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December 4, 2000

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Linda Blair, Chief
Audio Services Division
Mass Media Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Mass Media Bureau, Estate of Jean M. Gradick, FM Broadcast
Station License, Coosa, Georgia, WSRM-FM (95.3 MHz),
FCC File No. BMPH-941004JA, Report and Order, MM
Docket No. 98-43, TOLLING NOTIFICATION

Dear Ms. Blair:

This letter, on behalf of the Estate of Jean M. Gradick ("Gradick"), transmits a tolling
notification, filed on March 16, 1999, pursuant to Report and Order ("Streamlining of Mass Media
Applications, Rules and Processes") in Memorandum Opinion and Order, 1998 Biennial Regulatory
Review - Streamlining of Mass Media Applications, Rules, and Processes, 13 FCC Rcd. 23056,
23092 (1998) ("Streamlining Order") and Memorandum Opinion and Order, 14 FCC Rcd. 17525,
17542 (1999), (Released November 25, 1998), for additional time to construct and operate the above
referenced FM broadcast facilities. At present, the construction permit is tolled as a result of a
pending Application for Review, filed with the Federal Communications Commission on July
28, 1997. Pursuant to the referenced Report and Order, Gradick is requesting at a minimum 12
additional months to construct and, if the Commission agrees with the analysis discussed herein, a
maximum of 21 months to construct the referenced facilities. 1/

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1/ Upon grant of the requested extension of time, the Commission could then dismiss the
pending Application for Review.

Linda Blair, Chief
December 4, 2000
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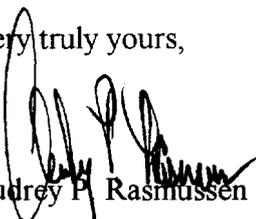
As discussed in the referenced Memorandum Opinion and Order at paragraph 89 (3), a three-year construction date will apply to construction permits that have been canceled but have been timely appealed. The referenced permit falls within the timely appealed category, since Gradick filed the Application for Review of the Public Notice of the denial of Petition for Reconsideration, released June 27, 1997.

The grant date of the permit was October 1991. The expiration date was April 1993. A Petition for Reconsideration of an application for extension was granted on April 1995 and expired in October 1995. A second application for an extension was denied in 1996 and an application is pending. See enclosed.

As evidenced herein, Gradick has not yet had a full authorized time to construct. See Rainbow Broadcasting, 9 FCC Rcd 2839, 2846 (1994), wherein the Commission concluded that because of litigation, "It would have been unreasonable to have required or expected Rainbow to proceed with construction while faced with the uncertainties resulting from the appellate challenges to its construction permit." The Commission concluded that permittees in such positions, "should not be subject to the same hurdles as those who have been accorded a full 24 months to construct."

This filing is being made to bring the tolling notification to the Commission's attention. Any questions concerning this matter may be directed to this office.

Very truly yours,



Audrey P. Rasmussen

APR:gln
Enclosures
cc: Christopher J. Wright, Esq.
General Counsel, FCC (w/enc.)
Gary S. Smithwick, Esq.

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March 16, 1999

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MAR 16 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Linda Blair, Chief
Audio Services Division
Mass Media Bureau
Federal Communications Commission
Washington, D.C. 20554

Re: Mass Media Bureau, Jean M. Gradick, FM Broadcast Station
License, Coosa, Georgia, WSRM-FM (95.3 MHz), FCC File No.
BMPH-951004JA, Report and Order, MM Docket No. 98-43

Dear Ms. Blair:

This letter, on behalf of Jean M. Gradick, is a request filed pursuant to Report and Order ("Streamlining of Mass Media Applications, Rules and Processes") in MM Docket No. 98-43, FCC 98-281 (Released November 25, 1998), for additional time to construct and operate the above-referenced FM broadcast facilities. At present, the construction permit is tolled as a result of a pending Application for Review, filed with the Federal Communications Commission on July 28, 1997. Pursuant to the referenced Report and Order, Mrs. Gradick is requesting at a minimum of 12 additional months to construct and, if the Commission agrees with the analysis discussed herein, a maximum of 21 months to construct the referenced facilities. ^{1/}

As discussed in the referenced Report and Order at paragraph 89 (3), a three year construction date will apply to construction permits that have been canceled but have been timely appealed. The referenced permit falls within the timely appealed category, since Mrs. Gradick filed the Application for Review of the Public Notice of the denial of her Petition for Reconsideration released June 27, 1997.

Background

Jean Gradick filed, on February 23, 1990, an application for Channel 237A at 95.3 MHz at Coosa, Georgia. This application was mutually exclusive with two other applications for Donald L. Jones (subsequently, "Coosa Radio Partnership") and T.C. Monte, Inc. ("T.C.

^{1/} Upon grant of the requested extension of time, the Commission could then dismiss the pending Application for Review.

Monte"). The application of T.C. Monte was dismissed by the Bureau since the application exceeded the FCC's 12 station ownership limit on FM stations, then in effect. Monte filed a Petition for Reconsideration ("Reconsideration"), seeking reinstatement of its application.

