



1300 NORTH 17th STREET, 11th FLOOR
ARLINGTON, VIRGINIA 22209

OFFICE: (703) 812-0400
FAX: (703) 812-0486
www.fhhlaw.com
www.commlawblog.com

MATTHEW H. MCCORMICK
(703) 812-0438
MCCORMICK@FHHLAW.COM

February 22, 2022

VIA FEDERAL EXPRESS & ELECTRONIC DELIVERY

Marlene H. Dortch, Secretary
Federal Communications Commission
9050 Junction Drive
Annapolis Junction, Maryland 20701

**Re: Cultural Energy
Noncommercial Educational Station KCEY, Ranchos de Taos, NM
Facility ID No. 173334
BNPED-20071016AJM
BMPED-20140625AOX
REQUEST TO EXTEND TOLLING**

Dear Ms. Dortch:

Cultural Energy ("CE"), permittee of unbuilt new Noncommercial Educational Station KCEY(FM), Facility ID No. 173334, Ranchos de Taos, New Mexico, pursuant to Section 73.3598(b)(2) of the Commission's Rules, requests that the previously granted request to toll the construction period for KCEY be extended.

In response to a request filed on behalf of CE, on September 17, 2014, the Audio Division tolled the construction period for KCEY due to the initiation of a legal proceeding in New Mexico state court that, if successful, would preclude CE's use of its specified transmitter site. *Valerio v. Cultural Energy*, Cause No. D-820-CV-2014-00323 (Eight Judicial District Court, Taos County, New Mexico). The tolling was effective as of September 5, 2014. Since that time, CE has filed follow-up reports, with the most current report filed on August 27, 2021. That request to toll the construction period was granted, with a new expiration date of March 1, 2022. This letter constitutes the next follow-up report.

The legal proceeding that led to CE's initial tolling request remains pending. As previously reported, this quiet title suit is particularly difficult to resolve because several of the claimants inherited the property from their grandparents. In each family, the ownership is split between multiple siblings and/or other relatives who rarely agree on what to do with the inherited mountain property. Moreover, some of the claimants want CE to purchase not only the rights to the approximately two acres where the tower would be located, but the entire narrow strips of land

(linias) they claim, which are from fifteen to one hundred eight five feet wide by approximately five miles long.

CE still wishes to resolve the conflicting claims on the existing tracts so that it can move forward with its transmitter site. Due to the varying ownership of the property, however, there continues to be activity in the case, prolonging a final resolution. For example, when CE hired a surveyor to prepare a survey of the transmitter site, the surveyor's initial research found that Tract 7, Map 50, Survey 1 of the 1941 Taos County Reassessment Survey is located further west than previously thought. CE continues to research the Taos County real estate records, including the examination of surveys and other quiet title suits involving nearby properties, as well as research of possible conflicting claims as shown in the records.

Additionally, after CE's President Robin Collier acquired a quit claim deed of additional rights to a 142 acre tract (which lies *east* of Tract 7, namely in Tract 6), CE was granted a communications infrastructure easement on the most southern portion of that quit claim area. This was done to insure that there will be sufficient area (free of conflicting claims) for the transmitter site and required setbacks. CE subsequently hired a new surveyor to survey this quit claim tract and communications infrastructure easement. That survey has been recorded with the Taos County Clerk and assessed as valid by the Taos County Assessor. The new information presented by this recorded survey has enabled CE to continue to resolve the conflicting claims in both Tracts 6 and 7, and to continue negotiations with interested parties and family members to for additional quit claim deeds and insure that the easements and property purchased will be usable. Such negotiations continue to be difficult, however, because of the claims by multiple parties in Tract 7.

CE will not be able to finish construction and begin operation of KCEY until further matters with respect to the transmitter site are resolved. The parties currently anticipate to negotiate either a resolution of this case, or readiness for trial, by the fall of 2022.

CE certifies that neither it nor any party to CE is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862.

Should further information be needed, please communicate with the undersigned.

Very truly yours,



Matthew H. McCormick

Kristen A. Corra

Counsel for Cultural Energy

cc (email): Victoria McCauley (Victoria.McCauley@fcc.gov)
Robin Collier (culturalenergy@gmail.com)