IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

In re: Foundation for a Beautiful Life, Inc., Petitioner.	)	No. 20-1159

OPPOSITION OF FEDERAL COMMUNICATIONS COMMISSION TO EMERGENCY MOTION FOR STAY PENDING REVIEW

The Court should deny the motion for stay filed by Foundation for a Beautiful Life, Inc. (FBL). FBL has no right to operate a radio station in northern California because it has never obtained a license from the Federal Communications Commission to do so.

The FCC issued a permit for FBL to construct a low-power FM radio station in Cupertino, California. But FBL inexplicably built its station in Saratoga, California, several miles away. FBL's Cupertino construction permit expired in 2018, and its related application for a broadcast license was dismissed in 2019.

On March 20, 2020, FBL asked the Commission for Special Temporary Authority (STA) to operate its station to provide information on Covid-19 to the Mandarin-speaking community of Cupertino. Without waiting for Commission action on its request (which had not properly been submitted), FBL began broadcasting on March 27, 2020. By letter dated April 16, 2020, the Commission's Media Bureau dismissed FBL's STA request as procedurally

defective and, in the alternative, denied the request on the merits. The Bureau also ordered FBL to cease operating the station immediately.

Invoking the All Writs Act, 28 U.S.C. § 1651, FBL seeks a stay of the Bureau's April 2020 letter ruling in the form of "preliminary injunctive relief" (Mot. 4) to allow it to broadcast while the Commission considers its application for review of the Bureau's ruling. Mot. 1. Such extraordinary relief is unwarranted here. FBL has utterly failed to demonstrate a likelihood that it will prevail in its challenge to the Bureau's decision. Given the company's clear and repeated flouting of FCC rules and procedures, the Bureau was fully justified in refusing to authorize FBL to operate the station. Nor has FBL shown that it will suffer irreparable harm without a stay. Finally, a stay would undermine the substantial public interest in preventing unauthorized use of the broadcast spectrum. For all of these reasons, the motion for stay should be denied.

BACKGROUND

In May 2015, FBL obtained a permit from the FCC's Media Bureau to construct a low-power FM radio station in Cupertino, California, at coordinates corresponding to a high voltage electric distribution tower operated by Pacific Gas & Electric, Inc. (PG&E). The permit required completion of construction at the PG&E site by May 19, 2018. *See* Mot. Exh. G (Oct. 7, 2019 Letter Ruling) at 1.

On May 18, 2018, FBL filed a license application certifying that it constructed the station (KQEK-LP) as authorized. After some parties filed objections with the Commission regarding the accuracy of that certification, FBL admitted that it had in fact constructed the station 3.5 miles from the PG&E site, at a residence on Apollo Heights Court in Saratoga, California. *See* Mot. Exh. G (Oct. 7, 2019 Letter Ruling) at 1-2. When this discrepancy came to light, FBL—which had begun broadcasting from the Saratoga site after construction was completed—ceased operation of the station on May 29, 2018. Mot. Exh. D (FBL Motion for Administrative Stay, April 29, 2020) at 3.

FBL then filed a belated application to modify its construction permit to authorize construction and operation at the Saratoga site. The Media Bureau determined that operation of FBL's station at that location would cause interference to a station in San Francisco, KRZZ(FM). Consequently, on September 28, 2018, the Bureau dismissed FBL's application to modify the construction permit. Mot. Exh. E (September 28, 2018 Letter Ruling).

Several months later, the Bureau dismissed FBL's license application and deleted the call sign for its station from the FCC database. Mot. Exh. F (March 28, 2019 Letter Ruling) at 7. It found that the "constructed facilities were not similar to those authorized" by the construction permit, and that FBL had offered "no reasonable basis for its claimed belief that it held a permit for the erroneous

construction." *Ibid*. The Bureau went on to conclude that because FBL did not timely complete construction of facilities authorized by the construction permit, the permit "expired automatically on its own terms on May 19, 2018." *Ibid*. (citing 47 C.F.R. § 73.3598(e)). The Bureau also dismissed as moot FBL's petition for reconsideration of the dismissal of the modification application. In the Bureau's view, that application was "void *ab initio*" because it sought to modify a construction permit that had already expired. *Ibid*.

