



Federal Communications Commission  
Washington, D.C. 20554

October 12, 2023

*In reply refer to: 1800B3-VMM*

**Sent via certified mail return receipt requested and electronic mail**

Brigham Young University - Idaho  
102 UCB  
Rexburg, ID 83460  
isleb@byui.edu

RE: **K288DZ, Dillon, MT**  
Facility ID No. 16937

Operational Status Inquiry

Dear Licensee:

This letter concerns the operational status of Station K288DZ, Dillon, Montana (Station), licensed to Brigham Young University – Idaho (BYUI). Based on our records, it appears that the Station has been silent for more than 12 months. Pursuant to section 73.1015 of the Commission's rules (Rules)<sup>1</sup>, BYUI is required to clarify this matter in writing within forty-five (45) days of the date of this letter.

**Background.** Our records show that BYUI filed a request for Special Temporary Authority (STA) to remain silent on June 6, 2022,<sup>2</sup> stating that the Station went silent on December 1, 2021 after its equipment, including its antenna, had been stolen.<sup>3</sup> BYUI also stated that the Station's site was not accessible due to weather conditions, and that it was preparing an application for construction permit to relocate the transmitter site because the lease for the existing site was not being renewed.<sup>4</sup> BYUI also stated that it would promptly construct the facilities and file a covering license no later than November 30, 2022.<sup>5</sup> On November 17, 2022, BYUI filed a notice of resumption of operations for the Station, stating, "FM translator K288DZ, Dillon, MT (FIN 16937) resumed operations on October 11, 2022 with the facilities authorized by License File No. BLFT-20130806ABK," without mention of the stolen equipment, expired lease or loss of site.<sup>6</sup> On September 27, 2023, BYUI filed another request for silent STA, stating that the Station went silent on that date, "due to unknown technical issues."<sup>7</sup> That request remains pending.

Based on this information, it appears that the Station may have been silent (or failed to operate with authorized facilities) for more than one year. Pursuant to section 312(g) of the Communications Act of 1934, as amended (Act), **if a broadcast station fails to transmit broadcast signals with its authorized facilities for any consecutive 12-month period, then the station license granted for the**

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<sup>1</sup> 47 CFR § 73.1015.

<sup>2</sup> Application File No. 0000193013 (gr. on Aug. 18, 2022, exp. Dec. 2, 2022).

<sup>3</sup> *Id.*, Exhibit 1.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* No application was filed.

<sup>6</sup> Notice of Resumption of Operations (received Nov. 17, 2022).

<sup>7</sup> Application File No. 0000221535 (filed Sept. 27, 2023).

**operation of that broadcast station expires at the end of that period, notwithstanding any provision, term, or condition of the license to the contrary, except that the Commission may extend or reinstate such station license to promote equity and fairness.<sup>8</sup>**

This letter affords BYUI 45 days to provide evidence of the Station's operation with authorized facilities between December 1, 2021, and the present date. If BYUI fails to provide such documented evidence within 45 days from the date of this letter, the Commission's public and internal databases WILL BE MODIFIED to indicate that the broadcast license for the Station are EXPIRED, that the Station's licenses are CANCELED as a matter of law, and that the Station's call signs are DELETED.

**Information and Materials Requested.** *Operational Status.* The materials required to establish the operational status of the Station are as follows. First, BYUI must provide a narrative statement that indicates the Station's operational status between December 1, 2021, and the present date. BYUI must indicate the dates on which the Station was silent, operated with licensed facilities, or operated with technical parameters other than those specified in its license. For all dates, BYUI must indicate the effective radiated power, antenna height above ground level and geographic coordinates and address. With respect to any dates on which the Station operated at a variance from licensed parameters, BYUI should indicate whether it requested STA to do so. With respect to any dates on which the Station was silent, BYUI should indicate whether it notified the Commission of the Station's silence, and whether it requested STA for the Station to remain silent.

In addition to the narrative statement, BYUI must submit copies of all leases, engineering records, utility bills, and station records (including all emails and text messages of BYUI employees, contractors, and consultants relating to the Station) for the Station from December 1, 2021, to the present. BYUI also must provide copies of all available accounting records relating to the Station's operation or equipment repairs, replacements and/or installations, as well as copies of all utility bills.<sup>9</sup> BYUI must include dated pictures of the Station's transmission facilities during this timeframe.

*Affidavits or Declarations.* In addition to the documentation noted above, BYUI must support its response with an affidavit or declaration under penalty of perjury, signed and dated by an authorized representative of BYUI, with personal knowledge of the representations provided in the response, verifying the truth and accuracy of the information therein and that all of the information requested by this letter which is in BYUI's possession, custody, control or knowledge has been produced. If multiple persons contribute to the response, in addition to such general affidavit or declaration of the authorized representative of BYUI noted above, any such person (or any other affiant or declarant) that is relying on the personal knowledge of any other individual, rather than his or her own knowledge, must provide separate affidavits or declarations of each such individual with personal knowledge that identify clearly to which responses the affiant or declarant with such personal knowledge is attesting. All such declarations provided must comply with section 1.16 of the Rules,<sup>10</sup> and be substantially in the form set forth therein. We remind BYUI that to knowingly and willfully make any false statement or conceal any material fact

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<sup>8</sup> 47 U.S.C. § 312(g) (emphasis added). The Commission has exercised its discretion under section 312(g) to extend or reinstate a station's expired license "to promote equity and fairness" only in limited circumstances where a station's failure to transmit a broadcast signals for 12 consecutive months is due to compelling circumstances that were beyond the licensee's control, such as a natural disaster. *See, e.g., A-O Broad. Corp.*, Memorandum Opinion and Order, 23 FCC Rcd 603, 617, para. 27 (2008) ("This limited, discretionary provision is phrased as an exception to the general rule that most affected licenses will be forfeited").

<sup>9</sup> In addition, if BYUI uses accounting software to maintain financial records for the Station, it must provide printouts of the data recorded for the time period at issue (*i.e.*, December 1, 2021 to the present).

<sup>10</sup> 47 CFR § 1.16.

in reply to this inquiry is punishable by fine or imprisonment.<sup>11</sup> Moreover, failure to respond appropriately to this letter of inquiry may constitute a violation of the Act and the Rules.

We also note that it is imperative to the safety of air navigation that any prescribed painting and illumination of the Station's tower(s) shall be maintained.<sup>12</sup>

All submissions must include a cover letter addressed to Marlene S. Dortch, Secretary, FCC 45 L Street N.E., Washington, DC, 20554, and **sent via email ONLY**, to [Victoria.McCauley@FCC.gov](mailto:Victoria.McCauley@FCC.gov).<sup>13</sup>

Failure to respond to this letter within the specified time will result in adverse actions jeopardizing the Station's license and call letters. If you have any questions concerning the content of this letter, please contact Victoria McCauley, Attorney, by phone at (202) 418-2136 or via e-mail at the address above.

Sincerely,

*Albert Shuldiner*

Albert Shuldiner  
Chief, Audio Division  
Media Bureau

cc: (via electronic mail)

David A. O'Connor, Esq., counsel to Brigham Young University – Idaho  
[doconnor@wbklaw.com](mailto:doconnor@wbklaw.com)

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<sup>11</sup> 47 CFR §1.17.

<sup>12</sup> See 47 CFR §§ 17.6 and 73.1740(a)(4).

<sup>13</sup> In the event that a submission would exceed 5 MB, you must first contact Ms. McCauley to explain the nature of the documentation and seek guidance as to whether the submission should be reduced by providing representative documents, rather than all documents, of a particular nature.