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> > 2708.004

2016 APR - 6 A II: 03

April 5, 2016

Via Hand Delivery

Ms. Marlene Dortch, Secretary Federal Communications Commission 445 12<sup>th</sup> Street SW Washington, DC 20554

Re:

WJGM(FM) Fac. Id. 52032 Baldwin, Florida FRN: 0015-4747-37 Accepted/Files

APR - 5 2016

Federal Communications Commission
Office of the Secretary

**Update on Tower Registration for Application BPH-20151216AEH** 

Dear Ms. Dortch:

We are filing this letter at the request of Susan Crawford in the Audio Division per her letter dated January 11, 2016 regarding the pending application of our client West Jacksonville Baptist Church, Inc. ("WJBC") for its station WJGM(FM) in Baldwin, Florida. Ms. Crawford requested an update no later than 90 days from the date of her letter regarding the efforts to register the proposed antenna structure.

At the outset, it should be noted that the tower is registered under ASR 1236519. Since WJBC is proposing to increase the height of the tower, FAA and FCC approval is required. WJBC has completed the first step of this process and has obtained a Determination of No Hazard to Air Navigation for the proposed higher tower. I am attaching that letter dated January 26, 2016 to this letter.

The issue that is delaying the process is that of the environmental review. As recently as 2013, the Fish and Wildlife Service of the United States Department of the Interior issued guidelines regarding when coordination with the Service is required that imply that towers with height above 400', as the proposed new tower height would be, need to be coordinated with the Service prior to application.

WJBC has only recently learned of this requirement, but has already begun the process of securing assistance to determine if coordination with the Service is required or if it can proceed

with filing a modification application for the tower with the FCC without further coordination. I am attaching the Service's guidance to this letter as well.

WJGM will continue to work diligently to resolve this matter and respectfully requests that its application in file BPH-20151216AEH be held in abeyance a further 60 days through **June 9, 2016** to allow it to do so.

If you have any questions about this request, please do not hesitate to contact me.

Kindest regards,

Joseph C. Chautin, III

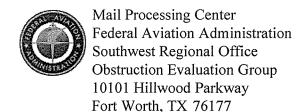
Joseph Church

Encl.

cc: WJBC (via email)

Carl Gluck, et al (via email)

4843-6817-2335, v. 1



Aeronautical Study No. 2015-ASO-21069-OE Prior Study No. 2002-ASO-5541-OE

Issued Date: 01/25/2016

Pastor Rodney Kelly West Jacksonville Baptist Church WJGM 105.7 FM 5634 Normandy Blvd. Jackonsville, FL 32205

#### \*\* DETERMINATION OF NO HAZARD TO AIR NAVIGATION \*\*

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure:

Tower WJGM FM Tower

Location:

Baldwin, FL

Latitude:

30-22-28.80N NAD 83

Longitude:

82-01-41.20W

Heights:

60 feet site elevation (SE)

499 feet above ground level (AGL) 559 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

As a condition to this Determination, the structure is marked/lighted in accordance with FAA Advisory circular 70/7460-1 L, Obstruction Marking and Lighting, paint/red lights - Chapters 3(Marked),4,5(Red),&12.

It is required that FAA Form 7460-2, Notice of Actual Construction or Alteration, be e-filed any time the project is abandoned or:

At least 10 days prior to start of construction (7460-2, Part 1)

X Within 5 days after the construction reaches its greatest height (7460-2, Part 2)

This determination expires on 07/25/2017 unless:

- (a) the construction is started (not necessarily completed) and FAA Form 7460-2, Notice of Actual Construction or Alteration, is received by this office.
- (b) extended, revised, or terminated by the issuing office.
- (c) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE E-FILED AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE. AFTER RE-EVALUATION OF CURRENT OPERATIONS IN THE AREA OF THE STRUCTURE TO DETERMINE THAT NO SIGNIFICANT AERONAUTICAL CHANGES HAVE OCCURRED, YOUR DETERMINATION MAY BE ELIGIBLE FOR ONE EXTENSION OF THE EFFECTIVE PERIOD.

