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**RECEIPT**

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May 11, 2004

VIA MESSENGER

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

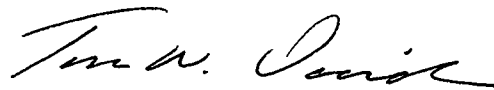
Re: Request for Issuance of Order to Show Cause Why Licenses and Construction  
Permit Should Not be Revoked

Dear Ms. Dortch:

Attached please find an original and four copies of a Request for Issuance of Order to Show Cause Why Licenses and Permits Should Not be Revoked that is being filed by KGO-AM Radio, Inc., KABC-AM Radio, Inc., and Owens One Company, Inc. with respect to KCHC(FM), Willows, California, KJDJ(AM), San Luis Obispo, California, and KURS(AM), San Diego, California.

Please direct any inquiries to the undersigned.

Sincerely,



Tom W. Davidson, Esq.  
Natalie G. Roisman, Esq.

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

In re Original Construction Permit of  
PACIFIC SPANISH NETWORK, INC.

For KCHC(FM), Willows, California  
Facility ID 83886;

License of

PADRE SERRA COMMUNICATIONS, INC.

For KJDJ(AM), San Luis Obispo, California  
Facility ID 29795; and

License of

QUETZAL BILINGUAL  
COMMUNICATIONS, INC.

For KURS(AM), San Diego, California  
Facility ID 54257

To: Media Bureau

FCC File No. \_\_\_\_\_

**REQUEST FOR ISSUANCE OF ORDER TO SHOW CAUSE WHY LICENSES AND  
CONSTRUCTION PERMIT SHOULD NOT BE REVOKED**

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May 11, 2004

## EXECUTIVE SUMMARY

KGO-AM Radio, Inc., KABC-AM Radio, Inc., and Owens One Company, Inc. (collectively, “Petitioners”) hereby respectfully request the Media Bureau (“Bureau”) of the Federal Communications Commission (“Commission”) to issue an order to show cause, pursuant to Section 312(c) of the Communications Act of 1934, as amended (the “Act”), 47 U.S.C. § 312(c), why the licenses and construction permit (collectively, the “Licenses”) controlled by Jaime Bonilla Valdez should not be revoked.

Mr. Bonilla is the 100% owner of Pacific Spanish Network, Inc. (“PSN”), which was granted a Section 325(c) Permit (“325(c) Permit”) to provide programming to three AM broadcast stations in Mexico (the “Mexican Stations”). The Mexican Stations, which have not been coordinated as required under the applicable U.S.-Mexico treaty, are causing interference to an estimated 50 million U.S. listeners who should be receiving interference-free service. More than 23 million of these listeners are located within the protected contours of the Petitioners’ stations. In the pending Enforcement Bureau proceeding regarding the 325(c) Permit, it has become patently clear that Mr. Bonilla, though PSN, has provided programming to the Mexican Stations in clear violation of the express terms and conditions of PSN’s 325(c) Permit.

It also has become apparent that Mr. Bonilla, through PSN, is the financier and driving force behind the Mexican Stations’ uncoordinated and interfering new facilities authorized by the Mexican government. Mr. Bonilla (i) financed the upgrades to the Mexican Stations’ facilities, (ii) has an oral time brokerage arrangement entitling PSN to program the Mexican Stations and retain all of their advertising revenues, (iii) is charged with procuring programming for the Mexican Stations in his role as General Director of the company that manages the Mexican Stations, and (iv) is married to the 98% owner of the company that manages the Mexican

Stations, which is seeking to acquire the Mexican Stations. Mr. Bonilla did not cease the provision of programming to the Mexican Stations from U.S. studios until he was required to do so by the Enforcement Bureau and did not reveal his stewardship of the Mexican Stations' upgrades until the question was posed so directly by the Enforcement Bureau that it could no longer be evaded.

Mr. Bonilla's actions and admissions with respect to the 325(c) Permit demonstrate that he is unfit to control any Commission license or authorization. His apparent knowing and willful participation in a scheme to cause uncoordinated Mexican stations to operate in violation of an international treaty, thereby causing substantial, harmful, and lasting interference to U.S. stations, clearly warrants revocation of the Licenses under Section 312(a) of the Act, 47 U.S.C. § 312(a). Mr. Bonilla has demonstrated an utter lack of respect for the protections afforded to broadcast licensees under the Commission's rules and the applicable U.S.-Mexico treaty. By misrepresenting key facts and demonstrating a lack of candor before the Commission, Mr. Bonilla has shown that he lacks truthfulness and reliability, the necessary character traits for licensee fitness. In addition, Mr. Bonilla has a lengthy history of cavalier treatment of the Commission's rules, including unauthorized transfers of control, violations of the Commission's public inspection file rule, false certifications on license renewal applications, and violations of the Commission's emergency alert system testing rules. Based on Mr. Bonilla's actions and admissions with respect to the 325(c) Permit and his history of non-compliance as the owner of broadcast licensees, the Bureau should issue an order to show cause why the Licenses should not be revoked.

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

In re Original Construction Permit of  
PACIFIC SPANISH NETWORK, INC.

For KCHC(FM), Willows, California  
Facility ID 83886;

License of

PADRE SERRA COMMUNICATIONS, INC.

For KJDJ(AM), San Luis Obispo, California  
Facility ID 29795; and

License of

QUETZAL BILINGUAL  
COMMUNICATIONS, INC.

For KURS(AM), San Diego, California  
Facility ID 54257

To: Media Bureau

FCC File No. \_\_\_\_\_

**REQUEST FOR ISSUANCE OF ORDER TO SHOW CAUSE WHY LICENSES AND  
CONSTRUCTION PERMIT SHOULD NOT BE REVOKED**

KGO-AM Radio, Inc. ("KGO"), KABC-AM Radio, Inc. ("KABC") and Owens One Company, Inc. ("Owens" and, together with KGO and KABC, "Petitioners") hereby respectfully request the Media Bureau ("Bureau") of the Federal Communications Commission ("Commission") to issue an order to show cause why the above-captioned licenses and

construction permit (collectively, the “Licenses”) controlled by Jaime Bonilla Valdez should not be revoked.<sup>1</sup>

As the Commission is aware, Mr. Bonilla is the 100% owner of Pacific Spanish Network, Inc. (“PSN”), which was granted a Section 325(c) Permit (“325(c) Permit”) to Supply Programming Material to Foreign Broadcast Stations XEDD, Ensenada, Mexico (“XEDD”); XESS, Ensenada, Mexico (“XESS”); and XEKTT, Tecate, Mexico (“XEKTT” and, collectively with XEDD and XESS, the “Mexican Stations”). The 325(c) Permit currently is the subject of an Enforcement Bureau proceeding to which Petitioners, along with AMFM Radio Licenses, LLC and Capstar TX Limited Partnership (collectively, with Petitioners, the “Joint Petitioners”), are parties. Specifically, the Joint Petitioners filed a petition (“Petition”) requesting the Commission to rescind the 325(c) Permit based on violation of an express condition of the grant of the 325(c) Permit.<sup>2</sup> Joint Petitioners demonstrated that the Mexican Stations, which have not been coordinated as required under the applicable U.S.-Mexico treaty, are causing interference to

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<sup>1</sup> See 47 U.S.C. § 312(c).

<sup>2</sup> In re Section 325(c) Permit of Pacific Spanish Network, Inc. to Supply Programming Material to Foreign Broadcast Stations XEDD, Ensenada, Mexico; XESS; Ensenada, Mexico; and XEKTT, Tecate, Mexico, FCC File No. 325-NEW20030519-00004, Petition to Rescind Authorization (Jan. 16, 2004) (“Petition”).

On April 7, 2004, PSN tendered the 325(c) Permit for cancellation. See Letter from Henry A. Solomon to Kathryn Berthot, Deputy Chief, Spectrum Enforcement Division (Apr. 7, 2004) (“Permit Cancellation Letter”). Nonetheless, the enforcement proceeding remains a pending matter. See *id.* at 2. Joint Petitioners believe it is doubtful that PSN had any further need for the 325(c) Permit, because Joint Petitioners’ information is that the Mexican Stations are now being programmed from studios inside Mexico. PSN essentially admitted this fact in its March 29, 2004 letter. See Letter from Henry A. Solomon to Joseph P. Casey, Chief, Spectrum Enforcement Division (Mar. 29, 2004) (“March 29 Response”) at 3, Response to Question 5 (“Then (*as now*), XEKTT operated from a studio in downtown Tecate”) (emphasis added). Mr. Bonilla was thus able to swear under penalty of perjury that PSN had ceased programming the Mexican Stations under the 325(c) Permit, as required by the Enforcement Bureau, although he was continuing to perform the requirements of PSN’s “oral time brokerage arrangement with the Mexican Stations.” *Id.* at 7.

an estimated 50 million U.S. listeners who should be receiving interference-free service from Joint Petitioners' stations. More than 23 million of these listeners are located within the protected contours of the Petitioners' stations. In the pending proceeding regarding Joint Petitioners' Petition, it has become patently clear that Mr. Bonilla, through PSN, has provided programming to the Mexican Stations in clear violation of the express terms and conditions of PSN's 325(c) Permit.

It also has become apparent that Mr. Bonilla is more than just a provider of programming to the Mexican Stations. Rather, Mr. Bonilla, through PSN, is the financier and driving force behind the Mexican Stations' uncoordinated and interfering new facilities authorized by the Mexican government. As further described herein, Mr. Bonilla (i) financed the upgrades to the Mexican Stations' facilities, (ii) has an oral time brokerage arrangement entitling PSN to program the Mexican Stations and retain all of their advertising revenues, (iii) is charged with procuring programming for the Mexican Stations in his role as General Director of the company that manages the Mexican Stations, and (iv) is married to the 98% owner of the company that manages the Mexican Stations, which is seeking to acquire the Mexican Stations. Purely and simply, the uncoordinated upgrade of the Mexican Stations' facilities has been a Bonilla enterprise – totally financed by Mr. Bonilla, for Mr. Bonilla's economic benefit. Mr. Bonilla thus knowingly and willfully participated in a scheme to cause uncoordinated Mexican stations to operate in violation of an international treaty, thereby causing substantial, harmful, and lasting interference to U.S. stations. Given this misconduct, it is no surprise that Mr. Bonilla did not cease the provision of programming to the Mexican Stations from U.S. studios until he was required to do so by the Enforcement Bureau. Moreover, Mr. Bonilla did not reveal his stewardship of the Mexican Stations' upgrade in the application for the 325(c) Permit, as

required, nor in any of PSN's filings in the Enforcement Bureau proceeding, until the question was posed so directly by the Enforcement Bureau that it could no longer be evaded. In concealing such information from the Commission throughout the Enforcement Bureau proceeding, Mr. Bonilla has misrepresented key facts and has demonstrated a lack of candor before the Commission.<sup>3</sup> Mr. Bonilla thus lacks truthfulness and reliability, the necessary character traits for licensee fitness. Without question, if PSN had not tendered the 325(c) Permit for cancellation, it should have been rescinded.