The Bureau later denied FBL's petition for reconsideration of the dismissal of its license application and dismissed as procedurally improper FBL's request for further reconsideration of the dismissal of its modification application. Mot. Exh. G (October 7, 2019 Letter Ruling) at 4-9. FBL then applied to the full Commission for review of the Bureau's actions. Mot. Exh. H (Application for Review, November 6, 2019). That application for review remains pending.

On March 12, 2020, FBL filed, as a supplement to its pending application for review, a document that purported to be an "Application for Special Temporary Authority to Resume Broadcasting." Mot. Exh. C (STA Application, March 12, 2020). This document, however, did not comply with the FCC's requirements for electronic filing of STA requests, *see* https://www.fcc.gov/media/radio/special-temporary-authority, because it was not filed as a stand-alone STA request through the Media Bureau's CDBS system. *See* https://www.fcc.gov/media/filing-systems-

and-databases. "Because of the defective nature of the filing, its existence was not known to the Commission staff that reviews STA requests submitted for proposed radio operations." Mot. Exh. B (April 16, 2020 Letter Ruling) at 2.

Fifteen days later, before the relevant FCC staff became aware of FBL's STA request, FBL informed the Commission that it had "resumed broadcasting" on March 27, 2020 to provide "news and information about the COVID-19 pandemic to the Mandarin speaking population in and around Cupertino." Mot. Exh. K (March 27, 2020 Letter) at 1. Claiming that its station was "uniquely positioned" to provide "Mandarin broadcast service" in the Cupertino area, FBL asserted that it was "in the public interest for [FBL] to resume broadcasting rather than await action by the Commission on the STA Application." *Id*. at 5.

By letter dated April 16, 2020, the Media Bureau directed FBL "TO CEASE OPERATION IMMEDIATELY." Mot. Exh. B (April 16, 2020 Letter Ruling) at 1. The Bureau found that FBL had "no authorization from the Commission to broadcast" and was "broadcasting with unauthorized facilities." *Ibid*.

The Bureau further observed that FBL "did not properly file a request for Special Temporary Authority" because it attached its request to an application for review, instead of filing it as an independent submission through the Bureau's CDBS system. Mot. Exh. B (April 16, 2020 Letter Ruling) at 2. It therefore dismissed FBL's procedurally "defective" STA request. *Id*. at 3. In the

alternative, the Bureau concluded that even if FBL's STA request had been properly filed, the request must be denied because FBL had no right to broadcast from the unauthorized Saratoga site. *Id*. at 2-3.

FBL asserted a "right" to broadcast under section 307(c)(3) of the Communications Act, 47 U.S.C. § 307(c)(3), which allows an existing licensee of a radio station to continue broadcasting while a license renewal application is pending. The Bureau explained that FBL's reliance on section 307(c)(3) was "unfounded because that provision concerns license renewal applications," and FBL (having never obtained a license) could not apply for license renewal. Mot. Exh. B (April 16, 2020 Letter Ruling) at 2.

The Bureau also rejected FBL's contention that it had a "right" to broadcast until the dismissal of its license application and modification application became final (*i.e.*, until the Commission ruled on FBL's application for review). The Bureau noted that under section 1.102(b) of the Commission's rules, 47 C.F.R. § 1.102(b), "an order of the Commission's staff under delegated authority takes effect, notwithstanding lack of finality, upon release of the document or upon release of a public notice announcing the action taken." Mot. Exh. B (April 16, 2020 Letter Ruling) at 2.

Finally, responding to FBL's argument that its broadcasts of Covid-19 information in Mandarin serve the public interest and are endorsed by local

officials, the Bureau cited a 2008 Commission order holding that "support of local officials and alleged public safety benefits do not justify unauthorized broadcasts." Mot. Exh. B (April 16, 2020 Letter Ruling) at 2-3 (citing *A-O Broadcasting Corp.*, 23 FCC Rcd 603 (2008)). On April 17, 2020, in response to the Bureau's April 16 letter ruling, FBL ceased broadcasting from its Saratoga site. Mot. 10.

On April 29, 2020, FBL filed with the Commission an application for review (Mot. Exh. A) and a motion for administrative stay (Mot. Exh. D) of the Bureau's April 2020 letter ruling. The application and motion remain pending.

ARGUMENT

The Court has construed FBL's motion for stay "as a petition for writ of mandamus." Order, May 22, 2020. To obtain a writ of mandamus, FBL "must demonstrate that [its] right to issuance of the writ is clear and indisputable," and that it has "no other adequate means to attain the relief" it seeks. *In re Hawsawi*, 955 F.3d 152, 156 (D.C. Cir. 2020) (internal quotation marks omitted). FBL has not come close to carrying this heavy burden.

