

Las Americas Supermercado, Inc.  
FRN 0016-2528-50  
KAXP-LD, Facility ID 43440

### **JUSTIFICATION FOR EXTENSION OF TIME**

KXAP-LD is licensed to operate on Channel 51. It will not be able to remain on that channel after the TV spectrum repack that is planned in GN Docket No. 12-268, because Channel 51 will not remain allotted for television use.

The construction permit for which an extension of time is requested authorizes a move to Channel 38. However, it is likely (although not assured) that Channel 38 will also not remain available for television use after the repack.

Moving to Channel 38 now makes no sense from a financial, marketing, technical, or any other point of view if it will not be a permanent home. KXAP-LD will likely have to change channels again within three to four years.

*In Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television and Television Translator Stations*, FCC 15-135, released December 17, 2015, the Commission recognized the serious burden imposed on LPTV stations if they have to build out new digital facilities twice – once now and again after the repack. That exact same double construction burden is imposed on KAXP-LD and justifies an extension of time for the same reason that the Commission extended the time for existing analog LPTV stations to convert to digital format and for new digital stations to be constructed.

When KXAP-LD first applied, in 2010, to move to Channel 38, the repack plan had not yet been proposed, let alone implemented, as the underlying statute was not enacted until 2012. Therefore, the current unsuitability of Channel 38, because of the prospect of its being re-allotted to non-broadcast services, is a legal development both beyond the licensee's control and not knowable in 2010.

While it may not appear useful to extend a construction permit that the station may never be able to implement, it is not absolutely certain that the Commission will recoup all the channels it seeks to reallocate after the incentive auction, and it is possible that Channel 38 will in the end remain available for television use. Therefore, the licensee requests that the permit be extended and kept alive for a year (or for at least six months), until the result of the repack is known, and primary stations have had an opportunity to request modifications of their initial repacked channel assignments. That way, if Channel 38 does remain available, the licensee will have a construction permit in hand and will be able to construct promptly.