

STATEMENT OF EXTRAORDINARY CIRCUMSTANCES
JUSTIFYING SPECIAL TEMPORARY AUTHORITY

This is a request for special temporary authority ("STA") to operate full power Class D Noncommercial FM station WPLH, Tifton, Georgia (licensed to operate with 0.029 kW Effective Radiated Power ("ERP"), with 0.009 kW (9 Watts) ERP with the parameters set out in the accompanying Technical Specifications form. WPLH is licensed to Abraham Baldwin Agricultural College ("College") and until Friday, March 5, 2021, operated continuously since 1974.

WPLH is a noncommercial educational radio station licensed to the College which is student operated under faculty supervision. Students involved with the station receive hands-on training in the broadcast field preparing them for employment in the field of communication upon graduation. The College learned on March 5, 2021, that it has been operating with an unauthorized antenna and site. On that date, the Faculty Advisor for WPLH was informed that there was no record at the FCC of a construction permit or license for the facilities being used, and he immediately suspended station operations.

This request is to resume service to the community by WPLH until a construction permit and license can be granted for the facilities. The FCC's License Management System will not permit the licensee to prepare or file FCC Form 340 to modify its existing license, but the licensee will do so promptly upon being able to file such an application.

In 2012, the College employed an engineering firm to provide a "turn-key" relocation of the facilities of WPLH from a building that was being repurposed to a water tower a short distance away on campus. The engineering firm built the facilities and the College began using them, after paying the Engineering firm over \$17,000 for constructing the facilities.

Attached is a Declaration of Keith Perry, an Associate Professor of Communication at the College, who is Faculty Advisor to WPLH. As set forth in his Declaration, the College is a public college in Tifton, Georgia. It is part of the University System of Georgia and offers baccalaureate and associate degrees. The college is named after Abraham Baldwin, one of the original signers of the United States Constitution and the first president of the University of Georgia. The College was established in 1908 as the Second District A&M School. The name was changed to the South Georgia A&M College in 1924, and to the Georgia State College for Men in 1929. It became Abraham Baldwin Agricultural College in 1933 when the College became a part of the newly formed University System of Georgia. At that time, the College's mission was devoted to associate level studies in agriculture, home economics, and related fields.

Professor Perry has been an employee of the College since 2003 and the Faculty Advisor to WPLH since 2007.

The College was not represented by FCC counsel until March 3, 2021, when counsel was appointed by the Attorney General of Georgia to assist in responding to an email Professor Perry received February 22, 2021, from an attorney on the staff of the Audio Division. That

email transmitted to Professor Perry a proposed “*Consent Decree*” to resolve issues relating to the late filing of the application for renewal of license of WPLH and for STA to authorize operation during the period after the license expired. The STA was granted, which enabled on-air operations to continue. The FCC email noted that because WPLH is a student-run, Class D noncommercial educational station, the Commission has a policy of giving the licensee an opportunity to negotiate a consent decree, and in this case, to pay a civil penalty of \$1,000 and have its license renewed for another 8 year term. Professor Perry referred the email to Dr. David Bridges, the President of the College. Realizing the College needed expert advice to address the Consent Decree, Dr. Bridges contacted the Georgia Department of Law which appointed a Special Assistant Attorney General (“Special AG”), Gary Smithwick, to help the College.

The Special AG began by reviewing documents and the FCC’s records. On March 5, 2021, Professor Perry advised the Special AG that WPLH had relocated its transmission facilities to another location on the campus due to the building being renovated and repurposed. The station is now relocated across the campus on a water tower about a relatively short distance from the old site. The Special AG reported to Professor Perry that he could find no record in the FCC’s databases that such a relocation had been authorized. Professor Perry told the Special AG that when the move across campus was required on an immediate basis to keep the station on-air, the College employed an expert engineering firm, Reel Audio, which worked with RF Specialties of Georgia, to prepare the engineering studies to support an application to the FCC for modification of the Class D WPLH license, to file the application, and obtain the necessary FCC authorization. The College paid RF Specialties \$17,875.77 for its services for the relocation. Professor Perry avers that he was assured by Reel Audio/RF Specialties that the proper application had been filed with the FCC and FCC authority for the relocation was received. Professor Perry states that he is not familiar with the FCC’s rules and regulations for a change of a site and depended on the engineering firm to perform its duties properly.

