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**Rockwell Media Services, LLC**

158 West 1600 South, Suite 200, P.O. Box 1194  
St. George, Utah 84771 Tel 435-668-5331 Fax 435-628-6636

April 25, 2018

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554  
ATT: Victoria McCauley - [Victoria.McCauley@fcc.gov](mailto:Victoria.McCauley@fcc.gov)

RE: Tolling Request of Construction Permit for KZEE(AM) 1490kHz, Santa Clara,  
UT (Facility No. 160278), File No. BMP-20171018ABD

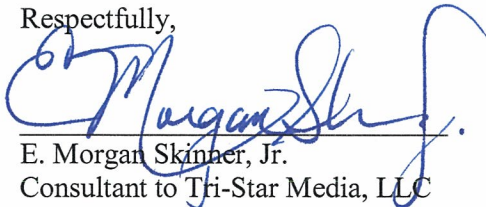
Dear Ms. Dortch,

The above captioned permit granted February 28, 2018 to Tri-Star Media, LLC ("TSM") is currently restricted from proceeding with construction pursuant to a directive of the US Fish & Wildlife Services ("USFWS") that requires construction to be halted during the nesting period of the Endangered Species Southwest Willow Flycatcher. The proposed tower site is located on private land within the Virgin River flood plain at 1300 South 100 West, Washington City, Utah. The Applicant was granted (the "Conditional Use Permit, March 21, 2018") (Exhibit "A") and ("Flood Plain Permit, March 31, 2018") (Exhibit "B") by Washington City subject to a Finding of No Significant Impact ("FONSI") from the Federal Communications Commission ("FCC").

Friday, April 20, 2018, during a meeting with the US Fish & Wildlife Service (USFWS") the Applicant was informed that "no construction will permitted during the nesting period of the Endangered Species Southwest Willow Flycatcher." The Applicant filed FCC Form 620, File Number 0008097603, with Section 106 submissions and a Finding of No Significant Impact", purchased materials and equipment to complete this project, and is now unable to proceed.

Pursuant to the tolling provisions of 47 CFR 73.3598(b), it's requested that the expiration date of the Construction Permit referenced herein be TOLLED.

Respectfully,



E. Morgan Skinner, Jr.  
Consultant to Tri-Star Media, LLC

CC: B. Ray Carpenter, President, Tri-Star Media, LLC  
George Weekley, Biologist, USFWS, [george\\_weekley@fws.gov](mailto:george_weekley@fws.gov) (e-mail)  
Melinda Bennion, Biologist, Utah DWR, [melindabennion@utah.gov](mailto:melindabennion@utah.gov) (e-mail)  
Steve Meisner, Local Coordinator, Virgin River Preservation, [steve@wcvcd.org](mailto:steve@wcvcd.org) (e-mail)  
Lester Dalton, Washington City Flood Plain Director, [ldalton@washingtontioncity.org](mailto:ldalton@washingtontioncity.org) (e-mail)

Enclosures: Exhibit A & B – Washington City Conditional Use and Flood Plain Permits

EXHIBIT "A"

Tri-State Tolling Request Letter  
April 25, 2018  
Washington City Conditional Use Permit



Community Development Department  
111 North 100 East  
Washington City, UT 84780  
Phone (435) 656-6325  
Fax (435) 656-6371  
www.washingtoncity.org

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Washington City No. C-18-07  
Conditional Use Permit

Applicant Tri-Star Media, LLC Use AM Radio Tower

Property Owner Hyrum and Gail-Smith Owner Site Approximately 1300 S 100 W

Zone Open Space

Conditions of Approval:

1. Site improvements shall meet requirements of all City, State and Federally adopted codes.
2. A building permit (along with the associated engineer design) be obtained for the construction of the AM radio antenna.
3. Any accessory buildings also obtain any and all associated permits through the Washington City.
4. Due to Floodplain location, prior to any construction activities within the floodplain, a "Floodplain Development Permit" will be required.
5. A grading permit will be required prior to any ground disturbing activities.
6. A post construction maintenance agreement will need to be executed by the owner and recorded concurrent with the grading permit approval process.
7. The center of the pole/tower will be moved 150 feet to the north (as shown on the exhibit of the planning commission meeting of February 21, 2018), to have it out of the floodplain as much as possible.

\*\* Modified Condition 7 to 75 feet instead of 150 feet to the north. Per the March 21, 2018 Planning Commission Meeting. Other conditions were approved February 21, 2018.

Date Approved March 21, 2018

Community Development Director David Ellerman

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This Conditional Use Permit is subject to the use description, site plan and building elevations submitted and approved by the City, and the conditions of approval for the use and its development listed above.

If the development fails to comply with the building description, site plan, building elevations and conditions upon which it was approved, either now or in the future, the Conditional Use Permit will be subject to the revocation procedures of the City.

The approved use and the conditions for the approved use run with the land, regardless of ownership, as long as the use is in continuous operation. If the Conditional Use Permit ceases operation for a continuous period of one year, it shall expire and shall require a new Conditional Use Permit.