FBL is not entitled to the extraordinary remedy of a stay pending review unless it demonstrates that (1) it will likely prevail on the merits, (2) it will suffer irreparable harm without a stay, (3) a stay will not harm other parties, and (4) a stay will serve the public interest. *Nken v. Holder*, 556 U.S. 418, 434 (2009). FBL has failed to satisfy any of these prerequisites.

I. FBL Has Not Shown That It Is Likely To Prevail On The Merits

FBL's challenge to the Media Bureau's April 2020 letter ruling is almost certain to fail. The Bureau had compelling reasons to reject FBL's STA request and to order FBL to cease operation of its station. FBL's inability to demonstrate a likelihood of success on the merits is "an arguably fatal flaw" that by itself should preclude grant of its stay request. *Citizens for Responsibility and Ethics in Washington v. FEC*, 904 F.3d 1014, 1019 (D.C. Cir. 2018).

FBL has repeatedly violated the FCC rules and procedures governing the construction and operation of radio stations. *See* Mot. Exh. B (April 16, 2020 Letter Ruling) at 1-2. Not only did FBL fail to comply with the terms of its construction permit by building its station *several miles* from the site authorized by the permit; FBL began broadcasting on March 27, 2020, even though it had no station license or FCC authorization to do so.

As this Court has recognized, "[a]ny unlicensed broadcasting demonstrates a willful disregard of the most basic rule of federal broadcasting regulation." *Ruggiero v. FCC*, 317 F.3d 239, 247 (D.C. Cir. 2003) (en banc). Once the Media Bureau learned that FBL was broadcasting without FCC authorization in March 2020, it properly directed FBL "TO CEASE OPERATION IMMEDIATELY." Mot. Exh. B (April 16, 2020 Letter Ruling) at 1.

The Bureau also correctly concluded that FBL's STA request was procedurally "defective," Mot. Exh. B (April 16, 2020 Letter Ruling) at 2-3, since it had been filed as a supplement to an application for review and not as a stand-alone request on the Bureau's CDBS system. In any event, the Bureau had ample reason to deny the request on the merits.

In assessing whether an entity is qualified to hold a broadcast license, the FCC has long been "concerned with misconduct which violates the Communications Act or a Commission rule or policy." *Policy Regarding Character Qualifications in Broadcast Licensing*, 102 FCC 2d 1179, 1190 ¶ 23 (1986). Such "FCC-related violations" raise possible "concerns over [a potential] licensee's future truthfulness and reliability." *Id*. at 1209-10 ¶ 57. In this case, given FBL's multiple violations of FCC rules and procedures, the Bureau was justified in concluding that FBL should not receive even temporary authorization to broadcast. Two of FBL's violations were especially serious. First, FBL violated the terms of its construction permit by building its station in Saratoga (not Cupertino), at a location three and a half miles from the site authorized by the permit. Then, on March 27, 2020, FBL began broadcasting from the Saratoga site without FCC authorization. Confronted with this "willful disregard of the most

basic rule of federal broadcasting regulation," *Ruggiero*, 317 F.3d at 247, the Bureau rightly rejected FBL's STA request.[1]

FBL challenges the Bureau's April 2020 letter ruling on two grounds. First, FBL maintains that it has a "right" to broadcast until the Bureau's ruling becomes final and unappealable. Mot. 11-14. Second, it contends that the Bureau failed to consider its argument that its Mandarin broadcasts serve the public interest. Mot. 14-18. Neither claim has merit.

A. FBL Has No "Right" To Broadcast

Citing section 558(c) of the Administrative Procedure Act (APA), 5 U.S.C. § 558(c), and section 307(c) of the Communications Act, 47 U.S.C. § 307(c), FBL asserts that it has a statutory "right to broadcast until the order directing it to cease broadcasting is final and unappealable." Mot. 11. Insofar as FBL claims such a "right" under section 558(c) of the APA, that claim is barred here because FBL did not first present the issue to the Commission. *See* 47 U.S.C. § 405(a); *Nueva Esperanza, Inc. v. FCC*, 863 F.3d 854, 860-61 (D.C. Cir. 2017). In any event,

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[1] FBL complains that "the Bureau treated FBL as if it was a pirate radio station." Mot. 21. To the contrary, the Bureau did not treat FBL as harshly as it treats broadcast pirates, which are typically subject to monetary penalties. But such treatment would have been entirely appropriate. Just like a pirate radio station, FBL chose to begin broadcasting even though it had no FCC license or other authorization to do so. *See Ruggiero*, 317 F.3d at 246 ("broadcast pirates, by definition," violate "the requirement of obtaining a broadcast license" before they begin broadcasting).

neither the APA nor the Communications Act gives FBL any "right" to broadcast without a license.

