

Request for Waiver

Budd Broadcasting Co., Inc. (“Budd”), requests a waiver of the freeze on the filing of certain DTV modification applications. In support, the following is respectfully submitted.

Background

Budd is the permittee of WFXU-DT, Facility Id. No. 22245, File No. BPCDT-19981028KF. The Digital Allotment specified Channel 48. (See Attachment A).¹

KB Prime Media, LLC (“KB”) requested, pursuant to the filing of FCC Form 347’s, a number of requests for additional time to complete construction. See Attachments C, D, E, and F.

The various requests referenced to the financial problems which plagued KB.

“The applicant certifies that construction cannot be completed by the November 1, 2002 deadline for financial reasons. The supporting documentation will be separately filed with the FCC with a request for confidential treatment.”²

The fourth extension request, Attachment E, recites the following:

“As detailed more fully below WFXU’s analog operation has generated cash flow deficits in each of the last four years (2000-

¹ The original permittee was KB Prime Media, LLC (“KB”) (Attachment B).

² See Attachment C. See also Attachment D, “The applicant certifies that DTV construction cannot be completed by the September 2003, deadline for financial reasons. The exhibit supporting its financial hardship extension request will be filed with the FCC with a request for confidential treatment.”

2003). In addition, the licensee of WTLH (WTLH License Corporation) the station that WFXU relies upon for its operating personnel, programming and other financial support – is currently in bankruptcy. Given the negative financial performance of WFXU's analog operations and the bankruptcy filing of WTLH, any expenditures for the WFXU-DTV build-out must be deferred until WTLH License Corporation (and other affiliated companies) emerge from bankruptcy. . .”

In that application, WFXU License Corporation further stated that since WFXU-TV signed on the air in 1998 until April 2002 it had been operated as a *de facto* satellite station of WTLH, the Tallahassee Fox affiliate pursuant to a Time Brokerage (“TBA”). In April 2002 WFXU License Corporation acquired the station from KB Prime Media, LLC but continued to have the station operated out of WTLH pursuant to a TBA. See FCC File No. BALCT-20010806ABW. According to the representations made in the December 2004 FCC Form 347, BEPCDT-20041216AEG, the combined WFXU and WTLH operating cash flow deficit was in excess of \$3 Million Dollars between 2000-2002.

WFXU further noted that if the Commission insisted on a firm DTV build-out commitment for WFXU, Pegasus would be forced to either (1) file to convert WFXU to a satellite station and turn in WFXU's DTV Channel pursuant to the FCC's flash cut option or (ii) sell the station.

The current pending FCC Form 347 application, BEPCDT-20050915ACI, (Attachment F) recites at Exhibit I the following:

“Based on WTLH(TV)’s current bankruptcy situation and WFXU(TV)’s historic negative financial performance even when it was run in conjunction with another full-power station WFXU(TV) cannot afford to construct to DTV facilities at the present time.”

* * * * *

Because of these operating results WFXU repeatedly urged the Commission in its DTV construction extensions to abandon its “one-size-fits-all” approach to DTV construction extensions and not insist that WFXU(TV) commit to a date-certain DTV build-out. WFXU noted that the Tallahassee, Thomasville DMA, the 109th largest market in the country, contains a miniscule percentage of the television households in the country (approximately 0.237 percent as of 2005) and that a deferral of WFXU(TV)’s DTV build-out would not impair the usual DTV transition. Demonstrating the dire choices facing the station WFXU(TV) indicated in its earlier DTV extension requests that if the FCC nonetheless insisted on a firm DTV build-out commitment for WFXU(TV) Pegasus would be forced to either (i) file to convert WFXU(TV) to a satellite station and turn in WFXU’s DTV Channel pursuant to the FCC’s so called flash-cut option, or (ii) sell the station.”

* * * * *

In a supplemental exhibit in that application the following was presented:

“Under the guidance of the PSC Liquidating Trust in June 15, 2006, WTLH License Corporation and the related Pegasus Broadcast Television, Inc. (“Pegasus”) debtor companies entered into an agreement for the sale of WTLH(TV) and the other Pegasus stations currently in bankruptcy. WFXU is the only former-Pegasus station that is not directly involved in the bankruptcy providing, however, it is directly and negatively affected by the proposed sale of WTLH(TV). Previously, WTLH and WFXU operated jointly in the small Tallahassee, Florida Thomasville Georgia Market. Despite the efficiencies achieved by this joint operation WFXU still has never reached profitability in its almost eight years of operation. Under the terms of the agreement signed by WTLH and the PSC Liquidating Trust, the Time Brokerage Agreement by which WTLH currently programs WFXU(TV) is an excluded contract meaning that the new buyer of WTLH(TV) will not be taking over that contract, thereby potentially eliminating the WFXU(TV)’s programming and the source of the efficient operations that enabled the station to go on the air in the first place.

* * * * *

Further compounding WFXU’s problem is the fact that WFXU(TV) is currently an affiliate of the WB Network. . . It has

been announced that WTLH-DT will become the CW affiliate programming WFXU(TV) will carry when it loses its WB affiliation. . . Without a network affiliation, WFXU(TV) faces the expensive prospect of having to secure additional programming and attempting to market an untested product to advertisers in the market.”

See Attachment F, Supplement to Exhibit I.

On October 16, 2006, WFXU License Corporation notified the Commission that WFXU(TV) had gone dark and requested Special Temporary Authority (“STA”) to remain silent. (Attachment G). See also Attachment H.

On November 21, 2006 an application (FCC Form 314) was filed with the Commission to assign WFXU to Budd. That application was approved by the Commission on January 11, 2007. The assignment was consummated on January 19, 2007. See Attachment J.

On August 3, 2004, the Commission imposed a freeze on the filing of certain TV and DTV requests for allotment in service area changes. See Public Notice, DA 04-2446 (Attachment K).

In that Public Notice the Commission stated: “This freeze is a necessary first step to ensure a stable television database prior to the commencement of the Channel election process. Prohibiting the filing of new applications and petitions requesting new channels or service areas will allow broadcasters to evaluate stations’ technical parameters and thereby facilitate channel elections and the creation of a new DTV Table of Allotments.”

The Commission also stated in the Public Notice that waiver requests would be entertained on a case-by case basis when “a modification application is necessary or otherwise in the public interest for technical or other reasons to maintain quality service to the public, such as when zoning restrictions preclude tower construction at a particular site or when unforeseen events, such as extreme weather events or other extraordinary circumstances require relocation to a new tower site.”

The current application seeks a minor modification to WFXU-DT. Budd seeks in this application to relocate to a new tower. The tower is one that is owned by Budd.

As a result of a grant of the application, the proposed facility would provide a 43 dBu F (50-90) coverage contour over the incorporated city limits of Live Oak, Florida. There would be no loss area created. The proposed facility increases the coverage area by 2047 km and increases the population served by 181,508 which is almost double the allotted population. In addition, the proposed transmitter site is 87 km, from the allotted site. The original footprint area has changed by approximately the same degree. See Engineering Exhibits.

The grant of the application would not create any white area. See Engineering Exhibits.

Historically, WFXU-DT has been unable to be built due to financial problems. Budd is anxious to build the DTV facility.³ Grant of instant modification will enable Budd to build the facility expeditiously. In this regard, the proposed tower is owned by Budd. Besides the resulting cost saving by utilization of an existing tower, the saving of time is also enormous. Clearly, the time saving would result in direct public interest

³ Budd is also anxious to resume analog operations.

benefits. The Commission has mandated that all licenses implement digital television service. By February 2009, all licenses must cease analog service. Budd is eager to return WFXU service to Live Oak. WFXU has had a history of financial hardship. Grant of the instant waiver would assist Budd in avoiding the prior financial hardship encountered by the prior licensees.⁴

Budd has requested proposals from two separate companies to opine on the length of time it would take to construct a 500 ft. tower in North Florida. The proposal of TowerCom dated April 9, 2007, states that due to various issues, if the process commenced in mid-April 2007, it might not be completed until October 2008. (Attachment L).

Precision Tower Systems (“PTS”), in an April 10, 2007 Memorandum (Attachment M), states that a “realistic” time to build a 500 ft. broadcast tower in North Florida would be 16 to 18 months. Grant of the instant application would enable Budd to commence DTV operations by October 2007. Clearly, the grant of the application and the resulting initiation of DTV service at a much earlier time has substantial public interest benefits. Furthermore, grant of the waiver would help alleviate the financial hardship which prior licensees have encountered. These public interest benefit warrants a grant of a waiver.

⁴ The channel election process is over. Accordingly, a grant of the instant waiver will not result in any disruption to the Commission processes.

ATTACHMENT A

United States of America
FEDERAL COMMUNICATIONS COMMISSION
DIGITAL TELEVISION BROADCAST STATION
CONSTRUCTION PERMIT

Authorizing Official:

Official Mailing Address:

BUDD BROADCASTING CO., INC.
4190 NW 93RD AVENUE
GAINSVILLE FL 32653

Clay C. Pendarvis
Associate Chief
Video Division
Media Bureau

Facility Id: 22245

Grant Date: May 02, 2001

This permit expires 3:00 a.m.
local time, September 15, 2005.

