

August 7, 2023

VIA EMAIL VIA DELIVERY to [Victoria.McCauley@fcc.gov](mailto:Victoria.McCauley@fcc.gov)

Marlene H. Dortch  
Secretary  
Federal Communications  
Commission 45 L Street, NE  
Washington, DC 20554  
*Attn: Audio Division, Media Bureau*

Re: K291CT, Duncan, OK Facility ID No. 200286  
Construction Permit File No. [BNPFT-0171201ANT](#)  
Original Construction Deadline: January 5, 2021

K244FW, Lawton, OK Facility ID No. 202253  
Construction Permit File No. [BNPFT-20180418ABU](#)  
Original Construction Deadline: May 14, 2021

***Re: Status Report and Request for Continued Waiver of Construction Deadlines***

Dear Ms. Dortch:

Mollman Media, Inc. (“Mollman”) holds the above-captioned construction permits (“Construction Permits” or “Stations”) to construct the facilities of K291CT, Duncan, OK and K244FW, Lawton, OK. Pursuant to Sections 1.3 and 73.3598(b) of the Commission’s Rules,<sup>1</sup> Mollman requested tolling of the respective construction periods for the Construction Permits. By Letter 1800B3-VM dated December 11, 2020,<sup>2</sup> the Commission denied the tolling request and instead granted waiver of the construction deadlines for the Construction Permits, finding that “rare and exceptional circumstances beyond the permittee’s control”<sup>3</sup> existed due to the pendency of litigation. As the litigation that gave rise to the original tolling request remained unresolved, Mollman requested continued waiver treatment to be applied to these stations by

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<sup>1</sup> 47 C.F.R. §§ 1.3, 73.3598(b).

<sup>2</sup> See Letter from Albert Shuldiner, Chief, Audio Division, Media Bureau, 1800B3-VM (Dec. 11, 2020).

<sup>3</sup> See 1998 Biennial Regulatory Review—Streamlining of Mass Media Application Rules and Processes, Report and Order, 13 FCC Rcd 23056 (1998), *recon. granted in part and denied in part*, Memorandum Opinion and Order, 14 FCC Rcd 17525, 17541 (1999).

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letter dated March 22, 2023. This treatment has been extended, with the next report due by August 8, 2023.<sup>4</sup> This letter is to provide that report on the status of the litigation.

Mollman's original request for tolling of the construction period deadline was based on the lawsuit it commenced on July 16, 2019, after its acquisition of the Stations (as well as a number of other broadcast stations, including the primary stations for the Stations) from Perry Broadcasting of Southwest Oklahoma, Inc. (Perry).<sup>5</sup> In that action, which seeks to rescind the transaction, Mollman alleges that there were false and material misrepresentations of fact made to Mollman to induce it to buy the stations and other fraudulent conduct by Perry.<sup>6</sup> Mollman argues that Perry's conduct is such that the transaction should be ordered undone, with the parties returned to their positions prior to the sale.<sup>7</sup> The pending lawsuit asks the Court to order that the stations be returned to Perry in exchange for the return of the purchase price paid by Mollman for all of the stations, including the Construction Permits.<sup>8</sup> Perry has opposed Mollman's request for relief in the lawsuit, and thus far settlement discussions have not led to any resolution of the matter. Due to COVID and other reasons, the trial on this case did not begin until late April 2023.

On or about May 5, 2023, the jury rendered a verdict for Perry. However, the Judge has not yet entered the judgement. Appeals and motions for a new trial are triggered by the entry of the judgement – with parties having 30 days to file an appeal or to request a new trial. Thus, as the litigation that gave rise to the original tolling request has not been finally resolved, Mollman hereby requests continued waiver treatment and asks that the deadlines to construct the facilities be waived for an additional six months each.

As the litigation seeks to return the parties to their position prior to the sale, if Mollman builds these unbuilt translators, the Stations will not be in the condition that they were in at the time of the sale. There may be questions as to whether Mollman will be able to recover any of the construction costs, and whether that would affect the ability of Mollman to return the assets in the condition that existed at the time of the sale. As the judgement relating to this matter is not yet final, the waiver applied to these Stations' construction deadlines should continue.

Mollman would suffer an extreme hardship if it were forced to construct the translators not knowing if it will be able to operate the translators or to recover its construction costs from the litigation, and whether the construction could in some way affect the ability of the Court to grant the requested rescission of the transaction. This could create administrative inefficiencies and add layers of additional burden on the court system that would be avoided altogether by granting a further extension of the existing waiver, allowing the permits to remain in the state in which they

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<sup>4</sup> Per email from FCC staff on August 1, 2023, K291CT and K244FW are receiving continued waiver treatment through August 8, 2023.

<sup>5</sup> See File No. BALH-20181220AAW (granted Feb 15, 2019, consummated April 9, 2019).

<sup>6</sup> Case No. CJ-2019-139R, District Court of Stephens County, State of Oklahoma.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

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were received by Mollman. Mollman therefore submits that the public interest will be served by continuing to waive the respective construction deadlines for the Construction Permits until the litigation is finally resolved.

Sincerely,

/s/

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David D. Oxenford

Counsel for Mollman Media, Inc.