Further, Mr. Bonilla's actions and admissions with respect to the 325(c) Permit demonstrate that he is unfit to control any Commission license or authorization. As further explained herein, Mr. Bonilla owns the licensees of the above-captioned Licenses. His apparent knowing and willful participation in a scheme to cause uncoordinated Mexican stations to operate in violation of an international treaty, thereby causing substantial, harmful, and lasting interference to U.S. stations, clearly warrants revocation of the Licenses under Section 312(a) of the Communications Act.<sup>4</sup> Mr. Bonilla has demonstrated an utter lack of respect for the protections afforded to broadcast licensees under the Commission's rules and the applicable U.S.-Mexico treaty; he should not benefit from the privileges afforded to Commission licensees. Mr. Bonilla also lacks truthfulness and reliability, the necessary character traits for licensee fitness. Mr. Bonilla has a lengthy history of cavalier treatment of the Commission's rules,

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<sup>3</sup> For example, Mr. Bonilla did not disclose until March 29, 2004 – more than two months after the Petition was filed – that he is charged with procuring programming for the Mexican Stations and that, through the concept of spousal attribution, he effectively holds a 98% interest in the Mexican Stations. See March 29 Response at 7.

<sup>4</sup> 47 U.S.C. § 312(a) (“The Commission may revoke any station license . . . because of conditions coming to the attention of the Commission which would warrant it in refusing to grant a license or permit on an original application . . . [or] for willful or repeated violation of, or willful or repeated failure to observe any provision of this Act . . .”).

including unauthorized transfers of control, violations of the Commission's public inspection file rule, false certifications on license renewal applications, and violations of the Commission's emergency alert system ("EAS") testing rules. Based on Mr. Bonilla's actions and admissions with respect to the 325(c) Permit and his history of non-compliance as the owner of broadcast licensees, the Bureau should issue an order to show cause why the Licenses should not be revoked.

## **I. BACKGROUND**

The Petitioners are the licensees of three domestic AM broadcast stations impacted by the operation of the Mexican Stations.<sup>5</sup> Beginning in late November 2003, the Petitioners' stations and those of the other Joint Petitioners received numerous listener complaints of interference to reception of their stations by one of the Mexican Stations. Joint Petitioners learned that the Mexican Stations' current or intended parameters of operation were not approved by the Commission as required by the applicable U.S.-Mexico treaty. This uncoordinated operation has caused and continues to cause substantial prohibited interference to Joint Petitioners' stations and other affected U.S. broadcasters. Specifically, operation of XEKT on 560kHz causes objectionable interference, as defined by the applicable U.S.-Mexico agreement, to a total of an estimated 29 million people within the protected service contours of the Joint Petitioners' affected stations. XEKT causes interference to nearly 5 million people within the KSFO nighttime interference-free contour and more than 3 million people within the

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<sup>5</sup> KGO, the licensee of station KSFO(AM), 560 kHz, San Francisco, California, is wholly-owned by ABC Holding Company, Inc., which also wholly owns KABC, the licensee of station KABC(AM), 790 kHz, Los Angeles, California. Owens is the licensee of station KUZZ(AM), 550 kHz, Bakersfield, California.

KUZZ daytime protected contour.<sup>6</sup> Similarly, XESS causes interference to more than 15 million people within the KABC daytime protected contour.<sup>7</sup> Thus, the uncoordinated Mexican Stations are causing interference to more than 23 million U.S. listeners who should be receiving interference-free service from Petitioners' stations.

On January 16, 2004, the Joint Petitioners filed the Petition, requesting that the Commission rescind the 325(c) Permit. In the Petition, the Joint Petitioners demonstrated that the 325(c) Permit is expressly conditioned "upon the Mexican stations['] operation in full compliance with applicable treaties and related provisions concerning electrical interference to U.S. broadcast stations" and that such condition clearly was not met.<sup>8</sup> On February 11, 2004, the Enforcement Bureau sent a letter to PSN, requesting information regarding PSN's provision of programming to the Mexican Stations.<sup>9</sup> As a condition of an extension of time for PSN to respond to such letter, the Enforcement Bureau required PSN to submit a sworn declaration that PSN had ceased provision of programming to the Mexican Stations pursuant to the 325(c) Permit and would not resume such programming pending the outcome of the proceeding.<sup>10</sup> PSN submitted such declaration on February 24, 2004<sup>11</sup> and responded to the Enforcement Bureau's

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<sup>6</sup> Petition, Exhibit B.

<sup>7</sup> In re Section 325(c) Permit of Pacific Spanish Network, Inc. to Supply Programming Material to Foreign Broadcast Stations XEDD, Ensenada, Mexico; XESS; Ensenada, Mexico; and XEKTT, Tecate, Mexico, FCC File No. 325-NEW20030519-00004, Supplement to and Motion for Expeditious Grant of Petition to Rescind Authorization (Jan. 28, 2004) ("Motion") at 4.

<sup>8</sup> Petition at 2-4.

<sup>9</sup> Letter from Joseph P. Casey, Chief, Spectrum Enforcement Division to Henry A. Solomon, File No. EB-04-SE-020 (Feb. 11, 2004) ("February 11 Enforcement Bureau Letter")

<sup>10</sup> Letter from Joseph P. Casey, Chief, Spectrum Enforcement Division to Henry A. Solomon, File No. EB-04-SE-020 (Feb. 24, 2004)

<sup>11</sup> Declaration of Jaime Bonilla Valdez (Feb. 24, 2004).

inquiry letter on March 8, 2004.<sup>12</sup> Subsequently, on March 19, 2004, the Enforcement Bureau sent a second inquiry letter to PSN.<sup>13</sup> PSN responded to the second letter on March 29, 2004.<sup>14</sup> Copies of each of these letters and responses are attached collectively hereto as Exhibit A.

Through the course of the Enforcement Bureau proceeding, Joint Petitioners have maintained that the 325(c) Permit may and should be summarily rescinded for failure to adhere to an express condition of the authorization, and that the Enforcement Bureau was not required to initiate an investigatory proceeding prior to rescinding the 325(c) Permit. Nevertheless, in that proceeding, it has been undisputed that Mr. Bonilla, through PSN, provided programming to the Mexican Stations operating in one case on a frequency and in all cases at locations other than those specified in the 325(c) Permit. It also has been undisputed that these operations were not coordinated with the U.S. government in accordance with the applicable U.S.-Mexico treaty. Such operations, therefore, were in clear violation of the express terms and conditions of PSN's 325(c) Permit. Although PSN has now tendered the 325(c) Permit for cancellation, such action does not prevent Mr. Bonilla from programming the Mexican Stations from within Mexico. Nor does the tendering of the 325(c) Permit for cancellation in any way erase or mitigate Mr. Bonilla's misrepresentation of key facts and lack of candor before the Commission.

## **II. LICENSES AND PERMITS CONTROLLED BY JAIME BONILLA VALDEZ**

To the best of Petitioners' knowledge, Mr. Bonilla is the indirect owner of one broadcast construction permit and two broadcast licenses. PSN is the permittee of station KCHC(FM),

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<sup>12</sup> Response of Pacific Spanish Network, Inc. Re File No. EB-04-SE-020 (Mar. 8, 2004) ("March 8 Response").

<sup>13</sup> Letter from Joseph P. Casey, Chief, Spectrum Enforcement Division to Henry A. Solomon, File No. EB-04-SE-020 (Mar. 19, 2004) ("March 19 Enforcement Bureau Letter").

<sup>14</sup> See March 29 Response.

Willows, California (“KCHC”). Mr. Bonilla thus holds a 100% direct interest in the permittee of KCHC. PSN also owns 10% of Padre Serra Communications, Inc. (“Padre Serra”), licensee of station KJDJ(AM), San Luis Obispo, California (“KJDJ”). The remaining 90% of Padre Serra is owned by Mr. Bonilla. Mr. Bonilla thus holds 100%, through direct and indirect interests, of the licensee of KJDJ. Mr. Bonilla also owns 100% of News Baja, Inc. (“News Baja”), which, in turn, owns 61.35% of Quetzal Bilingual Communications, Inc. (“Quetzal Bilingual”), licensee of station KURS(AM), San Diego, California (“KURS”). Mr. Bonilla directly owns 38.65% of Quetzal Bilingual. Thus, Mr. Bonilla holds a 100% interest, directly and indirectly, in the licensee of KURS. Accordingly, stations KCHC, KJDJ, and KURS currently are under the sole control of Mr. Bonilla.

**III. MR. BONILLA IS NOT FIT TO CONTROL COMMISSION LICENSES BECAUSE HE HAS VIOLATED EXPRESS TERMS OF A PERMIT, FINANCED AND IMPLEMENTED A SCHEME TO CAUSE PROHIBITED INTERFERENCE TO U.S. BROADCAST STATIONS, AND MISREPRESENTED FACTS AND LACKED CANDOR BEFORE THE COMMISSION**

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Mr. Bonilla’s actions and admissions with respect to the 325(c) Permit demonstrate that he is unfit to control any Commission license or authorization. Mr. Bonilla has knowingly and willfully caused PSN to operate in direct violation of the express terms of the 325(c) Permit and has participated in a scheme to cause prohibited interference to U.S. broadcast stations. In addition, Mr. Bonilla willfully and repeatedly has violated the Commission’s rules and policies by misrepresenting facts and lacking candor before the Commission. Accordingly, the Commission should expeditiously issue an order to show cause why the Licenses should not be revoked.

A. Mr. Bonilla Has Knowingly and Willfully Caused PSN to Operate in Direct Violation of the Express Terms of the 325(c) Permit and Has Participated in a Scheme to Cause Prohibited Interference to U.S. Broadcast Stations

Pursuant to Section 312(a)(2) of the Act, the Commission may revoke a station license or construction permit because of “conditions coming to the attention of the Commission which would warrant it in refusing to grant a license or permit on an original application.”<sup>15</sup> In the pending proceeding regarding Joint Petitioners’ Petition, it has become clear that Mr. Bonilla is the financier and driving force behind the Mexican Stations’ uncoordinated and interfering new facilities authorized by the Mexican government. Mr. Bonilla not only provided programming to the Mexican Stations in direct violation of the terms and conditions of PSN’s 325(c) Permit, but simultaneously served as the individual responsible for procuring programming for the Mexican Stations. PSN, which is wholly owned by Mr. Bonilla, financed “all construction costs” of the Mexican Stations’ new facilities.<sup>16</sup> Since April 2003 – prior to PSN’s filing of the informal applications for the 325(c) Permit – PSN has had an “oral time brokerage arrangement” entitling it to program the Mexican Stations and retain all of their advertising revenues.<sup>17</sup> There was no need for the arrangement to be formalized, as Mr. Bonilla sat on both sides of the table in his capacity as 100% owner of PSN and in his role as General Director (responsible for procuring programming) of Media Sports de Mexico, S.A. de C.V. (“MSM”), the entity that manages the Mexican Stations. MSM, which not only employs Mr. Bonilla but also is 98% owned by Mr. Bonilla’s spouse,<sup>18</sup> is seeking to acquire the Mexican Stations.

