

### **Request for Waiver of Tolling**

Word of God Fellowship, Inc. ("WOGF"), licensee of low power television station KPCD-LP and permittee of digital low power television station KPCD-LD (the "Station"), respectfully requests a waiver of the Commission's tolling standard to provide WOGF with an additional 180-days to complete construction of its digital facility through and including July 11, 2022.<sup>1</sup> A waiver of tolling is warranted because, as described in further detail below, WOGF would have completed construction of the Station's digital facilities but encountered extreme winter weather conditions that resulted in the closure of roads leading to the Little San Gorgonio Peak transmitter site. WOGF is prepared to complete construction of the Station's digital facilities as soon as weather conditions allow.

On April 28, 2021, the Commission granted an extension of the Station's digital construction permit through January 10, 2022. File No. 0000139789. In its request for an extension, WOGF explained that it had completed all of the necessary lease modifications, ordered equipment for its digital facility, and was awaiting the delivery and installation of its digital transmission equipment. Subsequently, WOGF sought to modify the Station's construction permit to coordinate its service area with that of commonly owned KSCD-LP. Upon learning that grant of the modification would be delayed due to the need for Mexican concurrence, however, WOGF undertook to construct the facilities as authorized. WOGF had an engineer on site on January 1, 2022 who found the road leading to the transmitter site for sister station KSCD-LD at Keller Peak was covered in snow and closed for the season (see attached photos). Educational Media Foundation ("EMF"), the owner of the tower at Little San Gorgonio Peak (which has a higher elevation), subsequently advised WOGF that the site "is currently inaccessible due to local adverse weather conditions." See attached letter. WOGF has all of the necessary equipment in its possession and has rented a storage facility near the transmitter site to store the equipment. EMF was unable to provide WOGF with a timeframe for when the transmitter site will become accessible, but once it does, WOGF will complete construction.

Under the present circumstances, a waiver of tolling and extension of the Station's digital construction permit is justified. The Commission's tolling provisions provide that a construction permit deadline may be tolled under specific circumstances such as acts of God, delays due to administrative or judicial review, or construction that is delayed by any cause of action pending before a court of competent jurisdiction relating to any necessary local, state, or federal requirement for the construction or operation of the station, including any zoning or environmental requirement.<sup>2</sup> If a station does not qualify for tolling under these criteria, good cause may exist to waive the Commission's tolling provisions and still toll the expiration of the Station's construction permit where the station can demonstrate that "rare and exceptional circumstances" prevented construction.<sup>3</sup>

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<sup>1</sup> 180 days from January 10, 2022 is July 9, 2022, a Saturday. WOGF will endeavor to complete the Station's digital facilities well before the new deadline but seeks the maximum allowable time for administrative convenience to avoid the need for further extensions.

<sup>2</sup> 47 C.F.R. § 73.3598(b).

<sup>3</sup> See *1998 Biennial Regulatory Review -- Streamlining of Mass Media Applications, Rules, and Processes*, Memorandum Opinion and Order, 14 FCC Rcd. 17525 ¶ 42 (1999) (recognizing that there may be "rare

A waiver of tolling is appropriate here because WOGF's inability to complete construction of its digital facilities for the Station is due to weather conditions that, under the circumstances, constitute rare and exceptional circumstances beyond its control.<sup>4</sup> Although the FCC has found that winter weather does not constitute an act of God under the tolling rules, it has nevertheless found that "poor winter conditions . . . and a lack of access to necessary tower construction resources" constitute rare and exceptional circumstances for which a waiver of tolling may be justified.<sup>5</sup> Here, WOGF only had six months to complete construction following the grant of its initial extension request. That would have been sufficient time but for the weather conditions that prevented WOGF's engineer from accessing the tower site.

WOGF expects to complete construction by early spring and requests a full 180-day extension solely for administrative convenience to avoid the need for further extensions.

For the reasons stated above, the Commission should waive the tolling standard and provide WOGF with an additional 180 days to complete construction and license the Station's digital facilities.

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and exceptional circumstances" beyond the control of the licensee that do not fall under the tolling provisions, but "which would warrant the tolling of construction time").

<sup>4</sup> See 1998 Biennial Regulatory Review -- Streamlining of Mass Media Applications, Rules, and Processes, Memorandum Opinion and Order, 14 FCC Rcd. 17525 ¶ 42 (1999) (recognizing that there may be "rare and exceptional circumstances" beyond the control of the licensee that do not fall under the tolling provisions, but "which would warrant the tolling of construction time").

<sup>5</sup> See, e.g., Red River Broadcast Co., LLC (KDLT-TV), Letter Order, File No. 0000072207 (MB May 14, 2019).





accessmore.

EDUCATIONAL MEDIA FOUNDATION

January 5, 2022

**VIA EMAIL**

Mr. Arnold Torres  
Word of God Fellowship, Inc.  
3901 Highway 121 South  
Bedford, TX 76021

RE: Station Call Letters: KPCD-LP, Facility ID: 129226  
EMF Site: 60144-341  
Name: KLRD YUCAIPA, CA  
Site Address: near LITTLE SAN GORGONIO PEAK, YUCAIPA, CA

Dear Mr. Torres,

This letter serves as notification that the above referenced Educational Media Foundation owned tower site which is utilized by KPCD-LP is currently inaccessible due to local adverse weather conditions. Unfortunately, I am unable to provide you with an accessibility timeframe, but we will keep you informed of changes through future updates.

We appreciate and value our working relationship with Word of God Fellowship. If you have any questions or need any further information, please do not hesitate to contact me.

Sincerely,

EDUCATIONAL MEDIA FOUNDATION

*Cyndi Byrd*

Cyndi Byrd  
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