Call Sign: WFXU-DT

Permit File Number: BPCDT-19981028KF

Subject to the provisions of the Communications Act of 1934, as amended, subsequent acts and treaties, and all regulations heretofore or hereafter made by this Commission, and further subject to the conditions set forth in this permit, the permittee is hereby authorized to construct the radio transmitting apparatus herein described. Installation and adjustment of equipment not specifically set forth herein shall be in accordance with representations contained in the permittee's application for construction permit except for such modifications as are presently permitted, without application, by the Commission's Rules.

Equipment and program tests shall be conducted only pursuant to Sections 73.1610 and 73.1620 of the Commission's Rules.

Name of Permittee: BUDD BROADCASTING CO., INC.

Station Location: FL-LIVE OAK

Frequency (MHz): 674 - 680

Channel: 48

Hours of Operation: Unlimited

Callsign: WFXU-DT

Permit No.: BPCDT-19981028KF

Transmitter: Type Accepted. See Sections 73.1660, 73.1665 and 73.1670 of the Commission's Rules.

Antenna type: (directional or non-directional): Non-Directional

Description: ATW, ATW30H4-HTO-48S

Beam Tilt: 1 Degrees Electrical

Major lobe directions (degrees true): Not Applicable

Antenna Coordinates: North Latitude: 30 deg 40 min 51 sec

West Longitude: 83 deg 58 min 21 sec

Transmitter output power: As required to achieve authorized ERP.

Maximum effective radiated power (Average): 1000 kW
30 DBK

Height of radiation center above ground: 598 Meters

Height of radiation center above mean sea level: 645 Meters

Height of radiation center above average terrain: 597.23175 Meters

Antenna structure registration number: 1054890

Overall height of antenna structure above ground (including obstruction lighting if any) see the registration for this antenna structure.

Special operating conditions or restrictions:

- 1 The grant of this construction permit is subject to the condition that, with ample time before commencing operation, you make a good faith effort to identify and notify health care facilities (e.g., hospitals, nursing homes, see 47 CFR 15.242(a)(1)) within your service area potentially affected by your DTV operations. Contact with state and/or local hospital associations and local governmental health care licensing authorities may prove helpful in this process. During this pre-broadcast period, you must provide all notified entities with relevant technical details of your operation, such as DTV channel, targeted on-air date, effective radiated power, antenna location, and antenna height. You are required to place in the station's public inspection file documentation of the notifications and contacts made and you may not commence operations until good faith efforts have been made to notify affected health care facilities. During this pre-broadcast period and for up to twenty (20) days after commencing operations, should you become aware of any instances of medical devices malfunctioning or that such devices are likely to malfunction due to your DTV operations, you must cooperate with the health care facility so that it is afforded a reasonable opportunity to resolve the interference problem. At such time as all provisions of this condition have been fulfilled, and either upon the expiration of twenty (20) days following commencement of operations or when all known interference problems have been resolved, whichever is later, this condition lapses.

*** END OF AUTHORIZATION ***

ATTACHMENT B

**Application Search Details**FCC> [Media Bureau](#)> [MB-CDBS](#)> [CDBS Public Access](#)> [Application Search](#)[Help](#) [site map](#)

Application Search Details

File Number: BPCDT-19981028KF
Call Sign: WFXU
Facility Id: 22245
FRN:
Applicant Name: KB PRIME MEDIA LLC
Frequency: 728
Channel: 48
Community of License: LIVE OAK, FL
Application Type: MINOR CHANGE TO A LICENSED FACILITY
Status: GRANTED
Status Date: 05/02/2001
Expiration Date: 09/15/2005
Tolling Code:
Application Service: DT
Disposed Date: 05/02/2001
Accepted Date: 10/28/1998
Last Public Notice: 05/07/2001
Last Report Number: 44979
Authorization [View Authorization](#)
Engineering Data [View Engineering Data](#)
Legal Actions [View Legal Actions](#)
Positional Interest Info [View Positional Interest Info](#)
PN Comment [Public Notice Comment](#)
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Please send comments via standard mail to the Federal Communications Commission, Consumer and Governmental Affairs Bureau, 445 12th Street, S.W., Washington, D.C., 20554. Questions can also be answered by calling the FCC's National Call Center, toll free, at 1-888-Call FCC (1-888-225-5322).

Federal Communications Commission
445 12th Street SW
Washington, DC 20554
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Phone: 1-888-CALL-FCC (1-888-225-5322)
TTY: 1-888-TELL-FCC (1-888-835-5322)
Fax: 1-866-418-0232
E-mail: fccinfo@fcc.gov

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ATTACHMENT C

FIRST EXTENSION REQUEST
AUTHORIZATION UNAVAILABLE

http://svartifoss2.fcc.gov/cgi-bin/ws.exe/prod/cdbs/forms/prod/cdbsmenu.hts?context=25&appn=1005979... 3/13/2007

a. If applicant is not able to state now when construction is expected to be completed, describe in an Exhibit the reasonable steps it is taking to resolve the problem(s) preventing timely construction.	[Exhibit 3]
8. Anti-Drug Abuse Act Certification. Applicant certifies that neither applicant nor any party to the application is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862.	<input checked="" type="radio"/> Yes <input type="radio"/> No

I certify that the statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith. I acknowledge that all certifications and attached Exhibits are considered material representations. I hereby waive any claim to the use of any particular frequency as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and request an authorization in accordance with this application. (See Section 304 of the Communications Act of 1934, as amended.)

Typed or Printed Name of Person Signing GUYON W. TURNER	Typed or Printed Title of Person Signing PRESIDENT
Signature	Date 03/08/2002

WILLFUL FALSE STATEMENTS ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. CODE, TITLE 47, SECTION 312(a)(1)), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).

Exhibits

**Application Search Details**FCC> [Media Bureau](#)> [MB-CDBS](#)> [CDBS Public Access](#)> [Application Search](#)[Help](#) [site map](#)

Application Search Details

File Number:	BEPCDT-20020304AIK
Call Sign:	WFXU
Facility Id:	22245
FRN:	
Applicant Name:	KB PRIME MEDIA LLC
Frequency:	
Channel:	48
Community of License:	LIVE OAK, FL
Application Type:	CP EXTENSION
Status:	GRANTED
Status Date:	03/26/2002
Expiration Date:	11/01/2002
Tolling Code:	
Application Service:	DT
Disposed Date:	03/26/2002
Accepted Date:	03/18/2002
Last Public Notice:	04/01/2002
Last Report Number:	45203
Authorization	View Authorization
Legal Actions	View Legal Actions
PN Comment	Public Notice Comment
Correspondence Folder	View Correspondence Folder

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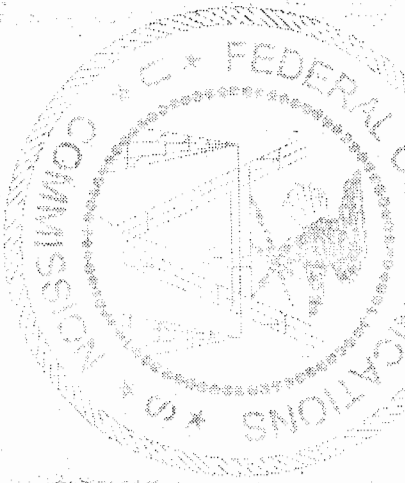
DTV CONSTRUCTION PERMIT EXTENSION

This is to notify you that your request to extend the time in which to construct your DTV station facilities (CDT-20021018AAK) was granted on 03/25/2003 and the construction period specified for permit BPCDT-19981028KF is extended to 09/25/2003.

This authorization is for:

Station: WFXU-DT
Facility ID: 22245
Location: LIVE OAK, FL

This authorization should be included in your station's public inspection file.



