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Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street SW
Washington DC 20554

Re: FM Translator K236CT (FX), Pawhuska, OK (FAC# 201601);
Tolling Request for Construction Permit BMPFT-20190718AAC

Dear Madam Secretary:

On the behalf of Potter Radio, LLC ("Potter"), the permittee of K236CT (FX), Pawhuska, OK (FAC# 201601), in connection with the above captioned Construction Permit which was granted on Aug 2, 2019, this is to request tolling of the CP due to an "Acts of God" as specified in 47 C.F.R. §73.3598(b)(i). As the Commission is aware, the COVID-19 crisis has made it virtually impossible to obtain equipment because of supply chain issues and most importantly, consulting engineers and tower crews are simply not available or unwilling to travel.

As a result of the foregoing issues, Potter has been unable to continue work on the Construction Permit since August 1, 2020 and is concerned that it will not be able to complete the work needed to commence licensed operations by the January 4, 2021 expiration date of the Construction Permit.

Pursuant to Section 73.3598 of the Rules, the Commission has established procedures for tolling, which include natural disasters and zoning/permitting issues. In addition to the express circumstances described hereinabove that would qualify the instant Construction Permit for tolling, there are a myriad number of additional issues which while not specifically articulated in the Rule, further warrant grant of this tolling request (See 1998 *Biennial Regulatory Review – Streamlining of Mass Media Applications, Rules, and Processes; Policies and Rules Regarding Minority and Female Ownership of Mass Media Facilities*, M,O & O, MM Docket 98-43, 14 FCC Rcd 17525, 17541 (1999) ("Streamlining Order"). As part of the adoption of the three-year construction period and associated tolling provisions, the Commission stated that:

"We realize that there may be rare and exceptional circumstances other than those delineated here which would warrant the tolling of construction time, i.e. circumstances in which, for reasons not discussed here, a permittee is prevented from completing construction within three years for reasons beyond its control such that the permittee would

be entitled to tolling of the construction time under Section 319(b). In these very limited circumstances, we will entertain request for waiver of our strict tolling provisions."

Streamlining Order at 17541. The Commission has waived the three-year construction period required by Section 73.3598 in acknowledgment of exceptional circumstances beyond a licensee's control. See *Letter to Cary S. Tepper, Esq., In Re W216BI, Lexington, NC* from Peter H. Doyle, Chief, Audio Division, Media Bureau, dated April 8th, 2002 permitting tolling where transmitter site was lost due to circumstances beyond permittee's control. Both the applicable provisions of Section 73.3598 described hereinabove together with the other circumstances described which fall within the penumbras of the tolling provisions, demonstrate circumstances beyond the control of Potter which currently prevent completion of construction associated with the aforementioned Construction Permit.

Furthermore, 47 C.F.R. Section 1.3 permits waiver of any of the Commission's rules upon a showing of good cause and where the waiver will serve the public interest. See *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969) *cert. denied*, 409 U.S. 1027 (1972)).

For all of the foregoing reasons, Potter respectfully requests the tolling of BMPFT-20190718AAC a minimum of six (6) months until such time that commercial activity including construction of K236CT can presumably resume. Potter will notify the Commission as soon as conditions permit resumption of the work necessary to complete the Construction Permit.

Should there be any questions regarding this Tolling Request, please feel free to contact this office.

Very truly yours,


John C. Trent

cc: Victoria McCauley, Esq., FCC Audio Division (*Via E-Mail Only*)