



**Federal Communications Commission
Washington, D.C. 20554**

December 11, 2020

In reply refer to: 1800B3-VM

SENT VIA EMAIL to kdonohue@wbklaw.com

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In Re: K291CT, Duncan, OK
Facility ID No. 200286
File No. BNPFT-20171201ANT

K244FW, Lawton, OK
Facility ID No. 202253
File No. BNPFT-20180418ABU

Mollman Media, Inc.

Dear Mr. Oxenford and Ms. Donohue:

On November 11, 2020, we received your request on behalf of Mollman Media, Inc. (Mollman) for tolling of the construction deadline for the construction permits for FM translator Stations K291CT, Duncan, Oklahoma, granted on January 5, 2018 for a three-year term expiring on January 5, 2021, and K244FW, Lawton, Oklahoma, granted on May 14, 2018 for a three-year term expiring on May 14, 2021 (collectively, Stations). As explained below, Mollman's request for tolling is denied, but when considered as a waiver, is granted.

Mollman's request for tolling of the construction period deadline is 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).¹ The lawsuit seeks to rescind the transaction and return the parties to their respective pre-acquisition status. Mollman argues that this cause of action relating to the legal rights to construct and operate the Stations justifies tolling these construction permits while the litigation continues.

Although tolling is not specifically applicable to the circumstances of this case, we will grant a waiver of the construction deadline based on "rare and exceptional circumstances beyond the permittee's control."² We find that the waiver is appropriate because the pendency of the lawsuit is a rare and exceptional circumstance beyond the permittee's control within the meaning of the *Streamlining MO&O*. We will grant the waiver effective as of October 12, 2020, 30 days prior to the filing of the request.³

¹ See File No. BALH-20181220AAW (granted Feb 15, 2019, consummated April 9, 2019).

² 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) ("Streamlining MO&O").

³ Section 73.3598(c) of the rules requires that a permittee notify the Commission as promptly as possible and, in any event, within 30 days, of any pertinent event. 47 CFR § 73.3598(c). This allows us to look

Grant of the request is subject to the following conditions:

- (a) The waiver is effective as of October 12, 2020 and will expire six months from the date of this letter (June 11, 2021) if not terminated prior to such date in accordance with this letter.
- (b) Once the waiver period ends, 2 months and 25 days will remain on the permit for Station K291CT, Duncan, Oklahoma, and 7 months and 3 days will remain on the permit for Station K244FW, Lawton, Oklahoma.
- (c) Mollman would need to file a status report by June 11, 2021 if the matter is not resolved by such date, and at six-month intervals thereafter, requesting continued waiver treatment. The waiver will terminate within any six-month interval upon action taken by us after dismissal or resolution of the lawsuit or any other change in circumstances such that we deem termination of the waiver to be warranted.
- (d) Mollman must notify us within 30 days of any decision by the court resolving the litigation or any filing of a conclusive settlement agreement by the parties. These status reports and notifications must be sent by letter addressed to Secretary, FCC, 45 L St., NE, Washington, DC 20554, and emailed directly to Victoria.McCauley@fcc.gov. In addition, we will treat this waiver proceeding as one involving a “pending application” for purposes of 47 CFR § 1.65(a), so that Mollman is required to comply with the requirements of that provision with respect to this matter with filings submitted in accordance with the preceding sentence.

When the waiver period ends (either because Mollman has not filed a request for continued waiver of the construction deadline or because the matter has been resolved), we will calculate a new permit expiration date by adding the remaining time specified above to each permit.

Sincerely,

Albert Shuldiner

Albert Shuldiner
Chief, Audio Division
Media Bureau

back 30 days from the request, but no further. Mollman’s request to initiate the tolling period as of July 16, 2019, is denied.