

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
TOWN OF SURF CITY, NORTH CAROLINA
Request to Set Aside In Part the August 11, 2000,
Action Concerning Public Safety Pool Station
KNCX731, Hempstead, North Carolina
And
Surf City Volunteer Fire Department,
Surf City, North Carolina

ORDER OF MODIFICATION

Adopted: November 26, 2002

Released: November 29, 2002

By the Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau:

1. Introduction. In this Order of Modification, we modify the license for Public Safety Pool, Conventional Station KNCX731, Hampstead, North Carolina. Specifically, we modify the Surf City Volunteer Fire Department's (Department) license by removing the Department as licensee and restoring the Town of Surf City (Town) as the licensee for Station KNCX731. As explained in further detail below, we take this action pursuant to an earlier order proposing to modify the Department's license.

2. Background. In the Modification Proposal, based upon our analysis, we concluded that a Department application filed on August 11, 2000, the grant of which resulted in renewal and modification of the subject license for Station KNCX731, was defective because the Department was not authorized to modify or renew the license for Station KNCX731. We found that we were unable to set aside the grant of the Department's application because we did not receive the Town's request until almost two months after the application was granted. As a result, we proposed to modify the Department's license pursuant to Section 316 of the Communications Act of 1934, as amended, by reissuing the license to the Town of Surf City. In this connection, we tentatively concluded that the proposed modification would serve the public interest by restoring the license to the Town and indicating that the town was the licensee of record for Station KNCX731.

1 See Letter from Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, to Mr. Patrick A. Thomas, Town Manager (w/copy to Surf City Vol. Fire Dept.) (Dec. 26, 2001) (Modification Proposal).

2 Id. at 2.

3 47 U.S.C. § 316.

4 47 U.S.C. § 316(a). Section 316(a) requires that we notify the affected station(s) of the proposed modification(s), the public interest reasons for the action, and afford at least 30 days to respond.

3. *Discussion.* A copy of the *Modification Proposal Order* was sent to the Department with the requirement that any protest thereto be submitted within thirty days of its receipt.<sup>5</sup> The Department did not protest the proposed modification of its license within the requisite time frame.<sup>6</sup> Therefore, the Department is deemed to have consented to the proposed modification.<sup>7</sup> Based on the record in this matter, we conclude that it would be in the public interest to modify the Department's license for Station KNCX731, Hampstead, North Carolina by reissuing the license in the name of the Town of Surf City.<sup>8</sup>

4. ACCORDINGLY, IT IS ORDERED, pursuant to Sections 4(i) and 316(a) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 316(a), and Section 1.87 of the Commission's Rules, 47 C.F.R. § 1.87, that the licensee for Public Safety Pool Station KNCX731 IS MODIFIED to identify the Town of Surf City, Town of Surf City Fire Department, P.O. Box 2475, Surf City, NC 28445, telephone (910) 328-0175, facsimile (910) 328-4005, as the licensee, and Chief Robert J. Chace, Town of Surf City Fire Department, P.O. Box 2475, Surf City, NC 28445, telephone (910) 328-0175, facsimile (910) 328-4005, as the contact representative.

5. IT IS FURTHER ORDERED that this *Memorandum Opinion and Order* shall be sent by certified mail, return receipt requested to the Surf City Volunteer Fire Department, Attn: Chief Demetrius Batts, 101 Deer Run Drive, Surf City, NC 28445.

6. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

D'wana R. Terry  
Chief, Public Safety and Private Wireless Division  
Wireless Telecommunications Bureau

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<sup>5</sup> 47 C.F.R. § 1.87(a).

<sup>6</sup> 47 C.F.R. § 1.87(g)(1).

<sup>7</sup> 47 C.F.R. § 1.87(h); *see also Modification Proposal* at 3.

<sup>8</sup> 47 C.F.R. § 1.87(i).