

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

\_\_\_\_\_)  
In re Application of )  
The Association for Community Education, Inc. ) File No. BPFT-960910TB  
For a New FM Translator Station on Channel )  
211 in Santa Ana, California )  
\_\_\_\_\_)

To: Chief, Audio Services Division

MOTION TO DISMISS OR, IN THE ALTERNATIVE, PETITION TO DENY

Santa Monica Community College District ("SMCCD"), acting pursuant to Sections 73.3584 and 74.1233 of the Commission's rules, hereby moves for the dismissal of the application filed by The Association for Community Education, Inc. ("ACE") for a new FM translator station to operate on Channel 211 in Santa Ana, California. In the alternative, SMCCD petitions for a denial of ACE's application. In support of the foregoing relief, the following is stated:

1. SMCCD is the licensee of noncommercial educational Station KCRW(FM) in Santa Monica, California.

2. As documented in the attached Affidavit of John J. Davis, SMCCD's consulting engineer, the signal of KCRW(FM) is "regularly received in the Santa Ana area . . ." Davis Affidavit at 2.

3. As further demonstrated in Davis' attached Affidavit, ACE's proposed translator operation "will cause interference to the signal of KCRW . . ." Davis Affidavit at 1.

4. As Davis explains, there are 1,063 subscribers of KCRW(FM) who listen to KCRW(FM) and fall within the area of interference that will be created by ACE's proposed translator operation.

5. The Commission has long held that "the proper role for FM translators remains as a secondary service supplementing the service of FM radio broadcast stations." Amendment of Part 74 of the Commission's Rules concerning FM Translators Stations, 8 FCC Rcd 5093 (1993). Accordingly, the Commission promulgated changes to its rules in 1990 "to ensure that the translator service does not adversely affect the operation of FM radio broadcast stations." *Id.* Among other rule changes adopted in 1990, the Commission added a new section 74.1204(f) which states as follows:

An application for an FM translator station will not be accepted for filing even though the proposed operation would not involve overlap of field strength contours with any other station, as set forth in (a) of this section, if the predicted 1 mV/m field strength contour of the

FM translator station will overlap a populated area already receiving a regularly used, off-the-air signal of any authorized co-channel first, second or third adjacent channel broadcast station, including Class D (secondary) noncommercial educational FM stations, and grant of the authorization will result in interference to the reception of such signal.

47 C.F.R. § 1204(f). The Commission explained in 1990 that the foregoing subsection precludes a "grant [of] an application if an objecting party provides convincing evidence that the proposed translator station would be likely to interfere with the reception of a regularly received off-the-air existing service, even if there is no predicted prohibited overlap." Amendment of Part 74 of the Commissions' Rules Concerning FM Translator Stations, 5 FCC Rcd 7212, 7230 (1990), aff'd, Amendment of Part 74 of the Commission's Rules Concerning FM Translator Stations, supra.


6. As detailed in Davis' attached Affidavit, SMCCD operates KCRW(FM) on the first adjacent channel (Channel 210) to the channel proposed for ACE's translator station. Subsection 74.1204(f) therefore requires that ACE's translator application be dismissed as not in accord with applicable rules. See 47 C.F.R. § 73.3564(b) (acceptance of an application by the staff "will not preclude the subsequent dismissal of the application if it is found to be patently not in accordance in with the FCC's rules"). In the alternative, ACE's application should be denied since the requisite public interest finding cannot be made under Section 309(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 309(a).

WHEREFORE, in view of the foregoing, it is respectfully requested that ACE's application be dismissed or, in the alternative, denied.

Respectfully submitted,

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Attorneys for Santa Monica Community  
College District

By:   
Lewis J. Paper

ENGINEERING EXHIBIT

PETITION TO DENY  
THE APPLICATION OF  
ASSOCIATION FOR COMMUNITY EDUCATION, INC.  
FOR A NEW FM TRANSLATOR STATION  
TO SERVE  
SANTA ANA, CALIFORNIA  
CHANNEL 211, 90.1 MHz

FCC FILE NO. BPFT-960910TB

PREPARED FOR:

SANTA MONICA COMMUNITY COLLEGE DISTRICT  
1900 PICO BOULEVARD  
SANTA MONICA, CALIFORNIA 91405

DECEMBER 10, 1996

PREPARED BY:

JOHN J. DAVIS  
CONSULTING ENGINEER  
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## 1.0 INTRODUCTION:

This Engineering Exhibit was prepared for SANTA MONICA COMMUNITY COLLEGE DISTRICT, licensee of Non-Commercial Educational Station KCRW in Santa Monica, California, to support its petition to deny the application of the Association for Community Education, Inc. ("Community") for construction permit for a new FM translator station to serve Santa Ana, California on Channel 211 (90.1 MHz) [FCC File No. BPFT-960910TB]. Community proposes to use the translator to rebroadcast the programming of KMRO in Camarillo, California.

