

**FEDERAL COMMUNICATIONS COMMISSION
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October 1, 2012

John C. Trent, Esq.
Putbrese Hunsaker & Trent, P.C.
200 South Church Street
Woodstock, Virginia 22664

Re: Birach Broadcasting Corporation
WPON (AM), Walled Lake, Michigan
Facility Identification Number: 22045
Special Temporary Authority

Dear Counsel:

This is in reference to the request filed September 28, 2012, on behalf of Birach Broadcasting Corporation ("BBC"). BBC requests special temporary authority ("STA") to operate Station WPON with emergency antenna facilities pursuant to section 73.1680.¹

In support of the request, BBC states that the licensed towers and transmitter building were dismantled by the site owner without proper notification to the licensee. BBC states that it is working with the site owner and their respective insurance carriers to address the issue. BBC states that it restored operation on September 20, 2012, with a 40-foot mobile antenna at the licensed site and requests STA for continued use of the emergency antenna.

Section 73.1680 of the Commission's rules provides for operation with emergency antenna facilities following damage to authorized antenna systems, provided that an informal request for continued use of an emergency antenna is filed with the Commission within 24 hours. In particular, Section 73.1680(b)(1) provides that AM stations using an emergency nondirectional antenna in lieu of authorized directional facilities shall operate with power reduced to 25 percent or less of the nominal licensed power, or a higher power, not exceeding licensed power, while insuring that the radiated field strength does not exceed that authorized in any given azimuth.

Our records indicate that the destruction of the station's licensed facilities described in the

¹ WPON is licensed for operation on 1460 kHz with 1 kW daytime and 0.76 kW nighttime, employing different directional antenna patterns daytime and nighttime (DA-2-U). Construction Permit BP-20120111AAG authorizes relocation of the transmitter and operation with 0.67 kW daytime and 0.175 kW nighttime, and changes to the daytime and nighttime directional patterns.

request commenced in early 2005, and that Station WPON has not operated with licensed facilities for more than seven years. We note that BBC holds Construction Permit BP-20120111AAG, granted March 30, 2012, to relocate the transmitter;² it is anticipated that BBC will proceed with construction of new, permanent facilities in an expeditious manner. Our review indicates that, except for the date of filing, the STA request complies with Section 73.1680; STA is granted, with conditions.

Accordingly, the request for STA IS HEREBY GRANTED. Station WPON may continue to operate from its licensed site with the following facilities:

Frequency	1460 KHz
Hours of operation	Unlimited
Operating power	0.06 kilowatt
Antenna type	12.2 meter (40') vertical mast

It will be necessary to further reduce power or cease operation if complaints of interference are received. BBC must notify the Commission when licensed operation is restored.³ BBC must use whatever means are necessary to protect workers and the public from exposure to radio frequency radiation in excess of the Commission's exposure guidelines. *See* 47 CFR § 1.1310. The authority granted herein does not cover the period between September 21, 2012, and September 28, 2012, and is without prejudice as to whatever action the Commission may take with respect to operation of Station WPON during the foregoing period.

This authority expires on **April 1, 2013**. Any request for extension of this authority must be accompanied by a detailed progress report, and will be evaluated on the basis of the information provided.

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

² The outstanding construction permit authorizes facilities identical to previous permits BP-20041104ALD and BP-20080229AAI.

³ *See* 47 CFR §§ 73.45(c), 73.51, 73.61(b).

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,

A handwritten signature in blue ink, appearing to read "Charles N. Miller", with a long horizontal flourish extending to the right.

Charles N. Miller, Engineer
Audio Division
Media Bureau

cc: Birach Broadcasting Corporation