

**FEDERAL COMMUNICATIONS COMMISSION**  
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**WASHINGTON DC 20554**

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May 20, 2014

Mr. Donald Lynn Hullinger, Jr.  
5558 Shadbury Circle  
West Jordan, UT 84041

Re: KWCR-FM, Ogden, UT  
Weber State University  
Facility Identification Number: 71394  
Special Temporary Authority  
Informal Objection to BESTA-20140505AAK

Dear Mr. Hullinger:

Your undated "Informal Objection to STA Extension", was received at the FCC on May 16, 2014, eight days after the staff granted an STA extension to Weber State University (file no. BESTA-20140505AAK).<sup>1</sup> Thus, this pleading can not be considered as a timely filed informal objection, and as such it will be dismissed. We will instead treat it as a petition for reconsideration.

You argue that the licensee has not made progress toward obtaining a permanent site; that the University's administration has issued conflicting statements regarding the availability of the site requested in construction permit application BPED-20140430AAD; that there are alleged ongoing investigations by the FCC's Enforcement Bureau; and pleadings that remain pending against the construction permit and renewal applications for KWCR-FM. You allege "bad behavior" on the part of the licensee and conclude that there is "no public interest to make sure that the licensee's over the air broadcast stays active."

We do not find your arguments the least bit persuasive. The fact that a construction permit application for permanent facilities has been filed is evidence that the licensee is pursuing a solution, even if final arrangements to use the proposed site are not yet complete. You provide absolutely no proof that the proposed site is not available.<sup>2</sup> Nor do pending but unresolved pleadings – or alleged ongoing FCC investigations -- preclude the staff from issuing Special

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<sup>1</sup> It does not appear that a copy of the informal objection was served on Weber State University, the licensee of KWCR-FM. A copy is attached to this letter.

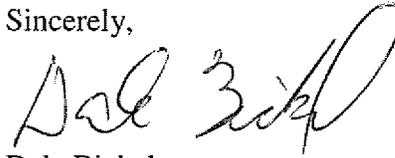
A previous pleading, styled as a petition to deny but treated as an informal objection, was denied by letter dated February 12, 2014. *See* BESTA-20130918AEG.

<sup>2</sup> A reading of the referenced May 2, 2014 e-mail communication from the University President to Mr. Hullinger falls far short of your contention that the construction permit site is unavailable. Rather, it merely states that the Office of Facilities Management is working with KWCR-FM on a permanent site, but that no decision had been made. This statement is not inconsistent with the filing for the proposed construction permit site. The FCC only requires "reasonable assurance" that a site is available at the construction permit application stage. It is common for applicants not to sign a lease until FCC and local approvals have been secured. You fail to establish that reasonable assurance of site availability does not exist.

Temporary Authority to maintain on-air operations by a station. You provide no evidence of an adverse judgment to support your contentions of wrongdoing by the licensee. Lastly, you fail to establish how the public interest would best be served by terminating the station's STA operation.

Consequently, your pleading, when treated an informal objection IS DISMISSED, and when treated as a petition for reconsideration, IS DENIED.

Sincerely,

A handwritten signature in black ink, appearing to read "Dale Bickel". The signature is fluid and cursive, with the first name "Dale" and last name "Bickel" clearly distinguishable.

Dale Bickel  
Senior Engineer  
Audio Division  
Media Bureau

Attachment

cc: Fletcher Heald & Hildreth

Susan A. Marshall  
Fletcher Heald & Hildreth  
1300 North 17<sup>th</sup> Street, 11<sup>th</sup> Floor  
Arlington, VA 22209

KWCR-FM  
Weber State University  
1001 University Circle  
Ogden, UT

Donald Hullinger  
280 25<sup>th</sup> ST. #102  
Ogden, UT 84401  
05/06/2014

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2014 MAY 19 A 7:05

Received & Inspected

MAY 16 2014

FCC Mail Room

Federal Communications Commission  
Media Bureau  
445 12th Street SW  
Washington, DC 20554

### **Informal Objection to STA Extension**

This is an informal objection to the grant of an application for a temporary STA extension for reserved channel noncommercial educational broadcast station KWCR. The file number for this request is BESTA - 20140505AAK. The objector, Don Hullinger (herein referred to as "the Objector"), objects to the grant of this STA Extension for KWCR-FM in Ogden, UT on the basis that the request for this does not meet the standards for grant of an STA/Extension and that granting this application serves no public interest. The facts are as follows:

First, According to FCC policy STA requests must be complete and not rely on pending applications. They must also meet the following criteria: 1. Restoration of licensed facilities is complete and testing is underway; 2. Substantial progress has been made during the most recent STA period toward restoration of licensed operation; or 3. 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.

According to this application KWCR states " need for extension of special temporary authority: the station has applied for new permanent facilities (bped-20140430aad) but needs to continue operating under the STA while the commission considers said application, and after the application is granted, to build the

facilities. The instant request for special temporary authority will enable the station to remain in operation providing service to the public and school student body.”

First: obviously, restoration of licensed facilities are obviously not complete and testing under way.

Second: They made no discernible headway in the last STA Period and this was NOT beyond their control.

Third: policy states that an STA request cannot rely on a pending application and that’s EXACTLY what this application does. In KWCR’s Statement they state “the station has applied for new permanent facilities (bped-20140430aad) but needs to continue operating under the STA while the commission considers said application, and after the application is granted, to build the facilities.”

They show no other proof that substantial progress has been made in the previous STA period other than this construction permit which was only applied for at the last minute (filed 5/1/2014) and which appears to have been filed with no purpose other than to show substantial progress to obtain this extension of existing STA. (please view the informal objection to file number BPED- 20140430AAD for full details but the short story is that the president’s office at Weber State University stated in an email on May 2<sup>nd</sup>, 2014 that a place for a new permanent broadcast antenna had not been established, contrary to what is stated in the construction permit application filed the day before on May 1<sup>st</sup> , 2014 by someone lower in administration at the university)

Finally, to address KWCR’s Statement that this STA extension “The instant request for special temporary authority will enable the station to remain in operation providing service to the public and school student body” the objector argue that there is no proof that they are serving the public. In fact, there may be proof to the contrary.

If you make a request to the enforcement bureau you will see that there are pending investigations open against this licensee for not following commission rules and regulations regarding several different issues. If you also look at their license renewal application you will also see that their license renewal application is also pending as a petition to deny and an informal objection have been filed against the renewal application for many issues of bad behavior on the licensee’s part. As far as serving the students, the

licensee does not need a licensed over the air signal to serve them as they have live stream via the internet.

The bottom line is that it serves no public interest to make sure that the licensee's over the air broadcast stays active as they have demonstrated over and over that they don't follow the rules the commission has set forth as part of keeping their instrument to broadcast in good standing and they can serve the students just as well with their internet live stream.

Thank you for your time,

Donald Lynn Hullinger Jr.