petition”) seeking the allotment of Channel 296C3 at Kahuku, Hawaii and the dismissal of the associated Form 301 application (File No. BNPH-20090723AED) (the “Application”).¹

BACKGROUND

Kona Coast filed the Application, and the requisite filing fee, for a new station on Channel 296C3 at Kahuku, Hawaii on July 23, 2009. The next day, July 24, 2009, Kona Coast filed the Petition seeking allocation of Channel 296C3 to Kahuku, Hawaii. The Petition was received by the FCC on July 24, 2009 and date-stamped by the Office of the Secretary on August 18, 2009. The Commission issued a Notice of Proposed Rule Making proposing to amend the FM Table of Allotments, Section 73.202(b) of Commission rules, by allotting Channel 296C3 at Kahuku, Hawaii as a first local service, as proposed by Kona Coast.² Kemp Communications, Inc. (“Kemp”) filed Comments

¹ Kona Coast also seeks rescission of the grant of Big D Consulting, Inc.’s (“Big D”) minor change application (File No. BPH-20090810ACM) (the “Modification Application”), and rescission of the allocation of Channel 296C2 to Kualapuu, Hawaii.

² *Kahuku, Hawaii*, Notice of Proposed Rule Making, 24 FCC Rcd 12905 (MB 2009).

and Counterproposal (the “Counterproposal”), proposing to allocate Channel 296C2 to Kualapuu, Hawaii, as a first local service.³ Big D filed its mutually exclusive Modification Application on August 10, 2009 to upgrade FM station KNAN(FM), Nanakuli, Hawaii from Channel 294C3 to 294C2.

The Commission resolved all three mutually exclusive proposals, not by analysis of which proposal would best serve the public interest, but on procedural grounds. The Commission determined that although Kona Coast's Petition was received by the Commission on July 24, 2009, it was not received by the Office of the Secretary until August 18, 2009, thereby giving Big D's upgrade proposal priority. The Commission, therefore, granted Big D's Modification Application and Kemp's Counterproposal.

THE COMMISSION ERRED IN DISMISSING KONA COAST'S PROPOSAL TO ALLOCATE CHANNEL 296C3 AT KAHUKU, HAWAII

Kona Coast filed the Application, with the requisite filing fee, specifying Channel 296C3 at Kahuku, Hawaii on July 23, 2009.⁴ The public was on notice of Kona Coast's proposal as of July 29, 2009, the date of release of the Commission's Public Notice.⁵ Twelve days later, Big D filed the Modification Application. The public and the Commission were well aware of Kona Coast's prior-filed Application. The Commission, however, citing its FM Allotment Public Notice, considered the Big D Modification Application the first application filed, since Kona Coast's Petition was not received by the Office of the Secretary until August 18, 2009, eight days after Big D filed the Modification Application.⁶

The Commission's reliance on the FM Allotment Public Notice is arbitrary, capricious and contrary to the public interest. First, the FM Allotment Public Notice was

³ Kona Coast filed Reply Comments to the Counterproposal, noting that Kahuku, HI is a larger community than Kualapuu, HI. More importantly, the Reply Comments note that first local service could be provided to both communities by allocating Channel 296C3 at Kahuku, HI and Channel 250C2 to Kualapuu, HI.

⁴ A copy of the Application is attached hereto as Exhibit 1.

⁵ See *Broadcast Applications*, Public Notice, Report No. 27037, 2009 Lexis 3707 (released July 29, 2009).

⁶ See *Filing Requirements in FM Allotment Rulemaking Proceedings*, Public Notice, 20 FCC Rcd 7502 (MB 2005) (the “FM Allotment Public Notice”).

adopted prior to the Commission's new procedures for allocation of new FM channels.⁷ At the time the FM Allotment Public Notice was adopted, there was no requirement that a proponent for new allocation file a Form 301 application with a filing fee, as is now required. As a result, the public is put on notice as of the release of the Public Notice of the filing of the Form 301. The stated purpose in requiring all filings in FM allotment proceedings be filed with the Office of the Secretary is "to provide interested parties and the public with adequate notice of the pleadings that may result in changes to the FM Table of Allotments, to ensure fair and efficient processing including entry in ECFS and to conserve the Commission's limited resources."⁸ This requirement of giving notice is met on filing a Form 301 application and the filing fee. The efficacy of a filed Form 301 application providing adequate notice is underscored by the facts in this proceeding. The Modification Application filed by Big D was given full credit on the notice front, but the Application filed by Kona Coast was not. Kona Coast posits that giving the same application different treatment for purposes of notice lacks the requisite rationality required in administrative proceedings.

The Report and Order takes the position that the FM Allotment Public Notice has afforded no leniency and that the processing rule will be strictly followed.⁹ However, the FM Allotment Public Notice states only that, "failure to follow these requirements *may* result in the treatment of a filing as untimely (emphasis added)."¹⁰ The FM Allotment Public Notice contemplates discretion and waiver of the rule. The contemplated discretion provided for in the FM Allotment Public Notice itself, is very much wanted here, where there was actual prior notice given by Kona Coast.¹¹

⁷ See *In the Matter of Revision of Procedures Governing Amendments to FM Table of Allotments and Changes of Community of License and the Radio Broadcast Services*, 21 FCC Rcd 14212 (2006).

⁸ See *Caliente and Moapa, Nevada*, Memorandum Opinion and Order, 21 FCC Rcd 11481, 11483 (MB 2006) ("Caliente and Moapa") at paragraph 6.

