

## **REQUEST FOR TOLLING**

Obidia Porras (“Porras”) hereby respectfully requests tolling of her construction permit for her digital LPTV facility for this station. As described herein, Porras has been working diligently to complete construction of the Station’s displacement facilities and to construct the station. An application for minor modification was pending, and was awaiting Mexican concurrence, which was expected to be issued shortly. Porras has reduced proposed power to obviate the need for Mexican concurrence. Since the Commission granted an extension of the CP, however, Porras obtained all equipment necessary for construction of the Station. Once the currently pending modification application is granted, the Station will be able to begin operation from the site immediately.

Porras respectfully requests a waiver of the Commission’s tolling rule requirements, and a 180-day tolling of the construction permit deadline.

Porras has engaged in diligent efforts to build-out of the authorized facility, which now are complete. Completion of construction by the deadline date had been delayed due to multiple causes, ranging from competition for resources and supply constraints during repacking, and the ongoing pandemic conditions caused by COVID-19; illness, social distancing, and other pandemic-related precautions have resulted in equipment delivery delays and labor shortages, including the availability of tower crews; an already limited, highly-specialized and thinly-stretched work force necessary to install broadcast antennas and related equipment. In addition, its principal contractor has had multiple permits that he was required to construct, which also strained its availability and resources. The COVID-19 Pandemic, and the resulting delays, were also circumstances beyond its control. Those problems now have been overcome, and with the FCC’s final approval, the Station will be built imminently.

Under Section 73.3598(b) of the Commission’s rules:

73.3598(b)

The period of construction for an original construction permit shall toll when construction is prevented by the following causes not under the control of the permittee: (1) Construction is prevented due to an act of God, defined in terms of natural disasters (e.g., floods, tornados, hurricanes, or earthquakes);

(2) The grant of the permit is the subject of administrative or judicial review (i.e., petitions for reconsideration and applications for review of the grant of a construction permit pending before the Commission and any judicial appeal of any Commission action thereon), or construction is delayed by any cause of action pending before any 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;

(3) A request for international coordination, with respect to an original construction permit for a new DTV station, has been sent to Canada or Mexico on behalf of the station and no response from the country affected has been received, or the licensee or permittee is challenging the response from Canada or Mexico on the grounds that the facility as approved would not permit the station to serve the population that is both approved by the Commission and served by the station's TV (analog) facility to be vacated by June 12, 2009;

(4) A request for international coordination, with respect to a construction permit for stations in the Low Power FM service, on FM channels reserved for noncommercial educational use, and for noncommercial educational full power television stations, has been sent to Canada or Mexico on behalf of the station and no response from the country affected has been received; or

(5) Failure of a Commission-imposed condition precedent prior to commencement of operation.

47 C.F.R. § 73.3598(b) (emphasis added).

A waiver of tolling under these circumstances is consistent with the Commission's approach to other construction related delays as part of the post-Incentive Auction transition. In its *Public Notice* adopting the post-Incentive Auction transition scheduling plan, the Media Bureau and the Incentive Auction Task Force declared that "[r]eassigned stations and band changing stations that are unable to complete construction of their post-auction channel facilities by their deadlines may seek a single extension of up to 180 days." In justifying the provision of a one-time, 180-day extension, the FCC explained that "[g]iven the variety of challenges that stations may face in connection with the post-auction transition, stations that are able to demonstrate that they have experienced uncontrollable and unexpected delays in construction should be allowed a single extension of up to six months before being subject to our stricter tolling provisions." The same rationale applies to low power television stations that have been attempting to complete their displacement facilities and digital conversions in the middle of a global pandemic and supply chain shortage.

Porras currently expects to have all of the requisite Commission approval imminently.

Porras submits that a grant of this tolling request would serve the public interest by providing additional time for Porras to complete construction of the authorized facility and bring important television digital programming service to the viewing public.