

JERROLD D. MILLER
JOHN S. NEELY*

*ADMITTED PA AND DC ONLY

LAW OFFICES
MILLER AND NEELY, P.C.
SUITE 203
3750 UNIVERSITY BLVD. W.
KENSINGTON, MD 20895

MURRIETA
PHONE: (301) 933-6304
FAX: (301) 933-6306
MANDNLAW@GMAIL.COM

March 13, 2017

Secretary
Federal Communications Commission
Washington, DC 20554

ATTN: Media Bureau (Audio - Victoria McCauley)

RE: **Construction Permit Tolling or Waiver Request**
KRXC(FM) Murrieta, California
FACID: 183309
BNPH-20091019AFK

Dear Madam Secretary:

On behalf of Audion Communications, Inc., permittee of the above-referenced station, you are respectfully requested to toll or waive expiration of the above-referenced construction permit until such time as a pending "blocked" application for minor modification of the construction permit may be issued.

When the permittee approached the owner of KXRC's authorized tower site to finalize antenna installation plans, the site owner's local representative advised that the owner would enter into a tower site lease subject to the permittee preparing structural drawings and plans for the antenna installation. After Audion submitted the engineering work-up for review, the tower owner notified Audion for the first time that the plans for the structure had changed and, as a result, the tower owner was no longer willing to consider leasing tower space for KXRC's use. Thereafter, the permittee promptly located an alternate tower site and prepared and filed an application to modify its extant CP, See, FCC File No. BMPH-20160712AAY. To facilitate FCC processing, this application proposes an existing and erected antenna structure which does not require FAA clearance.

The permittee is advised that the application for the proposed new tower site is "blocked" because the FCC has not yet completed the international notification process with Mexico as required by international treaty and Commission staff advises that it "has no idea when Mexico might respond." By treaty, any CP application proposing new broadcast facilities to a community within 250 miles of the Mexico border with the United States, such as Murrieta, California, requires international notification. Having lost the use of its authorized tower site, any proposed KXRC replacement tower site is subject to the administrative encumbrance of international notification.

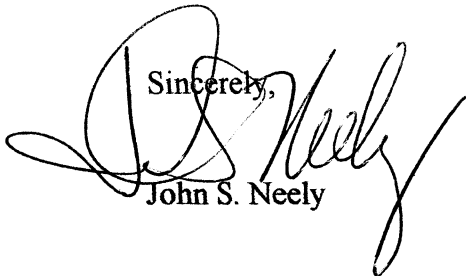
Federal Communications Commission
March 13, 2017
Page Two

Section 73.3598 of the Commission's rules permits tolling the construction period when construction is prevented due to matters beyond the reasonable control of the permittee or for failure of an administrative or Federal requirement. Further, the Commission may waive the construction permit deadline for exceptional circumstances beyond a broadcast permittee's control that encumber construction. See, e.g., *Biennial Regulatory Review—Streamlining of Mass Media Applications, 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, para. 42 (1999).

In the instant case, tolling and/or waiver of the deadline is justified due to factors beyond the permittee's control, such as that the tower site landlord revoked its prior willingness to enter into a tower site lease; the permittee acted diligently in filing an application proposing a new tower site greater than eight months ago and well before the expiration of the CP construction period; the application remains administratively blocked from further processing because tower sites which propose new service within 250 miles of the United States-Mexico border, like that of KXRC service to Murrieta, require international coordination with Mexico, and the Commission has not yet received a response from Mexico. Mexico's failure to respond to the Commission notification is an administrative delay and encumbrance beyond the permittee's control

Based on the foregoing, the Commission is respectfully requested to toll or waive the KXRC construction period.

Please address any questions concerning this matter to the undersigned.

Sincerely,

John S. Neely