From: Mark A. Balkin
To: "Elise M. Stubbe"
Subject: FW: KLBT Tolling Request
Date: Wednesday, May 11, 2016 1:40:30 PM
Attachments: image003.png

From: Victoria McCauley [mailto:Victoria.McCauley@fcc.gov]
Sent: Friday, April 22, 2016 6:19 PM
To: Mark A. Balkin <mbalkin@hardycarey.com>
Subject: RE: KLBT Tolling Request

Dear Mr. Balkin:

On April 22, 2016, we received your request on behalf of The King's Musician Educational Foundation, Inc. (KMEF), for tolling of the construction deadline for construction permit for FM Station KLBT, Beaumont, Texas, Fac. Id. 86329, File No. BPED-20130404ACC. The construction permit was originally granted on April 26, 2013, for a three year term, expiring April 26, 2016. In support of your request, you state that appropriate measures were taken to complete construction prior to the April 26, 2016 deadline. However, due to the delays caused by "Acts of God, the historic rain and severe weather inundating and flooding the area," KMEF requests that the permit's expiration date be tolled. Because it is uncertain when the weather will allow for the standing water to recede and for the tower crew to complete its work, KMEF asks that the Permit be tolled for twenty (20) days.

KMEF further states that all of the necessary equipment, including the directional antenna, has been obtained and is on site. However, the weather has prevented the tower crew from mounting the antenna on April 18, 2016 and then again on April 20, 2016. In addition, due to the historic rainfall, there is 6"-8" of standing water leading to the tower, severely limiting access. It is expected that several days of dry weather will be required for the standing water to recede and allowing the tower company safe and appropriate access to the tower. The tower crew has indicated its willingness to begin mounting the antenna on April 25, 2016 "weather permitting." Unfortunately, continued severe weather is forecast at the beginning of the week of April 25, 2016. It is our understanding that the tower company will then need two days lead time along with the two-three days to complete antenna installation. In support of this request, KMEF includes a letter from Mr. Taylor McDaniel of LTS Wireless, Ltd., the tower company, as well as a photographs showing the standing water leading to the tower site and a photograph showing that KMEF is in possession of the antenna.

Although tolling is not specifically applicable to the circumstances of this case, we will grant a waiver of the construction deadline based on "rare and exceptional circumstances beyond the permittee's control." *See 1998 Biennial Regulatory Review—Streamlining of Mass Media Application Rules and Processes, Report and Order,* 13 FCC Rcd 23056(1998), *recon. granted in part and denied in part, Memorandum Opinion and Order,* 14 FCC Rcd 17525, 17541 (1999) (*Streamlining MO&O*). We find that the waiver is appropriate because the record rainfall was unexpected, and the standing water and severe weather make the site inaccessible. This is a rare and exceptional circumstance matter beyond the permittee's control within the meaning of the *Streamlining MO&O* sufficient to warrant a short term waiver.

We will grant an additional four weeks to construct the station, and have amended the expiration date to May 26, 2016, to reflect the additional time. No further extensions will be granted.

Sincerely,

Victoria M. McCauley
Attorney/Advisor
Audio Division
Media Bureau
202 418 2136
Victoria.McCauley@fcc.gov

For FCC Official Use Only

From: Mark A. Balkin [mailto:mbalkin@hardycarey.com]
Sent: Friday, April 22, 2016 6:11 PM
To: Victoria McCauley <Victoria.McCauley@fcc.gov>
Subject: RE: KLBT Tolling Request

Attached is the file stamped tolling request (w/o the attachments).

Thanks for your assistance.

Mark A. Balkin
HARDY, CAREY, CHAUTIN & BALKIN, LLP
ATTORNEYS AT LAW | 1080 WEST CAUSEWAY APPROACH, MANDEVILLE, LA 70471
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From: Victoria McCauley [mailto:Victoria.McCauley@fcc.gov]
Sent: Friday, April 22, 2016 12:11 PM
To: Mark A. Balkin <mbalkin@hardycarey.com>
Subject: RE: KLBT Tolling Request

Thanks.

From: Mark A. Balkin [mailto:mbalkin@hardycarey.com]
Sent: Friday, April 22, 2016 1:10 PM
To: Victoria McCauley <Victoria.McCauley@fcc.gov>
Subject: RE: KLBT Tolling Request

It is being filed this afternoon by our DC paralegal. He will provide me with a date stamped copy when he gets back to his office. I will then immediately forward it to you.

Mark A. Balkin
HARDY, CAREY, CHAUTIN & BALKIN, LLP
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From: Victoria McCauley [mailto:Victoria.McCauley@fcc.gov]
Sent: Friday, April 22, 2016 12:08 PM
To: Mark A. Balkin <mbalkin@hardycarey.com>
Subject: RE: KLBT Tolling Request

Mr. Balkin—

I see that you filed the tolling request by hand delivery. Did you get a date stamped copy? If so, please send me a pdf of that. Thanks.

Victoria M. McCauley
Attorney/Advisor
Audio Division
Media Bureau
202 418 2136
Victoria.McCauley@fcc.gov

For FCC Official Use Only

From: Mark A. Balkin [mailto:mbalkin@hardycarey.com]
Sent: Friday, April 22, 2016 11:44 AM
To: Victoria McCauley <Victoria.McCauley@fcc.gov>
Subject: KLBT Tolling Request

Ms. McCauley:

My colleague, Elise Stubbe, spoke to you about this yesterday. Attached is a copy of the tolling request that is being filed today for NCE-FM station KLBT, Beaumont, TX. Due to

the historic severe weather in southeast Texas, the tower crew has not been able to mount the new directional antenna.

In addition to the PDF request, attached are 4 photos. I was, for some reason, unable to PDF and attach the photos to the tolling request.

Please do not hesitate to contact me if there is anything else that you need or if you have any questions.

Thank you,

Mark A. Balkin
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