When the Special AG reported to Professor Perry that no modification application was on file, he contacted Chris Hall of Reel Audio/RF Specialties who, after reviewing his files, stated in a March 5, 2021, email (copy attached as Exhibit 1): *“It looks like I had one guy do the technical exhibit and someone else do the filing based on old emails. Victor, the guy that did (was supposed to) the filing passed away a while back and the other guy is out of the radio business....Sorry about the mix up, I have no idea why it was never filed, and most of my correspondence with Victor was via phone.”*

When Professor Perry learned that the station was operating from a site on campus without current proper FCC authorization, he suspended operation of WPLH until the College could sort out the problem and return the station to on-air operation to serve the community, the College community and the students working at the station. Professor Perry and the College are committed to do everything they can to continue the operation of the station.

In 2011, Reel Audio/RF Specialties was engaged by the College to move the WPLH transmission facilities to the water tower on a “turn-key” basis. In 2012, RF Specialties sent Professor Perry two invoices for constructing the facility on the water tower. Copies of the invoices are attached as Exhibit 2. One of the invoices covers charges for the new FM antenna, cables and related equipment. The other invoice covers charges such as “Labor, Install of

Equipment in Outdoor Cabinet, Studio Wiring," "Tower Work," and "Consulting, FM Technical Exhibit with RF Radiation Compliance Study for FCC Minor Change App." The College paid RF Specialties at least \$17,875.77 for these services. Professor Perry states that these documents and payments led him to understand that the engineering firm was responsible for (1) determining whether WPLH could operate from the water tower; (2) preparing and filing any applications, and obtaining authority to relocate WPLH; and (3) constructing the facility. RF Specialties constructed the facility and it began operating. As the engineering firm had full responsibility from the beginning to complete the project, it was a reasonable assumption that Mr. Hall had obtained all authorizations from the FCC or he could not construct the facility. Professor Perry is just that, a college professor. He is not an engineer and depended completely on Mr. Hall and RF Specialties to provide these services to relocate the station.

This is admittedly an extraordinary situation. As soon as the College was advised that the facilities were not authorized, the station suspended operation. To the best of the knowledge of the College, no complaints of interference were received during the period of unauthorized operation.

It is in the public interest to restore service to the public and the College respectfully requests that the Commission grant this request for STA.

In *Georgia Public Telecommunications Commission, et al.*, 7 FCC Rcd 2942 (1992), a case involving a proceeding to determine the permittee of a new FM station at Roswell, Georgia, the Commission recognized that, sometimes, a licensee can be excused from responsibility when an advisor or consultant "appears in hindsight to have been perpetrating a fraud on innocent investors who were sincerely interested in prosecuting an application for the Roswell facility. [Frank W.] Johnson engaged in serious and reasonable efforts to ensure that the applicant was financially qualified, and when Sonrise's [Sonrise Management Services] misconduct and counsel's bizarre behavior was revealed, apparently with the investors losing in excess of \$130,000, Johnson and the applicant quickly secured ample financing from a bank. His efforts which the ALJ depicted as "herculean," are even more impressive when taking into account that former counsel may have had a conflict of interest in his representation of JBI [Johnson Broadcasting, Inc., of which Frank W. Johnson was the sole stockholder]; and as we previously observed in *Pontchartrain Broadcasting Co., Inc.*, 5 FCC Rcd 3991, 3993 para. 11 (Rev. Bd. 1990) (quoting from Board Member Blumenthal's Separate Statement in *Mark A. Perry*, 4 FCC Rcd 6500, 6505 (Rev. Bd. 1989)) [Material in brackets added for clarity]:

[T]he more erratic the conduct of counsel, the greater the equities usually running to the client. And, when the conduct of counsel is so contrary to normative legal practice as to be downright bizarre, it corresponds generally that the client should not be held to foresee any such gross departures"

Although the College is not accusing RF Specialties of fraud, the College did pay the company over \$17,000 to relocate WPLH and has now discovered that RF Specialties "never filed" the applications necessary to authorize the relocation. The College urges the Commission to be lenient in its review and actions resulting from this error.