FCC 372B (02/00) NOTIFICATION

FEDERAL COMMUNICATIONS
COMMISSION
WASHINGTON, DC 20554
OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE \$300

FIRST CLASS MAIL
POSTAGE & FEES PAID
FEDERAL
COMMUNICATIONS
COMMISSION
PERMIT NO. G1111

KB PRIME MEDIA LLC
1320 LAFAYETTE ROAD
GLADWYNE, PA 19035

REFERENCE ROOM

Federal Communications Commission Washington, D.C. 20554		Approved by OMB 3060-0032 (June 2002)		FOR FCC USE ONLY	
FCC 337					
APPLICATION FOR EXTENSION OF TIME TO CONSTRUCT A DIGITAL TELEVISION BROADCAST STATION				FOR COMMISSION USE ONLY FILE NO. BEPCDT - 20021018AAK	
1. Legal Name of the Licensee/Permittee KB PRIME MEDIA LLC					
Mailing Address 1320 LAFAYETTE ROAD					
City GLADWYNE		State or Country (if foreign address) PA		Zip Code 19035 -	
Telephone Number (include area code) 6105262927		E-Mail Address (if available)			
FCC Registration Number: 0003983970		Call Sign WFXU-DT		Facility Identifier 22245	
2. Contact Representative (if other than licensee/permittee) Thomas Van Wazer, Esq.				Firm or Company Name Sidley Austin Brown & Wood	
Mailing Address 1501 K Street, NW					
City WASHINGTON		State or Country (if foreign address) DC		ZIP Code 20005 -	
Telephone Number (include area code) 2027368119		E-Mail Address (if available) tvanwaze@sidley.com			
3. Facility Information:					
a. <input checked="" type="radio"/> Commercial		b. <input type="radio"/> Noncommercial Educational			
c. Community of License:					
City: LIVE OAK		State: FL			
4. Purpose of Application. Applicant requests an extension of time in which to complete the construction authorized pursuant to (check one):					
<input checked="" type="radio"/> a permit for a new DTV station		Permit No. BPCDT-19981028KF		Expiration Date: 11/01/2002	
<input type="radio"/> a modification of a DTV construction permit		Permit No. -		Expiration Date:	
<input type="radio"/> Amendment to pending application					
5. Applicant certifies that construction cannot be completed due to (check all that apply):					
<input type="checkbox"/> technical (e.g., equipment delays)					
<input checked="" type="checkbox"/> legal (e.g., litigation)					
<input type="checkbox"/> financial (e.g., inability to finance)					
<input type="checkbox"/> other reasons (e.g., natural disasters)					
Describe in an Exhibit the specific reason(s) requiring additional time to construct, including the steps taken by the applicant to solve or mitigate the problem(s).				[Exhibit 1]	
6. Has the construction period for this station been previously extended ?				<input checked="" type="radio"/> Yes <input type="radio"/> No	
a. If Yes, describe in an Exhibit the applicant's diligent efforts during the most recent construction period to overcome the circumstance(s) preventing construction.				[Exhibit 2]	
7. Applicant requests that the time within which to complete construction be extended until:				05/01/2003	

a. If applicant is not able to state now when construction is expected to be completed, describe in an Exhibit the reasonable steps it is taking to resolve the problem(s) preventing timely construction.	[Exhibit 3]
8. Anti-Drug Abuse Act Certification. Applicant certifies that neither applicant nor any party to the application is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862.	<input checked="" type="radio"/> Yes <input type="radio"/> No

I certify that the statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith. I acknowledge that all certifications and attached Exhibits are considered material representations. I hereby waive any claim to the use of any particular frequency as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and request an authorization in accordance with this application. (See Section 304 of the Communications Act of 1934, as amended.)

Typed or Printed Name of Person Signing SCOTT BLANK	Typed or Printed Title of Person Signing SENIOR VICE PRESIDENT
Signature	Date 10/18/2002

WILLFUL FALSE STATEMENTS ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. CODE, TITLE 47, SECTION 312(a)(1)), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).

Exhibits

Attachment 1

Description
Exhibit Supporting Request for Additional Extension

EXHIBITS NO. 1 & 2

The applicant certifies that construction cannot be completed by the November 1, 2002 deadline for financial reasons. The supporting documentation will be separately filed with the FCC with a request for confidential treatment.

THIRD EXTENSION REQUEST

**AUTHORIZATION
&
APPLICATION**

Authorization not yet created by MB.

ATTACHMENT D

SECOND EXTENSION REQUEST

**AUTHORIZATION
&
APPLICATION**

DTV CONSTRUCTION PERMIT EXTENSION

This is to notify you that your request to extend the time in which to construct your DTV station facilities BEPCDT-20030923ADW was granted on 06/10/2004 and the construction period specified for permit BPCDT-19981028KF is extended to 12/10/2004.

This authorization is for:

Station: WFXU-DT
Facility ID: 22245
Location: LIVE OAK, FL

This authorization should be included in your station's public inspection file.

FCC 372B (02/00) NOTIFICATION

FEDERAL COMMUNICATIONS

COMMISSION
WASHINGTON, DC 20554
OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE \$300

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COMMISSION
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KB PRIME MEDIA LLC
1320 LAFAYETTE ROAD
GLADWYNE, PA 19035

REFERENCE ROOM

Federal Communications Commission Washington, D.C. 20554		Approved by OMB 3060-0032 (June 2002)		FOR FCC USE ONLY	
FCC 337					
APPLICATION FOR EXTENSION OF TIME TO CONSTRUCT A DIGITAL TELEVISION BROADCAST STATION				FOR COMMISSION USE ONLY FILE NO. BEPCDT - 20030923ADW	
1. Legal Name of the Licensee/Permittee KB PRIME MEDIA LLC					
Mailing Address 1320 LAFAYETTE ROAD					
City GLADWYNE		State or Country (if foreign address) PA		Zip Code 19035 -	
Telephone Number (include area code) 6105262927		E-Mail Address (if available)			
FCC Registration Number: 0003983970		Call Sign WFXU-DT		Facility Identifier 22245	
2. Contact Representative (if other than licensee/permittee) THOMAS VAN WAZER				Firm or Company Name SIDLEY AUSTIN BROWN & WOOD	
Mailing Address 1501 K STREET NW					
City WASHINGTON		State or Country (if foreign address) DC		ZIP Code 20005 -	
Telephone Number (include area code) 2027368119		E-Mail Address (if available)			
3. Facility Information:					
a. <input checked="" type="radio"/> Commercial b. <input type="radio"/> Noncommercial Educational					
c. Community of License: City: LIVE OAK State: FL					
4. Purpose of Application. Applicant requests an extension of time in which to complete the construction authorized pursuant to (check one):					
<input checked="" type="radio"/> a permit for a new DTV station		Permit No. BPCDT-1998I028KF		Expiration Date: 09/25/2003	
<input type="radio"/> a modification of a DTV construction permit		Permit No. -		Expiration Date:	
<input type="radio"/> Amendment to pending application					
5. Applicant certifies that construction cannot be completed due to (check all that apply):					
<input type="checkbox"/> technical (e.g., equipment delays)					
<input type="checkbox"/> legal (e.g., litigation)					
<input checked="" type="checkbox"/> financial (e.g., inability to finance)					
<input type="checkbox"/> other reasons (e.g., natural disasters)					
Describe in an Exhibit the specific reason(s) requiring additional time to construct, including the steps taken by the applicant to solve or mitigate the problem(s).				[Exhibit I]	
6. Has the construction period for this station been previously extended ?				<input checked="" type="radio"/> Yes <input type="radio"/> No	
a. If Yes, describe in an Exhibit the applicant's diligent efforts during the most recent construction period to overcome the circumstance(s) preventing construction.				[Exhibit 2]	

7.	Applicant requests that the time within which to complete construction be extended until:	03/25/2004
	a. If applicant is not able to state now when construction is expected to be completed, describe in an Exhibit the reasonable steps it is taking to resolve the problem(s) preventing timely construction.	[Exhibit 3]
8.	Anti-Drug Abuse Act Certification. Applicant certifies that neither applicant nor any party to the application is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862.	<input checked="" type="radio"/> Yes <input type="radio"/> No

I certify that the statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith. I acknowledge that all certifications and attached Exhibits are considered material representations. I hereby waive any claim to the use of any particular frequency as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and request an authorization in accordance with this application. (See Section 304 of the Communications Act of 1934, as amended.)

Typed or Printed Name of Person Signing SCOTT BLANK	Typed or Printed Title of Person Signing GENERAL COUNSEL
Signature	Date 09/23/2003

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Exhibits

Attachment 1

Description
Exhibit 1 & 2

FCC Form 337
Exhibits 1 & 2
WFXU
Live Oak, FL
September 2003

EXHIBITS NUMBERS 1 & 2

The applicant certifies that DTV construction cannot be completed by the September 25, 2003, deadline for financial reasons. The exhibit supporting its financial hardship extension request will be filed with the FCC with a request for confidential treatment.

