



Federal Communications Commission  
Washington, D.C. 20554

**March 16, 2007**

**DA 07-1328**

In Reply Refer to:  
1800B3-HTS

Released: March 16, 2007

Ms. Karen de Brum  
Lana`i High and Elementary School  
P.O. Box 630757  
Lana`i City  
Lana`i, Hawaii

In re: NEW LPFM, Lana`i City, HI  
Lana`i High and Elementary School  
Facility ID No. 131650  
File No. BNPL-20010122AEA

**Petition for Reconsideration**

Dear Ms. de Brum:

We have before us the "Petition for Reconsideration of the Dismissal of LPFM Application of Lana`i High and Elementary School" (the "Petition") filed on December 9, 2003, by Lana`i High and Elementary School ("Lana`i").

**Background.** On January 22, 2001, Lana`i filed the captioned application (BNPL-20010122AEA) for a construction permit for a new low power FM facility in Lana`i City, Hawaii. The staff dismissed that application on July 30, 2003. A public notice of the dismissal was released on August 4, 2003.<sup>1</sup> More than 30 days later, on December 9, 2003, Lana`i filed its Petition seeking reconsideration of that dismissal. For the reasons stated below, we dismiss the Petition.

**Discussion.** A petition for reconsideration is required by statute to be filed within thirty days from the date upon which public notice is given of the decision complained of.<sup>2</sup> Because public notice of the dismissal was issued on August 4, 2003, petitions for reconsideration were due by September 2, 2003. The Commission lacks authority to extend or waive the statutory 30-day filing period for petitions for reconsideration unless the petitioner shows that its failure to file in a timely manner resulted from "extraordinary circumstances."<sup>3</sup> Lana`i did not present an explanation for the late filing of the Petition. Because the Lana`i Petition was not filed within thirty days of the date of public notice announcing the dismissal of the captioned application, we must dismiss the filing as untimely.

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<sup>1</sup> Public Notice, *Broadcast Actions*, Report No. 45541 (August 4, 2003).

<sup>2</sup> See 47 C.F.R. § 405. See also 47 C.F.R. § 1.106 (f).

<sup>3</sup> See, e.g., *Gardner v. FCC*, 530 F.2d 1086, 1091-92 (D.C.Cir. 1976)

**Conclusion/Action.** For the reasons set forth above, Lana`i High and Elementary School's "Petition for Reconsideration of the Dismissal of LPFM Application of Lana`i High and Elementary School" IS DISMISSED.

Sincerely,

Peter H. Doyle, Chief  
Audio Division  
Media Bureau