Abraham Baldwin Agricultural College

Department of English and Communication

ABAC 20, 2802 Moore Highway Tifton, Georgia 31793-2601

229-391-4950 • Fax 229-391-5101

www.abac.edu

DECLARATION UNDER PENALTY OF PERJURY

Keith Perry, under penalty of perjury, declares as follows:

I am an Associate Professor of Communication at Abraham Baldwin Agricultural College ("College"). The College is a public college in Tifton, Georgia. It is part of the University System of Georgia and offers baccalaureate and associate degrees. The college is named after Abraham Baldwin, one of the original signers of the United States Constitution and the first president of the University of Georgia.

The College was established in 1908 as the Second District A&M School. The name was changed to the South Georgia A&M College in 1924, and to the Georgia State College for Men in 1929. It became Abraham Baldwin Agricultural College in 1933 when the College became a part of the newly formed University System of Georgia. At that time, the College's mission was devoted to associate level studies in agriculture, home economics, and related fields.

I have been an employee of the College since 2003 and the Faculty Advisor to WPLH since 2007. WPLH is a noncommercial educational radio station licensed to the College which is student operated under my supervision. WPLH is a full power Class D station which is licensed to operate with only 0.029 kW effective radiated power ("ERP"). Students involved with the station receive hands-on training in the broadcast field preparing them for employment in the field of communication upon graduation.

The College was not represented by FCC counsel until March 3, 2021, when counsel was appointed by the Attorney General of Georgia to assist us in responding to an email I received February 22, 2021, from an attorney on the staff of the Audio Division. That email transmitted to us a proposed "*Consent Decree*" to resolve issues relating to the late filing of the application for renewal of license for WPLH and for special temporary authority ("STA") to authorize operation during the period after the license expired. The STA was granted which enabled on-air operations to continue. The FCC email noted that because WPLH is a student-run, Class D noncommercial educational station, the Commission has a policy of giving the licensee an opportunity to negotiate a consent decree, and in this case, to pay a civil penalty of \$1,000 and have its license renewed for another 8 year term. I referred the email to Dr. David Bridges, the President of the College. Realizing we needed expert advice to address the Consent Decree, Dr. Bridges contacted the Georgia Department of Law which appointed a Special Assistant Attorney General ("Special AG"), Gary Smithwick, to help us.

The Special AG began by reviewing documents and the FCC's records. On March 5, 2021, in a discussion with me, I advised the Special AG that WPLH had relocated its transmission facilities to another location on the campus due to the building being renovated and repurposed. The station is now relocated across

the campus on a water tower a relatively short distance (approximately 1,200 feet) from the old site. The Special AG reported that he could find no record in the FCC's databases that such a relocation had been authorized. I told the Special AG that when the move across campus was required on an immediate basis to keep the station on-air, the College employed an expert engineering firm, Reel Audio, which worked with RF Specialties of Georgia, to prepare the engineering studies to support an application to the FCC for modification of the Class D WPLH license, to file the application, and obtain the necessary FCC authorization. The College ultimately paid RF Specialties at least \$17,875.77 for its services for the relocation. I was assured by Reel Audio/RF Specialties that the proper application had been filed with the FCC and FCC authority for the relocation was received. I am not familiar with the FCC's rules and regulations for a change of a site and depended on the engineering firm to perform its duties properly.

When the Special AG reported to me that no modification application was on file, I contacted Chris Hall of Reel Audio/RF Specialties who, after reviewing his files, told me in a March 5, 2021, email (copy attached as Exhibit 1): *"It looks like I had one guy do the technical exhibit and someone else do the filing based on old emails. Victor, the guy that did (was supposed to) the filing passed away a while back and the other guy is out of the radio business....Sorry about the mix up, I have no idea why it was never filed, and most of my correspondence with Victor was via phone."*

In 2011, Reel Audio/RF Specialties was engaged by the College to move the WPLH transmission facilities to the water tower on a "turn-key" basis. In 2012, RF Specialties sent me two invoices for constructing the facility on the water tower. Copies of the invoices are attached as Exhibit 2. One of the invoices covers charges for the new FM antenna, cables and related equipment. The other invoice covers charges such as "Labor, Install of Equipment in Outdoor Cabinet, Studio Wiring," "Tower Work," and "Consulting, FM Technical Exhibit with RF Radiation Compliance Study for FCC Minor Change App." The College paid RF Specialties at least \$17,875.77 for these services. These documents and payments led me to understand that the engineering firm was responsible for (1) determining whether WPLH could operate from the water tower; (2) preparing and filing any applications, and obtaining authority to relocate WPLH; and (3) constructing the facility. Reel Audio/RF Specialties constructed the facility and it began operating. As the engineering firm had full responsibility from the beginning to complete the project, it was a reasonable assumption that Mr. Hall had obtained all authorizations from the FCC or he could not construct the facility. I am not an engineer and depended completely on Mr. Hall and RF Specialties to provide these services.