⁹ See *Report and Order* at paragraph 4.

¹⁰ See *FM Allotment Public Notice* at paragraph 2.

¹¹ The Commission states in the Report and Order that ever since the FM Allotment Public Notice no leniency has been afforded any party that failed to properly address filings to the Office of the Secretary (at paragraph 4). The FM Allotment Public Notice, however, clearly does not

Aside from the fairness issues in allowing discretion, a waiver is also warranted since consideration of the Petition would result in a far preferential use of spectrum. As noted in the Reply Comments, Channel 296C3 could be allocated to Kahuku, Hawaii and available Channel 250C2 could be allotted to Kualapuu, Hawaii, providing both communities first local service. Instead, the Commission chose to upgrade the service of an existing station and provide just one new service. Waiver of the FM Allotment Public Notice is warranted because it serves the public interest to do so.¹²

Wherefore, Kona Coast respectfully requests that the Commission:

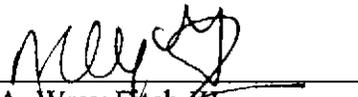
1. Reinstate the Petition for the allotment of FM Channel 296C3 at Kahuku, Hawaii, as well as the associated Application;
2. Rescind the grant of Big D's Modification Application; and
3. Rescind allocation of Channel 296C2 to Kualapuu, Hawaii.

contemplate draconian application of the rule. In adopting the filing requirements, the Commission specifically stated, failure to follow these requirements “*may* result in the treatment of the filing as untimely.”(at paragraph 2). In *Roma, Texas*, Memorandum Opinion and Order, 21 FCC Rcd 10007, 10008 (MB 2007), no showing was made that acceptance of the misdirected and thereby, late-filed Counterproposal was in the public interest. In *Caliente and Moapa* the late-filed pleading at issue was a Petition for Reconsideration, which has a statutory thirty day filing period. The statutory filing period as well as petitioners’ failure to articulate a basis for a waiver distinguishes *Caliente and Moapa*. To extent needed, Kona Coast, requests a waiver of the Commission policy set forth in the FM Allotment Public Notice, and that the Commission consider the Petition filed with the FCC on July 24, 2009 as being filed with the Office of the Secretary on that date.

¹² As noted by the Commission, (*See In the Matter of Southwestern Bell Telephone Company, Contingent Motion for Extension of Time*, 9 FCC Rcd 5792; 1994) “The Commission may exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with the public interest ... The Court of Appeals has stated that waivers permit a more rigorous adherence to an effective regulation by allowing the agency to take into account considerations of hardship, equity, or more effective implementation of overall policy on an individualized basis, while also emphasizing that, ‘[a]n applicant for waiver faces a high hurdle even at the starting gate’ (at n14) ... In *WAIT Radio*, the court explained that ‘[t]he very essence of a waiver is the assumed validity of the general rule’ (at n15) ... The test identified in *WAIT Radio* requires the party seeking the waiver to demonstrate that the rule is unjust as applied to the party given the unique circumstances of the situation (at n16) ... Waiver is thus appropriate only if special circumstances warrant a deviation from the general rule and such deviation will better serve the public interest than adherence to the general rule (at n17).” Kona Coast has, as demonstrated herein, met the requirements for a waiver.

Respectfully Submitted,

KONA COAST RADIO, LLC

By: 
A. Wray Fitch III
Its FCC Counsel

Gammon & Grange, P.C.
8280 Greensboro Drive, 7th Floor
McLean, VA 22102-3807
(703) 761-5013

March 21, 2011

EXHIBIT 1

Federal Communications Commission Washington, D.C. 20554 <p style="text-align: center;">FCC 301</p>	Approved by OMB 3060-0027 (June 2010)	FOR FCC USE ONLY
APPLICATION FOR CONSTRUCTION PERMIT FOR COMMERCIAL BROADCAST STATION Read INSTRUCTIONS Before Filling Out Form		FOR COMMISSION USE ONLY FILE NO. BNPH - 20090723AED