A building permit must also be obtained in order to develop the property for this Conditional Use Permit. If, after one year, the permit has not had substantial performance toward the completion of the conditions set forth, the permit shall expire. If the conditions of the Conditional Use Permit have not been complied with, it may be revoked per Title 9 Chapter 16 of the Washington City Zoning Ordinance.

If Washington City, or any of its employees, agents, or representatives is required to initiate any legal or other proceedings, the property owner of the Conditional Use Permit will pay for all court costs, attorney fees, and any other cost incurred by Washington City resulting in the failure to provide any provisions as described in the Conditional Use Permit.

EXHIBIT "B"

Tri-State Tolling Request Letter  
April 25, 2018  
Washington City Flood Plain Permit





# Washington City

Where Dixie Begins

## FLOODPLAIN DEVELOPMENT PERMIT APPLICATION

This section to be completed by the applicant:

Name RAY CARPENTER, Tri-Star Media Date 2-2-2018  
 Address 845 East Red Hills Parkway, SG, 84770 Lot # \_\_\_\_\_

Location of Proposed Project SW 1/4 Section 23, T42S,R15W, SLB&M, Washington, Utah  
 Engineer or Authorized Agent Marc Brown, Brown Consulting Engineers

Description of Proposed Development (more than one item may be applicable)

<input type="checkbox"/> Residential	<input type="checkbox"/> Addition or Improvement
<input checked="" type="checkbox"/> Commercial	<input type="checkbox"/> Subdivision
<input type="checkbox"/> Mobile Homes	<input type="checkbox"/> Mobile Home Park
<input type="checkbox"/> New Construction	<input type="checkbox"/> Fill
<input type="checkbox"/> Watercourse Alteration	<input checked="" type="checkbox"/> Other <u>RADIO TOWER</u>

Signature of Applicant

Applicant shall not initiate any development activities on the Floodplain until a permit has been issued by the Floodplain Ordinance Administrator. Information described below applicable to this application must accompany this form:

- Plans in duplicate, drawn to scale showing the nature, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.
- Mean Sea Level (MSL) elevation of the lowest floor including basement of all structures, or MSL elevation to which any structure is flood proofed.
- A description of proposed alterations to any watercourse.
- Applicants may be required to furnish additional information as may be necessary for the administrator to evaluate the application.
- A permit fee of \$ \$617.00 must accompany the application.

\$250 + \$100/ac.(3.67ac.) = \$617.00 Check # 442

- FIRMETTE
- 2 Copies of 24 x 36" plans 3 sheets
- 1 11 x 17" copies plans

Subdivision:  
Lot#:

Deliver this application and all correspondence to:

**Lester Dalton**  
 Floodplain Ordinance Administrator  
 Washington City  
 1305 East Washington Dam Road  
 Washington, Utah 84780

**ADMINISTRATIVE ACTION**

To be completed by the Floodplain Administrator:

Permit number 2018-02 Fee received \$617.00 Date 3-22-2018  
 The proposed development is located in the            floodway XX flood fringe  
 The base flood elevation at the development site is 2608 - 2611  
 Source documents DFIRM

**Plan Review**

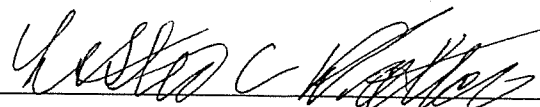
MSL elevation to which the first floor is to be elevated: NA Feet  
 MSL elevation to which the structure is to be flood proofed: NA Feet  
 MSL elevation to which the compacted fill is to be elevated: NA Feet

**Action**

<u>          </u>	Permit is denied.	The proposed development is not in conformance with applicable floodplain management standards (explanation attached).
<u>XX</u>	A conditional approval is granted. Expires 1 year from date approved	The proposed development is in partial conformance with the applicable floodplain management standards. (conditions attached)
<u>          </u>	Permit is approved. Expires 1 year from date approved	The plans and materials submitted in support of the proposed development are in compliance with the applicable floodplain management standards.

Applicant has been advised that the proposed development required approval by:

XX State Engineer/Corps of Engineers  
XX Department of Wildlife Resources  
XX Other USFWS

  
 Signature

3-22-18  
 Date

Subdivision:  
 Lot#:

Additional Requirements:

- A FONSI must be submitted to the Floodplain Administrator prior to work beginning under this permit



To be completed by the Floodplain Administrator prior to issuance of Certificate of Occupancy:

**Building Construction Documentation**

The certified as-built MSL elevation of the lowest floor of the structure is \_\_\_\_\_ Feet

The certified as-built MSL flood proofed elevation of the structure is \_\_\_\_\_ Feet

Certificates of a registered engineer or land surveyor documenting these elevations are attached.

Certificate of Compliance Issued:

Lester C. Dalton, CFM  
Floodplain Ordinance Administrator

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Subdivision:  
Lot#: