

FEDERAL COMMUNICATIONS COMMISSION
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MEDIA BUREAU / OFFICE OF BROADCAST LICENSE POLICY
AUDIO DIVISION
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January 11, 2008

Mark Lipp, Esq.
Wiley Rein LLP
1776 K Street NW
Washington, DC 20006

Re: KUDE (FM), Nephi, Utah
Facility Identification Number: 72769
Millcreek Broadcasting, LLC, Debtor in Possession
Special Temporary Authorization

Dear Counsel:

This is in reference to the request filed January 2, 2008, on behalf of Millcreek Broadcasting, LLC, Debtor in Possession ("MB"). MB requests special temporary authority ("STA") to operate Station KUDE with emergency antenna facilities pursuant to Section 73.1680¹.

In support of the request, MB states that it was unable to negotiate a lease to remain at either its main antenna site or its licensed booster site. MB states that it is forced to install an emergency antenna on an existing tower near its booster site to provide service to its community while it seeks a new site. Technical details are provided for the proposed STA operation.

STA requests which involve a change in transmitter site must include four critical elements: (1) Loss of the licensed site must be beyond the licensee's control; (2) STA facilities must continue to provide service² to the licensed community; (3) STA facilities must maintain, as closely as practicable, the licensed service area³ without extending it; (4) STA facilities cannot involve the construction of towers intended for permanent use by the station requesting the STA.

Our review indicates that the proposed STA operation fails to provide adequate service to the city of license. Given the circumstances presented, we will grant the requested STA; however, it

¹ KUDE is licensed for operation on Channel 280C (103.9 MHz) with effective radiated power of 74 kilowatts (H only) and antenna height above average terrain of 684 meters.

² For AM - 5 mV/m; for commercial FM - 3.16 mV/m; for noncommercial educational FM - 1.0 mV/m.

³ For AM - 0.5 mV/m contour; for FM - 1.0 mV/m contour.

is expected that the licensee will seek a permanent solution for the station which will allow for reliable operation with licensed facilities.

Accordingly, the request for STA IS HEREBY GRANTED. Station KUDE may operate with the following facilities:

Geographic coordinates:	40° 16' 58" N, 111° 56' 11" W (NAD 1927)
Channel	280 (103.9 MHz)
Effective radiated power:	0.2 kilowatt (Max-DA, H&V)
Antenna	Nicom, model BK Y3P, directional
Antenna orientation	95° True
Antenna height:	
above ground:	24 meters
above mean sea level:	2347 meters
ASRN ⁴	1251577

MB must use whatever means are necessary to protect workers and the public from exposure to radio frequency radiation in excess of the Commission's exposure guidelines. *See* 47 CFR § 1.1310.

This authority expires on **July 11, 2008**. Any request for extension of this authority must be accompanied by a detailed progress report, and will be evaluated on the basis of the information provided.

STA Advisory: Section 309(f) of the Communications Act of 1934, as amended, authorizes the Commission to grant STA in cases of "extraordinary circumstances requiring temporary authorizations in the public interest and when delay in the institution of the temporary operations would seriously prejudice the public interest." However, Section 309(f) is not a means by which a licensee/permittee may circumvent established processing procedures which require the filing of an application, nor is it a means by which a broadcaster may enhance his facility or make operation more convenient for the broadcaster. Stations operating with less than licensed facilities under temporary authorities can be viewed as receiving the benefit of a larger protection area than that in which they are currently providing service.

Accordingly, Special Temporary Authorities by nature are to be temporary and are not intended for extended use. Licensees of stations operating under temporary authorities are reminded that timely restoration of permanent facilities is the responsibility of the licensee and should be undertaken expeditiously. Any request for extension of special temporary authorities carries an increased burden with each subsequent request.

Therefore, requests for extension of STA will be granted only where the licensee can show that one or more of the following criteria have been met:

- Restoration of licensed facilities is complete and testing is underway;

⁴ Antenna Structure Registration Number

- Substantial progress has been made during the most recent STA period toward restoration of licensed operation; or
- No progress has been made during the most recent STA period for reasons clearly beyond the licensee's control, and the licensee has taken all possible steps to expeditiously resolve the problem.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles N. Miller". The signature is written in a cursive, flowing style with a long horizontal line extending from the end.

Charles N. Miller, Engineer
Audio Division
Office of Broadcast License Policy
Media Bureau

cc: Millcreek Broadcasting, LLC, Debtor in Possession