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May 29, 2014

Susan A. Marshall
Fletcher, Heald & Hildreth
1300 North 17th Street, 11th Floor
Arlington, VA 22209

Re: K265CW (FX), Tucson, AZ
Ted and Jana Tucker
Facility Identification Number: 64687
Special Temporary Authority
BSTA-20140520AEU

Dear Counsel:

This is in reference to the request filed May 20, 2014, on behalf of Ted and Jana Tucker ("TJT"). TJT requests special temporary authority ("STA") to restore K265CW to operation on an existing wooden pole at a temporary site at reduced power.¹ TJT must return silent translator K265CW to operating status **no later than June 3, 2014** to avoid automatic cancellation of the station's license pursuant to Section 312(g) of the Communications Act.

TJT indicates that the licensed site for K265CW is no longer available. The proposed temporary site is available, and the 60 dBu service contour of the proposed temporary operation lies wholly within the licensed 60 dBu contour. However, operation from this site requires approval of a second-adjacent channel waiver with respect to translator K267AF. TJT provides an exhibit to demonstrate that no population resides within the interfering contour of K265CW's proposed temporary operation.²

TJT holds construction permit BPFT-20130228AFI for operation on a new channel (Channel 289, at a different transmitter site) but indicates that the "licensee does not have the equipment on hand to implement the [construction permit]" before the one-year period of silence ends on June 3, 2014. TJT states that it has the consent of KCEE (AM), Tucson, AZ, to retransmit that station over this translator.

¹ It appears that TJT notified the FCC that the translator went silent on June 3, 2013, but it is not apparent that TJT followed up with any request to extend the period of silence beyond 30 days (see Section 73.1740(a)(4)). Such a request is typically made in the form of an STA request to remain silent. TJT is cautioned that absent any such request, the FCC can reasonably assume that the station had resolved any issues and resumed operation within the 30 day period.

² The proposed operation for K265CW also fails to meet the requirements of Section 74.1204 with respect to the construction permit BPH-20130306AAP for first-adjacent channel station KKYZ, Tanque Verde, AZ. TJT advises that KKYZ is presently silent and is not expected to commence operation during the STA period. Ted Tucker is the owner of Cochise Broadcasting, LLC, the licensee of KKYZ.

STA is granted for K265CW for a period of 90 days, to implement temporary operations with the following parameters only:

Geographic coordinates:	32° 21' 11" N, 110° 57' 07" W (NAD 1927)
Channel	265D (100.9 MHz)
Effective radiated power:	0.001 kilowatt (H&V)
Antenna height:	
above average terrain:	-31 meters
above mean sea level:	897 meters
above ground:	6 meters, on wooden pole
Primary Station:	KCEE (AM), Tucson, AZ

This authority is subject to the following conditions:

- 1) STA operations must cease should written complaints be received of interference to reception of FM translator K267AF;
- 2) STA operations must cease upon the commencement of operations by KKYZ pursuant to construction permit BPH-20130229AFI, or subsequent modifications;
- 3) TJT must notify the Commission promptly should this translator go silent, and must request an STA to remain silent if the silent period exceeds 30 days.

TJT must notify the Commission when construction pursuant to K265CW's construction permit is complete, and operations commenced. TJT must use whatever means are necessary to protect workers and the public from radiofrequency exposure in excess of the Commission's exposure guidelines. See 47 CFR § 1.1310. This STA does not cover or imply approval for any operations prior to the issuance of this STA, except those in keeping with previous Commission letter or authorization.

This STA expires August 26, 2014. TJT must send an e-mail to Dale Bickel, dale.bickel@fcc.gov, on the (and including the) date that operations pursuant to this STA commence. TJT must also file a "Resumption of Operations" notice in the CDBS electronic filing system. This date will be recorded in the Commission's CDBS database. We expect that TJT shall maintain these STA operations for K265CW on 100.9 MHz throughout the term of this STA.

We remind the licensee that the station's license will expire as a matter of law upon twelve consecutive months of silence [ending **June 3, 2014**], notwithstanding the grant of the present STA. See Pub. Law No. 104-104, 110 Stat. 56, Section 403(1) (1996) and Order, *Silent Station Authorizations*, FCC 96-218 (released May 17, 1996). See also Public Notice, *Expedited Processing of Applications Filed by Silent Stations*, DA 96-818 (May 22, 1996). Please be aware that unauthorized operations – operations with facilities not authorized by a current STA or license – do not count as a resumption of operations within one year for the purposes of Section 312(g) of the Communications Act, and cannot be used to avoid the consequences of Section 312(g). See *A-O Broadcasting Corporation*, FCC 08-10, 23 FCC Rcd 603, released January 8, 2008.

STA Advisory: Section 309(f) of the Communications Act of 1934, as amended, authorizes the Commission to grant STA in cases of "extraordinary circumstances requiring temporary authorizations in the public interest and when delay in the institution of the temporary operations would seriously prejudice the public interest." However, Section 309(f) is not a means by which a licensee/permittee may circumvent established processing procedures which require the filing of an application, nor is it a means by which a broadcaster may enhance his facility or make operation more convenient for the broadcaster. Stations operating with less than licensed facilities under temporary authorities can be viewed as receiving the benefit of a larger protection area than that in which they are currently providing service.

Accordingly, Special Temporary Authorities by nature are to be temporary and are not intended for extended use. Licensees of stations operating under temporary authorities are reminded that timely restoration of permanent facilities is the responsibility of the licensee and should be undertaken expeditiously. Any request for extension of special temporary authorities carries an increased burden with each subsequent request.

Therefore, requests for extension of STA will be granted only where the licensee can show that one or more of the following criteria have been met:

- Restoration of licensed facilities is complete and testing is underway;
- Substantial progress has been made during the most recent STA period toward restoration of licensed operation; or
- No progress has been made during the most recent STA period for reasons clearly beyond the licensee's control, and the licensee has taken all possible steps to expeditiously resolve the problem.

Sincerely,



Dale Bickel,
Senior Engineer
Audio Division
Media Bureau

cc: Ted and Jana Turner

Ted and Jana Turner
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