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Application Search Details

File Number: BEPCDT-20030923ADW
Call Sign: WFXU
Facility Id: 22245
FRN: 0003983970
Applicant Name: KB PRIME MEDIA LLC
Frequency:
Channel: 48
Community of License: LIVE OAK, FL
Application Type: CP EXTENSION
Status: GRANTED
Status Date: 06/10/2004
Expiration Date: 12/10/2004
Tolling Code:
Application Service: DT
Disposed Date: 06/10/2004
Accepted Date: 09/24/2003
Last Public Notice: 07/12/2004
Last Report Number: 45774
Authorization [View Authorization](#)
Legal Actions [View Legal Actions](#)
PN Comment [Public Notice Comment](#)
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ATTACHMENT E

FOURTH EXTENSION REQUEST
APPLICATION
AUTHORIZATION UNAVAILABLE

Federal Communications Commission
Washington, D.C. 20554

Approved by OMB
3060-0032 (June 2002)

FOR FCC USE ONLY

FCC 337

APPLICATION FOR EXTENSION OF TIME TO CONSTRUCT A DIGITAL TELEVISION BROADCAST STATION

FOR COMMISSION USE ONLY
FILE NO.

||BEP CDT - 20041216AEG

1.	Legal Name of the Licensee/Permittee WFXU LICENSE CORPORATION		
	Mailing Address C/O PEGASUS MANAGEMENT COMPANY 225 CITY LINE AVENUE, SUITE 200		
	City BALA CYNWYD	State or Country (if foreign address) PA	Zip Code 19004 -
	Telephone Number (include area code) 6109347240	E-Mail Address (if available)	
	FCC Registration Number: 0003983970	Call Sign WFXU-DT	Facility Identifier 22245
2.	Contact Representative (if other than licensee/permittee) THOMAS VAN WAZER		Firm or Company Name SIDLEY AUSTIN BROWN & WOOD LLP
	Mailing Address 1501 K STREET, NW		
	City WASHINGTON	State or Country (if foreign address) DC	ZIP Code 20005 -
	Telephone Number (include area code) 2027368119	E-Mail Address (if available) TVANWAZER@SIDLEY.COM	
3.	Facility Information: a. <input checked="" type="radio"/> Commercial b. <input type="radio"/> Noncommercial Educational c. Community of License: City: LIVE OAK State: FL		
4.	Purpose of Application. Applicant requests an extension of time in which to complete the construction authorized pursuant to (check one): <input checked="" type="radio"/> a permit for a new DTV station Permit No. BPCDT-19981028KF Expiration Date: 12/10/2004 <input type="radio"/> a modification of a DTV construction permit Permit No. Expiration Date: <input type="radio"/> Amendment to pending application		
5.	Applicant certifies that construction cannot be completed due to (check all that apply): <input type="checkbox"/> technical (e.g., equipment delays) <input type="checkbox"/> legal (e.g., litigation) <input checked="" type="checkbox"/> financial (e.g., inability to finance) <input type="checkbox"/> other reasons (e.g., natural disasters)		
	Describe in an Exhibit the specific reason(s) requiring additional time to construct, including the steps taken by the applicant to solve or mitigate the problem(s).		[Exhibit 1]
6.	Has the construction period for this station been previously extended ?		<input checked="" type="radio"/> Yes <input type="radio"/> No
	a. If Yes, describe in an Exhibit the applicant's diligent efforts during the most recent construction period to overcome the circumstance(s) preventing construction.		[Exhibit 2]

7.	Applicant requests that the time within which to complete construction be extended until:	06/16/2005
	a. If applicant is not able to state now when construction is expected to be completed, describe in an Exhibit the reasonable steps it is taking to resolve the problem(s) preventing timely construction.	[Exhibit 3]
8.	Anti-Drug Abuse Act Certification. Applicant certifies that neither applicant nor any party to the application is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862.	<input checked="" type="radio"/> Yes <input type="radio"/> No

I certify that the statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith. I acknowledge that all certifications and attached Exhibits are considered material representations. I hereby waive any claim to the use of any particular frequency as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and request an authorization in accordance with this application. (See Section 304 of the Communications Act of 1934, as amended.)

Typed or Printed Name of Person Signing SCOTT BLANK	Typed or Printed Title of Person Signing SENIOR VICE PRESIDENT AND GENERAL COUNSEL
Signature	Date 12/16/2004

WILLFUL FALSE STATEMENTS ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. CODE, TITLE 47, SECTION 312(a)(1)), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).

Exhibits

Attachment 1

Description
Applicant's Exhibit Numbers 1 and 2

FCC Form 337
Response to Items 5 & 6(a)
WFXU License Corporation
Live Oak, Florida
December 2004

APPLICANT'S EXHIBIT NUMBERS 1 & 2

WFXU License Corporation ("WFXU"), the licensee of WFXU-TV-DT, hereby requests a further extension of time to complete construction of WFXU's DTV facilities. WFXU remains unable to complete its initial DTV build-out for financial reasons beyond its control.

As detailed more fully below, WFXU's analog operation has now generated cash flow deficits in each of the last four years (2000-2003). In addition, the licensee of WTLH (WTLH License Corporation) -- the station that WFXU relies upon for its operating personnel, programming and other financial support -- is currently in bankruptcy. The ultimate corporate parent of both WTLH and WFXU is Pegasus Communications Corporation ("Pegasus"). Given the negative financial performance of WFXU's analog operations and the bankruptcy filing of WTLH, any expenditures on the WFXU DTV build-out must be deferred until WTLH License Corporation (and other affiliated companies) emerge from bankruptcy, which is currently expected in the First Quarter of 2005.

Background: Since WFXU-TV signed on the air in 1998 until April 2002, it had been operated as a de facto satellite station of WTLH, the Tallahassee Fox affiliate, pursuant to a Time Brokerage Agreement ("TBA"). In April 2002, WFXU License Corporation acquired the station from KB Prime Media, LLC following the FCC's grant of an unbuilt station waiver, secured a UPN affiliation but continued to have the station operated out of WTLH pursuant to what is now an intra-company TBA. See FCC File No. BALCT-20010806ABW. To this day, WFXU continues to rely on WTLH to program, operate and partially fund its operations.

Based on a series of detailed showings documenting operating cash flow deficits from the combined operations of WFXU and WTLH in excess of \$3 million between 2000-2002, WFXU has already received three financial hardship DTV construction extensions. See FCC File No. BEPCDT-20020304AIK; FCC File No. BEPCDT-20021018AAK; FCC File No. BEPCDT-20030923ADW. Because of these operating results, WFXU repeatedly urged the Commission in its DTV construction extension requests to abandon its one-size-fits-all approach to DTV construction extensions and not insist that WFXU commit to a date-certain DTV build-out. WFXU noted that the Tallahassee–Thomasville DMA, the 111th largest market (as of 2003) in the country, contained a miniscule percentage of the television households in the country (approximately 0.224 percent as of 2003) and that a deferral of the DTV build-out would not impair the DTV transition. The most recent WFXU DTV construction extension request indicated that if the FCC nonetheless insisted on a firm DTV build-out commitment for WFXU, Pegasus would, in lieu of committing to a firm build-out schedule, either: (i) file to convert WFXU to a satellite station and turn in WFXU's DTV channel pursuant to the FCC's so-called flash cut option or (ii) sell the station.¹

Current Status: While the financial performance of the combined WTLH/WFXU operation improved in 2003, the combined operation still produced a cash flow deficit, marking the fourth consecutive year of operating cash flow deficits. Thus, WFXU remained far short of generating the cash flow necessary to fund the WFXU DTV build-out. Moreover, efforts to secure satellite status for WFXU or sell the station have been temporarily suspended because on June 2, 2004, a number of subsidiaries of Pegasus, including WTLH License Corporation, filed a voluntary petition for relief under Chapter 11 of Title 11 of the

¹ See *Second Periodic Review of the Commission's Rules & Policies Affecting the Conversion to Digital*

United States Code in the United States Bankruptcy Court for the District of Maine. *In re: Pegasus Satellite Television, Inc. et al.*, Case No. 04-20878 (Bankr. D. Me. June 2, 2004). The bankruptcy filing did not effectuate a substantial change in control of WTLH, now operating as a debtor-in-possession under supervision of the Bankruptcy Court, because its officers, directors, shareholders, and ultimate corporate parent – Pegasus – did not change and no trustee or other court-appointed administrator for Estate was requested or has been appointed.

However, given the poor financial performance of the combined analog operations of WFXU/WTLH over the past four years and the intervening of the bankruptcy of WTLH License Corporation, a decision on the expenditure of funds for the WFXU DTV build-out must be delayed until the conclusion of the bankruptcy proceedings. As noted above, the bankruptcy proceedings are expected to conclude in the first quarter of 2005.

For all these reasons, WFXU submits that it is unable to complete construction of its DTV facilities for financial reasons beyond its control. Accordingly, WFXU urges the Commission to approve an additional six month extension of its DTV construction permit.

Television, MM Docket No. 03-15, FCC 03-8, ¶ 127, released January 27, 2003.

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Application Search Details

File Number:	BEPCDT-20041216AEG
Call Sign:	WFXU
Facility Id:	22245
FRN:	0003983970
Applicant Name:	WFXU LICENSE CORPORATION
Frequency:	
Channel:	48
Community of License:	LIVE OAK, FL
Application Type:	CP EXTENSION
Status:	GRANTED
Status Date:	03/15/2005
Expiration Date:	09/15/2005
Tolling Code:	
Application Service:	DT
Disposed Date:	03/15/2005
Accepted Date:	12/17/2004
Last Public Notice:	04/01/2005
Last Report Number:	45954
Authorization	View Authorization
Legal Actions	View Legal Actions
PN Comment	Public Notice Comment
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Authorization not yet created by MB.