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<sup>15</sup> 47 U.S.C. § 312(a)(2).

<sup>16</sup> See March 29 Response at 7. Attached hereto as Exhibit B are copies of purchase orders and checks signed by Mr. Bonilla for the Mexican Stations’ new towers.

<sup>17</sup> March 29 Response at 7.

<sup>18</sup> As the Commission has noted, a spousal relationship may compromise independence where one spouse provides services for or on behalf of the other spouse’s media company.

There is no question that Mr. Bonilla knew that the Mexican Stations were not coordinated with the United States as required under the applicable U.S.-Mexico treaty and the conditions of the 325(c) Permit. Purely and simply, the Mexican Stations' modification project is a Bonilla enterprise – totally financed by Bonilla, for Bonilla's economic benefit. Indeed, PSN admits that Bonilla met with the owner of the Mexican Stations to discuss the stations' modification plans even before authorization was sought from the Mexican government for the facility changes.<sup>19</sup> Mr. Bonilla works for the company that operates the Mexican Stations and is seeking to acquire them. He also is married to the 98% owner of such company. Given his relationship to the Mexican Stations and his admission that he discussed the planned upgrades with the licensees, Mr. Bonilla must have been aware of the proposed operating parameters of the Mexican Stations; given his history as a U.S. broadcast licensee, Mr. Bonilla must have been aware that such parameters would violate the applicable U.S.-Mexico agreement. The reconstruction of the Mexican Stations at new sites, on new frequencies, and at substantially increased power levels was plainly conceived and planned by Mr. Bonilla from the beginning,<sup>20</sup> and thus it is hardly surprising that PSN confesses to having had full knowledge of the Mexican

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However, no discussion of spousal attribution is necessary here, as Mr. Bonilla's position with MSM speaks for itself with respect to his knowledge of the plans and operations of that company and the Mexican Stations. See Clarification of Commission Policies Regarding Spousal Attribution, *Policy Statement*, 7 FCC Rcd 1920 (1992) at ¶ 7.

<sup>19</sup> March 29 Response at 7, Response to Question 11 (“Mr. Bonilla met with the stations' owner . . . before the applications were filed and discussed with him the licensees' plans to apply for improved facilities”). By narrowly “interpreting” this question to apply only to Mr. Bonilla's role “in the preparation, filing, and advocacy of the applications,” PSN is able to remain conspicuously silent on the question of Mr. Bonilla's involvement with the Mexican authorities prior to the filing of the applications.

<sup>20</sup> As evidenced by the documents reproduced in Exhibit B hereto, Mr. Bonilla ordered the towers for the Mexican Stations' modifications on March 27, 2003 and paid for them on April 1, 2003 (with checks duly noted “Ensenada 550 AM Tower” and “Ensenada 780/920 AM Tower”) – all roughly two months before PSN applied for the 325(c) Permit.

Stations' planned modifications, both at the time it applied for the 325(c) Permit and at every subsequent step.<sup>21</sup>

Mr. Bonilla's direct and close relationship with the Mexican Stations explains why he did not act to cease the provision of programming to such stations by PSN immediately upon learning in December 2003 that at least one of the Mexican Stations was causing prohibited interference to U.S. broadcast stations. In fact, Mr. Bonilla did not cease to provide programming to the Mexican Stations under the 325(c) Permit until directed to do so by the Enforcement Bureau, and Petitioners' information is that Mr. Bonilla continues to program the Mexican Stations from studios inside Mexico. Mr. Bonilla's blatant disregard for and violation of the terms and conditions of the 325(c) Permit, as well as his knowledge, involvement, financing, and direction regarding the Mexican Stations' continued creation of substantial and harmful interference to U.S. broadcast stations, clearly constitute grounds for revocation of the Licenses under Section 312(a)(2) of the Act.

**B. Mr. Bonilla Has Willfully and Repeatedly Misrepresented the Facts of This Case And Has Demonstrated a Lack of Candor Before the Commission**

The Commission also would not have granted control of the Licenses to Mr. Bonilla had it known that Mr. Bonilla did not meet the character qualifications required of Commission

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<sup>21</sup> See March 29 Response at 4, Response to Question 6 ("PSN was aware of XEKTT's proposed relocation before it filed its Section 325(c) application."); id. at 5, Response to Question 7 ("When PSN applied for a Section 325(c) permit it was aware of XESS's plan to discontinue service on 1450 kHz and operate on 780 kHz); id., Response to Question 8 (PSN was aware of XESS's relocation when it took place); id. at 6, Response to Question 9 (PSN "had definite and certain knowledge of XESDD and its 920 kHz operation" at the time it filed its Section 325(c) application).

licensees.<sup>22</sup> Mr. Bonilla not only has violated the terms and conditions of the 325(c) Permit and acted against the public interest given his knowledge and involvement regarding the interference caused to U.S. Stations by the Mexican Stations, but also has misrepresented facts and demonstrated a lack of candor before the Commission.<sup>23</sup> It is well-settled that inquiries “into an applicant’s basic character eligibility will . . . focus on the likelihood that an applicant will deal truthfully with the Commission and comply with the Communications Act and [the Commission’s] rules and policies.”<sup>24</sup> The relevant character traits with regard to licensee fitness are those of “truthfulness” and “reliability.”<sup>25</sup> In particular, the Commission must examine whether a licensee “can be expected to be honest in its dealing with the Commission.”<sup>26</sup> In such examination, the Commission is “authorized to treat even the most insignificant misrepresentation as disqualifying.”<sup>27</sup>

Most notably, Mr. Bonilla did not reveal his role as the financier and driving force behind the Mexican Stations’ uncoordinated and interfering new facilities in the application for the 325(c) Permit, as required, nor in any of PSN’s filings in the Enforcement Bureau proceeding,

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<sup>22</sup> See, e.g., 47 U.S.C. § 308(b) (“[A]ll applications for station licenses, or modifications or renewals thereof, shall set forth such facts as the Commission by regulation may prescribe as to the . . . character . . . and other qualifications of the applicant to operate the station . . .”).

<sup>23</sup> See 47 C.F.R. § 73.1015 (“No applicant . . . shall . . . in any application, pleading, report, or any other written statement submitted to the Commission, make any misrepresentation or willful material omission bearing on any matter within the jurisdiction of the Commission”).

<sup>24</sup> Policy Regarding Character Qualifications in Broadcast Licensing; Amendment of Rules of Broadcast Practice and Procedure Relating to Written Responses to Commission Inquiries and the Making of Misrepresentations to the Commission by Permittees and Licensees, Report, Order, and Policy Statement, 102 FCC 2d 1179 (1986) (“Character Qualifications Policy Statement”) at ¶ 2.

<sup>25</sup> Character Qualifications Statement at ¶ 55.

<sup>26</sup> Character Qualifications Statement at ¶ 21.

<sup>27</sup> Character Qualifications Statement at ¶ 77, citing FCC v. WOKO, 329 U.S. 223, 227 (1946).

until the question was posed so directly by the Enforcement Bureau that it could no longer be evaded. Section 73.3545 of the Commission's rules provides that an informal application, rather than FCC Form 308, may be used to request a permit to deliver programs to foreign stations where the applicant holds a broadcast station license or construction permit.<sup>28</sup> However, such informal application must "contain a description of the nature and character of the programming proposed, together with other information requested on Page 4 of Form 308."<sup>29</sup> Among other questions, page 4 of FCC Form 308 (Question 17) requires an applicant for a permit to deliver programming to a foreign broadcast station to "[a]ttach as [an] Exhibit a full explanation of the legal relationship between the applicant and the foreign station(s) involved, including a copy of contract (if any) with foreign station(s)."<sup>30</sup> Mr. Bonilla failed to answer this question on any of the three informal letter applications for the 325(c) Permit.<sup>31</sup> Mr. Bonilla further failed to provide a description of his relationship with the Mexican Stations in any filing made by PSN in the Enforcement Bureau proceeding prior to the March 29 Response. In the March 29 Response, Mr. Bonilla finally had no choice but to reveal his role in the Mexican Stations' operations in response to the Enforcement Bureau's direct and comprehensive query.<sup>32</sup> Even then, in a

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<sup>28</sup> 47 C.F.R. § 73.3545.

<sup>29</sup> Id.

<sup>30</sup> FCC Form 308, Question 17.

<sup>31</sup> The applications are included as attachments to the March 8 Response, attached hereto as part of Exhibit A.

<sup>32</sup> March 19 Enforcement Bureau Letter, Question 10 ("State whether Jaime Bonilla Valdez, any officer and/or director of PSN, or any company in which Mr. Bonilla holds an ownership interest, directly or indirectly, holds any ownership interest in Station XEKT, Station XESS, and/or Station XESDD. If so, specify the precise nature of such interest, including but not limited to, the individual or company which holds such interest, the percentage of such interest, the number of shares of any stock held by such individual or company, and whether the shares of any stock held are voting or non-voting. In addition, state whether Mr. Bonilla is an officer or director of, or holds any management position in, Station XEKT, Station XESS, and/or Station XESDD, and if so, identify precisely what position he holds. Further,

significant understatement, the March 29 Response stated that “Mr. Bonilla might be deemed to have an indirect beneficial interest” in the entity operating the Mexican Stations.<sup>33</sup>

Mr. Bonilla’s misrepresentation and lack of candor has been repeatedly demonstrated in other instances related to the 325(c) Permit and the related Enforcement Bureau proceeding, including the following:

- Mr. Bonilla, through PSN, claimed in its applications for the 325(c) Permit that the Mexican stations were authorized to operate on certain frequencies. For example, with respect to XEKT, the application stated “Foreign Station Frequency: 550 kHz.”<sup>34</sup> However, XEKT is operating – and causing substantial prohibited interference – on 560 kHz. On the application, PSN thus stated neither the then-authorized frequency for the station (1600 kHz) nor the current frequency for the station (560 kHz). Equally significant, PSN never disclosed in its applications that the Mexican Stations’ operations on the specified frequencies had not been coordinated with or approved by the U.S. government.
- Mr. Bonilla, through PSN, claimed in a letter to the Enforcement Bureau that it first became aware of the interference allegations on January 16, 2004, the date on which Joint Petitioners filed the Petition.<sup>35</sup> In fact, in early December 2003, an agent from the Commission’s San Diego Field Office advised Mr. Bonilla in person that XEKT was causing interference to U.S. broadcast stations.<sup>36</sup>

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describe in detail any legal and/or financial relationship or affiliation between Mr. Bonilla and/or PSN and Station XEKT, Station XESS, and Station XESDD. Provide copies of any written agreements or contract between Mr. Bonilla and/or PSN and Station XEKT, Station XESS, and Station XESDD.”).

<sup>33</sup> March 29 Response at 7, Response to Question 10.

<sup>34</sup> Pacific Spanish Network, Inc. Application for Permit to Deliver Programs to Foreign (Mexican) Broadcast Station XEKT, Ensenada, B.C. (May 16, 2003).

