

FEDERAL COMMUNICATIONS COMMISSION
445 TWELFTH STREET SW
WASHINGTON DC 20554

MEDIA BUREAU
AUDIO DIVISION
APPLICATION STATUS: (202) 418-2730
HOME PAGE: www.fcc.gov/mb/audio/

November 26, 2007

ENGINEER: CHARLES N. (NORM) MILLER
TELEPHONE: (202) 418-2767
FACSIMILE: (202) 418-1410
E-MAIL: charles.miller@fcc.gov

Jack N. Goodman, Esq.
Wilmer Cutler Pickering Hale and Dorr LLP
1875 Pennsylvania Avenue NW
Washington, DC 20006

Re: K258AJ (FT), Rapid City, South Dakota
Facility Identification Number: 85678
New Rushmore Radio, Inc.
Special Temporary Authorization

Dear Counsel:

This is in reference to the request filed November 21, 2007, on behalf of New Rushmore Radio, Inc. ("NRR"). NRR requests special temporary authority ("STA") to operate FM Translator K258AJ with reduced power.¹ In support of the request, NRR states that its transmitter site lies within the predicted 60 dBu contour of the recently-modified facilities of cochannel full-service FM Station KRKI, Newcastle, Wyoming; however, due to intervening terrain, no actual interference is likely.² NRR further states that, out of an abundance of caution, it requests STA to operate Station K258AJ with reduced power.

Accordingly, the request for STA IS HEREBY GRANTED. Station K258AJ may operate with reduced power. NRR must notify the Commission when licensed operation is restored. NRR 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 is without prejudice as to whatever action the Commission may take with respect to any complaint of interference to the reception of Station KRKI.

This authority expires on **May 26, 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

¹ K258AJ is licensed for operation on Channel 258D (99.5 MHz) with effective radiated power of 0.18 kilowatt (H&V) and antenna height above average terrain of 169 meters.

² NRR also notes that its transmitter site lies within the predicted 60 dBu contour of authorized FM Booster KRKI-FM1; in this connection, NRR claims priority over the booster because it was licensed first. It is not necessary to reach a conclusion in this matter at this time because, to date, the Commission has not received notification that the booster has commenced operation.

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,



Charles N. Miller, Engineer
Audio Division
Media Bureau

cc: New Rushmore Radio, Inc.