



Federal Communications Commission  
Washington, D.C. 20554

July 29, 2020

*In reply refer to: 1800B3-VM*

**SENT VIA EMAIL to [tepperlaw@aol.com](mailto:tepperlaw@aol.com)**

Cary S. Tepper, Esq.  
Tepper Law Firm, LLC  
4900 Auburn Avenue, Suite 100  
Bethesda, MD 20814-2632

In re: **W289CI, Smithfield, VA**  
Facility ID No. 81266  
File No. BPFT-20170718ADN  
Positive Alternative Radio, Inc.  
Tolling Request

Dear Mr. Tepper:

On June 4, 2020, we received your request on behalf of Positive Alternative Radio, Inc (PAR) for tolling of the construction deadline for the construction permit for FM Translator Station W289CI, Smithfield, Virginia (Station), granted on August 1, 2017 for a three-year term expiring on August 1, 2020.

Your tolling request is based on the fact that PAR was required to halt construction of the facilities on July 27, 2020, when the workers discovered an active osprey nest on the Station's antenna tower. You state that the nesting period will continue through September and that you cannot access the tower until the ospreys have vacated the nest. You state that you are also consulting with USDA for guidance as to how to proceed safely. You request tolling for 120 days to allow the nesting period to end and to complete construction of the Station. This request falls within one of the criteria for tolling in 47 CFR §73.3598(b)(1) and is granted.

Grant of the request is subject to the following conditions:

Tolling is effective as of July 27, 2020.<sup>1</sup> When tolling ends, 6 days will remain on the permit.

Tolling will remain in effect for 120 days, until November 24, 2020.

PAR must notify us within 30 days of the removal of the osprey nest and commencement of construction. All reports must be sent by emailed letter addressed to Marlene S. Dortch, Secretary, FCC, 445 12 St, S.W., Washington, D.C. 20554, and directed to Victoria McCauley at [Victoria.McCauley@fcc.gov](mailto:Victoria.McCauley@fcc.gov).

When tolling ends, we will calculate a new CP expiration date by adding the 6 days.

Sincerely,

*Albert Shuldiner*  
Albert Shuldiner  
Chief, Audio Division  
Media Bureau

---

<sup>1</sup> Pursuant to §73.3598(c) of the rules, because the request was filed more than 30 days from grant of the original CP application, we look back 30 days from the date of filing to determine the effective date of tolling. Since the request was filed on July 28, 2020, and the osprey nest was discovered on July 27, 2020, that is the effective date of tolling.