



FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

September 13, 2010

1800E3-A

Christian Broadcasting of Idaho, Inc.
c/o Cary S. Tepper, Esquire
Booth, Freret, Imlay & Tepper, P.C.
7900 Wisconsin Ave.
Suite 304
Bethesda, MD 20814-3628

Re: KTYJ-LP, Coeur D'Alene, ID
Facility ID No. 15648
File Nos. BLSTA-20100715AHS
BALTTL-20100715AHT

Dear Licensee:

This concerns the authorization for above-captioned station; the application for Silent Special Temporary (STA) Authority filed on behalf of Christian Broadcasting of Idaho, Inc. (CBI) for Station KTYJ-LP, Coeur D'Alene, Idaho; and the application to assign the authorization for the station from CBI to Merilee Hagerman.

Both the STA and assignment applications note that the subject station has not operated since July 14, 2009 due to financial difficulties experienced by CBI. Accordingly, the parties request a waiver of Section 312(g) of the Communications Act of 1934, as amended (the Act), which provides for automatic forfeiture of the authorization of a station that has failed to transmit broadcast signals for a consecutive 12-month period.¹ In support, they state that the proposed assignee will return the station to the air within thirty days of Commission approval, and will provide a modest amount of local programming directed to the needs of the Coeur D'Alene community. They maintain that "survival" of the KTYJ-LP license will not only preserve a local voice for the community while promoting the Commission's diversity of ownership policies favoring a female-owned small business. Accordingly, they assert that good cause exists for the Commission to exercise its discretion to waive Section 312(g) of the Act.

We have carefully considered the parties' request for waiver of Section 312(g) of the Act and conclude that the parties have not set forth any adequate basis for grant of the requested waiver. The parties concede that the station did not transmit a signal for more than 12 consecutive months. By statute, that failure results in automatic forfeiture of the station's authority. The parties have presented nothing to indicate that CBI was prevented from circumstances so beyond its control that it was prevented from

¹ 47 U.S.C. §312(g). See also Section 73.1020(c) of the Commission's Rules, 47 C.F.R. §73.1020(c).

broadcasting any authorized signal for 12 consecutive months – in fact, that was an economic decision reached by CBI itself. In this regard, the facts here are distinguishable from those cases where the Commission was able to find that the extended silence and inability to construct was thoroughly beyond the licensee’s control and used the discretion afforded by Section 312(g) to reinstate that authorization.²

Moreover, the facts here are sufficiently similar to cases where Commission staff declined to exercise its discretion under Section 312(g) of the Act. For example, in *Kirby Young*,³ an AM radio station’s transmitter failed in 2002 and the licensee represented that it did not have the financial resources to return the station to the air. The licensee later entered into an agreement to sell the station and contended that fairness and equity would be served by reinstating the license so that the station could be sold to a potential buyer. The staff disagreed, finding no claim that “natural disasters or other compelling circumstances forced the cessation of the Station’s operations.” Similarly, in *Family Life Ministries*, the staff declined to exercise its discretion under Section 312(g) where the station was taken off the air “due to [the licensee’s] desire to meet its goals for the station in a more economical manner.”⁴ Thus, in accordance with precedent, we decline to exercise our discretion under the Section 312(g) “equity and fairness” provision to reinstate CBI’s license which expired by operation of law due to circumstances within its control.

Accordingly, having concluded that the parties have failed to present any facts or arguments that warrant waiver of Section 312(g) of the Act, IT IS ORDERED that the request for waiver of that statutory provision IS DENIED. IT IS FURTHER ORDERED that the license for Station KTYJ-LP, Coeur D’Alene, Idaho IS FORFEITED, and the call sign IS HEREBY DELETED. Moreover, in view of this action, the above-captioned

² See, e.g., *V.I. Stereo Communications Corp.*, 21 FCC Rcd 14259 (2006).

³ *Kirby Young*, 23 FCC Rcd 35 (Aud. Div. 2008).

⁴ *Letter from Peter H. Doyle, Chief, Audio Division, to Family Life Ministries, Inc.*, 2009 WL 4722111 (rel. Oct. 8, 2008); see also *Letter to Mr. Zacarias Serrato*, 20 FCC Rcd 17232 (Aud. Div. 2005)(Staff refused to exercise its discretion under 312(g), finding that the licensee’s failure to return the station to service within 12 months was due to its business decision not to find an alternative transmitter site promptly due to cost).

pending applications for Special Temporary Authority and for Assignment of license
ARE MOOT, and ARE HEREBY DIMISSED.

Sincerely,

Hossein Hashemzadeh
Associate Chief, Video Division
Media Bureau

cc: Merilee Hagerman

Merilee Hagerman
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