

FEDERAL COMMUNICATIONS COMMISSION
445 TWELFTH STREET SW
WASHINGTON DC 20554

MEDIA BUREAU
AUDIO DIVISION
APPLICATION STATUS: (202) 418-2730
HOME PAGE: www.fcc.gov/mb/audio/

ENGINEER: Dale Bickel
TELEPHONE: (202) 418-2706
FACSIMILE: (202) 418-1410
E-MAIL: dale.bickel@fcc.gov

October 21, 2015

Mr. Joe Davis
Davis Broadcast Co., Inc.
114 N. 7th
Memphis, TX 79245

Re: KBPD (FM), Wheeler, TX
Davis Broadcast Co., Inc.
Facility Identification Number: 189576

Construction permit BNPH-20110726AHJ
Modification application BMPH-20150817ABX
License application BLH-20150826ABV

Dear Permittee:

This is in reference to the construction permit and referenced applications filed on behalf of Davis Broadcast Co., Inc. ("Davis"). For the reasons set forth in this letter, we deny the request for program test authority, dismiss the license application and modification of construction permit applications, and cancel the underlying expired construction permit.

Background. Construction permit BNPH-20110726AHJ was granted to Davis on August 27, 2012 with an expiration date of August 27, 2015, for Class C3 facilities on Channel 280. Ten days before the construction permit expiration date, or more specifically on August 17, 2015, Davis filed a minor change construction permit application seeking approval to reduce to Class A facilities at a transmitter site 7.7 km distant, stating that Davis "is being forced" to seek another location because of delays imposed by the tower owner. However, on August 21, 2015, Davis filed an amendment to the application seeking to remain at the original site, but with downgraded Class A facilities, antenna space having been found on the originally proposed tower.¹

On August 26, 2015, one day before the August 27 expiration date, Davis filed license application BLH-20150826ABV. That license application is filed to cover the underlying construction permit (BNPH-20110726AHJ). However, Davis concedes in that application that the facilities specified therein – and as allegedly constructed -- do not match those specified in the construction permit, specifically that the reduced station class and effective radiated power match those specify in the not-yet-granted construction permit modification application. Davis requests program authority to operate with the said-to-be constructed, lesser facilities.

¹ Buried in the original minor change application and the amendment are requests for the staff to expedite processing, of which we did not become aware until September 1, 2015. Even had we been aware of the request at the time of filing, the staff would have had, at best, three business days to review and grant the amended application. It is not clear whether this could have been accomplished.

Discussion. A change in station class for a commercial FM station requires the filing and grant of a construction permit application on FCC Form 301. This has not occurred. Consequently, no license application can be filed to cover the allegedly constructed but reduced class facilities. Further, as Davis has acknowledged, the constructed facilities do not match the Class C3 facilities specified in the underlying construction permit BNPH-20110726AHJ. Thus the license application is not acceptable for filing, and it is DISMISSED. The request for program test authority is concurrently DENIED.

The improper and now dismissed license application does not extend the construction permit period of the underlying construction permit BNPH-20110726AHJ. We find that this construction permit expired by its own terms on August 27, 2015 and cannot now be modified. Therefore, minor change application BMPH-20150817ABX, as amended, cannot be processed further and is DISMISSED.

Inasmuch as there is no other permit or license remaining for this station, the call letters KBPD are DELETED.

Sincerely,

A handwritten signature in dark ink, appearing to read "Dale Bickel", is positioned above the typed name.

Dale Bickel
Senior Engineer
Audio Division
Media Bureau

cc: Mr. Jim Turvaville