

**FEDERAL COMMUNICATIONS COMMISSION**  
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February 12, 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 BSTA-20130918AEG

Dear Mr. Hullinger:

This letter responds to the informal objection you filed on September 23, 2013, against the Special Temporary Authority (STA) extension request filed by Weber State University ("Weber State") for its noncommercial educational FM station KWCR-FM.<sup>1</sup> The staff granted the STA on November 6, 2013, unaware of your timely filed pleading. However, under Section 73.1635(b) of the Commission's rules, the FCC may modify or cancel a granted STA without prior notice or right to hearing. We here consider what action to take in light of the facts and allegations in your informal objection.

You assert that the licensee was aware of the impending loss of site as far back as 2008 but that the licensee was dilatory in pursuing a permanent solution. Weber State did file a construction permit application in 2010 for a new transmitter site, but you state that Weber State was unable to come to terms with the site owner two years later.<sup>2</sup> You believe that the licensee has had ample time to resolve these matters, that the situation should have been under the licensee's control, and that failure to do so "is not a likely scenario." Finally, you believe that the STA's current extension request fails to comply with the Commission's stated policy on such requests, in that the licensee has not been making substantial progress in making a permanent solution.<sup>3</sup> Thus, you believe the Commission should deny the STA request.

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<sup>1</sup> Your pleading was styled as a petition to deny against this STA extension request. Under the Commission's processing rules, a petition to deny does not lie against an STA request. Therefore, we are considering your pleading as an informal objection under Section 73.3587 of the Commission's rules.

<sup>2</sup> Construction permit BPED-20101004ACP, granted April 5, 2012.

<sup>3</sup> The Commission's policy on STA extension requests runs as follows:

"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:

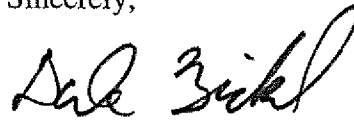
- Restoration of licensed facilities is complete and testing is underway;
- Substantial progress has been made during the most recent STA period toward restoration of licensed operation; or
- No progress has been made during the most recent STA period for reasons clearly beyond the licensee's control, and the licensee has taken all possible steps to expeditiously resolve the problem."

Given the many considerations applicable to siting a radio station, such as land ownership, land use regulations, zoning and local building codes, wind loading on the tower, environmental and historical considerations, and airspace safety – to name a few – it is not unusual for licensees to require an extended period of time to address these concerns. Weber State made one good faith effort for a permanent site that seemed workable at the time – the granted construction permit – and we have no basis to conclude that another transmitter site is not actively being sought. We agree that Weber State’s current STA extension request is weak on explaining KWCR-FM’s progress during the past several months, but your pleading provides no recent facts or circumstances to support a conclusion that the licensee is not pursuing a solution.

In the processing of STA requests, we consider what action would best serve the public interest. It is generally preferable to keep a station operating with temporary facilities – and thus maintain service to the public – while the licensee works out a permanent solution. In the present instance, the staff found the initial STA warranted grant, as well as the extension requests. Your pleading provides no information, new or old, that justifies taking KWCR-FM off the air at this time.

Consequently, your informal objection IS DENIED. The STA extension for KWCR-FM remains as issued, with an expiration date of May 5, 2014.

Sincerely,



Dale Bickel  
Senior Engineer  
Audio Division  
Media Bureau

cc: Fletcher Heald & Hildreth