This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights, and frequencies or use of greater power will void this determination. Any future construction or alteration, including increase to heights, power, or the addition of other transmitters, requires separate notice to the FAA.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

Any failure or malfunction that lasts more than thirty (30) minutes and affects a top light or flashing obstruction light, regardless of its position, should be reported immediately to (877) 487-6867 so a Notice to Airmen (NOTAM) can be issued. As soon as the normal operation is restored, notify the same number.

A copy of this determination will be forwarded to the Federal Communications Commission (FCC) because the structure is subject to their licensing authority.

If we can be of further assistance, please contact our office at (404) 305-6462. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2015-ASO-21069-OE.

Signature Control No: 274975078-278538543

(DNE)

Michael Blaich Specialist

Attachment(s) Frequency Data

cc: FCC

### Frequency Data for ASN 2015-ASO-21069-OE

LOW	HIGH	FREQUENCY	ERP	ERP
FREQUENCY	FREQUENCY	UNIT		UNIT
105.7	105.7	MHz	12.5	kW



## United States Department of the Interior

FISH AND WILDLIFE SERVICE 7915 Baymeadows Way, Suite 200 Jacksonville, FL 32256-7517

IN REPLY REFER TO:

#### CLEARANCE TO PROCEED WITH COMMUNICATION TOWER PROJECTS

Revised and Updated: June 4, 2013 (Updated links and corrected nesting season dates under Project Design & Maintenance section)

#### Background

The U.S. Fish and Wildlife Service is the lead Federal Agency charged with the protection and conservation of Federal Trust Resources, such as threatened and endangered species and migratory birds, in accordance with section 7 of the Endangered Species Act of 1973, as amended (ESA) (87 Stat. 884; 16 U.S.C. 1531 et seq.), the Bald and Golden Eagle Protection Act, (16 U.S.C. 668-668d) (Eagle Act), and the Migratory Bird Treaty Act (40 Stat. 755; 16 U.S.C. 701 et seq.). Included in this mandate is the review of projects involving communication towers. The Federal Communications Commission (FCC) authorizes such projects, and as part of its authorization and obligations under the ESA and National Environmental Policy Act (NEPA), requires a project environmental impact review. Such projects primarily involve new tower construction, co-location of antennas on existing communication towers or other structures, and the repair, maintenance or relicensing of existing structures.

With the recent and continuing advances in cellular communication technology, and resulting widespread consumer demand for this service, the Jacksonville Ecological Services Field Office has experienced a significant increase in the number of requests for review of these projects. To fulfill our ESA statutory obligations in a timely and consistent manner, and to assist communication companies in addressing FCC and NEPA environmental impact review requirements, we provide the following guidance and clearance. The guidance is largely based on our agency's Interim Guidelines for Recommendations on Communication Tower Siting, Construction, Operation, and Decommissioning. This document is posted on our national web site, and may be reviewed and downloaded by accessing http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/comtow.html.

#### **Federally Listed Species Assessment**

For new tower construction and related activities, applicants are responsible for conducting an initial assessment and possible site survey to determine if any federally listed species occur within, or in proximity to, the project footprint.

Our office web site, http://www.fws.gov/northflorida contains information on such species, including the location of wood stork (*Mycteria americana*) nesting colonies, as well as survey protocols for scrubjays (*Aphelocoma coerulescens*) and sand skinks (*Neoseps reynoldsi*).

Information on known bald eagle (*Haliaeetus leucocephalus*) nests is available via a link on our web site or through http://myfwc.com/wildlifehabitats/managed/bald-eagle/.

For projects located in suitable nesting or foraging habitat for the red-cockaded woodpecker (*Picoides borealis*) that are on public lands, contact the land owner/manager for location information. On private lands, go to http://www.fws.gov/rcwrecovery/recovery\_plan.html for the survey protocol.

To further assist you with project analysis, we recommend that you consult the following additional electronic sources of information.

- The Florida Natural Areas Inventory website provides information on major feeding sites and congregations of large numbers of migratory and resident birds (http://www.fnai.org/);
- •The Service's migratory bird website provides useful information concerning migratory birds, and for bald eagles the National Bald Eagle Management Guidelines (http://www.fws.gov/migratorybirds); and
- Locations of wading bird breeding colonies (see Waterbird Colony Locator) can be obtained at http://myfwc.com/research/wildlife/.