ATTACHMENT F

FIFTH EXTENSION REQUEST

APPLICATION

CURRENT STATUS: ACCEPTED FOR FILING

http://svartifoss2.fcc.gov/cgi-bin/ws.exe/prod/cdbs/forms/prod/cdbsmenu.hts?context=25&appn=1011369... 3/13/2007

7.	Applicant requests that the time within which to complete construction be extended until:	03/15/2006
	a. If applicant is not able to state now when construction is expected to be completed, describe in an Exhibit the reasonable steps it is taking to resolve the problem(s) preventing timely construction.	[Exhibit 3]
8.	Anti-Drug Abuse Act Certification. Applicant certifies that neither applicant nor any party to the application is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862.	<input checked="" type="radio"/> Yes <input type="radio"/> No

I certify that the statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith. I acknowledge that all certifications and attached Exhibits are considered material representations. I hereby waive any claim to the use of any particular frequency as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and request an authorization in accordance with this application. (See Section 304 of the Communications Act of 1934, as amended.)

Typed or Printed Name of Person Signing SCOTT A. BLANK	Typed or Printed Title of Person Signing SENIOR VICE PRESIDENT AND GENERAL COUNSEL
Signature	Date 07/05/2006

WILLFUL FALSE STATEMENTS ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. CODE, TITLE 47, SECTION 312(a)(1)), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).

Exhibits

Exhibit 1

Description: EXHIBIT 1

JULY 5, 2006 -- AMENDMENT PROVIDES A SUPPLEMENT (ATTACHED) TO THE PENDING EXTENSION REQUEST. NO OTHER CHANGES HAVE BEEN MADE.

Attachment 1

Description
Exhibit 1
Supplement to Exhibit 1

Exhibit 2

Description: EXHIBIT 2

PLEASE SEE EXHIBIT 1 ABOVE.

Attachment 2

EXHIBIT 1

WFXU License Corporation (“WFXU”), the licensee of WFXU(TV), hereby requests an extension of time in which to complete construction of WFXU’s DTV facilities. As detailed below, WFXU remains unable to complete its initial DTV build-out due to financial reasons beyond its control.

WFXU has struggled financially since the station first began operations, and has now generated cash flow deficits in each of the last five years (2000-2004). In addition, WTLH License Corporation, the licensee of WTLH(TV) – the formerly co-owned station upon which WFXU(TV) relied for its operating personnel, programming, and other financial support – has recently declared bankruptcy and is now under the control of a bankruptcy trustee. Previously, WFXU License Corporation and WTLH License Corporation were both subsidiaries of Pegasus Communications Corporation (“Pegasus”). By combining their collective resources, the two television stations were able to operate with greater economic efficiency in the small Tallahassee, Florida–Thomasville, Georgia market. Pursuant to its filing of a Chapter 11 Bankruptcy plan, and a subsequent transfer of control approved by the Commission by FCC File No. BTCCT-20050408ADS, WTLH License Corporation and WTLH(TV) are now under the control of the PSC Liquidating Trust. According to WTLH’s Chapter 11 Bankruptcy plan and the liquidating trust agreement, the PSC Liquidating Trust’s goal is to identify a buyer for the broadcast assets of WTLH(TV), seek the required approvals of the Bankruptcy Court, seek the required FCC approvals, and take such actions which are necessary to consummate the transfer of the broadcast assets to the ultimate buyer. See *In re: Pegasus Satellite Television, Inc. et al.*, Case No. 04-20878 (Bankr. D. Me. June 2, 2004). Based on WTLH(TV)’s current bankruptcy

situation and WFXU(TV)'s historic negative financial performance, even when it was run in conjunction with another full-power station, WFXU(TV) cannot afford to construct its DTV facilities at the present time. Accordingly, WFXU respectfully requests that the Commission grant an extension of time in which to build and operate the station's DTV facilities.

Background Since the time WFXU(TV) signed on the air in 1998 until April 2002, the station was operated as a *de facto* satellite station of WTLH(TV), the Tallahassee Fox affiliate, pursuant to a Time Brokerage Agreement ("TBA"). In April 2002, WFXU License Corporation acquired the station from KB Prime Media, LLC, following the FCC's grant of an unbuilt station waiver. At that time, WFXU(TV) secured an affiliation agreement with the UPN Network, but continued to operate out of WTLH(TV)'s facilities pursuant to an intra-company TBA. *See* FCC File No. BALCT-20010806ABW.

Based on a series of detailed showings documenting operating cash flow deficits from the combined operations of WFXU and WTLH in excess of \$3 million between 2000-2002, WFXU previously has received DTV construction extensions based upon financial hardship. *See* FCC File No. BEPCDT-20020304AIK; FCC File No. BEPCDT-20021018AAK; FCC File No. BEPCDT-20030923ADW; BEPCDT-20041216AEG. Because of these operating results, WFXU repeatedly urged the Commission in its DTV construction extension requests to abandon its "one-size-fits-all" approach to DTV construction extensions and not insist that WFXU(TV) commit to a date-certain DTV build-out. WFXU noted that the Tallahassee-Thomasville DMA, the 109th largest market in the country, contains a miniscule percentage of the television households in the country (approximately 0.237 percent as of 2005) and that a deferral of WFXU(TV)'s DTV build-out would not impair the overall DTV transition. Demonstrating the dire choices facing the station, WFXU(TV) indicated in its earlier DTV extension requests that if

the FCC nonetheless insisted on a firm DTV build-out commitment for WFXU(TV), Pegasus would be forced to either: (i) file to convert WFXU(TV) to a satellite station and turn in WFXU's DTV channel pursuant to the FCC's so-called flash cut option, or (ii) sell the station.

Current Status Simultaneously herewith, WFXU has submitted to the FCC financial documentation reporting the company's revenues, operating expenses, and income for 2003, 2004, and through August 31, 2005, which demonstrates the financial hardship that continues to face WFXU(TV). Those documents have been submitted under separate cover pursuant to a request for confidentiality under Section 0.459 of the Commission's Rules. 47 C.F.R. § 0.459. As demonstrated by those documents, WFXU(TV) continues to struggle and has produced a fifth consecutive year of operating cash flow deficits. Thus, WFXU(TV) remains far short from even generating a positive cash flow, let alone generating the type of income necessary to fund the capital investment in WFXU-DT's digital build-out or to secure a loan for the same.

WFXU(TV) is a fledgling station, which has struggled for the seven short years that it has been on the air. Unfortunately, the station has continued to struggle since its last extension of its DTV construction permit. The station's present situation has only been exacerbated by the reorganization of its former sister station, WTLH(TV), under the control of a liquidating bankruptcy trustee. Given the poor financial performance of WFXU(TV) and the intervening bankruptcy of WTLH License Corporation, WFXU submits that it is unable to complete construction of its DTV facilities at this time due to extreme financial hardship beyond its control and respectfully requests an extension of time in which to construct its digital facilities.

SUPPLEMENT TO EXHIBIT 1

WFXU License Corporation (WFXU), the licensee of WFXU(TV), hereby supplements its pending request for an extension of time in which to complete construction of WFXU s DTV facilities. A number of changes have occurred since WFXU filed its September 2005 DTV extension request, and WFXU hereby amends its pending request to update the Commission regarding these changes.

First, as detailed in WFXU s pending request, WTLH License Corporation (WTLH), the licensee of WTLH(TV), Bainbridge, Georgia which was under common control with WFXU(TV) and upon which WFXU(TV) relied for its operating personnel, programming, and other financial support declared bankruptcy in 2004 and is now under the control of a bankruptcy trustee, known as the PSC Liquidating Trust. Under the guidance of the PSC Liquidating Trust, on June 15, 2006, WTLH License Corporation and the related Pegasus Broadcast Television, Inc. (Pegasus) debtor companies entered into an agreement for the sale of WTLH(TV) and the other Pegasus stations currently in bankruptcy. WFXU is the only former-Pegasus station that is not directly involved in the bankruptcy proceeding, however, it is directly and negatively affected by the proposed sale of WTLH(TV). Previously, WTLH and WFXU operated jointly in the small Tallahassee, Florida Thomasville, Georgia market. Despite the efficiencies achieved by this joint operation, WFXU still has never reached profitability in its almost eight years of operation. Under the terms of the agreement signed by WTLH and the PSC Liquidating Trust, the Time Brokerage Agreement by which WTLH currently programs WFXU(TV) is an excluded contract, meaning that the new buyer of WTLH(TV) will not be taking over that contract, thereby potentially eliminating the source of WFXU(TV) s

programming and the source of the efficient operations that enabled the station to get on the air in the first place. If WTLH(TV) is sold as a result of this recently announced transaction, it will potentially further harm WFXU(TV) and limit its ability to continue analog operations, let alone build and operate a paired DTV facility.