<sup>35</sup> March 8 Response at 3, Response to Question 5.

<sup>36</sup> March 19 Enforcement Bureau Letter, Question 2. Confronted with this fact, PSN dissembled further, specifically acknowledging Mr. Bonilla’s recollection of the December meeting and claiming, amusingly, that while Mr. Bonilla did “not recall being ‘specifically advised’” by the FCC agent that XEKT was causing interference, he did “not deny” that the agent “may have meant to imply that XEKT was causing interference.” March 29 Response at 2, Response to Question 3.

- Mr. Bonilla, through PSN, stated several times that it was not possible for PSN to verify the accuracy of the interference claims against the Mexican Stations without taking measurements.<sup>37</sup> However, given that Mr. Bonilla is employed by the company that manages the Mexican Stations, and the fact that his wife owns 98% of such company, it is clear that Mr. Bonilla could easily have made inquiry with respect to the Mexican Stations' operations, if he had chosen to do so.

Such instances of misrepresentation and lack of candor have been the rule in the Enforcement Bureau proceeding, rather than the exception. As the Commission has noted, "some behavior may be so fundamental to a licensee's operation that it is relevant to its qualifications to hold any station license."<sup>38</sup> The apparent misrepresentation and lack of candor in PSN's filings relating to the 325(c) Permit demonstrate that Mr. Bonilla is unfit to hold any Commission license or authorization. Accordingly, the Bureau should issue an order to show cause why the Licenses should not be revoked.

#### **IV. MR. BONILLA IS NOT FIT TO CONTROL COMMISSION LICENSES BECAUSE HE HAS VIOLATED THE COMMISSION'S RULES ON MULTIPLE OCCASIONS WITH RESPECT TO MULTIPLE LICENSES AND PERMITS**

It is patently clear that Mr. Bonilla has no respect for the Commission's rules with respect to the U.S. broadcast stations which he has been authorized to own and control. For at least the past ten years, Mr. Bonilla has demonstrated a cavalier attitude toward the Commission's rules, including unauthorized transfers of control, violations of the Commission's public inspection file rule, false certifications on license renewal applications, and violations of the Commission's EAS testing rules. Although these violations were not deemed by the Commission to be

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<sup>37</sup> See, e.g., Pacific Spanish Network, Inc. Motion for Extension of Time, 325-NEW-20030519-00004 (Jan. 21, 2004) (requesting an extension of time to respond to Joint Petitioners' interference concerns until April 15, 2004).

<sup>38</sup> Character Qualifications Statement at ¶ 92.

sufficiently egregious on their own to warrant license revocation, this history, when viewed in conjunction with Mr. Bonilla's actions and admissions in the Enforcement Bureau 325(c) Permit proceeding, clearly supports revocation of the Licenses. For example, in March 1994, the San Diego Field Office of the Commission's Field Operations Bureau ("Field Office"), issued a Notice of Apparent Liability ("NAL") to Quetzal Bilingual for repeated violations of the Commission's rule relating to exceeding power limits, 47 C.F.R. § 73.1560(a).<sup>39</sup> The NAL stated that the Field Office had received an anonymous letter from a person claiming to be a radio operator at KURS, which letter alleged that the station management had instructed the radio operators to operate during the night at the station's licensed daytime power. After conducting field strength measurements, the Field Office determined that the station repeatedly operated during the night at power levels that were several times the authorized nighttime power level. The Field Office described the violations as "repeated" and "egregious" and issued the NAL in the amount of \$20,000, the maximum amount then permitted to be issued by the Field Office.

Although no forfeiture ultimately was assessed, the Commission's Compliance Division explicitly noted in a September 1997 letter order that "the actions at issue in this case constituted a violation of Section 73.1560(a) of the Commission's rules. The record of these violations is

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<sup>39</sup> Quetzal Bilingual Communications, Inc., Radio Station KURS(AM), Chula Vista, California; Notice of Apparent Liability, NAL/Acct. No. 415SD001 (rel. Mar. 1, 1994) ("1994 NAL"), attached hereto as Exhibit C. Ironically, Mr. Bonilla stated four years later in a sworn declaration that KURS was hampered by Mexican stations operating beyond their authorized parameters, and that such prohibited operation by Mexican stations is "routine." Sworn Statement in Support of Request for Special Temporary Authority, Station KURS(AM) (Nov. 3, 1998) ("Radio stations licensed by the FCC to San Diego not only have to compete with these Mexican stations [licensed by the Mexican government to Tijuana and other Mexican cities south of the border], it has been my experience that most of these Mexican stations routinely operate in excess of their allotted transmitting power").

being retained and may be considered in determining an equitable penalty in the event any future violations of this type occur.”<sup>40</sup>

In December 1997, COBE Laboratories Inc. (“COBE”), a creditor of Mr. Bonilla’s, filed a detailed and well-supported objection to renewal applications for stations controlled by Mr. Bonilla and petition for rescission of Mr. Bonilla’s other operating authorizations (“Objection”).<sup>41</sup> COBE urged the Commission to deny the renewal applications based on serious violations of the Communications Act and the Commission’s rules and an ongoing pattern of abuse. COBE urged the Commission to rescind the other authorizations because the grants resulted from serious misrepresentations to the Commission and the applicants failed to meet the statutory requirements for renewal. Specifically, COBE’s Objection included allegations that:

- Mr. Bonilla, through Quetzal Bilingual, violated the Commission’s rules and the terms and conditions of the KURS license by willfully and repeatedly operating the station beyond its authorized power levels. Specifically, the station continued to exceed its maximum power after the Commission cited the station for the violation and the station informed the Commission that it would adopt measures to ensure compliance. Mr. Bonilla marketed the station to potential advertisers by representing that the station had greater operating power than authorized by the station license.
- The licensees of various stations controlled by Mr. Bonilla made false certifications in their renewal applications. Specifically, at least four licensees represented that their public inspection files were complete when, in fact, two stations had no public inspection file in their licensed communities, one station had a public inspection file available on a part-time basis only, and four public inspection files lacked essential documents.

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<sup>40</sup> Letter from Magalie R. Salas, Acting Chief, Compliance Division, to Quetzal Bilingual Communications, Inc. (Sept. 29, 1997), attached hereto as Exhibit D.

<sup>41</sup> Application of Pacific Spanish Network, Inc., Licensee of KLNA(FM), Dunnigan, California, for Renewal of License of KZAC(FM), Esparto, California, FCC File No. BMLH-931202KH, COBE Laboratories Inc. Objection to Renewal Applications and Petition for Rescission of Operating Authorizations (filed Dec. 31, 1997) (“Objection”). A copy of the Objection is attached hereto as Exhibit E.

- The licensees of various stations controlled by Mr. Bonilla also made false certifications with respect to their financial qualifications in applications to build or acquire new stations.
- Mr. Bonilla violated Section 310(b) of the Act by obtaining control of a U.S. broadcast license prior to becoming a U.S. citizen. Specifically, Mr. Bonilla owned News Baja, which, in turn, controlled Quetzal Bilingual, licensee of KURS, while still a citizen of Mexico. During this period, Mr. Bonilla concealed from the Commission his interest in News Baja and News Baja's interest in Quetzal Bilingual.

Petitioners do not possess sufficient factual information to comment on the merits of COBE's allegations. However, in June 1999, in response to the COBE Objection, the Bureau issued to each station controlled by Mr. Bonilla an NAL for violations of the Commission's public file inspection rule, false certifications on renewal applications, and other violations. Specifically, the Bureau issued the following NALs, totaling more than \$70,000:<sup>42</sup>

- *Station KJDJ(AM), San Luis Obispo, California:* NAL for apparent unauthorized transfer of control of the station and failure to file the required pro forma transfer applications; violation of the location, completeness, and access requirements of the Commission's public inspection file rule; and false certification of the completeness of the public file on the station's renewal application.<sup>43</sup>
- *Station KURS(AM), San Diego, California:* NAL for apparent violation of the Commission's rules pertaining to the filing of contracts and the submission of annual ownership reports and failure to file a required pro forma transfer application (subject to admonishment only, due to intervening license renewal process and statute of limitations).<sup>44</sup>
- *Station KIEZ(AM), Carmel Valley, California:* NAL for apparent violation of the completeness and access requirements of the Commission's public inspection file

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<sup>42</sup> The NALs are attached collectively hereto as Exhibit F.

<sup>43</sup> Letter from Roy J. Stewart, Chief, Mass Media Bureau, to Padre Serra Communications, Inc. (rel. Jun. 24, 1999).

<sup>44</sup> Letter from Roy J. Stewart, Chief, Mass Media Bureau, to Quetzal Bilingual Communications, Inc. (rel. Jun. 24, 1999).

rule; and false certification of the completeness of the public file on the station's renewal application.<sup>45</sup>

- *Station KSBQ(AM), Santa Maria, California:* NAL for apparent unauthorized transfer of control of the station and failure to file the required pro forma transfer applications; violation of the completeness and access requirements of the Commission's public inspection file rule; and false certification of the completeness of the public file on the station's renewal application.<sup>46</sup>
- *Station KLNA(FM), Dunnigan, California:* NAL for apparent violation of the completeness and access requirements of the Commission's public file inspection rule.<sup>47</sup>
- *Station KRQK(FM), Lompoc, California:* NAL for apparent unauthorized transfer of control of the station and failure to file the required pro forma transfer applications; violation of the completeness and access requirements of the Commission's public inspection file rule; and false certification of the completeness of the public file on the station's renewal application.<sup>48</sup>

In 2000, the Enforcement Bureau's San Diego Field Office issued a notice of violation ("NOV") to Quetzal Bilingual for failure to comply with the Commission's EAS testing requirements.<sup>49</sup> In addition, the Enforcement Bureau confirmed on April 2, 2004 that there currently are one or more informal complaints pending against KURS.<sup>50</sup>

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<sup>45</sup> Letter from Roy J. Stewart, Chief, Mass Media Bureau, to Central Coast Communications, Inc. (rel. Jun. 24, 1999).

<sup>46</sup> Letter from Roy J. Stewart, Chief, Mass Media Bureau, to Padre Serra Communications, Inc. (rel. Jun. 24, 1999).

<sup>47</sup> Letter from Roy J. Stewart, Chief, Mass Media Bureau, to Pacific Spanish Network, Inc. (rel. Jun. 23, 1999).

<sup>48</sup> Letter from Roy J. Stewart, Chief, Mass Media Bureau, to Padre Serra Communications, Inc. (rel. Jun. 24, 1999).

<sup>49</sup> Enforcement Bureau Field Operations List of Actions Taken, 15 FCC Rcd 20423 (2000), attached hereto as Exhibit G.

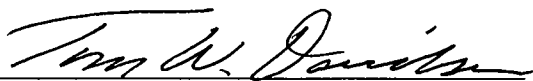
<sup>50</sup> Electronic mail correspondence from Enforcement Bureau staff to Natalie Roisman (Apr. 2, 2004) ("Our search of the respective databases of the Bureau's Investigations and Hearings Division, Spectrum Enforcement Division, and of any regional and/or field office with jurisdiction over each [Bonilla] station reveals that there are one or more formal or informal complaints currently pending against the following station . . . KURS(AM).")

V. **CONCLUSION**

Based on Mr. Bonilla's actions and admissions with respect to the 325(c) Permit and his history of non-compliance as the owner of broadcast licensees, it is evident that Mr. Bonilla is not fit to control any Commission license or authorization. Mr. Bonilla has knowingly and willfully caused PSN to operate in direct violation of the express terms of the 325(c) Permit and has participated in a scheme to cause prohibited interference to U.S. broadcast stations. In addition, for at least the past ten years, Mr. Bonilla has demonstrated a cavalier attitude toward the Commission's rules, including unauthorized transfers of control, violations of the Commission's public inspection file rule, false certifications on license renewal applications, and violations of the Commission's EAS testing rules. Although these violations were not deemed by the Commission to be sufficiently egregious on their own to warrant license revocation, this history, when viewed in conjunction with Mr. Bonilla's actions and admissions in the Enforcement Bureau 325(c) Permit proceeding, clearly supports revocation of the Licenses. Accordingly, Petitioners respectfully request that the Bureau issue an order to show cause why the Licenses should not be revoked.

Respectfully submitted,

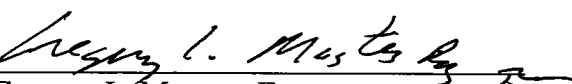
KGO-AM RADIO, INC.  
KABC-AM RADIO, INC.

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Its Attorney

Dated: May 11, 2004

**CERTIFICATE OF SERVICE**

I, Judie Johnson, an employee of Akin Gump Strauss Hauer & Feld LLP, hereby certify that true and correct copies of the foregoing "Request For Issuance Of Order To Show Cause Why Licenses And Construction Permit Should Not Be Revoked" were served this 11<sup>th</sup> day of May, 2004 by first class United States Mail, postage prepaid, except where otherwise indicated, upon the following:

Ms. Marlene H. Dortch\*  
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\_\_\_\_\_  
Judie Johnson

**EXHIBIT A**



FEDERAL COMMUNICATIONS COMMISSION  
Enforcement Bureau  
Spectrum Enforcement Division  
445 12th Street, S.W.  
Washington, D.C. 20554

February 11, 2004

**VIA CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**  
**AND FACSIMILE**

Henry A. Solomon, Esq.,  
Garvey Schubert Barer  
1000 Potomac Street, N.W.  
Fifth Floor  
Washington, D.C. 20007

In Reply Refer to: File No. EB-04-SE-020

Dear Mr. Solomon:

The Spectrum Enforcement Division of the Enforcement Bureau has initiated an investigation into issues raised in a petition to rescind the permit granted to Pacific Spanish Network, Inc. ("PSN") pursuant to Section 325(c) of the Communications Act of 1934 ("Act"), as amended, 47 U.S.C. § 325(c). See File No. 325-NEW-20030529-00004 (granted July 16, 2003) ("Section 325(c) permit"). The Section 325(c) permit authorizes PSN to supply program material to three Mexican broadcast stations for the purpose of retransmission into the United States, subject to certain conditions. We are investigating whether the conditions specified in the Section 325(c) permit, which require operation of the Mexican stations in full compliance with applicable treaties and related provisions concerning electrical interference to U.S. broadcast stations, have been violated. In addition, we are investigating whether PSN misrepresented facts to the Commission in its applications for the Section 325(c) permit. Accordingly, we direct PSN, pursuant to Sections 4(i), 4(j), and 308(b) of the Act, 47 U.S.C. §§ 154(i), 154(j), and 308(b), and the pre-designation procedures of Section 1.88 of the Commission's Rules, 47 C.F.R. § 1.88, to provide the information and documents specified herein, within 14 calendar days from the date of this letter.

**Background**

On May 16, 2003, PSN submitted three applications to the Commission requesting a permit to supply programming material to a foreign broadcast station pursuant to Section 325(c) of the Act. In the first application, PSN requested authorization to supply programming to Mexican Station XEKTT, Tecate, Baja California, Mexico. PSN represented in this application that XEKTT is authorized to

operate on frequency 550 kHz. In the second application, PSN requested authorization to supply programming to Mexican Station XESS, Ensenada, Baja California, Mexico. PSN represented in this application that XESS is authorized to operate on frequency 780 kHz. In the third application, PSN requested authorization to supply programming to Mexican Station XEDD, Ensenada, Baja California, Mexico. PSN represented in this application that XEDD is authorized to operate on frequency 920 kHz. Based on the representations made in PSN's applications, on July 16, 2003, the International Bureau granted PSN a Section 325(c) permit authorizing PSN "to locate, use, or maintain a studio in the United States" for the purpose of transmitting or delivering "music, talk and other entertainment and informational programming in Spanish" to Mexican Stations XEKTT, XESS and XEDD. PSN's Section 325(c) permit is expressly conditioned upon the Mexican stations' "operation in full compliance with applicable treaties and related provisions concerning electrical interference to U.S. Broadcast stations." Additionally, the Section 325(c) permit "is issued on the grantee's representation that the statements contained in the application are true and that the undertakings described will be carried out in good faith."

On January 16, 2004, Owens One Company, Inc., licensee of KUZZ(AM), 550 kHz, Bakersfield, California, AMFM Radio Licenses, LLC, licensee of KLAC(AM), 570 kHz, Los Angeles, California and KFYI(AM), 550 kHz, Phoenix, Arizona, Capstar TX Limited Partnership, licensee of KBLU(AM), 560 kHz, Yuma, Arizona, and KGO-AM Radio, Inc., licensee of KSFO(AM), 560 kHz, San Francisco, California (collectively referred to as "Joint Petitioners") jointly filed a petition to rescind PSN's 325(c) permit. See Petition to Rescind Authorization (January 16, 2004) ("Petition").

The Joint Petitioners allege that the express conditions of PSN's 325(c) permit have not been complied with. Specifically, they allege that the operation of Station XEKTT has caused and continues to cause substantial harmful interference to the reception of their signals within their respective protected service contours. In support of this allegation, the Joint Petitioners provide engineering and technical data demonstrating that Station XEKTT is causing interference to their stations<sup>1</sup> and copies of complaints lodged by listeners of the affected stations. Additionally, the Joint Petitioners allege that Station XEKTT's operation on frequency 560 kHz is not in full compliance with the U.S.-Mexico treaty governing coordination of medium frequency AM band stations ("U.S.-Mexican Agreement").<sup>2</sup> In this connection, the Joint Petitioners note that Station XEKTT previously was licensed by the Mexican government for operation on frequency 1600 kHz. However, on November 15, 2003, the Mexican government licensed Station XEKTT for operation on frequency 550 kHz and, subsequently, on December 9, 2003, the Mexican government licensed Station XEKTT for operation on frequency 560 kHz. The Joint Petitioners allege, and the International Bureau confirms, that the Commission

<sup>1</sup> The technical data submitted by the Joint Petitioners indicates that Station XEKTT's operation on 560 kHz causes objectionable interference to nearly 29 million people within the protected service contours of the Joint Petitioners' affected stations.

<sup>2</sup> See *Agreement Between the Government of the United States of America and the Government of the United Mexican States Relating to the AM Broadcasting Service in the Medium Frequency Band, 1986* ("U.S.-Mexican Agreement").

did not receive coordination notifications for either the 550 kHz or 560 kHz operation of Station XEKTT and that the Commission did not authorize or approve either operation, as required by the U.S.-Mexican Agreement.

On January 28, 2004, the Joint Petitioners filed a supplement to its Petition. *See* Supplement to and Motion for Expeditious Grant of Petition to Rescind Authorization (January 28, 2004) ("Supplement"). In this Supplement, the Joint Petitioners assert that Station XESS, which previously was licensed by the Mexican government to operate on 1450 kHz, is expected to commence operation on 780 kHz in the next few weeks from a new site just south of the U.S.-Mexico border. The Joint Petitioners further assert, and the International Bureau confirms, that the Commission did not receive coordination notification for, or authorize or approve, the operation of Station XESS on 780 kHz, as required by the U.S.-Mexican Agreement. The Joint Petitioners allege that once Section XESS commences operation, it will cause substantial harmful interference to the reception of Station KABC(AM), 590 kHz, Los Angeles, California, which is licensed to KABC-AM Radio, Inc.<sup>3</sup> In support of this allegation, the Joint Petitioners provide engineering and technical data demonstrating that Station XESS will cause harmful interference to Station KABC(AM).<sup>4</sup> Additionally, the Joint Petitioners state that a new facility is currently under construction on 920 kHz for Station XEDD, which previously was licensed by the Mexican government to operate on 1560 kHz. The Joint Petitioners allege, and the International Bureau confirms, that the Commission did not receive coordination notification for, or authorize or approve, the operation of Station XEDD on frequency 920 kHz, as required by the U.S.-Mexican Agreement.

On February 11, 2004, the Joint Petitioners filed another supplement to its Petition. *See* Supplement to Motion for Expeditious Grant of Petition to Rescind Authorization (February 11, 2004) ("Second Supplement"). In its Second Supplement, the Joint Petitioners assert that Station XESS commenced operation on 780 kHz on or around February 9, 2004. The Joint Petitioners further assert that Station KABC(AM) is, as anticipated, receiving substantial harmful interference as a result of the uncoordinated operation of Station XESS on 780 kHz.

In response to the Petition, PSN sought a 90-day extension of time in which to respond. *See* Motion for Extension of Time (January 21, 2004). PSN claimed that it required an extended period of time for its engineering consultant to analyze and address the petitioners' engineering and technical data. The petitioners opposed PSN's motion, claiming that Station XEKTT's operation "is causing severe interference to nearly 29 million people within the protected contours" of their stations, and therefore "the circumstances here preclude any extension of the pleading cycle." *See* Opposition to Motion for Extension of Time (January 23, 2004) at 1-2. In reply, PSN reiterated its

<sup>3</sup> KABC-AM Radio, Inc. is wholly owned by ABC Holding Company, Inc., which also wholly owns KGO-AM Radio, Inc., the licensee of KSFO(AM).

<sup>4</sup> The technical data submitted by the Joint Petitioners indicates that Station XESS's operation on 780 kHz will cause objectionable interference to nearly 17.8 million people within the protected service contour of KABC(AM).

assertion that additional time was needed to respond to the issues raised in the Petition. See Reply (January 26, 2004).

We deny PSN's request for a three-month extension of time to respond to the Petition. We do not believe that a three-month extension is necessary or warranted, particularly in view of the substantial evidence in the record that the operation of Stations XEKTT and XESS are causing harmful interference to U.S. broadcast stations. Moreover, the fact that the Commission did not receive notifications of, or approve, the operations of Station XEKTT on frequency 550 kHz or 560 kHz, of Station XESS on frequency 780 kHz, and of Station XEDD on frequency 920 kHz, constitute separate violations of the U.S.-Mexican Agreement and the conditions of PSN's Section 325(c) permit.