If the site assessment and/or survey reveals listed species within the project footprint, the project should be forwarded to our office for further evaluation and possible consultation.

#### Project Design & Maintenance

If an assessment or survey does not detect federally-listed species within the project footprint, we have determined that the following types of projects and project specifications are not likely to adversely affect federally listed species or have significant adverse impacts on migratory birds. For projects that meet the criteria listed below, NO further coordination with the Service is necessary. This guidance may also be used as a general clearance for all future projects meeting these criteria.

1. The construction of lattice or monopole design communication towers less than 200 feet in total height that do not contain guy wires. The tower must be located in previously disturbed, urbanized or developed areas or areas that do not represent potential habitat for federally listed species. In addition, the tower must be located at least 2500 feet from any known active wood stork or other wading bird nesting colony.

- 2. The construction of guyed communication towers between 200 and 400 feet tall, located as in (a) above, and provided the guy wires are equipped with bird diverter devices and the tower is lighted with a white or red strobe light operating at the minimum allowable intensity. This type of lighting is far less attractive to migratory birds than continuous or pulsating, incandescent red or white lights, regardless of their intensity or frequency or duration of pulsation. The same provisions in (a) regarding bald eagle nests and wood stork and other wading bird breeding colonies, applies.
- 3. The co-location of a new antenna on an existing communication tower or mounting of a new antenna on an existing structure (e.g., light pole, billboard, water tower, building). Such work shall not increase the tower height above 400 feet, require the construction of a new access road, nor result in additional disturbance of the site; and
- 4. The repair, maintenance, or replacement of an existing communication tower, provided that the activity does not increase the height of the tower above 400 feet or increase its' footprint into natural vegetative communities, and is conducted outside of the October 1 – May 15 nesting season of any bald eagle nesting on the structure. Please Note: The bald eagle was removed from the protections of the ESA (delisted) in August 2007; however, a final Rule that implements a permit program designed to protect bald and golden eagle populations in the future was published in the Federal Register on September 11, 2009. These final regulations authorize the limited take of bald and golden eagles through the issuance of permits under the Eagle Act where the take to be authorized is associated with otherwise lawful activities. These regulations also establish permit provisions for intentional take of eagle nests where necessary to ensure public health and safety, and in other limited circumstances. Please refer to the following website link for more information and application procedures: http://www.fws.gov/migratorybirds/baldeagle.htm. For any questions regarding this rule or bald eagle protection issues, please contact Migratory Birds Division at the number referenced below. Note: Ospreys (Pandion haliaetus) frequently nest on communication towers, and the nesting in Florida may extend throughout all months of the year. Confirmed nests that are inactive (no eggs or young in nesting) have no special protections under the Migratory Bird Treaty Act, and although nest removal is allowed, we recommend nest removal only be undertaken if there are no alternatives to the required work. Where the proposed work is associated with an existing tower supporting an active osprey nest, refer to our national migratory bird website, and/or contact our Southeastern Regional Division of Migratory Birds in Atlanta, GA at (404)-679-7049 for further guidance prior to any work.

For existing towers that do **not** include any modification, footprint expansion or construction, **and** meet the criteria below, **no** further coordination with the Service is necessary. This includes those projects for relicensing of existing towers. Therefore, this guidance may also be used as a general clearance for all existing projects meeting these criteria.

1. The existing lattice or monopole design communication towers less than 200 feet in total height that do not contain guy wires.

2. The existing lattice communication towers or guyed communication towers between 200 and 400 feet tall provided the guy wires are equipped with bird diverter devices and the tower is lighted with white strobe lights with the maximum off period between flashes (3 seconds is current maximum allowable). This type of lighting is far less attractive to migratory birds than continuous or pulsating, incandescent red or white lights, regardless of their intensity or frequency or duration of pulsation.

For those projects that do not meet these criteria our only available recommendations are:

- 1. Reduce the height of the tower,
- 2. Light the tower with a white or red strobe light operating at the minimum allowable intensity: as noted in item 2 above.

Our agency appreciates your cooperation in the protection of Federally-listed species in Florida.

Sincerely,

Dawn P. Jennings

Acting Field Supervisor

Dawn P. Jennings