When I learned that the station was operating from a site on campus without current proper FCC authorization, I suspended operation of WPLH until we could sort out the problem and return the station to on-air operation to serve the community, our College community and our students working at the station. I and the College are committed to do everything we can to continue the operation of the station.

To the best of my knowledge, WPLH has operated continuously since 1974 and received no complaints of interference after it relocated to the water tower. The recent suspension of operations is the first such suspension in my knowledge. We would like to resume operation as soon as possible.

Executed this 12th day of March, 2021.



Keith Perry

[College Letterhead of Professor Perry]

Exhibit 1

Email from Chris Hall Dated March 5, 2021

From: Chris Hall <reelaudio@gmail.com>
Sent: Friday, March 5, 2021 9:46 AM
To: Keith Perry <kperry@abac.edu>
Subject: WPLH filing

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

It looks like I had one guy do the technical exhibit and someone else do the filing based on old emails. Victor, the guy that did (was supposed to) the filing passed away a while back and the other guy is out of the radio business. The technical exhibit will have to be updated to show current interference contours. I am sending it to someone today for them to update it, and while they are at it I am gonna have them look at the possibility of upgrading to a class A. Once we get an updated technical exhibit, we can get the CP filed. Sorry about the mix up, I have no idea why it was never filed, and most of my correspondence with Victor was via phone. You do have your FRN login and password and your CDBS login and password, right?

--

Chris Hall
Reel Audio Broadcast Engineering
(702) 825-0287 (Office)
229-403-9795 (cell)
reelaudio@gmail.com
www.reelaudio.net

[College Letterhead of Professor Perry]

Exhibit 2

Copy of Invoices from RF Specialities of Georgia

RF Specialties of Georgia

218 West Jackson Street
Suite 203
Thomasville, GA 31792

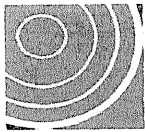
Invoice

Date	Invoice #
7/11/2011	2076

Bill To
ABAC WPLH

Ship To

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project	
	Due on receipt		7/11/2011	Best Surface	SOURCE		
Quantity	Item Code	Description	Price Each	Amount			
1	MISC	Consulting, FM Technical Exhibit with RF Radiation Compliance Study for FCC Minor Change App Ga Sales Tax	1,600.00 7.00%	1,600.00 0.00			
We appreciate your business!						Total	\$1,600.00
Phone #							
800-476-8943							
Pay online at: https://ipn.intuit.com/zfjfvscs							



RF Specialties®

OF GEORGIA

A GLOBAL MEDIA PARTNERS COMPANY

SERVING: GA / FL / KY / TN / MS / AL / ND / SD

"RF IS GOOD FOR YOU"

Invoice

Date: 8/23/2012
Quote #: 2012-8-23-1-WPLH

To: Keith Perry

Station: WPLH

Sales Person	JOB Description	Delivery Date	Payment Terms
CLH		TBD	TBD

Item	Description	Qty.	Unit \$	Line Total
1	Labor, Install of Equipment in Outdoor Cabinet, Studio Wiring.	20	\$ 85.00	\$ 1,700.00
2	Tower Work, Hanging new antenna and coaxial cable on water tower	1	\$ 1,150.00	\$ 1,150.00
3	Tower Work, Removal of old rooftop tower	1	\$ 1,600.00	\$ 1,600.00
4	*Optional Antenna and transmitter proof (might be required by FCC for station move)	1	\$ 250.00	\$ 250.00
6	Consulting, FM Technical Exhibit with RF Radiation Compliance Study for FCC Minor Change App	1	\$ 1,600.00	\$ 1,600.00
7	Mileage	480	\$ 0.58	\$ 278.40
8	Travel Time	8	\$ 55.00	\$ 440.00
9				
10				\$ -
11				\$ -
12				\$ -
13				\$ -
14				\$ -
15				\$ -
16				\$ -
17				\$ -

(Freight is not included in Price) TOTAL \$ 7,018.40
(Any applicable sales tax will be added to final Invoice.)