Information and Documents Requested:

- (1) Provide a response to the allegations raised in the Petition and Supplements;
- (2) Explain the basis for PSN's representation in its May 16, 2003 application for a Section 325(c) permit to supply program material to Station XEKTT that Station XEKTT was authorized by the Mexican government to operate on frequency 550 kHz. Provide copies of any documents relating to the issue of whether Station XEKTT was authorized to operate on frequency 550 kHz at the time PSN filed its application. In addition, describe what efforts, if any, PSN made prior to filing its application in order to verify whether the operation of Station XEKTT on frequency 550 kHz had been coordinated with, and approved by, the Commission in accordance with the U.S.-Mexican Agreement. Provide any documentation reflecting such efforts.
- (3) State the date on which PSN first became aware that Station XEKTT was operating on frequency 560 kHz. In addition, describe what efforts, if any, PSN made at that time to verify whether the operation of Station XEKTT on frequency 560 kHz had been coordinated with, and approved by, the Commission in accordance with the U.S.-Mexican Agreement.
- (4) State whether PSN continued to supply program material to Station XEKTT after it became aware that Station XEKTT had commenced operating on frequency 560 kHz. If so, explain the basis for PSN's belief that it was authorized to do so.
- (5) State the date on which PSN first became aware that the operation of Station XEKTT on frequency 560 kHz is causing interference to the reception of licensed U.S. broadcast stations. In addition, state whether PSN continued to supply program material to Station XEKTT after it became aware that Station XEKTT is causing interference to the reception of licensed U.S. broadcast stations. If so, explain the basis for PSN's belief that it was authorized to do so.
- (6) Explain the basis for PSN's representation in its May 16, 2003 application for a Section 325(c) permit to supply program material to Station XESS that Station XESS was

authorized by the Mexican government to operate on frequency 780 kHz. Provide copies of any documents relating to the issue of whether Station XESS was authorized to operate on frequency 780 kHz at the time PSN filed its application. In addition, describe what efforts, if any, PSN made prior to filing its application in order to verify whether the operation of Station XESS on frequency 780 kHz had been coordinated with, and approved by, the Commission in accordance with the U.S.-Mexican Agreement. Provide any documentation reflecting such efforts.

(7) Explain the basis for PSN's representation in its May 16, 2003 application for a Section 325(c) permit to supply program material to Station XEDD that Station XEDD was authorized by the Mexican government to operate on frequency 920 kHz. Provide copies of any documents relating to the issue of whether Station XEDD was authorized to operate on frequency 920 kHz at the time PSN filed its application. In addition, describe what efforts, if any, PSN made prior to filing its application in order to verify whether the operation of Station XEDD on frequency 920 kHz had been coordinated with, and approved by, the Commission in accordance with the U.S.-Mexican Agreement. Provide any documentation reflecting such efforts.

#### Definitions

For purposes of this letter, the following definitions apply:

"Any" shall be construed to include the word "all," and the word "all" shall be construed to include the word "any." Additionally, the word "or" shall be construed to include the word "and," and the word "and" shall be construed to include the word "or." The word "each" shall be construed to include the word "every," and the word "every" shall be construed to include the word "each."

"Document" shall mean the complete original (or in lieu thereof, exact copies of the original) and any non-identical copy (whether different from the original because of notations on the copy or otherwise), regardless of origin or location, of any taped, recorded, transcribed, written, typed, printed, filmed, punched, computer-stored, or graphic matter of every type and description, however and by whomever prepared, produced, disseminated, or made, including but not limited to any radio program, advertisement, book, pamphlet, periodical, contract, correspondence, letter, facsimile, e-mail, file, invoice, memorandum, note, telegram, report, record, handwritten note, working paper, routing slip, chart, graph, photograph, paper, index, map, tabulation, manual, guide, outline, script, abstract, history, calendar, diary, agenda, minute, marketing plan, research paper, preliminary drafts, or versions of all of the above, and computer material (print-outs, cards, magnetic or electronic tapes, disks and such codes or instructions as will transform such computer materials into easily understandable form).

### Instructions

If PSN requests that any information or documents, as defined herein, responsive to this letter be treated in a confidential manner, it shall submit, along with all responsive information and documents, as defined herein, a statement in accordance with Section 0.459 of the Rules, rules, 47 C.F.R. § 0.459. Requests for confidential treatment must comply with the requirements of Section 0.459, including the standards of specificity mandated by Section 0.459(b). Accordingly, "blanket" requests for confidentiality of a large set of documents are unacceptable. Pursuant with Section 0.459(c), the Bureau will not consider requests that do not comply with the requirements of Section 0.459.

If PSN withholds any information or documents under claim of privilege, it shall submit, together with any claim of privilege, a schedule of the items withheld that states, individually as to each such item, the numbered inquiry to which each item responds and the type, title, specific subject matter, and date of the item; the names, addresses, positions, and organizations of all authors and recipients of the item; and the specific ground(s) for claiming that the item is privileged.

Each requested document not subject to a claim of privilege shall be submitted in its entirety, even if only a portion of that document is responsive to an inquiry made herein. This means that the document shall not be edited, cut, or expunged, and shall include all appendices, tables, or other attachments, and all other documents referred to in the document or attachments. All written materials necessary to understand any document responsive to these inquiries must also be submitted.

If a document responsive to any inquiry made herein existed but is no longer available, or if PSN is unable for any reason to produce a document responsive to any inquiry, identify each such document by author, recipient, date, title, and specific subject matter, and explain fully why the document is no longer available or why PSN is otherwise unable to produce it.

With respect only to documents responsive to the specific inquiries made herein and any other documents relevant to those inquiries, PSN is directed to retain the originals of those documents for twelve (12) months from the date of this letter unless (1) PSN is directed or informed by the Enforcement Bureau in writing to retain such documents for some shorter or longer period of time or (2) the Enforcement Bureau and/or the Commission releases any item on the subject of this investigation, including, but not limited to, a Notice of Apparent Liability for Forfeiture or an order disposing of the issues in the investigation, in which case, PSN must retain all such documents until the matter has been finally concluded by payment of any monetary penalty, satisfaction of all conditions, expiration of all possible appeals, conclusion of any collection action brought by the United States Department of Justice or execution and implementation of a final settlement with the Commission or the Enforcement Bureau.

The specific inquiries made herein are continuing in nature. PSN is required to produce in the future any and all documents and information that are responsive to the

inquiries made herein but not initially produced at the time, date and place specified herein. In this regard, PSN must supplement its responses (a) if PSN learns that, in some material respect, the documents and information initially disclosed were incomplete or incorrect or (b) if additional responsive documents or information are acquired by or become known to PSN after the initial production. The requirement to update the record will continue for twenty-four (24) months from the date of this letter unless (1) PSN is directed or informed by the Enforcement Bureau in writing that PSN's obligation to update the record will continue for some shorter or longer period of time or (2) the Enforcement Bureau and/or the Commission releases an item on the subject of this investigation, including, but not limited to, a Notice of Apparent Liability for Forfeiture or an order disposing of the issues in the investigation, in which case the obligation to update the record will continue until the release of such item.

For each document or statement submitted in response to the inquiries herein, indicate, by number, to which inquiry it is responsive and identify the person(s) from whose files the document was retrieved. If any document is not dated, state the date on which it was prepared. If any document does not identify its author(s) or recipient(s), state, if known, the name(s) of the author(s) or recipient(s). PSN must identify with reasonable specificity all documents provided in response to these inquiries.

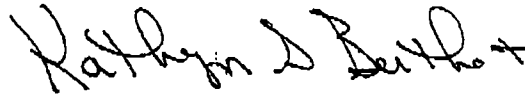
We direct PSN to support its responses with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of PSN with personal knowledge of the representations provided in PSN's response, verifying the truth and accuracy of the information therein and that all of the documents and information requested by this letter which are in PSN's possession, custody, control or knowledge have been produced. If multiple PSN employees contribute to the response, in addition to such general affidavit or declaration of the authorized officer of PSN noted above, provide separate affidavits or declarations of each such individual that identify clearly to which responses the affiant or declarant is attesting. All such declarations provided should comply with section 1.16 of the Rules, 47 C.F.R. § 1.16, and be substantially in the form set forth therein. To knowingly and willfully make any false statement or conceal any material fact in reply to this inquiry is punishable by fine or imprisonment. See 18 U.S.C. § 1001; see also 47 C.F.R. § 1.17.

PSN should direct its response to the attention of Kathy Berthot, Deputy Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 7-C802, Washington, DC, 20554, and must submit its response via first class mail and facsimile to 202-418-6799.

PSN should also serve its response and supporting documentation upon counsel for the petitioners, Gregory L. Masters, Esq. and Marnie K. Sarver, Esq., Wiley Rein & Fielding LLP, 1776 K Street, N.W., Washington, D.C. 20006, and Tom W. Davidson, Esq. and Natalie G. Roisman, Esq., Akin Gump Strauss Hauer & Feld LLP, 1676 International Drive, Penthouse, McLean, VA 22102, who will have ten (10) days from receipt to file a reply.

Direct any questions regarding this investigation to Kathy Berthot at 202-418-7454 or Ava Holly Berland at 202-418-2075.

Sincerely,



Joseph P. Casey  
Chief, Spectrum Enforcement Division  
Enforcement Bureau

cc: Jaime Bonilla Valdez, President  
Pacific Spanish Network, Inc.  
296 H Street  
Suite 300  
Chula Vista, California 91910

Gregory L. Masters, Esq.  
Marnie K. Sarver, Esq.  
Wiley Rein & Fielding LLP  
1776 K Street, N.W.  
Washington, D.C. 20006

Tom W. Davidson, Esq.  
Natalie G. Roisman, Esq.  
Akin Gump Strauss Hauer & Feld LLP  
1676 International Drive  
Penthouse  
McLean, VA 22102

James Ballis, International Bureau  
Thomas Albers, International Bureau  
Jack Yachbes, International Bureau



FEDERAL COMMUNICATIONS COMMISSION  
Enforcement Bureau  
Spectrum Enforcement Division  
445 12th Street, S.W.  
Washington, D.C. 20554

February 24, 2004

**VIA CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**  
**AND FACSIMILE**

Henry A. Solomon, Esq.,  
Garvey Schubert Barer  
1000 Potomac Street, N.W.  
Fifth Floor  
Washington, D.C. 20007

**In Reply Refer to: File No. EB-04-SE-020**

Dear Mr. Solomon:

This letter responds to, and confirms our conversation with you regarding, your February 23, 2004 request for extension of time to respond to the February 11, 2004 Letter of Inquiry issued by the Spectrum Enforcement Division of the Enforcement Bureau concerning the permit granted to Pacific Spanish Network, Inc. ("PSN") pursuant to Section 325(c) of the Communications Act of 1934 ("Act"), as amended, 47 U.S.C. § 325(c). See File No. 325-NEW-20030529-00004 (granted July 16, 2003) ("Section 325(c) permit").

We are granting PSN's request for extension of time, and requiring PSN to file its response on March 8, 2004. Our extension of time is contingent upon PSN's filing of a sworn declaration by its president Jaime Bonilla Valdez that PSN ceased providing any programming to Mexican Stations XEKTT, XESS and XEDD pursuant to the Section 325(c) permit, and will not resume provision of any programming pending resolution of the issues under investigation.

Accordingly, PSN is directed, pursuant to Sections 4(i), 4(j), and 308(b) of the Act, 47 U.S.C. §§ 154(i), 154(j), and 308(b), and the pre-designation procedures of Section 1.88 of the Commission's Rules, 47 C.F.R. § 1.88, to provide Mr. Bonilla's sworn declaration on February 25, 2004, and the information and documents specified in the Letter of Inquiry on March 8, 2004.

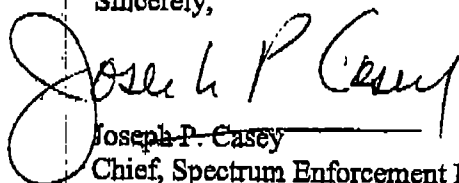
PSN should direct the sworn declaration, and responses to the Letter of Inquiry to the attention of Kathy Berthot, Deputy Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W.,

Room 7-C802, Washington, DC, 20554, and must submit its response via first class mail and facsimile to 202-418-6799.

PSN should also serve its sworn declaration and its response and supporting documentation to the Letter of Inquiry upon counsel for the petitioners, Gregory L. Masters, Esq. and Marnie K. Sarver, Esq., Wiley Rein & Fielding LLP, 1776 K Street, N.W., Washington, D.C. 20006, and Tom W. Davidson, Esq. and Natalie G. Roisman, Esq., Akin Gump Strauss Hauer & Feld LLP, 1676 International Drive, Penthouse, McLean, VA 22102, who will have ten (10) days from receipt of PSN's response to the Letter of Inquiry to file a reply.

Direct any questions regarding this investigation to Kathy Berthot at 202-418-7454 or Ava Holly Berland at 202-418-2075.

Sincerely,



Joseph P. Casey  
Chief, Spectrum Enforcement Division  
Enforcement Bureau

cc: Jaime Bonilla Valdez, President  
Pacific Spanish Network, Inc.  
296 H Street  
Suite 300  
Chula Vista, California 91910

Gregory L. Masters, Esq.  
Marnie K. Sarver, Esq.  
Wiley Rein & Fielding LLP  
1776 K Street, N.W.  
Washington, D.C. 20006

Tom W. Davidson, Esq.  
Natalie G. Roisman, Esq.  
Akin Gump Strauss Hauer & Feld LLP  
1676 International Drive  
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McLean, VA 22102

James Ballis, International Bureau  
Jack Yachbes, International Bureau



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*Please reply to* HENRY A. SOLOMON  
*hsolomon@gsblaw.com* TEL EXT 2529

February 25, 2004

Our File No. 20670-00100-60

**VIA FACSIMILE (202.418.6799) and MAIL**

Kathy Berthot, Esq.  
Deputy Chief, Enforcement Division  
Enforcement Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Room 7-C802  
Washington, DC 20554

**Reference: File No. EB-04-SE-020**

Dear Ms. Berthot:

Enclosed please find the Declaration Mr. Joseph P. Casey requested yesterday.

Respectfully submitted,

**PACIFIC SPANISH NETWORK, INC.**

By: 

Henry A. Solomon  
Its Attorney

Enclosure

cc: Gregory L. Masters, Esq.  
Marnie K. Sarver, Esq.  
Todd W. Davidson, Esq.  
Natalie G. Roisman, Esq.  
Mr. James Ballis  
Mr. Jack Yachbes

## DECLARATION

Jaime Bonilla Valdez declares and states as follows:

1. Pacific Spanish Network, Inc. (PSN), of which I am president, holds a Section 325(c) permit authorizing it to transmit over the Internet programming originated at Chula Vista, California, to three Mexican AM stations: XEKTT-AM, Jaramillo, B.C.; XESS-AM and XESDD-AM, Puerto Nuevo, B.C.
2. PSN is not transmitting program material to the abovementioned stations from its Chula Vista studios.
3. PSN was supplying program material via the Internet, to XEKTT-AM... (560 kHz), but discontinued such transmissions on February 17, 2004, after giving notice to the station that day. Copies of the notice are attached to this Declaration.
4. PSN has not supplied program material from Chula Vista, via the Internet, to XESS-AM (780 kHz), or to XESDD-AM (920 kHz).
5. Until interference and other issues identified in the FCC's February 11, 2004, investigatory letter have been resolved, PSN does not intend to resume cross-border program transmissions to XEKTT or to initiate such transmissions to XESS-AM or XESDD-AM.

I declare under penalty of perjury that the foregoing is true and correct.  
Executed this 24th day of February 2004.

  
Jaime Bonilla Valdez

Attachments

# PACIFIC SPANISH NETWORK, INC.

News Plaza Building  
296 H Street, Suite 300  
Chula Vista, Ca 91910

Off: 619-426-5645  
Fax: 619-409-4182

February 17, 2004

Hector De Isla Puga Duran  
Media Sports de Mexico, S.A. de C.V.  
Calle Naranjos No. 70  
Fracc. Cubillas, Tijuana BC

Re: XEKTT (560 kHz.)

Dear Mr. De Isla:


As you know, broadcasters in the U.S. have filed complaints with the U.S. Federal Communications Commission (FCC) in which they contend that XEKTT is causing interference to their AM stations, and that the licensing of XEKTT on 560 kHz was not coordinated under the U.S. - Mexico Agreement. PSN has been providing programming to XEKTT via the Internet from its studios at Chula Vista, California.

In view of the legal and technical issues that have been raised, PSN hereby notifies you its decision to temporarily suspend such programming to XEKTT, effective February 17, 2004 at 12:35 p.m., until the issues mentioned above have been resolved. This notice is being furnished in order to avoid a sudden disruption of service to listeners.

PSN hopes that transmissions to XEKTT can be resumed in the near future. Meanwhile, I will keep your associates advised of further developments in this matter.

Thank you for your patience and understanding.

Sincerely,

  
Jaime Bonilla Valdez  
President

cc: Henry A. Solomon, Esq.

# PACIFIC SPANISH NETWORK, INC.

News Plaza Building  
296 N Street, Suite 300  
Chula Vista, Ca 91910

Of: 619-426-5645  
Fax: 619-409-4182

17 de Febrero de 2004

Hector De Isla Puga Duran  
Media Sports de Mexico, S.A. de C.V.  
Calle Naranjos No. 70  
Fracc. Cubillas, Tijuana BC

Re: XEKT (560 kHz.)

Estimado Lic. De Isla Puga:

Como usted sabe, difusoras en los Estados Unidos han expedido quejas ante la Comisión Federal de Comunicaciones (FCC) por medio del cual sostienen que XEKT está causando interferencia a sus estaciones AM, y que la licenciatuira de la XEKT en la 560 Khz. no fue coordinada bajo el acuerdo de los Estados Unidos y México. PSN ha estado suministrando la programación a la XEKT por medio de Internet desde sus estudios en Chula Vista, California.

En vista de los asuntos legales y técnicos que han sido construidos, PSN le notifica por medio de la presente su decisión de suspender temporalmente dicha programación a XEKT, surtirá efecto el día 17 de febrero, 2004 a las 12:35 de la tarde, hasta que los asuntos en cuestión sean resueltos. Esta notificación se ha otorgado para evitar el rompimiento repentino del servicio a los radioescuchas.

PSN espera que las transmisiones a XEKT puedan ser reanudadas en un futuro cercano. Mientras tanto, yo mantendré a sus socios informados de cualquier desenvolvimiento adicional con respecto a esta cuestión.

Gracias por su paciencia y comprensión.

Atentamente

  
Jaime Bonilla Valdez  
Presidente

cc: Henry A. Solomon, Esq.



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flour mill building  
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Please reply to JOHN WELLS KING  
jking@gsblaw.com

March 8, 2004

Our File No. 20670-00100-60

Ms. Kathy Berthot  
Deputy Chief, Enforcement Division  
Enforcement Bureau  
445 12<sup>th</sup> Street, S.W. Room 7-C802  
Washington, DC 20554

**Reference: File No. EB-04-SE-020**

Dear Ms. Bethot:

Enclosed please find an original and three copies of Pacific Spanish Network Inc.'s response to your office's February 11, 2004 letter.

If you have any questions concerning the foregoing, please communicate directly with the undersigned.

Respectfully submitted,

**PACIFIC SPANISH NETWORK, INC.**

By: 

Henry A. Solomon  
Its Attorney

Enclosures

cc: Gregory L. Masters, Esq.  
Marnie K. Sarver, Seq.  
Tom W. Davidson, Esq.  
Natalie G. Roisman, Esq.  
James Ballis, International Bureau  
Thomas Albers, International Bureau  
Jack Yachbes, International Bureau

# PACIFIC SPANISH NETWORK, INC.

News Plaza Building  
286 N Street, Suite 300  
Chula Vista, Ca 91910

OT: 619-426-5645  
Fax: 619-489-4182

Ms. Kathy Berthot  
Deputy Chief, Spectrum Enforcement Division  
Enforcement Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W. Room 7-C802  
Washington, DC 20554

Re: File No. EB-04-SE-020

Pacific Spanish Network, Inc. ("PSN") hereby responds to Mr. Joseph P. Casey's February 11, 2004, letter concerning PSN's Section 325 (c) permit (the "Permit") and its permit application (the "Application"). The Permit authorizes PSN to supply Spanish language program material from its Chula Vista, California studio, over the Internet to Mexican stations XEKTT-AM, Jaramillo, Baja California, and XESS-AM, and XESDD-AM, Puerto Nuevo, B.C. <sup>1</sup>

## Answers<sup>2</sup>

### Question 1.

*Provide a response to the allegations raised in the Petition and Supplement.*

### Answer 1.

Regarding Joint Petitioners' allegation that Mexico did not send coordination notices to the U.S. as required by the U.S.-Mexican Agreement, PSN's counsel has advised PSN that the allegation appears to be true. PSN cannot provide an authoritative answer to Joint Petitioners' allegation that Mexico violated its treaty with the U.S. The question of treaty compliance is a matter for consideration by the FCC and Mexico's *Secretaria De Comunicaciones y Transportes* ("SCT").

PSN is aware that U.S. and Mexican officials and the stations' representatives are working to eliminate the alleged harmful interference to Joint Petitioners' U.S. stations and supports that objective.

<sup>1</sup> XEKTT is licensed to Jaramillo, B.C., not Tecate. The official call sign for XEDD is XESDD. XESDD and XESS are licensed to Puerto Nuevo, not Ensenada, B.C.

<sup>2</sup> PSN's February 25, 2004 Declaration discusses the current status of program service by PSN to Mexican stations from the U.S.

Question 2.

