

FEDERAL COMMUNICATIONS COMMISSION  
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AUDIO DIVISION  
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Donald L. Smith, President  
Back Woods Communications  
2748 Scott Mill Terrace  
Jacksonville, FL 32257

Re: WWJJ(FM), Jasper, FL  
Facility ID No. 173855  
File No. BLED-20101220AAB

Dear Mr. Smith:

This letter refers to the referenced application (the "License Application") to cover Construction Permit BNPED-20071012AIZ (the "CP") submitted by Back Woods Communications ("BWC"), permittee of Station WWJJ(FM), Jasper, Florida. For the reasons set forth below, we return the License Application and declare the permit expired by operation of law.

On December 21, 2007, the staff granted BWC's application<sup>1</sup> for a new FM station at Jasper, Florida and issued BWC the CP, which specified an expiration date of December 21, 2010. On December 20, 2010, BWC filed the License Application, certifying, among other things, that the station was constructed in accordance with the underlying construction permit.<sup>2</sup> However, the day after BWC filed the License Application, it filed a request for Special Temporary Authorization requesting authority to remain silent.<sup>3</sup> In the Silent STA Request, BWC indicated that:

During the installation of our antenna and feed-line it was determined that it was not safe to add the additional load to the antenna structure. A temporary antenna

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<sup>1</sup> File No. BNPED-20071012AIZ.

<sup>2</sup> License Application, Section III, Item 7. Previously, on December 9, 2010, BWC filed an application for Commission consent to the assignment of the WWJJ(FM) construction permit to Florida Educational Radio, Inc. See File No. BAPED-20071012AIZ.

<sup>3</sup> BLSTA-20101221ACG (the "Silent STA Request"). The staff granted the Silent STA Request on March 2, 2011, see *Letter to Mr. Donald L. Smith, Back Woods Communications*, Reference 1800B3-DW (MB Mar. 2, 2011), but set aside that grant as unnecessary pursuant to 47 C.F.R. § 1.113(a) on April 1, 2011. *Letter to Donald L. Smith, President, Back Woods Communications*, Reference 1800B3-DW (MB Apr. 1, 2011).

structure was then used to place the station on the air. The temporary structure has since been removed and the station taken silent.<sup>4</sup>

BWC provides no information regarding the height or location of this “temporary structure” or where on the structure its antenna was mounted.

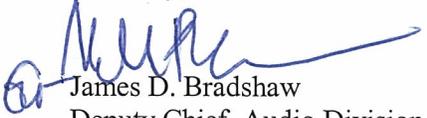
Section 73.3598(e) of the Rules provides that “[a]ny construction permit for which construction has not been completed and for which an application for license has not been filed, shall be automatically forfeited upon expiration without any further affirmative cancellation by the Commission.”<sup>5</sup> It is apparent, by virtue of BWC’s representations in the Silent STA request, that (notwithstanding the certifications in the License Application) the Station was *not* constructed in accordance with its construction permit.<sup>6</sup>

In light of this finding and pursuant to Sections 0.283 and 73.3598(e) of the Commission’s Rules,<sup>7</sup> Construction Permit BNPED-20071012AIZ EXPIRED BY OPERATION OF LAW at 3:00 a.m. on December 21, 2010, without further action by the Commission, and call sign WWJJ(FM) IS HEREBY DELETED.

Accordingly, Application File No. BLED-20101220AAB IS HEREBY DISMISSED, and Application File No. BAPED-20071012AIZ IS DISMISSED AS MOOT.

Finally, to the extent relevant here, it is imperative to the safety of air navigation that any prescribed painting and illumination of the tower on which the Station’s antenna was to be mounted be maintained until the tower is dismantled. Accordingly, the owner of the tower where the referenced station’s transmitting antenna was to be located must maintain the tower in the manner prescribed by the Commission’s rules and the terms of the expired permit.<sup>8</sup>

Sincerely,

  
James D. Bradshaw  
Deputy Chief, Audio Division  
Media Bureau

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<sup>4</sup> Silent STA Request, Exhibit 1.

<sup>5</sup> 47 C.F.R. § 73.3598(e).

<sup>6</sup> A station that is not constructed in accordance with its permit does not meet the requirements of Section 73.3598 and cannot be declared “ready for operation” in accordance with its authorization absent a waiver of that rule. *See Clear Channel Broadcasting Licenses, Inc.*, Letter, 21 FCC Rcd 8677, 8680 n.30 (MB 2006), *recon. denied*, Letter to Marissa G. Repp, Esq. and Frank R. Jazzo, Esq., 23 FCC Rcd 4356 (MB 2008), citing *KM Radio of St. John, L.L.C.*, Memorandum Opinion and Order, 19 FCC Rcd 5847, 5850-51 (2004) (Section 73.3598 waived where construction of facilities 900 feet from the authorized site was found to be “substantially in compliance” with the permit). BWC has neither sought nor received a waiver of Section 73.3598.

<sup>7</sup> 47 C.F.R. §§ 0.283, 73.3598(e).

<sup>8</sup> *See* 47 U.S.C. § 303(q) and 47 C.F.R. § 17.6.