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2015 SEP 10

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September 9, 2015

**VIA HAND DELIVERY**

Accepted / Filed

SEP - 9 2015

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
The Portals II  
445-12<sup>th</sup> Street, S.W.  
Room TW-A325  
Washington, D.C. 20554

Federal Communications Commission  
Office of the Secretary

In re: Southwest FM Broadcasting Co., Inc.  
Station KAHM(FM), Spring Valley, AZ (ID No. 615100)  
Request to Reinstitute Tolling of Construction Term (re: BPH-20100813BHN)

Dear Ms. Dortch

This letter is written on behalf of Southwest FM Broadcasting Co., Inc. ("Southwest FM"), licensee of Station KAHM(FM), Spring Valley, Arizona, and is to request reinstatement, on a nunc pro tunc basis, of the tolling of the 36-month construction term set forth in BPH-20100813BHN (granted January 11, 2013, and subsequently affirmed by the Commission in Memorandum Opinion and Order FCC 15-86 (released July 16, 2015)) (hereafter "KAHM Permit").

The instant request for tolling is based on the Item #6 of the "special operating conditions or restrictions" in the KAHM Permit, which reads as follows:

PROGRAM TESTS FOR KAHM (FACILITY ID # 61510) WILL NOT COMMENCE ON CHANNEL 271 WITH THE FACILITIES SPECIFIED HEREIN UNTIL PROGRAM TESTS FOR KVGG (FACILITY ID # 165984) COMMENCE ON CHANNEL 231 AND A LICENSE WILL NOT BE GRANTED FOR KAHM ON CHANNEL 271 WITH THE FACILITIES

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SPECIFIED HEREIN UNTIL A LICENSE IS GRANTED FOR KVGG ON CHANNEL 231.

Station KVGG is licensed to Kemp Communications, Inc. (“Kemp”), and Southwest FM has no control over the timing when Kemp seeks or obtains program test authority for KVGG on Channel 231. [Furthermore, it is also to be noted that program test authority for Kemp’s Station KVGG on Channel 231 is also contingent upon receipt of Mexican approval, which the Commission initially sought by letter dated October 24, 2013, and later sought by letters dated January 9, 2014, and March 11, 2014 (see letters of these dates to Mexican authorities from Narda Jones (by Ann Gallagher), Chief, Strategic Analysis and Negotiations Division, International Bureau) and to which (according to information supplied to the undersigned by members of the Commission’s staff) Mexican authorities have not responded.] For this reason, the Commission should not expect or require Southwest FM to commence modification of KAHM in accordance with the KAHM Permit, and should grant Southwest FM tolling of the current construction term.

It is noted that Southwest FM previously sought and was granted tolling of the KAHM construction term during the period the KAHM Permit was the subject of an appeal of the underlying authorization (filed by Kemp) which became “final” 30 days after the issuance of the Commission’s MO & O dated July 16, 2015. In response to Southwest FM’s notification to the staff that the grant of the KAHM Permit had become “final”, the staff issued a ruling (sent to counsel on August 25, 2015) stating that tolling based on the pendency of the Kemp litigation was ended, and that the new construction term for the KAHM Permit would end August 17, 2018 (36 months after the KAHM Permit became “final”).

Although there has been a brief interlude between the staff’s recent action terminating tolling (based on finality of the KAHM Permit) and the submission of the instant tolling request, because this request is based on the separate rationale that Station KVGG must obtain program test authority before Station KAHM will be authorized for program tests, a condition which is in the initial KAHM Permit, Southwest FM believes that the Commission should now approve tolling on a nunc pro tunc basis, and for an indefinite period, as though tolling on this basis had been made initially, and as though there had not been a brief lapse in tolling as the result of the staff’s action of August 25<sup>th</sup>.

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Please direct any communications regarding this matter to the undersigned counsel.

Sincerely

A handwritten signature in black ink, appearing to read "Lawrence N. Cohn", written in a cursive style.

Lawrence N. Cohn

Enclosure

LNC:mcb

cc: Mr. Peter H. Doyle  
(Chief, Audio Division, FCC)

Victoria McCauley (via email)  
(Attorney, Audio Division, FCC)



United States of America  
**FEDERAL COMMUNICATIONS COMMISSION**  
**FM BROADCAST STATION CONSTRUCTION PERMIT**

Authorizing Official:

Official Mailing Address:

SOUTHWEST FM BROADCASTING CO., INC.  
P.O. BOX 2529  
PRESCOTT AZ 86302

Rodolfo F. Bonacci  
Assistant Chief  
Audio Division  
Media Bureau

Facility ID: 61510

Grant Date: January 11, 2013

Call Sign: KAHM

This permit expires 3:00 a.m.  
local time, 36 months after the  
grant date specified above.