*Explain the basis for PSN's representation in its May 2003, application for a Section 325 (c) permit to supply program material to Station XEKTT that Station XEKTT was authorized by the Mexican government to operate on frequency 550 kHz. Provide copies of any documents relating to the issue of whether Station XEKTT was authorized to operate on frequency 550 kHz at the time PSN filed its Application. In addition, describe what efforts, if any, PSN made prior to filing its application in order to verify whether the operation of Station XEKTT on frequency 550 kHz had been coordinated with, and approved by, the Commission in accordance with the U.S.-Mexican Agreement. Provide any documentation reflecting such efforts.*

Answer 2.

PSN's Application did not represent that Mexico authorized Station XEKTT to operate on 550 kHz. Prior to filing the Application, PSN did not verify whether operation on 550 kHz. had been coordinated with, or approved by the FCC in accordance with the U.S. - Mexican Agreement. PSN was unaware that an applicant for a Section 325(c) authorization was required to make such an inquiry.

Documentation: Exhibit A. Copy of Application filed with FCC on May 16, 2003.

Question 3.

*State the date on which PSN first became aware that XEKTT was operating on 560 kHz. In addition, describe what efforts, if any, PSN made at that time to verify whether the operation of Station XEKTT on frequency 560 kHz had been coordinated with, and approved by, the Commission in accordance with the U.S.-Mexican Agreement.*

Answer 3.

Approximately mid-November, 2003.

PSN did not verify whether operations on 560 kHz had been coordinated with and approved by, the Commission, and was unaware that an applicant for a Section 325(c) authorization was required to make such an inquiry.

Documents: None.

Question 4.

*State whether PSN continued to supply program material to XEKTT after it became aware that Station XEKTT had commenced operating on frequency 560 kHz. If so, explain the basis for PSN's belief that it was authorized to do so.*

Answer 4.

Yes. PSN believed that its Permit authorized it to continue supplying programs to the station.

Question 5.

*State the date on which PSN first became aware that the operation of Station XEKTT on frequency 560 kHz is causing interference to the reception of licensed U.S. broadcast stations. In addition, state whether PSN continued to supply program material to Station XEKTT after it became aware that Station XEKTT is causing interference to the reception of licensed U.S. broadcast stations. If so, explain the basis for PSN's belief that it was authorized to do so.*

Answer 5.

On January 16, 2004, PSN first became aware of Joint Petitioners' "Petition to Rescind Authorization," which alleged that XEKTT was causing interference to their AM stations. That pleading included a copy of Joint Petitioners' December 24, 2003, "Request for Action to Eliminate Interference." PSN had not been served with the Request when it was initially filed.

PSN continued to supply programs to XEKTT after learning of the alleged interference because it was unaware of any FCC requirement that it discontinue service to that station.

Question 6.

*Explain the basis for PSN's representation in its May 16, 2003 application for a Section 325 (c) permit to supply program material to Station XESS that Station XESS was authorized by the Mexican government to operate on frequency 780 kHz. Provide copies of any documents relating to the issue of whether Station XESS was authorized to operate on frequency 780 kHz at the time PSN filed its application. In addition, describe what efforts, if any, PSN made prior to filing its application in order to verify whether the operation of Station XESS on frequency 780 kHz had been coordinated with, and approved by, the Commission in accordance with the U.S.-Mexican Agreement. Provide any documentation reflecting such efforts.*

Answer 6.

PSN's Application did not represent that the SCT had authorized XESS to broadcast on 780 kHz. PSN did verify whether XESS's proposed operation had been coordinated and approved by the FCC, in accordance with the U.S. - Mexican Agreement. PSN was unaware that an applicant for a Section 325(c) authorization was required to make such an inquiry.

Documents: Exhibit B. Copy of Application filed with FCC on May 16, 2003.

Question 7.

*Explain the basis for PSN's representation in its May 16, 2003 application for a Section 325(c) permit to supply program material to Station [XESDD] that Station [XESDD] was authorized by*

*the Mexican government to operate on frequency 920 kHz. Provide copies of any documents relating to the issue of whether Station [XESDD] was authorized to operate on frequency 920 kHz at the time PSN filed its application. In addition, describe what efforts, if any, PSN made prior to filing its application in order to verify whether the operation of Station [XESDD] on frequency 920 kHz had been coordinated with, and approved by, the Commission in accordance with the U.S.-Mexican Agreement. Provide any documentation reflecting such efforts.*

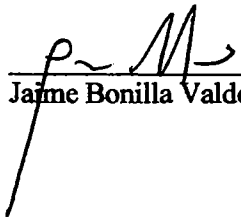
Answer 7.

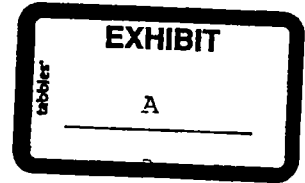
When PSN applied for the Permit, XESDD was already operating on 920 kHz. To PSN's knowledge, XESDD had been operating on 920 kHz for at least a decade. To PSN's knowledge, the station never operated on 1560 kHz, as stated in the Casey letter. At the time it filed its Application, PSN understood that XESDD would be seeking SCT authority to upgrade its facilities to 20 Kw daytime power and 10 Kw nighttime power. PSN did not verify whether XESDD's planned upgrade had been coordinated with and approved by the FCC under the U.S. - Mexican Agreement

Documents. Exhibit C. Copy of Application filed with FCC on May 16, 2003.

**DECLARATION**

I declare under penalty of perjury that the foregoing is true and correct. Executed March 5, 2004.

  
\_\_\_\_\_  
Jaime Bonilla Valdez



**PACIFIC SPANISH NETWORK, INC**

296 H Street-Second Floor  
Chula Vista, California 91910

May 16, 2003

**COPY**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
C/o Visitronix, Inc.  
236 Massachusetts Avenue, NE, Suite 220  
Washington, DC 20002

**Re: Pacific Spanish Network, Inc.**  
Application for Permit to Deliver Programs to Foreign (Mexican)  
Broadcast Station XEKT, Ensenada, B.C.  
325-NEW-[to be assigned]

Dear Ms. Dortch:

On behalf of Pacific Spanish Network, Inc. ("Pacific") permittee of FM commercial broadcasting station KCHC, Willows, California (Facility Id# 83886), Pacific respectfully requests a permit for the purpose of supplying programming material to a foreign broadcast station pursuant to 47 U.S.C. § 325 (c).

The particulars are as follows:

1. Applicant Name: Pacific Spanish Network, Inc., a California corporation.
2. Studio Location: 296 H Street, Suite 300, Chula Vista, CA 91910.
3. Foreign Station Call Sign: XEKT
4. Foreign Station Frequency: 550 kHz
5. Foreign Station Location: Tecate, B.C., Mexico
6. Means of Delivery: The Internet
7. Programming: Music, talk and other entertainment and informational programming in Spanish.

Accompanying this request is a filing fee check for Eighty Dollars (\$80.00).

Should you have any questions concerning this request please communicate with counsel for the undersigned:

Henry A. Solomon, Esq.  
Garvey Schubert Barer  
1000 Potomac Street, NW Fifth Floor  
Washington, DC 20007-35022  
Telephone: 202.298.2529  
Telecopier: 202.967.1729  
E-mail: [hsolomon@gsblaw.com](mailto:hsolomon@gsblaw.com)

Thank you for your consideration.

Respectfully submitted,

**PACIFIC SPANISH NETWORK, INC.**

By: \_\_\_\_\_

Jaime Bonilla Valdez  
President

cc: Mr. Thomas N. Albers-FCC

**PACIFIC SPANISH NETWORK, INC**

296 H Street-Second Floor  
Chula Vista, California 91910



May 16, 2003

**COPY**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
C/o Visitronix, Inc.  
236 Massachusetts Avenue, NE, Suite 220  
Washington, DC 20002

**Re: Pacific Spanish Network, Inc.**  
Application for Permit to Deliver Programs to Foreign (Mexican)  
Broadcast Station XESS, Ensenada, B.C.  
325-NEW-[to be assigned]

Dear Ms. Dortch:

On behalf of Pacific Spanish Network, Inc. ("Pacific") permittee of FM commercial broadcasting station KCHC, Willows, California (Facility Id# 83886), Pacific respectfully requests a permit for the purpose of supplying programming material to a foreign broadcast station pursuant to 47 U.S.C. § 325 (c).

The particulars are as follows:

1. Applicant Name: Pacific Spanish Network, Inc., a California corporation.
2. Studio Location: 296 H Street, Suite 300, Chula Vista, CA 91910.
3. Foreign Station Call Sign: XESS
4. Foreign Station Frequency: 780 kHz
5. Foreign Station Location: Ensenada, B.C., Mexico
6. Means of Delivery: The Internet
7. Programming: Music, talk and other entertainment and informational programming in Spanish.

Accompanying this request is a filing fee check for Eighty Dollars (\$80.00).

Should you have any questions concerning this request please communicate with  
counsel for the undersigned:

Henry A. Solomon, Esq.  
Garvey Schubert Barer  
1000 Potomac Street, NW Fifth Floor  
Washington, DC 20007-35022  
Telephone: 202.298.2529  
Telecopier: 202.967.1729  
E-mail: [hsolomon@gsblaw.com](mailto:hsolomon@gsblaw.com)

Thank you for your consideration.

Respectfully submitted,

**PACIFIC SPANISH NETWORK, INC.**

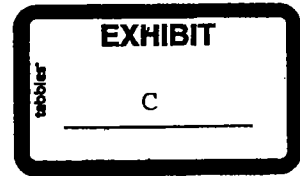
By: \_\_\_\_\_

Jaime Bonilla Valdez  
President

cc: Mr. Thomas N. Albers-FCC

**PACIFIC SPANISH NETWORK, INC**

296 H Street-Second Floor  
Chula Vista, California 91910



May 16, 2003

**COPY**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
C/o Visitronix, Inc.  
236 Massachusetts Avenue, NE, Suite 220  
Washington, DC 20002

**Re: Pacific Spanish Network, Inc.**  
Application for Permit to Deliver Programs to Foreign (Mexican)  
Broadcast Station XEDD, Ensenada, B.C.  
325-NEW-[to be assigned]

Dear Ms. Dortch:

On behalf of Pacific Spanish Network, Inc. ("Pacific") permittee of FM commercial broadcasting station KCHC, Willows, California (Facility Id# 83886), Pacific respectfully requests a permit for the purpose of supplying programming material to a foreign broadcast station pursuant to 47 U.S.C. § 325 (c).

The particulars are as follows:

1. Applicant Name: Pacific Spanish Network, Inc., a California corporation.
2. Studio Location: 296 H Street, Suite 300, Chula Vista, CA 91910.
3. Foreign Station Call Sign: XEDD
4. Foreign Station Frequency: 920 kHz
5. Foreign Station Location: Ensenada, B.C., Mexico
6. Means of Delivery: The Internet
7. Programming: Music, talk and other entertainment and informational programming in Spanish.

Accompanying this request is a filing fee check for Eighty Dollars (\$80.00).