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Chris Hall
rfsoga@gmail.com

Murray, KY Office
David Sheppard
dsheppard@att.net

Crestview, FL Office
Bill Hoisington
rfofga@aol.com

218 W. Jackson St., Suite 203
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Invoice

Date: 8/23/2012

Quote #: 2012-8-23-1-WPLH

Quote Prepared by: CLH

To: Keith Perry

Station: WPLH

Terms and Conditions

Price does not include shipping charges.

Price does not include applicable sales tax.

Please include a Purchase Order number when returning the quote, if required by your accounting department.

An invoice will be sent stating all pricing in the quote as well as actual shipping charges and applicable taxes.

Please verify shipping address above. We will not be responsible for incorrect shipping if corrections are not made.

Shipping

Ship To:

Attention:

Purchaser's Acceptance:

Company: _____

By: _____

Date: _____

Title: _____

Acct. over 30 Days Subject to 1 1/2%
Monthly Charge

Quote is based on acceptance within 10 days
Date

Serving:
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Thomasville, GA Office
Chris Hall
rfsogfa@gmail.com

Murray, KY Office
David Sheppard
dsheppard@att.net

Crestview, FL Office
Bill Holsington
rfofga@aol.com

218 W. Jackson St, Suite 203
Thomasville, GA 31792
1-800-476-8943
Fax 229-228-4875

**Invoice**

Date: 8/23/2012
 Quote #: 2012-8-23-2-WPLH

To: Keith Perry

Station: WPLH

Sales Person	JOB Description	Delivery Date	Payment Terms
CLH		TBD	TBD

Item	Description	Qty.	Unit \$	Line Total
1	SWR FMEC3HW 3 Bay Half Wave Spaced FM Antenna	1	\$ 3,479.84	\$ 3,479.84
2	RFS LCF-78-50JA 7/8" Coaxial Cable	200	\$ 2.16	\$ 432.32
3	RFS 78EIA-LCF78-002 7/8" EIA Flange Connector	1	\$ 57.90	\$ 57.90
4	RFS NF-LCF78-D01K Type N Female Connector	1	\$ 25.86	\$ 25.86
5	RFS CLAMP78 Hangers (box of 10)	7	\$ 15.16	\$ 108.11
6	RFS HOIST1-78L Hoisting Grip	2	\$ 14.16	\$ 28.31
7	RFS GKFORM60-78 Grounding Kit	3	\$ 15.26	\$ 45.79
8	RFS WF78A Feed Thru Kit	1	\$ 24.00	\$ 24.00
9	Antenna mounting pipe and standoff clamps	1	\$ 650.00	\$ 650.00
10	DDB OPSOD-192420-AC Outdoor Enclosure with Air Conditioning and Insulation	1	\$ 2,582.72	\$ 2,582.72
11	Barix Instreamer 100 IP Audio Encoder	1	\$ 356.50	\$ 356.50
12	Barix Exstreamer 100 IP Audio Decoder	1	\$ 175.95	\$ 175.95
13	Henry Matchbox HD Audio Level Matching Amplifier	1	\$ 196.88	\$ 196.88
14	Inovonics David 4 On Air Audio Processor	1	\$ 2,195.20	\$ 2,195.20
15	Misc. Audio wire, adapters, connectors, wire ties, grounding, etc.	1	\$ 500.00	\$ 500.00
16				\$ -
17				\$ -
18				\$ -

(Freight is not included in Price) **TOTAL \$ 10,857.37**
 (Any applicable sales tax will be added to final Invoice.)

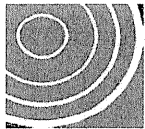
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Price does not include applicable sales tax.

Please include a Purchase Order number when returning the quote, if required by your accounting department.

An invoice will be sent stating all pricing in the quote as well as actual shipping charges and applicable taxes.

Please verify shipping address above. We will not be responsible for incorrect shipping if corrections are not made.

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Ship To:

Attention:

Purchaser's Acceptance:

Company: _____

By: _____

Date: _____

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Acct. over 30 Days Subject to 1 1/2%
Monthly Charge

Quote is based on acceptance within 10 days
Date

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