Second, it is unclear that WTLH will continue to program WFXU(TV) and provide support consistent with the underlying Time Brokerage Agreement between the parties. The PSC Liquidating Trust has asserted recently that it has the right to unilaterally terminate the Time Brokerage Agreement (TBA). Thus, WTLH may attempt to cease programming WFXU(TV) pursuant to this TBA. WFXU has relied on WTLH's provision of programming and services consistent with this TBA in order to allow the station to operate efficiently, albeit unprofitably, over the past eight years. The future operations of WFXU would undoubtedly be jeopardized if WTLH were to attempt to terminate this TBA.

Further compounding WFXU's problem is the fact that WFXU(TV) is currently an affiliate of the WB Network. As the Commission is aware, the WB Network has announced that it is ceasing operations and combining with the UPN to form a new network called the CW Network, which will commence programming in the Fall of 2006. It has been announced that WTLH-DT will become the CW affiliate in Tallahassee, but it is unclear what programming WFXU(TV) will carry when it loses its WB affiliation later this year. In particular, it is unclear whether WFXU(TV) will be able to secure an affiliation with another network when the WB affiliation is terminated, especially in light of the uncertain state of affairs under the TBA. Without a network affiliation, WFXU(TV) faces the expensive prospect of having to secure additional programming and attempting to market an untested product to advertisers in the market.

Therefore, in light of the present circumstances, WFXU cannot plan with any certainty for the station's future, digital or otherwise. At this point, the station is struggling to even maintain its programming and its time brokerage partnership. This uncertainty, combined with the station's present financial situation detailed in its pending request for an extension of the DTV construction period, make it impossible for the station to build out a paired DTV facility at this time. Accordingly, WFXU respectfully requests an extension of time in which to construct its digital facilities.



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Application Search Details

File Number: BEPCDT-20050915ACI
Call Sign: WFXU
Facility Id: 22245
FRN: 0007327240
Applicant Name: WFXU LICENSE CORPORATION
Frequency:
Channel: 48
Community of License: LIVE OAK, FL
Application Type: CP EXTENSION
Status: ACCEPTED FOR FILING
Status Date: 09/16/2005
Expiration Date:
Tolling Code:
Application Service: DT
Disposed Date:
Accepted Date: 09/16/2005
Amendment Received Date: 07/05/2006
Last Public Notice: 09/20/2005
Last Report Number: 26073
Authorization Authorization not available
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Application Search Details

File Number: BLSTA-20061016AER
Call Sign: WFXU
Facility Id: 22245
FRN: 0007327240
Applicant Name: WFXU LICENSE CORPORATION
Frequency:
Channel:
Community of License: LIVE OAK, FL
Silent Since:
Silent Reason UNKNOWN
Application Type: REMAIN SILENT AUTHORITY
Status: ACCEPTED FOR FILING
Status Date: 10/26/2006
Expiration Date:
Tolling Code:
Application Service: TV
Disposed Date:
Accepted Date: 10/26/2006
Last Public Notice:
Last Report Number:
Authorization Authorization not available
Legal Actions [View Legal Actions](#)
PN Comment [Public Notice Comment](#)
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Davis Wright Tremaine LLP

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BRENDAN HOLLAND
DIRECT (202) 508-6684
brendanholland@dwt.comSUITE 450
1500 K STREET NW
WASHINGTON, D.C. 20005-1272TEL (202) 508-6600
FAX (202) 508-6699
www.dwt.com

October 16, 2006

FILED/ACCEPTED

OCT 16 2006

Federal Communications Commission
Office of the Secretary**VIA HAND DELIVERY**Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W., TW-A325
Washington, D.C. 20554**Re: Request for Special Temporary Authority to Remain Silent
WFXU License Corporation (FRN: 0007-3272-40)
WFXU(TV), Live Oak, Florida (FIN-22245)**

Dear Ms. Dortch:

Pursuant to Section 73.1635 of the Commission's Rules and on behalf of WFXU License Corporation ("WFXU License"), licensee of WFXU(TV), Live Oak, Florida, this letter is to request Special Temporary Authority ("STA") to permit WFXU(TV) to remain silent. By letter dated September 27, 2006, WFXU License notified the Commission that the station was unable to continue normal broadcast operations. WFXU(TV) has encountered circumstances beyond its control that have forced the station to temporarily cease broadcast operations. In particular, the station has recently lost its network affiliation, its source of programming, and its support from a formerly co-owned television station in the market. As detailed further below, these recent events, combined with the station's persistent financial difficulties, have forced WFXU(TV) to cease operations temporarily until it can determine how to best continue its service to the community.

As the Commission is aware, WFXU License is owned by Pegasus Communications Corporation ("Pegasus"), which previously owned and operated a number of television stations around the country. In 2004, however, the Pegasus subsidiaries involved in television broadcasting, including all of the licensee subsidiaries with the exception of WFXU License,



filed for bankruptcy.¹ Pursuant to the bankruptcy reorganization, all of the broadcast stations and related companies except WFXU(TV) and WFXU License were transferred to the PSC Liquidating Trust, under the control of a Bankruptcy Trustee, and subject to the oversight of the Bankruptcy Court.²

Since the time WFXU(TV) signed on the air in 1998 until April 2002, the station was operated as a *de facto* satellite station of WTLH(TV), Bainbridge, Georgia, the Tallahassee, Florida Fox affiliate and a station also controlled by Pegasus, pursuant to a Time Brokerage Agreement ("TBA"). In April 2002, WFXU License Corporation acquired the station from KB Prime Media, LLC, pursuant to the FCC's grant of an unbuilt station waiver.³ Thereafter, WFXU(TV) continued to operate out of WTLH(TV)'s facilities pursuant to an intra-company TBA with sister company, WTLH License Corporation ("WTLH License"), the licensee of WTLH(TV).⁴ Under that TBA, the two stations were operated jointly in the small Tallahassee, Florida-Thomasville, Georgia market, which gave rise to the efficiencies that enabled WFXU(TV) to be constructed in the first place and which maintained its operations thereafter. WFXU(TV) relied on WTLH License for its operating personnel, programming, and other financial support. Despite the efficiencies achieved by this joint operation, however, WFXU(TV) has never reached profitability in its eight years of operation. Indeed, WFXU(TV) has struggled financially since the station first began operations, and has generated cash flow deficits in each of the last six years (2000-2005).

Following the bankruptcy filing, the PSC Liquidating Trust took over the TBA of WFXU(TV) and continued to program the station and to operate it jointly with WTLH(TV). Under the guidance of the PSC Liquidating Trust, on June 15, 2006, WTLH License Corporation and the related Pegasus debtor companies entered into an agreement for the sale of the Pegasus television stations, including WTLH(TV). WFXU(TV) is the only former-Pegasus television station that is not directly involved in either the bankruptcy proceeding or the proposed sale of the stations, however, it is directly and negatively affected by the proposed sale of WTLH(TV). Under the terms of the sale agreement signed by WTLH License and the PSC Liquidating Trust, the TBA by which WTLH License had programmed WFXU(TV) is an excluded contract, meaning that the new buyer of WTLH(TV) will not be taking over that contract. That fact became moot, however, on September 17, 2006, when the PSC Liquidating Trust terminated the TBA and eliminated all programming and support for WFXU(TV). The PSC Liquidating Trust gave WFXU(TV) only two weeks notice before terminating the TBA, giving WFXU License no time to make alternative arrangements for programming or personnel. Moreover, the September

¹ See *In re: Pegasus Satellite Television, Inc. et al.*, Case No. 04-20878 (Bankr. D. Me. June 2, 2004).

² See, e.g., FCC File no. BTCCT-20050408ADS.

³ See FCC File No. BALCT-20010806ABW.

⁴ Initially, WFXU(TV) was an affiliate of the UPN Network, but later changed its affiliation to the WB Network.



17th termination of the TBA corresponded with the cessation of the WB Network, of which WFXU(TV) was an affiliate. Thus, in addition to losing the programming, personnel, and financial support previously provided by WTLH(TV), WFXU(TV) has also lost its network affiliation.

Based on these recent events, good cause exists in this case for the grant of the requested STA to remain silent. Furthermore, WFXU License's financial situation is a matter of record with the FCC. In connection with both the unbuilt station waiver granted in 2002, and several extensions of the applicable DTV build out deadlines granted for the station, WFXU License has provided confidential financial information to the FCC detailing the station's bleak financial situation.⁵ Beyond the prospect of building a paired DTV facility, WFXU(TV) is now struggling to simply remain operational. Having lost its network affiliation and its programming provider, the station does not have a product to provide to the public, and now faces the expensive prospect of securing new programming, ramping up sales and operations, and marketing an untested product to advertisers in the market. In light of the present circumstances, WFXU License respectfully requests special temporary authority for WFXU(TV) to remain silent in order to allow the station time to regroup and assess the best options for continuing its service to the public.

If there should be any questions regarding this matter, please contact the undersigned.

Sincerely,

A handwritten signature in black ink, appearing to read 'Brendan Holland'.

Brendan Holland

⁵ See, e.g., FCC File Nos. BEPCDT-20041216AEG, BEPCDT-20030923ADW. In addition, WFXU(TV) currently has a request pending before the FCC seeking an extension of the DTV construction deadline and related use-it or lose-it deadline (FCC File No. BEPCDT-20050915ACI.)