Section I - General Information

1.	Legal Name of the Applicant KONA COAST RADIO, LLC			
	Mailing Address 87 JASPER LAKE ROAD			
	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:45%; padding: 2px;">City LOVELAND</td> <td style="width:30%; padding: 2px;">State or Country (if foreign address) CO</td> <td style="width:25%; padding: 2px;">ZIP Code 80537 -</td> </tr> </table>	City LOVELAND	State or Country (if foreign address) CO	ZIP Code 80537 -
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	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%; padding: 2px;">Telephone Number (include area code) 9706699200</td> <td style="width:50%; padding: 2px;">E-Mail Address (if available) VICMICHAEL@AOL.COM</td> </tr> </table>	Telephone Number (include area code) 9706699200	E-Mail Address (if available) VICMICHAEL@AOL.COM	
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	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:30%; padding: 2px;">FCC Registration Number: 0011337292</td> <td style="width:30%; padding: 2px;">Call Sign</td> <td style="width:40%; padding: 2px;">Facility ID Number 181098</td> </tr> </table>	FCC Registration Number: 0011337292	Call Sign	Facility ID Number 181098
FCC Registration Number: 0011337292	Call Sign	Facility ID Number 181098		
2.	Contact Representative (if other than Applicant) A. WRAY FITCH III			
	Firm or Company Name GAMMON & GRANGE, P.C.			
	Mailing Address 8280 GREENSBORO DRIVE, 7TH FLOOR			
	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:45%; padding: 2px;">City MCLEAN</td> <td style="width:30%; padding: 2px;">State or Country (if foreign address) VA</td> <td style="width:25%; padding: 2px;">ZIP Code 22102 - 3807</td> </tr> </table>	City MCLEAN	State or Country (if foreign address) VA	ZIP Code 22102 - 3807
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Telephone Number (include area code) 7037615013	E-Mail Address (if available) AWF@GG-LAW.COM			
3.	If this application has been submitted without a fee, indicate reason for fee exemption (see 47 C.F.R. Section 1.1114): <input type="radio"/> Governmental Entity <input type="radio"/> Other <input checked="" type="radio"/> N/A (Fee Required)			
4.	Application Purpose <input type="radio"/> New station <input type="radio"/> Major Modification of construction permit <input type="radio"/> Minor Modification of construction permit <input type="radio"/> Major Amendment to pending application (a) File number of original construction permit: - <input type="checkbox"/> NA (b) Service Type: <input type="radio"/> AM <input checked="" type="radio"/> FM <input type="radio"/> TV <input type="radio"/> DTV <input type="radio"/> DTS (c) DTV Type: <input type="radio"/> Pre-Transition <input type="radio"/> Post-Transition <input checked="" type="radio"/> Both (d) Community of License: City: KAHUKU (e) Facility Type State: HI <input checked="" type="radio"/> Main <input type="radio"/> Auxiliary			
	If an amendment, submit as an Exhibit a listing by Section and Question Number the portions of the pending [Exhibit 1]			

application that are being revised.

NOTE: In addition to the information called for in this section, an explanatory exhibit providing full particulars must be submitted for each question for which a "No" response is provided.

Section II - Legal

1.	<p>Certification. Applicant certifies that it has answered each question in this application based on its review of the application instructions and worksheets. Applicant further certifies that where it has made an affirmative certification below, this certification constitutes its representation that the application satisfies each of the pertinent standards and criteria set forth in the application instructions and worksheets.</p>	<input checked="" type="radio"/> Yes <input type="radio"/> No																				
2.	<p>Parties to the Application.</p> <p>a. List the applicant, and, if other than a natural person, its officers, directors, stockholders with attributable interests, non-insulated partners and/or members. If a corporation or partnership holds an attributable interest in the applicant, list separately its officers, directors, stockholders with attributable interests, non-insulated partners and/or members. Create a separate row for each individual or entity. Attach additional pages if necessary.</p> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p>(1) Name and address of the applicant and each party to the application holding an attributable interest (if other than individual also show name, address and citizenship of natural person authorized to vote the stock or holding the attributable interest). List the applicant first, officers next, then directors and, thereafter, remaining stockholders and other entities with attributable interests, and partners.</p> </div> <div style="width: 45%;"> <p>(2) Citizenship.</p> <p>(3) Positional Interest: Officer, director, general partner, limited partner, LLC member, investor/creditor attributable under the Commission's equity/debt plus standard, etc.</p> <p>(4) Percentage of votes.</p> <p>(5) Percentage of total assets (equity plus debt).</p> </div> </div> <p>[Enter Parties/Owners Information]</p> <hr/> <p style="text-align: center;">Parties to the Application</p> <p>List the applicant, and, if other than a natural person, its officers, directors, stockholders with attributable interests, non-insulated partners and/or members. If a corporation or partnership holds an attributable interest in the applicant, list separately its officers, directors, stockholders with attributable interests, non-insulated partners and/or members. Create a separate row for each individual or entity. Attach additional pages if necessary.</p> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p>(1) Name and address of the applicant and each party to the application holding an attributable interest (if other than individual also show name, address and citizenship of natural person authorized to vote the stock or holding the attributable interest). List the applicant first, officers next, then directors and, thereafter, remaining stockholders and other entities with attributable interests, and partners.</p> </div> <div style="width: 45%;"> <p>(2) Citizenship.</p> <p>(3) Positional Interest: Officer, director, general partner, limited partner, LLC member, investor/creditor attributable under the Commission's equity/debt plus standard, etc.</p> <p>(4) Percentage of votes.</p> <p>(5) Percentage of total assets (equity plus debt).</p> </div> </div> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th style="width: 45%;">(1) Name and Address</th> <th style="width: 10%;">(2) Citizenship</th> <th style="width: 15%;">(3) Positional Interest</th> <th style="width: 10%;">(4) Percentage of Votes</th> <th style="width: 10%;">(5) Percentage of Assets</th> </tr> </thead> <tbody> <tr> <td>KONA COAST RADIO, LLC, 87 JASPER LAKE ROAD, LOVELAND, CO 80537</td> <td>US</td> <td>APPLICANT</td> <td>0</td> <td>0</td> </tr> </tbody> </table> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th style="width: 45%;">(1) Name and Address</th> <th style="width: 10%;">(2) Citizenship</th> <th style="width: 15%;">(3) Positional Interest</th> <th style="width: 10%;">(4) Percentage of Votes</th> <th style="width: 10%;">(5) Percentage of Assets</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>		(1) Name and Address	(2) Citizenship	(3) Positional Interest	(4) Percentage of Votes	(5) Percentage of Assets	KONA COAST RADIO, LLC, 87 JASPER LAKE ROAD, LOVELAND, CO 80537	US	APPLICANT	0	0	(1) Name and Address	(2) Citizenship	(3) Positional Interest	(4) Percentage of Votes	(5) Percentage of Assets					
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(1) Name and Address	(2) Citizenship	(3) Positional Interest	(4) Percentage of Votes	(5) Percentage of Assets																		

