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**HARRIS,
WILTSHIRE &
GRANNIS LLP**

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Satellite Division
International Bureau

1200 EIGHTEENTH STREET, NW
WASHINGTON, DC 20036

TEL 202.730.1300 FAX 202.730.1301
WWW.HARRISWILTSHIRE.COM

ATTORNEYS AT LAW

October 25, 2006

BY HAND DELIVERY

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

FILED/ACCEPTED

OCT 25 2006

Federal Communications Commission
Office of the Secretary

Re: ***WB Holdings 1, LLC Milestone Showing and Waiver Request***
SES-MFS-20060811-01347 (E050033)

Dear Ms. Dortch:

As part of the modification granted earlier today of the above referenced blanket earth station authorization, the Commission imposed a condition tied to progress toward the construction and launch of the WildBlue-1 satellite ("WB-1"). This condition requires the posting of a performance bond by November 24, 2006.

As the earth station licensee, WB Holdings 1, LLC ("WBH"), has informed the Commission, this satellite is fully constructed and will be shipped to the Arianespace facility in Kourou, French Guiana during the first week of November. Launch is scheduled for December 8, 2006. Of necessity, three of the four milestones have been achieved and the final milestone – launch and operation – is scheduled to occur just two weeks after the bond to assure performance is scheduled to be posted.

Attached to this Waiver Request is documentation to demonstrate satisfaction of the contract execution, Critical Design Review ("CDR"), and commencement of physical construction milestones. Accordingly, WBH requests that the Commission make a determination that these milestones for this satellite have been satisfied and that posting of the bond with respect to these milestones is not required.

In addition, in light of the evidence submitted herewith that the satellite is fully constructed, preparing for shipment, and proceeding along a campaign toward a scheduled December 8 launch, WBH also requests that the Commission waive the requirement that WBH post a performance bond with respect to the launch and operate

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milestone. To the extent necessary, WBH also requests that the Commission waive the requirement that it post a performance bond with respect to any of these four milestones while this application is pending, and that such a ruling be issued on an expedited basis in advance of the November 24 due date for posting the bond.

* * *

Earlier today, the Commission re-issued the blanket earth station license that authorizes WBH to deploy subscriber terminals that communicate with WB-1.¹ That authorization requires WBH to demonstrate with respect to WB-1 that (1) a binding construction contract has been executed by October 10, 2007, (2) the CDR has been completed by October 10, 2008, (3) physical construction has commenced by October 10, 2009, and (4) launch and operation has been accomplished by October 10, 2011. As the attached materials show, WBH has already completed the first three of these milestones well in advance of the established deadlines and the final milestone will be completed in a matter of weeks.

Specifically, attached hereto are:

- A copy of a Public Notice dated June 18, 2002 confirming the Commission's prior finding that the construction commencement milestone for WB-1 – defined as execution of a satisfactory construction contract – has been satisfied. *See* Public Notice, Rep. No. SPB-179, 17 FCC Rcd. 11271 (Int'l Bur. 2002).
- The Declaration of K.P. Bhat, Executive Director of the WB-1 Program at Space Systems/Loral, confirming that the construction contract remains in effect, CDR has been completed, physical construction of the satellite has been completed, and the satellite is being prepared for shipment on November 2, 2006 to the Arianespace launch facility in Kourou, French Guiana for a scheduled December 8, 2006 launch.
- A letter from Christophe Bardou, Arianespace's Program Director for WB-1, confirming that Arianespace has begun the launch campaign for WB-1 to support a scheduled launch on an Ariane ECA rocket on December 8, 2006.

Collectively, these materials demonstrate that the WB-1 milestone obligations have been satisfied with respect to contracting, CDR, and commencement (not to mention completion) of physical construction. WBH respectfully requests that the Commission review the attached materials and enter a finding that the first three milestones set forth in the blanket earth station authorization have been satisfied.

¹ *See* Public Notice, Rep. No. SES-00867 (Oct. 25, 2006).

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October 25, 2006
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In addition, given that WBH is required to post a performance bond of \$3 million by November 24, 2006 to ensure compliance with three milestones that have already been achieved and a fourth that WBH expects will be satisfied within two weeks thereafter, WBH submits that a waiver of the bond requirement would also be appropriate.