Section 558(c) of the APA applies only to "the withdrawal, suspension, revocation, or annulment of a license." Mot. 11 (quoting 5 U.S.C. § 558(c)). "By its terms," that provision "does not apply" to FBL, which "is not a licensee." *Kay v. FCC*, 525 F.3d 1277, 1278 (D.C. Cir. 2008) (internal quotation marks omitted). FBL has never held a license that could be withdrawn, suspended, revoked, or annulled.

FBL contends that section 558(c) of the APA "should be applicable here" because FBL is a "construction permit holder." Mot. 11 n.8. But FBL's construction permit expired in 2018, and this Court has held that section 558(c) does not apply to a construction permit that expired by its own terms on a specified date. *See Miami MDS Co. v. FCC*, 14 F.3d 658, 659-60 (D.C. Cir. 1993); *see also* 47 U.S.C. § 319(b) (a construction permit for a broadcast station "will be automatically forfeited if the station is not ready for operation within the time specified").

FBL also purports to find support for its "right" to broadcast in section 307(c)(3) of the Communications Act, which provides that licenses shall continue in effect pending the final disposition of any application for renewal. Mot. 12-13. But as the Bureau noted, section 307(c)(3) does not apply to FBL because that

provision "concerns license renewal applications," and FBL—which has never been licensed—could not possibly apply for license renewal. Mot. Exh. B (April 16, 2020 Letter Ruling) at 2.

FBL contends that while section 307(c)(3) "is silent with respect to an applicant in [FBL's] situation," Mot. 12, the statute "provides guidance to the Commission that it should give great consideration and review before ordering a station off the air," Mot. 13. FBL misreads section 307(c)(3), which expressly refers to "contin[uing] such license in effect." 47 U.S.C. § 307(c)(3). Because FBL never had a license, it was never properly "on the air," and thus there was no license to "continue." Nor can FBL claim any entitlement to "resume broadcasting" because it commenced operation without authorization. *See id.* § 301 (no person shall broadcast "except under and in accordance with [the Communications Act] and with a license in that behalf granted under the provisions of this Act").[2]

In any event, if Congress had wanted to establish a "right" for an applicant like FBL to broadcast from a station that violates the terms of a construction permit, it presumably would have addressed that subject in section 319 of the

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[2] As the Bureau pointed out, FBL never even "had valid program test authority to operate" its station upon completion of construction because it failed to build its station "in accordance with the terms and conditions" of its construction permit before the permit expired. Mot. Exh. B (April 16, 2020 Letter Ruling) at 2 (citing 47 C.F.R. §§ 73.801, 73.1620(a)).

Communications Act, which governs construction permits. *See* 47 U.S.C. § 319. But section 319 contains no provision analogous to section 307(c)(3). And "where Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion." *Government of Guam v. United States*, 950 F.3d 104, 114 (D.C. Cir. 2020) (quoting *Russello v. United States*, 464 U.S. 16, 23 (1983)).

In short, FBL has no basis for asserting a "right" to broadcast while it appeals the Bureau's denial of its STA request. Section 1.102(b) of the FCC's rules provides that "an order of the Commission's staff under delegated authority takes effect, notwithstanding lack of finality, upon release of the document or upon release of a public notice announcing the action taken." Mot. Exh. B (April 16, 2020 Letter Ruling) at 2 (citing 47 C.F.R. § 1.102(b)).[3]

B. The Bureau Properly Considered FBL's Public Interest Arguments

In support of its STA request, FBL asserted that such authorization would advance the public interest by allowing FBL to broadcast news and information

[3] The fact that the Commission may protect FBL's call sign from use by other parties during the pendency of its appeal is a product of the Commission's reasonable policy judgment to decline to "issue conflicting authorizations for any facilities that might impair, or appear to impair, a fair and impartial review." Letter to Silver State Broadcasting (January 8, 2020) (Mot. Exh. I.) That policy (which FBL did not raise before the Bureau) does not give a station a right to broadcast without a license. FBL's claim to the contrary (Mot. 14) lacks merit.

about Covid-19 to the Mandarin-speaking population in the Cupertino area. FBL argues that the Media Bureau failed to consider FBL's claims concerning the public interest benefits of its Mandarin broadcasts. Mot. 14-15. That contention is baseless.