ANTI-DRUG ABUSE ACT CERTIFICATION

The applicant certifies that, in the case of an individual applicant, he or she is not subject to a denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862, or, in the case of a non-individual applicant (e.g. corporation, partnership or other unincorporated association), no party to the application is subject to a denial of federal benefits pursuant to that section. For the definition of a "party" for these purposes, see 47 C.F.R. §1.2002(b).

☒ Yes ☐ No

WFXU License Corporation	
Name of Applicant	Signature <i>[Signature]</i>
Date October 16, 2006	Title Sr. V.P.

ATTACHMENT H



Davis Wright Tremaine LLP

ANCHORAGE BELLEVUE LOS ANGELES NEW YORK PORTLAND SAN FRANCISCO SEATTLE SHANGHAI WASHINGTON, D.C.

BRENDAN HOLLAND
DIRECT (202) 508-6684
brendanholland@dwt.comSUITE 450
1500 K STREET NW
WASHINGTON, D.C. 20005-1272TEL (202) 508-6600
FAX (202) 508-6699
www.dwt.com

September 27, 2006

RECEIVED

SEP 27 2006

Federal Communications Commission
Office of Secretary

VIA HAND DELIVERY

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W., TW-A325
Washington, D.C. 20554

Ref. Rm.

Re: **Notification of Interruption in Broadcast Operations**
WFXU License Corporation (FRN: 0007-3272-40)
WFXU(TV), Live Oak, Florida (FIN-22245)

Dear Ms. Dortch:

On behalf of WFXU License Corporation ("WFXU License"), licensee of WFXU(TV), Live Oak, Florida, pursuant to Section 73.1560(d) of the Commission's Rules, this letter is to notify the Commission that WFXU(TV) has ceased broadcast operations as of September 18, 2006. Due to circumstances beyond its control, the station is unable to continue normal operations at the present time. As this situation is expected to persist for longer than 30 consecutive days, WFXU License intends to request special temporary authority shortly to permit WFXU(TV) to remain silent until normal broadcast operations are restored.

If there should be any questions regarding this matter, please contact the undersigned.

Sincerely,

Brendan Holland

ATTACHMENT I

**UNITED STATES OF AMERICA
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

(FOR CHIEF, VIDEO DIVISION, MEDIA BUREAU)

DATE: 01/11/2007

<input checked="checked" type="checkbox"/> CONSENT TO ASSIGNMENT: <input type="checkbox"/> CONSENT TO TRANSFER:	<div style="border-bottom: 1px solid black; padding-bottom: 5px;">FROM: WFXU LICENSE CORPORATION</div> <div style="padding-top: 5px;">TO: BUDD BROADCASTING CO., INC.</div>
Licensee/Permittee: (for transfer only)	

<u>CLASS</u>	<u>CALL SIGN</u>	<u>FACILITY ID</u>	<u>FILE#</u>	<u>STATION LOCATION</u>	<u>AUXILIARY STATIONS</u>
TV	WFXU	22245	BALCT-20061121AIV	LIVE OAK, FL	ALL CURRENTLY AUTHORIZED AUXILIARY STATIONS

Under authority of the Communications Act of 1934, as amended, the consent of the Federal Communications Commission is hereby granted to the transaction indicated above.

The Commission's consent to the above is based on the representations made by the applicants that the statements contained in, or made in connection with, the application are true and that the undertakings of the parties upon which this transaction is authorized will be carried out in good faith.

The actual consummation of voluntary transactions shall be completed within 90 days from the date hereof, and notice in letter form thereof shall promptly be furnished to the Commission by the seller or buyer showing the date the acts necessary to effect the transaction were completed. Upon furnishing the Commission with such written notice, this transaction will be considered completed for all purposes related to the above described station(s).

FCC Form 323, Ownership Report, must be filed within 30 days after consummation, by the licensee/permittee or assignee.

ADDITIONAL REQUIREMENTS FOR ASSIGNMENTS ONLY:

Upon consummation the assignor must deliver the permit/license, including any modifications thereof to the assignee.

It is hereby directed that, upon consummation, a copy of this consent be posted with the station authorization(s) as required by the Commission's Rules and Regulations.

The assignee is not authorized to construct nor operate said station(s) unless and until notification of consummation in letter form has been forwarded to the Commission.

ATTACHMENT J

Federal Communications Commission Washington, D.C. 20554	Approved by OMB 3060-0031 (September 2004)	FOR FCC USE ONLY
Consummation Notice		FOR COMMISSION USE ONLY FILE NO.
Read Instructions/FAQ before filling out form		

Section I - General Information

1.	Legal Name of the Applicant BUDD BROADCASTING CO., INC.										
	Mailing Address 4190 NW 93RD AVENUE										
	City GAINESVILLE	State or Country (if foreign address) FL	Zip Code 32653 -								
	Telephone Number (include area code) 3523717772		E-Mail Address (if available)								
	FCC Registration Number: 0005846795	Call Sign WFXU	Facility ID Number 22245								
2.	Contact Representative (if other than licensee/permittee) AARON P. SHAINIS		Firm or Company Name SHAINIS & PELTZMAN, CHARTERED								
	Mailing Address 1850 M STREET, NW SUITE 240										
	City WASHINGTON	State or Country (if foreign address) DC	ZIP Code 20036 -								
	Telephone Number (include area code) 2022930011		E-Mail Address (if available) AARON@S-PLAW.COM								
3.	Purpose: <input checked="" type="radio"/> Consummation Notice <input type="radio"/> Extension of Consummation <input type="radio"/> Notification of Non-consummation										
4.	Consummation for: <input checked="" type="radio"/> Assignment of License and/or Permit <input type="radio"/> Transfer of Control										
5.	Lead Station File Number: BALCT - 20061121AIV		Lead Facility ID: 22245								
6.	<table border="1"> <tr> <td>File Number</td> <td>Facility ID</td> <td>Call Sign</td> <td>Will not Consummate</td> </tr> <tr> <td>BALCT-20061121AIV</td> <td>22245</td> <td>WFXU</td> <td><input type="checkbox"/></td> </tr> </table>			File Number	Facility ID	Call Sign	Will not Consummate	BALCT-20061121AIV	22245	WFXU	<input type="checkbox"/>
File Number	Facility ID	Call Sign	Will not Consummate								
BALCT-20061121AIV	22245	WFXU	<input type="checkbox"/>								
7.	Date of consummation: 01/19/2007										
8.	FRN of Assignee/Transferee: 0005846795										

I hereby certify that the referenced assignment of license/transfer of control was consummated within the required time period, on the date indicated in #7 above.

Typed or Printed Name of Person Signing HARVEY BUDD	Typed or Printed Title of Person Signing PRESIDENT
Signature	Date 01/24/2007

WILLFUL FALSE STATEMENTS ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. CODE, TITLE 47, SECTION 312(a)(1)), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).

Exhibits

ATTACHMENT K

PUBLIC NOTICE RE:

FREEZE



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**

DA 04-2446

Released: August 3, 2004

Freeze on the Filing of Certain TV and DTV Requests for Allotment or Service Area Changes

Beginning immediately, and until further notice, the Commission will not accept for filing certain requests by analog and digital television broadcast stations for changes to existing DTV and analog TV service areas and channels. Specifically, until further notice, the Commission will not accept for filing the following:

- Petitions for rulemaking to change DTV channels within the DTV Table of Allotments.
- Petitions for rulemaking for new DTV allotment proceedings.
- Petitions for rulemaking to swap in-core DTV and NTSC channels.
- Applications to change DTV channel allotments among two or more licensees.
- Petitions for rulemaking by licensees/permittees to change NTSC channels or communities of license.
- Television modification applications that would increase a station's DTV service area in channels 2-51 in one or more directions beyond the combined area resulting from the station's parameters as defined in the following: (1) the DTV Table of Allotments; (2) Commission authorizations (license and/or construction permit); and (3) applications on file with the Commission prior to release of this Public Notice; and television modification applications that would increase a station's analog service area in channels 2-51 in one or more directions beyond the combined area resulting from the station's parameters as defined in the following: (1) Commission authorizations (license and/or construction permit) and (2) applications on file with the Commission prior to release of this Public Notice. The Bureau may consider, on a case by case basis and consistent with the public interest, amendments to those applications to, for example, resolve interference with other stations or pending applications or to resolve mutual

exclusivity with other pending applications. In earlier Public Notices, we have frozen maximization applications for channels 52-59 and 60-69.¹

- Class A station displacement applications and applications for coverage changes that would serve any area that is not already served by that Class A station's authorized facilities. As an exception to this freeze, on-air Class A stations demonstrating that they face imminent disruption of service may request Special Temporary Authority ("STA") to continue operations. Displacement applications filed by out-of-core LPTV stations that have been deemed Class A-eligible requesting to move to an in-core channel where Class A authority could be granted will not be acted on during this freeze, but for such stations, immediate non-Class A LPTV displacement relief may be requested through an STA.