The Commission may waive its rules where there is good cause to do so, as in cases where special circumstances warrant a deviation from the general rule and such deviation would better serve the public interest than would strict adherence to the general rule.² WBH presents just such a case here. As the Commission stated when it adopted the milestone requirement, “[m]ilestones are intended to ensure that licensees provide service to the public in a timely manner, to prevent warehousing of scarce orbit and spectrum resources.”³ Similarly, the Commission adopted a performance bond requirement in the expectation that, “[b]y requiring satellite licensees to make a financial commitment to construct and launch their satellites, we help deter speculative satellite applications, and help expedite provision of service to the public.”⁴

Given that the WB-1 satellite is fully constructed and scheduled to be launched imminently, there is no need to enforce a performance bond requirement to deter speculation or ensure timely use of valuable orbital/spectrum resources. There simply is no danger that either of these concerns will come to pass, and thus a waiver would in no way undercut the purpose of the rule. On the other hand, WBH would incur considerable transaction costs to secure and post a bond – a significant hardship for a start-up company. In these circumstances, the public interest would be better served by waiving the bond requirement rather than strictly adhering to a rule whose purpose has already been achieved.

For the foregoing reasons, WBH respectfully requests that the Commission (1) find that the contracting, CDR, and commence construction milestones for WB-1 have been satisfied, and (2) waive the performance bond requirement for good cause shown. To the extent necessary, WBH also requests that the Commission issue an expedited waiver of the bond requirement for so long as this application is pending, so as to avoid even an arguable technical default under the license for failure to post bond by November 24, 2006.

² See 47 C.F.R. § 1.3; *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1166 (D.C. Cir. 1990); *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969); *Telesat Canada*, 17 FCC Rcd. 25287, 25292 and n.36 (Int’l Bur. 2002) (citing cases).

³ See *Amendment of the Commission’s Space Station Licensing Rules and Policies*, 18 FCC Rcd. 10760, 10827 (2003).

⁴ *Id.* at 10825.

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If you have any questions, please do not hesitate to contact undersigned counsel.

Sincerely yours,

A handwritten signature in black ink, appearing to read "William M. Wiltshire". The signature is fluid and cursive, with the first name "William" being the most prominent.

William M. Wiltshire
Counsel for WB Holdings 1, LLC

Enclosures

cc: Robert Nelson
Andrea Kelly
Scott Kotler

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OCT 26 2006

Federal Communications Commission
Office of the Secretary



WILDBLUE

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Satellite Division
International Bureau

David M. Brown
Senior Vice President and General Counsel
Direct: 720-554-7411
dbrown@wildbluecorp.com

October 26, 2006

BY HAND DELIVERY

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Re: ***WB Holdings 1, LLC Milestone Showing and Waiver Request***
SES-MFS-20060811-01347 (E050033)

Dear Ms. Dortch:

On October 25, 2006, WB Holdings 1, LLC ("WBH") filed a milestone showing and request for waiver of the performance bond requirement in connection with the above referenced authorization. As evidenced by a declaration from Space Systems/Loral ("SSL") attached to that filing, Critical Design Review ("CDR") of the WildBlue-1 spacecraft was successfully completed on July 25, 2000, and all construction is now complete.

In further support of that filing, WBH hereby certifies that the WildBlue-1 spacecraft constructed by SSL, upon which it conducted the CDR, was designed to operate with the parameters submitted in WBH's modification application in the above referenced proceeding.

Sincerely yours,

David M. Brown
Senior Vice President and General Counsel
WildBlue Communications, Inc.

5970 Greenwood Plaza Boulevard, Suite 300, Greenwood Village, CO 80111

Ph: 720-554-7400 Fax: 720-554-7500



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

International Bureau Satellite Division Information:
First Round Ka-Band Licensee Compliance with Construction
Implementation Milestone