The Bureau expressly acknowledged "FBL's desire to broadcast pandemic-related information in Mandarin to the Chinese American community" in the Cupertino area. Mot. Exh. B (April 16, 2020 Letter Ruling) at 2. FBL claims that when the Bureau ordered FBL off the air, it "gave **no** weight" to the public interest benefits of FBL's Mandarin broadcasts. Mot. 15. That is incorrect. The Bureau considered the "alleged public safety benefits" of FBL's broadcasts; it simply determined that those alleged benefits were outweighed by the public interest in preventing "unauthorized broadcasts." Mot. Exh. B (April 16, 2020 Letter Ruling) at 2-3.

Courts rightly "afford 'substantial judicial deference' to the FCC's judgments on the public interest." *MetroPCS California, LLC v. FCC*, 644 F.3d 410, 412-13 (D.C. Cir. 2011) (quoting *FCC v. WNCN Listeners Guild*, 450 U.S. 582, 596 (1981)). And the Commission has long held that the "support of local officials and alleged public safety benefits do not justify unauthorized broadcasts." Mot. Exh. B (April 16, 2020 Letter Ruling) at 2-3 (citing *A-O Broadcasting Corp.*, 23 FCC Rcd 603 (2008)). That conclusion is fully consistent with the

Communications Act. "An unauthorized transmission is neither condoned nor recognized by the Act. Rather, it is prohibited." *Eagle Broad. Grp., Ltd. v. FCC*, 563 F.3d 543, 553 (D.C. Cir. 2009).

FBL contends that *A-O Broadcasting* is distinguishable from this case. Mot. 16-18. Not so. In *A-O Broadcasting*, the Commission denied A-O's STA request because "A-O no longer held a permit or license" for its station. 23 FCC Rcd at 613 ¶ 20. The Commission noted that its "rules specify that authority to operate a station pursuant to STA is limited to permittees or licensees." *Ibid*. (citing 47 C.F.R. § 73.1635). Like A-O, FBL does not now hold a permit or license for its station. Therefore, FBL is ineligible for STA under the FCC's rules.

II. FBL Has Not Shown Irreparable Injury

A party seeking a stay must "demonstrate that irreparable injury is *likely*" in the absence of a stay. *Winter v. Nat. Res. Def. Council*, 555 U.S. 7, 22 (2008). This Court "has set a high standard for irreparable injury." *Chaplaincy of Full Gospel Churches v. England*, 454 F.3d 290, 297 (D.C. Cir. 2006). "Such injury must be both certain and great, actual and not theoretical, beyond remediation, and of such *imminence* that there is a clear and present need for equitable relief to prevent irreparable harm." *Mexichem Specialty Resins, Inc. v. EPA*, 787 F.3d 544, 555 (D.C. Cir. 2015) (internal quotation marks omitted). To obtain a stay, FBL "must provide proof" that irreparable harm "is certain to occur in the near future."

Wis. Gas Co. v. FERC, 758 F.2d 669, 674 (D.C. Cir. 1985). FBL has failed to satisfy this demanding standard.

Essentially, FBL complains that the Bureau's April 2020 letter ruling prevents FBL from broadcasting information about Covid-19 during the pandemic. Mot. 18-19. But FBL has only itself to blame for its inability to broadcast at this time. By failing to build its station at the site specified in its construction permit, FBL through its own actions lost the opportunity to obtain a broadcast license that would have allowed it to broadcast during the pandemic. The courts have consistently held that this sort of "self-inflicted" and "entirely avoidable" harm cannot qualify as "irreparable" injury. *San Francisco Real Estate Inv'rs v. Real Estate Inv. Trust of America*, 692 F.2d 814, 818 (1st Cir. 1982).[4] Because all of FBL's alleged harms were self-inflicted, they do not constitute the sort of irreparable injury that could justify a stay.