VICTOR A. MICHAEL, JR., 87 JASPER LAKE ROAD, LOVELAND, CO 80537		US	SOLE MEMBER	100	100
b. Applicant certifies that equity and financial interests not set forth above are non-attributable.		<input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> N/A See Explanation in [Exhibit 2]			
3.	Other Authorizations. List call signs, locations, and facility identifiers of all other broadcast stations in which applicant or any party to the application has an attributable interest.		<input type="checkbox"/> N/A [Exhibit 3]		
4.	Multiple Ownership.				
a.	Is the applicant or any party to the application the holder of an attributable radio joint sales agreement or an attributable radio or television time brokerage agreement in the same market as the station subject to this application? If "YES," radio applicants must submit as an Exhibit a copy of each such agreement for radio stations.		<input type="radio"/> Yes <input checked="" type="radio"/> No [Exhibit 4]		
b.	Applicant certifies that the proposed facility complies with the Commission's multiple ownership rules and cross-ownership rules. Radio applicants only: If "Yes," submit an Exhibit providing information regarding the market, broadcast station(s), and other information necessary to demonstrate compliance with 47 C.F.R. § 73.3555(a). All Applicants: If "No," submit as an Exhibit a detailed explanation in support of an exemption from, or waiver of, 47 C.F.R. § 73.3555.		<input checked="" type="radio"/> Yes <input type="radio"/> No [Exhibit 5]		
c.	Applicant certifies that the proposed facility: (1) does not present an issue under the Commission's policies relating to media interests of immediate family members; (2) complies with the Commission's policies relating to future ownership interests; and (3) complies with the Commission's restrictions relating to the insulation and non-participation of non-party investors and creditors.		<input checked="" type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 6]		
d.	Does the Applicant claim status as an "eligible entity," that is, an entity that qualifies as a small business under the Small Business Administration's size standards for its industry grouping (as set forth in 13 C.F.R. § 121-201), and holds: (1) 30 percent or more of the stock or partnership interests and more than 50 percent of the voting power of the corporation or partnership that will own the media outlet; or (2) 15 percent or more of the stock or partnership interests and more than 50 percent of the voting power of the corporation or partnership that will own the media outlet, provided that no other person or entity owns or controls more than 25 percent of the outstanding stock or partnership interests; or (3) more than 50 percent of the voting power of the corporation that will own the media outlet (if such corporation is a publicly traded company)? All applicants: If "Yes," submit as an Exhibit a detailed showing demonstrating proof of status as an eligible entity.		<input type="radio"/> Yes <input checked="" type="radio"/> No See Explanation in [Exhibit 7]		
5.	Character Issues. Applicant certifies that neither applicant nor any party to the application has or has had any interest in or connection with:		<input checked="" type="radio"/> Yes <input type="radio"/> No See Explanation in		

	a. any broadcast application in any proceeding where character issues were left unresolved or were resolved adversely against the applicant or party to the application; or b. any pending broadcast application in which character issues have been raised.	[Exhibit 8]
6.	Adverse Findings. Applicant certifies that, with respect to the applicant and any party to the application, no adverse finding has been made, nor has an adverse final action been taken by any court or administrative body in a civil or criminal proceeding brought under the provisions of any law related to any of the following: any felony; mass media-related antitrust or unfair competition; fraudulent statements to another government unit; or discrimination.	<input checked="" type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 9]
7.	Alien Ownership and Control. Applicant certifies that it complies with the provisions of Section 310 of the Communications Act of 1934, as amended, relating to interests of aliens and foreign governments.	<input checked="" type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 10]
8.	Program Service Certification. Applicant certifies that it is cognizant of and will comply with its obligations as a commission licensee to present a program service responsive to the issues of public concern facing the station's community of license and service area.	<input checked="" type="radio"/> Yes <input type="radio"/> No
9.	Local Public Notice. Applicant certifies that it has or will comply with the public notice requirements of 47 C.F.R. Section 73.3580.	<input checked="" type="radio"/> Yes <input type="radio"/> No
10.	Auction Authorization. If the application is being submitted to obtain a construction permit for which the applicant was the winning bidder in an auction, then the applicant certifies, pursuant to 47 C.F.R. Section 73.5005(a), that it has attached an exhibit containing the information required by 47 C.F.R. Sections 1.2107(d), 1.2110(i), 1.2112(a) and 1.2112(b), if applicable. An exhibit is required unless this question is inapplicable.	<input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> N/A [Exhibit 11]
11.	Anti-Drug Abuse Act Certification. Applicant certifies that neither applicant nor any party to the application is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862.	<input checked="" type="radio"/> Yes <input type="radio"/> No
12.	Equal Employment Opportunity (EEO). If the applicant proposes to employ five or more full-time employees, applicant certifies that it is filing simultaneously with this application a Model EEO Program Report on FCC Form 396-A.	<input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> N/A
13.	Petition for Rulemaking/Counterproposal to Add New FM Channel to FM Table of Allotments. If the application is being submitted concurrently with a Petition for Rulemaking or Counterproposal to Amend the FM Table of Allotments (47 C.F.R. section 73.202) to add a new FM channel allotment, petitioner/counter-proponent certifies that, if the FM channel allotment requested is allotted, petitioner/counter-proponent will apply to participate in the auction of the channel allotment requested and specified in this application.	<input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A

I certify that the statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith. I acknowledge that all certifications and attached Exhibits are considered material representations. I hereby waive any claim to the use of any particular frequency as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and request an authorization in accordance with this application. (See Section 304 of the Communications Act of 1934, as amended.)