It will be shown that the proposed translator will cause interference to the signal of KCRW, which operates on the first adjacent channel, Channel 210 (89.9 MHz), which is regularly received in the Santa Ana area.

## 2.0 INTERFERENCE CONSIDERATIONS:

While Community's proposed Santa Ana translator does not involve any interference contour overlap with the KCRW 60 dBu protected contour, Section 74.1204(f) of the Rules states:

"An application for an FM translator station will not be accepted for filing even though the proposed operation would not involve overlap of field strength contours with any other station, as set forth in paragraph (a) of this section, if the predicted 1 mV/m field strength contour of the FM translator station will overlap a populated area already receiving a regularly used, off-the-air signal of any authorized co-channel, first, second or third adjacent channel broadcast station, including Class D (secondary) noncommercial educational FM stations and grant of the authorization will result in interference to the reception of such signal" (emphasis added).

The KCRW signal is regularly received in the Santa Ana area and Community's proposed translator will interfere with the reception of the KCRW signal in this area. Figure 1 shows the interference area<sup>1</sup> around Santa Ana. This interference area was determined to be 1,491 square km and the population within this area is 899,107 persons (1990 Census). The KCRW subscriber database<sup>2</sup> revealed that within this interference area there are 1,063 subscribers who regularly listen to KCRW. All of these subscribers will be adversely affected by the proposed translator.

### 3.0 SUMMARY:

Community's proposed FM translator will cause interference to the regularly received signal of first adjacent channel station KCRW and, therefore, must be denied.

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<sup>1</sup> Interference area is defined as the area where the undesired signal is 6 dB greater than the desired signal.

<sup>2</sup> These are active paid-up listener/subscribers whose names and addresses will be provided to the Commission upon request.

PETITION TO DENY  
APPLICATION FOR A NEW FM TRANSLATOR TO SERVE SANTA ANA, CA  
FILED BY ASSOCIATION FOR COMMUNITY EDUCATION, INC.

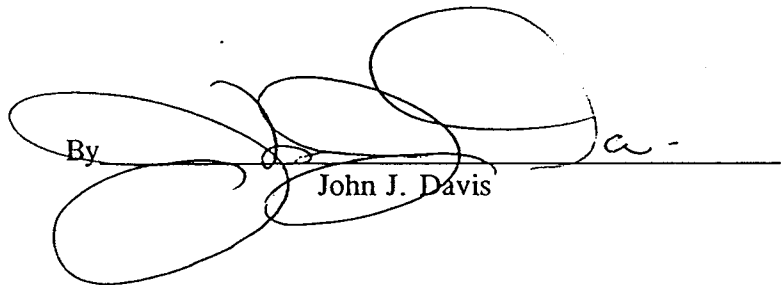
PREPARED FOR  
SANTA MONICA COMMUNITY COLLEGE DISTRICT  
1900 PICO BOULEVARD  
SANTA MONICA, CALIFORNIA

4.0

AFFIDAVIT

STATE OF CALIFORNIA        )  
  )        ss:  
COUNTY OF LOS ANGELES    )

JOHN J. DAVIS, does hereby swear that he is a consulting electronics engineer with offices in Sierra Madre, California; that he is a Registered Professional Engineer in the State of California; that his qualifications as an expert in radio engineering are a matter of record with the Federal Communications Commission; that the foregoing engineering statement was prepared by him or under his direction; and that the statements contained therein are true of his own knowledge and belief, and as to those statements prepared under his direction, he verily believes them to be true and correct.

By  \_\_\_\_\_  
John J. Davis

December 10, 1996






CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of December, 1996, the foregoing  
**MOTION TO DISMISS OR, IN THE ALTERNATIVE, PETITION TO DENY**  
was sent via first class mail, postage prepaid to:

Philip C. Guthrie, President  
The Association for Community  
Education, Inc.  
2301 Ponderosa Drive, Suite 28  
Camarillo, CA 93010



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Pamela M. DuBost



PETITION TO DENY  
 PROPOSED NEW FM TRANSLATOR  
 CHANNEL 210.89.9 MHz  
 VISTA, CALIFORNIA

FIGURE 1

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of January, 1997, the foregoing MOTION TO DISMISS OR, IN THE ALTERNATIVE, PETITION TO DENY was sent via first class mail, postage prepaid to:

Mr. Daniel Seagraves, Chairman  
Stockton Christian Life College, Inc.  
P.O. Box 8744  
Stockton, CA 95208



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Pamela M. DuBost