Furthermore, FBL has not proffered any evidence to support its allegations of irreparable harm. FBL baldly asserts that "if it is off the air while waiting for successful action on review," it "will be so severely harmed that it *may* never be able to resume broadcasting." Mot. 18 (emphasis added). But such unadorned speculation about an injury that may (or may not) occur will not suffice to establish

[4] *See also Second City Music, Inc. v. City of Chicago*, 333 F.3d 846, 850 (7th Cir. 2003); *Salt Lake Tribune Publ'g Co. v. AT&T Corp.*, 320 F.3d 1081, 1106 (10th Cir. 2003); *Caplan v. Fellheimer Eichen Braverman & Kaskey*, 68 F.3d 828, 839 (3d Cir. 1995); *Hirschfeld v. Bd. of Elections*, 984 F.2d 35, 40 (2d Cir. 1993).

the sort of "certain and great" injury that would justify a stay. *Wis. Gas*, 758 F.2d at 674. FBL also submits a declaration from its president asserting that the Bureau's denial of the STA request "substantially undermines the ability of FBL to retain its physical facilities." Mot. Exh. J (Declaration of Ling Gao) at ¶ 2. But FBL offers no evidence to substantiate this claim. "Bare allegations" are not enough to establish irreparable harm; FBL must offer "proof indicating that the harm is certain to occur in the near future." *Wis. Gas*, 758 F.2d at 674. It has failed to do so.

FBL also argues that the Bureau's denial of the STA request "thwart[s] FBL's purpose of providing Mandarin language service to the Mandarin-speaking community in the Cupertino area." Mot. 18. That alleged harm, however, is not irreparable. It can be remedied "at a later date, in the ordinary course of litigation," if FBL ultimately convinces the Commission (or the Court) that it is entitled to a broadcast license. *See Va. Petroleum Jobbers Ass'n v. FPC*, 259 F.2d 921, 925 (D.C. Cir. 1958).

III. The Balance Of The Equities Weighs Against A Stay

A stay in this case would harm other parties. If FBL is permitted to resume broadcasting from the unauthorized Saratoga site, its broadcasts would, as the Bureau found, likely cause interference to a station in San Francisco, KRZZ(FM),

adversely affecting listeners of that licensed station. *See* Mot. Exh. E (September 28, 2018 Letter Ruling).

A stay would also harm the public interest. Congress has entrusted the FCC with the task of managing broadcast spectrum. To this end, the agency has "been granted authority to allocate broadcasting zones or areas, and to provide regulations as it may deem necessary to prevent interference among the various stations." *United States v. Sw. Cable Co.*, 392 U.S. 157, 174 (1968). The Commission's rules for licensing broadcast stations are carefully designed to guard against such harmful interference. *See, e.g., Press Commc'ns LLC v. FCC*, 875 F.3d 1117, 1118-19 (D.C. Cir. 2017) (the FCC established minimum spacing requirements between radio stations to ensure that the stations' broadcast signals would not interfere with each other). If a stay is granted, FBL would be permitted to broadcast without FCC authorization, and its broadcasts would likely interfere with the broadcast signals of another radio station. A stay would thus undermine the public interest in ensuring that the FCC can efficiently manage the use of the broadcast spectrum by preventing unauthorized broadcasts.

FBL argues that a stay will serve the public interest by permitting FBL to broadcast information about Covid-19 in Mandarin to the Chinese American community in the Cupertino area. Mot. 19-21. But there are other sources of Mandarin-language radio programming in the Cupertino area. For example, at

least two FCC-licensed full-power radio stations in the San Francisco Bay Area—KEST(AM) and KVTO(AM)—currently provide Mandarin programming. *See* http://kestradio.com/; http://www.chineseradio.com/main/. Moreover, information about Covid-19 is available in Mandarin on the internet. For example, the State of California's website on Covid-19 provides information in multiple languages, including Mandarin. *See* https://covid19.ca.gov/.

In any event, the Media Bureau reasonably concluded that the "alleged public safety benefits" of FBL's operation of its station are outweighed by the public interest in preventing "unauthorized broadcasts." Mot. Exh. B (April 16, 2020 Letter Ruling) at 2-3. That conclusion "regarding how the public interest is best served is entitled to substantial judicial deference." *WNCN Listeners Guild*, 450 U.S. at 596.

CONCLUSION

For the foregoing reasons, the motion for stay pending review should be denied.

Respectfully submitted,

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June 2, 2020

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I, James M. Carr, hereby certify that on June 2, 2020, I filed the foregoing Opposition of Federal Communications Commission to Emergency Motion for Stay Pending Review with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit using the electronic CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

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