Report No.: SPB-179

DA: 02-1432

June 18, 2002

In May 1997, the International Bureau licensed 13 applicants to launch and operate satellite systems that would provide fixed-satellite service in portions of the Ka-band. These authorizations were granted as part of the first Ka-band processing round. In December 2000 and January 2001, the Bureau modified the first round authorizations of eight geostationary satellite orbit (GSO) and one non-geostationary satellite orbit (NGSO) satellite systems. The modifications included the assignment of implementation milestones for the construction, launch, and operation of the satellite systems. The licenses provide that failure to meet any of the implementation milestones will render the satellite authorizations null and void. The first implementation milestone requires GSO licensees to begin construction of their first satellite within one year of the grant of its authorization, and NGSO licensees to begin construction of the first two satellites in its constellation within one year of grant. To determine whether the licensees have complied with the construction commencement milestone, the Bureau requested that each licensee submit an executed copy of its construction contract, verifying that construction has commenced and that the satellite(s) will be built within the time frame specified in the license. Upon review of the contracts submitted, the Bureau concludes that the following Ka-band licensees have satisfied their construction commencement milestones:¹

CyberStar Licensee LLC

File Nos. 109-SAT-P/LA-95; 102/103-SAT-AMEND-96; 103/104/105-SAT-ML-98

¹ Motorola, Inc. has requested an extension of the construction commencement milestone, File No. SAT-MOD-2002131-00012. This application is pending. In a separate order released on the above date, the Division grants Astrolink International LLC a waiver of its implementation milestone. See Astrolink International LLC, *Memorandum Opinion and Order*, DA 02-1431 (rel. June 18, 2002). EchoStar Satellite Corporation recently submitted additional information pertaining to its construction contract pursuant to the Policy Branch's request. This information is being reviewed and a determination regarding EchoStar's compliance with its construction commencement milestone will be made shortly.

Hughes Network Systems²

IBFS File Nos. SAT-LOA-19931203-00040/41; SAT-LOA-19950929-00125/00129;
SAT-LOA-19950929-00137

Loral CyberStar, Inc.

File Nos. 205/206-SAT-AMEND-95; SAT-AMD-19950929-00157/158

PanAmSat Licensee Inc.

IBFS Nos. SAT-LOA-19950929-00130/131; SAT-LOA-19950929-00204/00208

Teledesic LLC

File Nos. 22-DSS-P/LA-94, 43-SAT-AMEND-95; 195-SAT-ML-97

WB Holdings 1 LLC

File Nos. 128-SAT-P/LA-95; 203-SAT-P/LA-95

For further information contact Jennifer Gilsenan at 202-418-0757 or Fern Jarmulnek at 202-418-0751 in the Satellite Division.

² The original licensee was Hughes Communications Galaxy. In April 2002, the Satellite Division granted *pro forma* assignments from Hughes Communications Galaxy to Hughes Network Systems. *See* Letters to James H. Barker, Counsel for Hughes Communications Galaxy from Fern J. Jarmulnek, Deputy Chief, Satellite Division, (April 23, 2002) (File Nos. SAT-ASG-20011204-00110 and 00109).