Permit File Number: BPH-20100813BHN

Subject to the provisions of the Communications Act of 1934, as amended, subsequent acts and treaties, and all regulations heretofore or hereafter made by this Commission, and further subject to the conditions set forth in this permit, the permittee is hereby authorized to construct the radio transmitting apparatus herein described. Installation and adjustment of equipment not specifically set forth herein shall be in accordance with representations contained in the permittee's application for construction permit except for such modifications as are presently permitted, without application, by the Commission's Rules.

Commission rules which became effective on February 16, 1999, have a bearing on this construction permit. See Report & Order, Streamlining of Mass Media Applications, MM Docket No. 98-43, 13 FCC RCD 23056, Para. 77-90 (November 25, 1998); 63 Fed. Reg. 70039 (December 18, 1998). Pursuant to these rules, this construction permit will be subject to automatic forfeiture unless construction is complete and an application for license to cover is filed prior to expiration. See Section 73.3598.

Equipment and program tests shall be conducted only pursuant to Sections 73.1610 and 73.1620 of the Commission's Rules.

Name of Permittee: SOUTHWEST FM BROADCASTING CO., INC.

Station Location: AZ-SPRING VALLEY

Frequency (MHz): 102.1

Channel: 271

Class: C

Hours of Operation: Unlimited

Transmitter: Type Accepted. See Sections 73.1660, 73.1665 and 73.1670 of the Commission's Rules.

Transmitter output power: As required to achieve authorized ERP.

Antenna type: Non-Directional

Antenna Coordinates: North Latitude: 34 deg 14 min 03 sec

West Longitude: 112 deg 22 min 01 sec

	Horizontally Polarized Antenna	Vertically Polarized Antenna
Effective radiated power in the Horizontal Plane (kW):	25.5	25.5
Maximum effective radiated power (kW):		
Height of radiation center above ground (Meters):	53	53
Height of radiation center above mean sea level (Meters):	2385	2385
Height of radiation center above average terrain (Meters):	852	852
Antenna structure registration number: Not Required		
Overall height of antenna structure above ground: 61 Meters		

Obstruction marking and lighting specifications for antenna structure:

It is to be expressly understood that the issuance of these specifications is in no way to be considered as precluding additional or modified marking or lighting as may hereafter be required under the provisions of Section 303(q) of the Communications Act of 1934, as amended.

None Required

Special operating conditions or restrictions:

- 1 Pursuant to the grant of this construction permit and the authority found in Sections 4(i), 5(c)(1), 303 and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b), 0.283, 1.420, 73.203(b), and 73.3573 of the Commission's Rules, the FM assignment IS MODIFIED as follows:

Community	Channel No.
Spring Valley, AZ	Add 271C
Prescott, AZ	Delete 271C

Pursuant to Section 316(a) of the Communication Act of 1934, as amended, License BLH-19960111BK IS MODIFIED to specify operation on Channel 271C at Spring Valley, AZ, in lieu of Channel 270C at Prescott, AZ.

## Special operating conditions or restrictions:

- 2 \*\*\*\*\* This is a Section 73.215 contour protection grant \*\*\*\*\*  
\*\*\*\*\* as requested by this applicant \*\*\*\*\*
- 3 BEFORE PROGRAM TESTS COMMENCE, sufficient measurements shall be made to establish that the operation authorized in this construction permit is in compliance with the spurious emissions requirements of 47 C.F.R. Sections 73.317(b) through 73.317(d). All measurements must be made with all stations simultaneously utilizing the shared antenna. These measurements shall be submitted to the Commission along with the FCC Form 302-FM application for license.
- 4 Permittee has specified use of the antenna listed below to demonstrate compliance with the FCC radiofrequency electromagnetic field exposure guidelines. If any other type of antenna is to be used with the facilities authorized herein, THE AUTOMATIC PROGRAM TEST PROVISIONS OF 47 C.F.R. SECTION 73.1620 WILL NOT APPLY. In this case, a FORMAL REQUEST FOR PROGRAM TEST AUTHORITY must be filed in conjunction with FCC Form 302-FM, application for license, BEFORE program tests will be authorized. The request must include a revised RF field showing to demonstrate continued compliance with the FCC guidelines.
- ERI (Type 3), eight sections, 0.5 wavelength spaced
- 5 The permittee/licensee in coordination with other users of the site must reduce power or cease operation as necessary to protect persons having access to the site, tower or antenna from radiofrequency electromagnetic fields in excess of FCC guidelines.
- 6 PROGRAM TESTS FOR KAHM (FACILITY ID # 61510) WILL NOT COMMENCE ON CHANNEL 271 WITH THE FACILITIES SPECIFIED HEREIN UNTIL PROGRAM TESTS FOR KVGG (FACILITY ID # 165984) COMMENCE ON CHANNEL 231 AND A LICENSE WILL NOT BE GRANTED FOR KAHM ON CHANNEL 271 WITH THE FACILITIES SPECIFIED HEREIN UNTIL A LICENSE IS GRANTED FOR KVGG ON CHANNEL 231.

\*\*\* END OF AUTHORIZATION \*\*\*