Notwithstanding this freeze, licensees will not be prevented from filing modification applications when the application would resolve international coordination issues or when a broadcast station seeks a new tower site due to the events of September 11, 2001.

The Commission is in the process of developing a channel election and repacking process that will assign to eligible television broadcasters a post-transition DTV channel in the core television spectrum (*i.e.*, channels 2-51). Channel election procedures will be announced in the Commission's *Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, MB Docket No. 03-15, RM 9832. This freeze is a necessary first step to ensure a stable television database prior to the commencement of the channel election process. Prohibiting the filing of new applications and petitions requesting new channels or service areas will allow broadcasters to evaluate stations' technical parameters and thereby facilitate channel elections and the creation of a new DTV Table of Allotments. Imposition of an immediate freeze will ensure that new applications and petitions are not filed in anticipation of future limitations, thus defeating the administrative purpose of the action herein, and will ensure that technical parameters do not continue to change while broadcasters make their channel election decisions.

The Bureau will consider, on a case-by-case basis, requests for waiver of this freeze when a modification application is necessary or otherwise in the public interest for technical or other reasons to maintain quality service to the public, such as when zoning restrictions preclude tower construction at a particular site or when unforeseen events, such as extreme weather events or other extraordinary circumstances, require relocation to a new tower site. As with any request for waiver of our rules, a request for waiver of the freeze imposed in this Public Notice will be granted only upon a showing of good cause and when grant of the waiver will serve the public interest.

The decision to impose this freeze is procedural in nature and therefore the freeze is not subject to the notice and comment and effective date requirements of the Administrative Procedure Act. *See* 5 U.S.C. § 553(b)(A), (d); *Kessler v. FCC*, 326 F. 2d 673 (D.C. Cir. 1963). Moreover, there is good cause for the Commission's not using notice and comment procedures in this case, and not delaying the effect of the freeze until 30 days after publication in the Federal Register, because to do either would be impractical, unnecessary, and contrary to the public interest because compliance would undercut the purposes of the freeze. *See* 5 U.S.C. § 553(b)(B), (d)(3).

¹ *See* Public Notice, 17 FCC Rcd 11290 (2002); Public Notice, 18 FCC Rcd 627 (2003).

This action is taken by the Chief, Media Bureau pursuant to authority delegated by § 0.283 of the Commission's rules.

For additional information, contact Kim Matthews of the Policy Division, Media Bureau, at (202) 418-2120 or Barbara Kreisman of the Video Services Division, Media Bureau, at (202) 418-1600.

ATTACHMENT L

April 9, 2007

SHAINIS AND TELTZMAN ATTORNEYS AT LAW

Attention: Aaron Shainis, Esquire
1850 N Street N.W.
Washington, DC 20036

Dear Mr. Shainis:

This correspondence is provided per the request of Harvey Budd to verify tower construction timing and difficulty in North Florida.

I am Executive Vice President and an equity partner of TowerCom East Coast, LLC, TC Florida Towers II, LLC and SC Towers, Inc. I have served as their Executive Vice President for the last ten years. Prior to that, I owned another cell tower development company, Gator Tower Management, Inc. I also built numerous towers during my 18-year career with Motorola, beginning in 1978. I have been personally involved with around 100 tower projects and our company has developed over 300 sites over the last ten years.

I personally have developed towers from Tampa, FL to Charlotte, NC. Predominantly, I have built the majority of my sites in North Florida.

Harvey called me to inquire how much time it would take to get a 500 ft broadcast tower built in North Florida. The attached timetable is a reasonable schedule considering the current zoning climate, due diligence requirements and the numerous governmental approval processes. This is based on the experience stated above and recent project timelines.

Should you have any questions regarding the information presented, you may contact me either by phone, (904) 343-9717, or by e-mail, dboeff@towercomenterprises.com.

Thank you for your time and consideration.

Sincerely yours,

TOWERCOM

David H. Boeff
Executive Vice President

cc: Harvey Budd

AVERAGE NORTH FLORIDA TOWER DEVELOPMENT TIMELINE

- 1.) Target property zoning compatibility analysis: 1 week
- 2.) Site acquisition for Option and Ground Lease: 4 weeks
- 3.) Option and Ground Lease negotiation and legal: 4 weeks
- 4.) Boundary survey: 2 weeks
- 5.) Title review and policy: 5 weeks
- 6.) "2-C" Survey: 1 week
- 7.) Preliminary FAA review: 1 week
- 8.) FAA application and final FAA Determination: 6-8 weeks
- 9.) Phase-1 Environmental study: 3 weeks (assuming no Phase-2 required)
- 10.) NEPA, SHPO, THIPO review: 6 weeks
- 11.) A&E drawings for zoning submittal: 2 weeks
- 12.) First step meeting: 2 weeks
- 13.) Zoning hearing: 6 weeks (assuming no variances required)
- 14.) Board of County Commissioners: 4 weeks
- 15.) Ordering tower and delivery: 6 weeks
- 16.) Bidding general contractors: 3 weeks
- 17.) Development review committee: 4 weeks
- 18.) Permitting: 2 weeks
- 19.) Site construction: 8 weeks
- 20.) Final CO: 2 weeks

Using a project start date of April 16, 2007, the estimated project completion time would be January 21, 2008. That would be a best case scenario. This is assuming there are no public objections causing zoning delays, that there are no FAA issues, that the environmental analysis is satisfactory, that the title is clean and that NEPA, SHPO and THIPO have no issues. Lastly, the timetable does not allow for delays due to any variances required should the site not meet all zoning criteria.

It is, therefore, very unlikely that there would be no issues as stated above, particularly public outcry. It would be safe to say, based on my experience, that another 6-9 months would be added to the above timeframe pushing a realistic completion date of July-October 2008.

Some items on the above due diligence and approvals list can be ordered and obtained simultaneously while others must wait on the results of earlier approvals and findings.

ATTACHMENT M

PTS Precision Tower Systems
985 11th Avenue South
Jacksonville Beach, FL 32250

Email: ptsmia@aol.com
Phone: 904-249-1555
Fax: 904-249-1557

Memorandum

April 10, 2007

To: Harvey Budd, Budd Broadcasting

Re: North Florida Tower Development

Harvey,

This correspondence is provided per your request to verify tower construction timing and how much time it would take to get a 500 ft broadcast tower built in North Florida. The following timeline reflects and compares scheduling for zoning, due diligence requirements and most governmental approval processes. This is based on our recent experience and current project timelines.

ACTIVITIES	BEST TIME	REAL TIME
• Target property with size & zoning compatibility:	1 week	3 weeks(+)
• Site acquisition for purchase or Ground Lease:	4 weeks	6 weeks
• Purchase or Ground Lease negotiations:	4 weeks	4 weeks(+)
• Boundary surveys & Title reviews:	2 weeks	8 weeks
• FAA Preliminary reviews:	1 week	2 weeks
• FAA application and final FAA Determination:	8 weeks	9 weeks
• Phase-1 Environmental study with documents:	3 weeks	6 weeks
• NEPA, SHPO, THIPO reviews and documents:	6 weeks	12 weeks(+)
Some tribal responses have taken many extra months		
• Engineered drawings for zoning & building submittals:	2 weeks	2 weeks
• Zoning hearings, variances and meetings:	6 weeks	8 weeks(+)
• Board of County Commissioners:	4 weeks	5 weeks(+)
• Ordering tower and delivery:	6 weeks	6 weeks
• Bidding for contractors, towers, & development:	4 weeks	6 weeks
• Permitting:	2 weeks	4 weeks
• Site construction (with weather variances) until finalized:	8 weeks	12 weeks

PTS has been active in all aspects of the tower industry for over 30 years, with particular emphasis on broadcast towers for AM arrays, FM towers, and TV or LPTV applications. With our main offices in the Jacksonville area, we have worked predominantly in the Southeastern U.S., with extensive projects in North Florida.

During the most recent years, timelines for tower development have increased exponentially with the proliferation of Cell and PCS tower sites. Local governments don't appear to differentiate broadcast towers from cell sites, with unrealistic local requirements and no understanding or thought of superseding federal regulations. Some have initially required towers to be painted green or blue instead of international orange. Many, now require a fall radius to exceed the full tower height. Now, most local governments are looking for new revenues from the towers and have implemented several new time consuming requirements for appraisals, zoning and building permits, as a result.

We recently completed several 300 to 500 ft. broadcast tower projects, in North and Central Florida, which averaged 15 months from inception. Also, we are currently finishing another 500 ft. broadcast tower project that will be done this month, some 18 months after the initial property was targeted for acquisition.

Please note that while a "best case scenario" could reflect a timeline of 8 months, the more "realistic" time allowance should be for 16 to 18 months to complete a 500 ft. broadcast tower in North Florida.

Please feel free to contact me for any additional assistance or information that you may require.

Regards,
Bill Storms
PTS