3825 Fabian Way
Palo Alto, CA 94303

WildBlue Program

DECLARATION

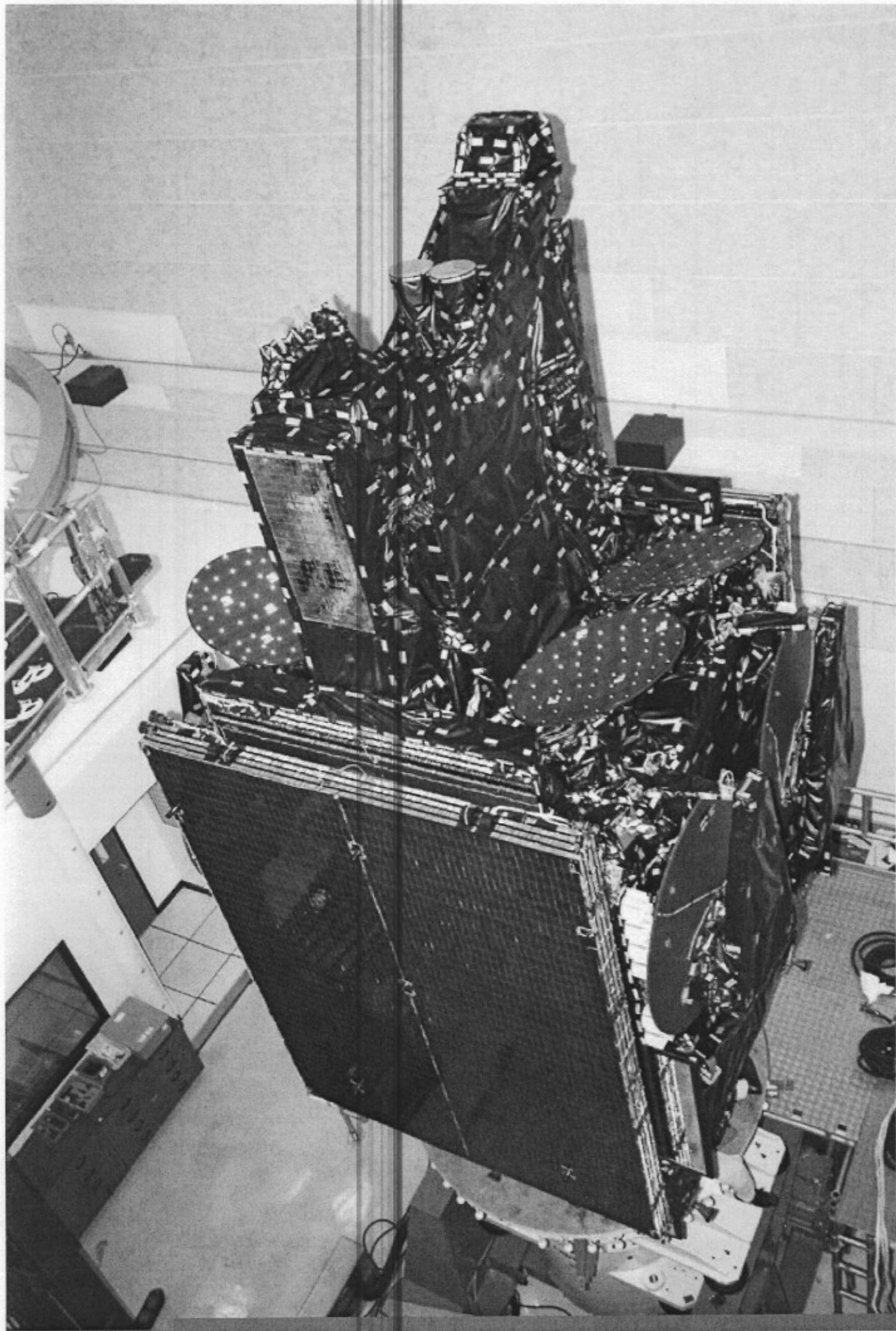
I, K.P. Bhat, certify on behalf of Space Systems/Loral, Inc. ("SSL"), as follows:

1. The WildBlue-1 spacecraft Critical Design Review was successfully completed on July 25, 2000.
2. The contract between SSL and WildBlue Communications, Inc. for the WildBlue-1 Satellite Program, as amended and restated from time to time, including most recently on May 15, 2003 remains in effect. SSL has received payment for construction of WildBlue-1 for all amounts through October 24, 2006, and these payments cumulatively represent approximately 89% of the total price for the construction of the satellite.
3. Construction of the WildBlue-1 satellite is complete. It will be shipped to the Arianespace launch facility in Kourou, French Guiana on November 2, 2006 and is scheduled for launch on December 8, 2006.
4. The attached photograph shows the fully assembled WildBlue-1 spacecraft.

A handwritten signature in black ink, appearing to read "K.P. Bhat".

K.P. Bhat
Executive Director
WildBlue-1 Program
Space Systems/Loral

Dated : October 25, 2006





Direction Commerciale

Mr Jim ELLIOT
VP, Infrastructure

WILDBLUE Communications, Inc.

5970 Greenwood Plaza Blvd.
Suite 300
GREENWOOD VILLAGE, CO 80111
USA

Evry-Courcouronnes, October, 24th 2006
Ref. : AE/DC/SC L 06-248 CBA/cal

Dear Mr ELLIOT,

Arianespace hereby confirms that the Ariane 5 ECA L534 launch preparation campaign begins today (October 24th, 2006) in order to support a launch of Wildblue 1 on December 8, 2006.

Do not hesitate to contact the undersigned if needed.

Yours Sincerely,

A handwritten signature in black ink, appearing to read "Christophe BARDOU".

Christophe BARDOU
Program Director for WILDBLUE 1