Typed or Printed Name of Person Signing VICTOR A. MICHAEL, JR.	Typed or Printed Title of Person Signing SOLE MEMBER
Signature	Date 07/23/2009

WILLFUL FALSE STATEMENTS ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. CODE, TITLE 47, SECTION 312(a)(1)), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).

Section III-B - FM Engineering											
TECHNICAL SPECIFICATIONS											
Ensure that the specifications below are accurate. Contradicting data found elsewhere in this application will be disregarded. All items must be completed. The response "on file" is not acceptable.											
TECH BOX											
1. Channel Number: 296											
2. Class (select one): <input type="radio"/> A <input type="radio"/> B1 <input type="radio"/> B <input checked="" type="radio"/> C3 <input type="radio"/> C2 <input type="radio"/> C1 <input type="radio"/> C0 <input type="radio"/> C <input type="radio"/> D											
3. Antenna Location Coordinates: (NAD 27) Latitude: Degrees 21 Minutes 40 Seconds 9 <input checked="" type="radio"/> North <input type="radio"/> South Longitude: Degrees 158 Minutes 0 Seconds 9 <input checked="" type="radio"/> West <input type="radio"/> East											
4. Proposed Allotment or Assignment Coordinates: (NAD 27) <input type="checkbox"/> Not Applicable Latitude: Degrees 21 Minutes 40 Seconds 48 <input checked="" type="radio"/> North <input type="radio"/> South Longitude: Degrees 157 Minutes 57 Seconds 3 <input checked="" type="radio"/> West <input type="radio"/> East											
5. Antenna Structure Registration Number: 1026419 <input type="checkbox"/> Not Applicable <input type="checkbox"/> Notification filed with FAA											
6. Overall Tower Height Above Ground Level:										64meters	
7. Height of Radiation Center Above Mean Sea Level:										338 meters(H) 338 meters(V)	
8. Height of Radiation Center Above Ground Level:										30meters(H) 30meters(V)	
9. Height of Radiation Center Above Average Terrain:										250meters(H) 250meters(V)	
10. Effective Radiated Power:										4 kW(H) 4 kW(V)	
11. Maximum Effective Radiated Power: <input checked="" type="checkbox"/> Not Applicable (Beam-Tilt Antenna ONLY)										kW(H) kW(V)	
12. Directional Antenna Relative Field Values: <input checked="" type="checkbox"/> Not applicable (Nondirectional) Rotation (Degrees): <input type="checkbox"/> No Rotation											
Degrees	Value	Degrees	Value	Degrees	Value	Degrees	Value	Degrees	Value	Degrees	Value
0		10		20		30		40		50	
60		70		80		90		100		110	
120		130		140		150		160		170	
180		190		200		210		220		230	
240		250		260		270		280		290	
300		310		320		330		340		350	
Additional Azimuths											

Relative Field Polar Plot

NOTE: In addition to the information called for in this section, an explanatory exhibit providing full particulars must be submitted for each question for which a "No" response is provided.

CERTIFICATION

AUXILIARY ANTENNA APPLICANTS ARE NOT REQUIRED TO RESPOND TO ITEMS 13-16. PROCEED TO ITEM 17.

13.	Availability of Channels. The proposed facility complies with the allotment requirements of 47 C.F.R. Section 73.203.	<input checked="" type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 26]
14.	Community Coverage. The proposed facility complies with 47 C.F.R. Section 73.315.	<input checked="" type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 27]
15.	Main Studio Location. The proposed main studio location complies with 47 C.F.R. Section 73.1125.	<input checked="" type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 28]
16.	<p>Interference. The proposed facility complies with all of the following applicable rule sections: Check all those that apply:</p> <p>Separation Requirements. <input checked="" type="checkbox"/> a) 47 C.F.R. Section 73.207</p> <p>Grandfathered Short-Spaced.</p> <p><input type="checkbox"/> b) 47 C.F.R. Section 73.213(a) with respect to station(s): [Exhibit 30] Exhibit required</p> <p><input type="checkbox"/> c) 47 C.F.R. Section 73.213(b) with respect to station(s): [Exhibit 31] Exhibit required</p> <p><input type="checkbox"/> d) 47 C.F.R. Section 73.213(c) with respect to station(s): [Exhibit 32] Exhibit required.</p> <p>Contour Protection</p> <p><input checked="" type="checkbox"/> e) 47 C.F.R. Section 73.215 with respect to station(s): [Exhibit 33] Exhibit required.</p>	<input checked="" type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 29]
17.	<p>Environmental Protection Act. The proposed facility is excluded from environmental processing under 47. C.F.R. Section 1.1306 (i.e., The facility will not have a significant environmental impact and complies with the maximum permissible radiofrequency electromagnetic exposure limits for controlled and uncontrolled environments). Unless the applicant can determine compliance through the use of the RF worksheets in Appendix A, an Exhibit is required.</p> <p>By checking "Yes" above, the applicant also certifies that it, in coordination with other users of the site, will reduce power or cease operation as necessary to protect persons having access to the site, tower or antenna from radiofrequency electromagnetic exposure in excess of FCC guidelines.</p>	<input checked="" type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 34]
18.	<p>Community of License Change - Section 307(b). If the application is being submitted to change the facility's community of license, then the applicant certifies that it has attached an exhibit containing information demonstrating that the proposed community of license change constitutes a preferential arrangement of station assignments under Section 307(b) of the Communications Act of 1934, as amended (47 U.S.C. Section 307(b)).</p>	<input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> N/A [Exhibit 35]

An exhibit is required unless this question is not applicable.

PREPARERS CERTIFICATION ON PAGE 3 MUST BE COMPLETED AND SIGNED.

SECTION III - PREPARER'S CERTIFICATION

I certify that I have prepared Section III (Engineering Data) on behalf of the applicant, and that after such preparation, I have examined and found it to be accurate and true to the best of my knowledge and belief.

Name VICTOR A. MICHAEL, JR.		Relationship to Applicant (e.g., Consulting Engineer) TECHNICAL CONSULTANT	
Signature		Date 07/23/2009	
Mailing Address 87 JASPER LAKE ROAD			
City LOVELAND		State or Country (if foreign address) CO	Zip Code 80537 -
Telephone Number (include area code) 9706699200		E-Mail Address (if available) VICMICHAEL@AOL.COM	

WILLFUL FALSE STATEMENTS ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. CODE, TITLE 47, SECTION 312(a)(1)), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).

Exhibits

Exhibit 3

Description: EXHIBIT 3

KONA COAST RADIO, LLC, IS THE LICENSEE/PERMITTEE OF THE FOLLOWING STATIONS:

- KHIH(FM), HUGO, CO (FACILITY ID NO. 170961)
- KTUG(FM), HUDSON, WY (FACILITY ID NO. 166002)
- KMAP(FM), ARRIBA, CO (FACILITY ID NO. 170959)
- KGGY(FM), STRATTON, CO (FACILITY ID NO. 170962)

VICTOR A. MICHAEL, JR., SOLE MEMBER OF KONA COAST RADIO, LLC, HAS THE FOLLOWING ATTRIBUTABLE MEDIA INTERESTS:

1) DIRECTOR AND PRESIDENT OF CEDAR COVE BROADCASTING, INC., LICENSEE OF NONCOMMERCIAL STATIONS KEZF(FM), BURNS, WY (FACILITY ID NO. 175365) AND KMPB(FM), FRISCO, CO (FACILITY ID NO. 94204), AND PERMITTEE OF KGCV(FM), ESTERBROOK, WY (FACILITY ID NO. 175367); KGQD(FM), FRASER, CO (FACILITY ID NO. 175363); KADE(FM), SALIDA, CO (FACILITY ID NO. 173616); KDAB(FM), CENTRAL CITY, CO (FACILITY ID NO. 175278); KEZD(FM), ESTES PARK, CO (FACILITY ID NO. 175208); AND NEW(FM), RELIANCE, WY (FACILITY ID NO. 176985).

2) SOLE MEMBER OF LARAMIE MOUNTAIN BROADCASTING, LLC, LICENSEE OF KFMH(FM), BELLE FOURCHE, SD (FACILITY ID NO. 40636), AND KUSZ(FM), LARAMIE, WY (FACILITY ID NO. 9761).

3) SOLE MEMBER OF KIMBALL RADIO, LLC, LICENSEE OF KYOY(FM), HILLSDALE, WY (FACILITY ID NO. 77915).

4) SOLE MEMBER OF ADVANCED MODULATION BROADCASTING, LLC, PERMITTEE OF KWLW(AM), KEYSTONE, CO (FACILITY ID NO. 161517).

5) 50% GENERAL PARTNER OF MICHAEL RADIO GROUP, LICENSEE OF KRKI(FM), NEWCASTLE, WY (FACILITY ID NO. 89114).

6) 2.5% MEMBER OF KZLZ, LLC, LICENSEE OF KZLZ(FM), KEARNEY, AZ (FACILITY ID NO. 36022); KWCX-FM, WILLCOX, AZ (FACILITY ID NO. 72659); AND KHIL(AM), WILLCOX, AZ (FACILITY ID NO. 72656).

Attachment 3

Exhibit 5

Description: EXHIBIT 5

NEITHER KONA COAST RADIO, LLC, NOR ITS SOLE MEMBER VICTOR A. MICHAEL, JR., HAS ANY ATTRIBUTABLE MEDIA INTERESTS IN HAWAII. THEREFORE, THIS APPLICATION IS IN COMPLIANCE WITH THE COMMISSION'S MULTIPLE OWNERSHIP RULES, 47 C.F.R. SECTION 73.3555(A).

Attachment 5

Exhibit 29

Description: EXHIBIT 27

SEE EXHIBIT E-1.

Attachment 29

Description
Exhibit E-1

Exhibit 33

Description: EXHIBIT 31

SEE EXHIBIT E-1.

Attachment 33

Exhibit 34

Description: EXHIBIT 32

SEE EXHIBIT E-2.

Attachment 34

Description
Exhibit E-2

EXHIBIT E-1
TECHNICAL STATEMENT AND 73.215 PROCESSING REQUEST
PROPOSED NEW FM AT KAHUKU HAWAII
KONA COAST RADIO, LLC
FCC FORM 301
JULY 2009

This Technical Statement is in support of FCC form 301 application for a proposed New FM for Kahuku, Hawaii, on channel 296C3. The applicant, Kona Coast Radio, LLC ("KCR") hereby is concurrently filing a Petition for Rulemaking to allot channel 296C3 to the community of Kahuku, Hawaii as its first local FM service. KCR certifies that it will participate in any FCC auction process to hopefully obtain a Construction Permit to operate the new FM at Kahuku, Hawaii. If awarded the permit, it would expeditiously construct and operate this new FM station.

While the proposed allotment point meets all of the spacing requirements under 73.207, the proposed site, which is located at an existing tower site, tower registration number 1026419, will be slightly short spaced (2.3 km) to KNAN Nanakuli, HI, facility ID 165992, operating on second adjacent channel 294C3. Thus, processing under C.F.R. section 73.215 is hereby respectfully requested in regards to KNAN.

Figure 1 shows a channel spacing study of an allotment point for channel 296C3 located at the community reference coordinates for Kahuku, Hawaii, which are N 21° 40' 48", W 157° 57' 03". Since this point is located at the communities reference coordinates, no proposed site restriction is needed to allot channel 296C3 to Kahuku. The study shows that channel 296C3 can be allotted to Kahuku and meet all of the spacing requirements under C.F.R. section 73.207 of the commission rules regarding spacing toward other allotments and stations.

Figure 2 shows a channel spacing study from the proposed transmitter site for the new proposed New FM at Kahuku operating on channel 296C3 at Kahuku. It shows a short spacing towards KNAN Nanakuli, Hawaii on channel 294C3, under normal 73.207 spacing requirements. However, KNAN is spaced 40.7 Kilometers from the proposed New FM at Kahuku. The minimum spacing under 73.215 of the commissions rules is 37.0 Kilometers. Hence, KCR is requesting processing under 73.215 of the commission's rules in regards to KNAN.

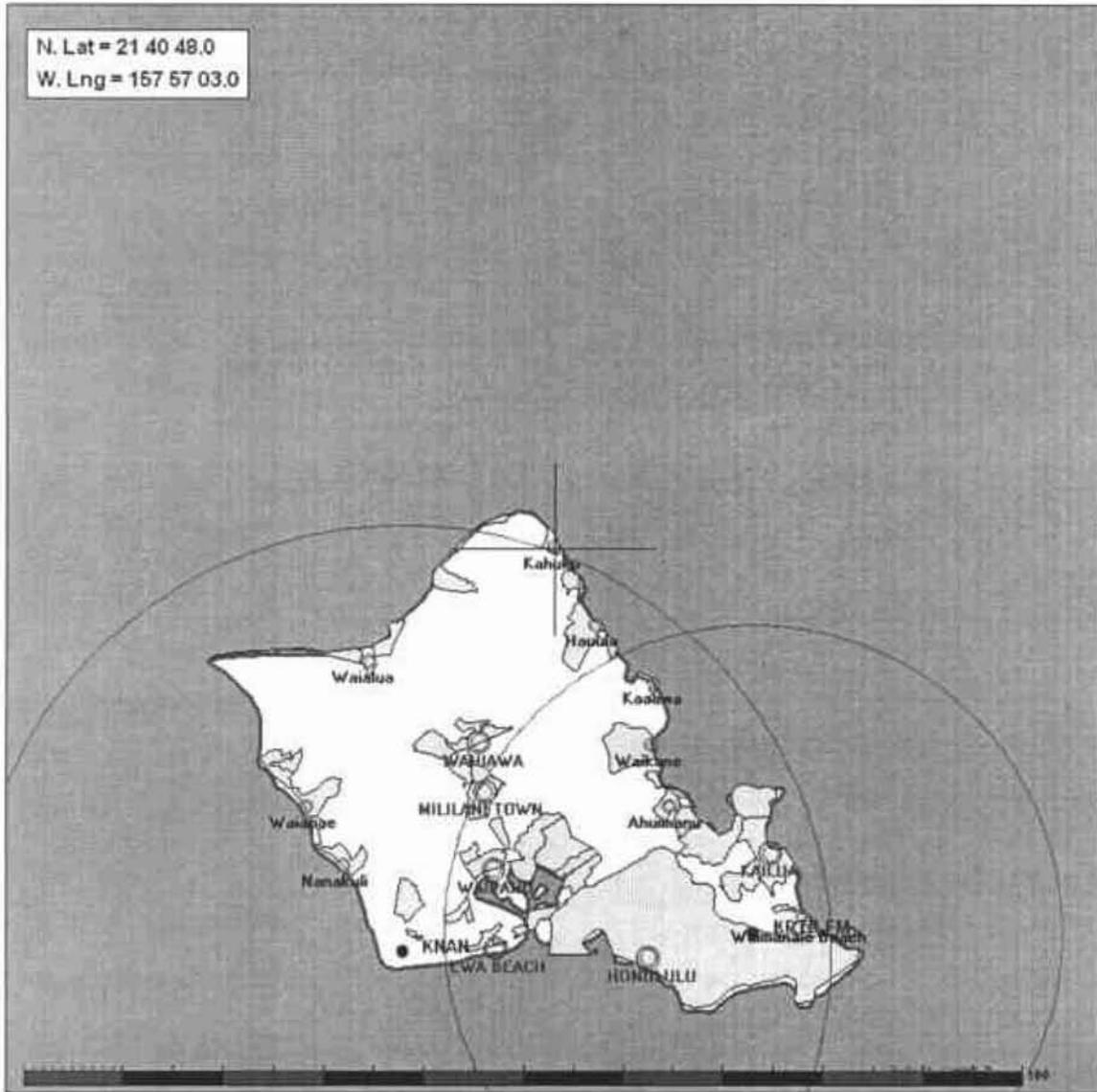
Figure 3 shows an interference study showing the proposed contours of the New FM at Kahuku on channel 296C3 and KNAN operating with its licensed facilities from its current tower location. It should be noted that since KNAN is operating with less than maximum Class C3 facilities, KNAN was adjusted at this site to operate with maximum class C3 facilities, or 25 KW ERP with an antenna height of 100 meters HAAT, for the purposes of this study. The proposed New FM at Kahuku is proposing maximum equivalent class C3 facilities with 4 KW (H&V) ERP at 250 meters HAAT, however because of intervening terrain between the proposed new station and KNAN, there will not be any proposed prohibited overlap. The 100 dbu interference contour (F50,10) generated by either station, does not overlap with the protected 60 dbu contour (F50,50) of either station. Thus, this application is in compliance with the spacing rules and provisions of 73.215 or 73.207.

Figure 4 shows the predicted 70 dbu contour (F50,50) for the proposed operation of at Kahuku. It shows that the entire community of Kahuku will receive the required 70 dbu city grade service without any terrain obstructions.

It was determined that the proposed operation by KCR for a New FM station at Kahuku, Hawaii on channel 296C3 would meet all of the technical requirements for a new FM station at Kahuku, Hawaii.

CH 296 C3 107.1 MHz

EXHIBIT E-1, FIGURE 1, KAHUKU, HI, CHANNEL STUDY
ALLOTMENT POINT



Data Date:07-22-09 Job Date:07-22-09

Call	CH#	Type	Location		Azi	D-KM	FCC	Margin
KNAN	294C3	LIC	Nanakuli	HI	200.4	43.4	43.0	0.41
KRTR-FM	242C	LIC	Kailua	HI	152.6	43.6	31.0	12.6
KUHI	293C	LIC-D	Haiku	HI	124.3	199.8	96.0	103.8
KHEI-FM	298C2	LIC	Kihei	HI	119.4	203.3	56.0	147.3

EXHIBIT E-2
ENVIRONMENTAL STATEMENT
NEW PROPOSED FM AT KAHUKU, HAWAII, CH. 296C3
KONA COAST RADIO, LLC
FCC FORM 301
JULY 2009

The applicant proposes mounting a new antenna on an existing 64 meter registered tower, registration number 1026419. The proposed Center of Radiation will be 30 meters Above Ground Level. A 4 bay, circular polarized Nicom model BKG77/4M, mounted with 0.8 wavelength spacing between the bays is proposed. Calculations were made using FM Model for Windows, version 2.10. The proposed antenna Center of Radiation, above ground, was reduced by 2 meters to allow for the average height of a human on the ground. FM Model predicts a peak exposure of 14.44 $\mu\text{w}/\text{cm}^2$ at a distance of 20 meters from the base of the tower. This represents 7.2% of the allowable Maximum Permissible Exposure ("MPE") of 200 $\mu\text{w}/\text{cm}^2$ for uncontrolled environments at any point on the ground.

It should be noted that this site is also being proposed for use by the Halaulokahi Public Charter School for a new non-commercial FM station on channel 213 at Hauula, Hawaii, facility ID 172419. While this application has not yet been granted, a review of the applicants Environmental Statement, indicates its proposed power density at any point on the ground would be 0.70 $\mu\text{w}/\text{cm}^2$ or just 0.35% of the allowable. If combined with this proposal, the worse case power density at any point on the ground would only be 15.14 $\mu\text{w}/\text{cm}^2$, or 7.57% of the allowable, even if directly added.

The applicant will ensure that the public access to the tower is restricted by fencing, anti-climb devices or other appropriate measures. The site will be posted with

RF warning signs. If climbing of the tower by authorized personnel becomes necessary, transmitter power will be reduced to safe operating levels, or transmission even terminated, as necessary as not to exceed the RF exposure limits to tower workers. The licensee will cooperate with other users at the site with the scheduling of such tower or antenna maintenance.

No modification of the existing tower is proposed, other than the proposed side mounting of the antenna system and addition of a transmission line. The tower was constructed prior to March 16, 2001. The National Programmatic Agreement generally allows such a collocation without consultation or review under Section 106 and Subpart B of 36 CFR §800. The applicant believes that it is in full compliance with the Agreement, and that no further study is required.

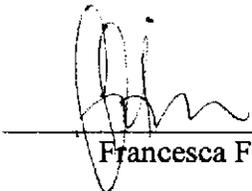
CERTIFICATE OF SERVICE

I, Francesca Fitch, in the law offices of Gammon & Grange, P.C., do hereby certify that I have sent copies of the foregoing PETITION FOR RECONSIDERATION, this 21st day of March, 2011, by postage paid first class mail to the following:

John A. Karousos, Assistant Chief
Audio Division, Media Bureau
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Nazifa Sawez, Assistant Chief
Audio Division, Media Bureau
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

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11913 Grey Hollow Court
North Bethesda, MD 20862
*Counsel to Kemp Communications, Inc.
and Big D Consulting, Inc.*



Francesca Fitch