Mrs. Gradick's application, along with other pending applications, was designated for hearing under Hearing Designation Order ("HDO"), 91-703, released June 24, 1991 in MM Docket No. 91-164. In that HDO the Commission advised that grant of the winning application would not become final until the outstanding Reconsideration filed by T.C. Monte, Inc. had been resolved. Coosa Radio Partnership and Mrs. Gradick entered into settlement and filed a Joint Petition for Approval of Settlement Agreement on July 15, 1991. In Memorandum Opinion and Order, FCC 91M-2530, released August 16, 1991, the Administrative Law Judge in that proceeding granted the Joint Petition for Approval of Settlement Agreement. In it, he stated: "The settling applicants recognize that the grant of Mrs. Gradick's application will not become final until the outstanding Petition for Reconsideration filed by T.C. Monte is resolved."

Mrs. Gradick's application was granted October 30, 1991. However, T.C. Monte, Inc.'s Reconsideration remained pending and thus, Mrs. Gradick's grant was not final. After months of negotiations, on April 15, 1992, Jean Gradick and T.C. Monte, Inc. entered into a settlement agreement and filed a Joint Petition for Approval of Settlement Agreement which proposed that Monte would request dismissal of his Petition for Reconsideration in the matter of Coosa, Georgia and that Mrs. Gradick would pay Monte a portion of its legitimate expenses in prosecuting its application. The Settlement Agreement was approved on May 7, 1992, became final in mid-June, 1992 and the transaction was completed on July 3, 1992 and the grant of Mrs. Gradick's application became final. Mrs. Gradick had only nine full months left to complete construction, nine months short of the then 18 months provided by the Commission. Mrs. Gradick filed a request for extension of time in March 1993, it was denied in October, 1993. A Petition for Reconsideration was filed in November, 1993 which was granted in April 1995. A second extension was filed in October 1995 which was denied in October 1996. A Petition for Reconsideration of this denial was filed in November, 1995. It was denied in June 1997.

Briefly, the history of Mrs. Gradick's authorization is as follows:

DATE	ACTION	UNENCUMBERED ELAPSED TIME
10/91	Mrs. Gradick Application Granted	0
7/92	Final Settlement, T.C. Monte	0
3/93	1st Extension Request	9 months
10/93	Extension Denied	9 months
11/93	Petition for Reconsideration filed	9 months
4/95	Grant of Petition	9 months
10/95	2nd Extension Request filed	15 months
10/96	Extension Request denied	15 months
11/96	Petition for Reconsideration filed	15 months
6/97	Petition for Reconsideration denied	15 months
7/97	Application for Review filed	15 months

Linda Blair, Chief

March 16, 1999

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As evidenced above, Mrs. Gradick has not yet had her authorized time to construct. See Rainbow Broadcasting, 9 FCC Rcd 2839, 2846 (1994), wherein the Commission concluded that because of litigation, "It would have been unreasonable to have required or expected Rainbow to proceed with construction while faced with the uncertainties resulting from the appellate challenges to its construction permit." The Commission concluded that permittees in such positions, "should not be subject to the same hurdles as those who have been accorded a full 24 months to construct."

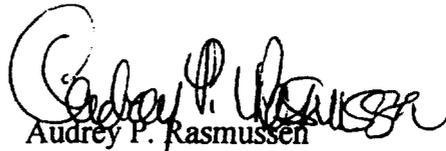
Rainbow Broadcasting Company, *supra*, reiterates the Commission's long-standing policy that applicants should not be required to construct while the grant is under a cloud. See Channel 16 of Rhode Island, Inc. v. FCC, 440 F2d 266, 275-276 (D.C. Cir. 1970); TV-8, Inc., 2 FCC Rcd 1218, 1220 (1987). See also Meridian Communications, Inc., 2 FCC Rcd 5904 (Rev. Bd. 1987); Open Media Corp., 8 FCC Rcd 4070 (1993); High Point Community Television, Inc., 2 FCC Rcd 2506, 2507 (1987); Rachel C. Gelfand, M.D., 2 FCC Rcd 6522, 6523 (Mass Media Bur. 1987); L.E.O. Broadcasting, 2 FCC Rcd, Mass Media Bur. 1987); Cidra Broadcasting, Inc., 2 FCC Rcd 230, 231 (Mass Media Bur., 1987); cf Miami MDS Company v. FCC, 14 F3rd 658 (D.C. Cir. 1994).

In sum, the Commission records show that Mrs. Gradick has not been afforded unencumbered 18 months to construct her facility. Moreover, it was broken by long periods of inaction and litigation at the Commission during which time the Commission "discourages" applicants from attempting to rely "on efforts made after the lapse of a construction permit." Rainbow Broadcasting, 12 FCC Rcd, 4028, 4063 (1997). Thus one can see that there was a brief span after two years in which arrangements had to be re-instituted and re-negotiated. Further, because the Commission found her relocation modification to be short-spaced, Mrs. Gradick had to pursue another site for her proposed facilities.

In light of the Commission policy in Rainbow Broadcasting, and Report and Order in MM Docket No. 98-43, which gives a permittee the requisite unencumbered time to construct, to deny a three year construction permit to Mrs. Gradick would disserve the public interest. See Melody Music v. FCC, 345 F. 2d 730 (D.C. Cir. 1965). Therefore, it is respectfully requested that the Commission grant Mrs. Gradick an extension of time so that she will have had 21 additional months to construct.

Any questions concerning this matter may be directed to this office.

Very truly yours,


Audrey P. Rasmussen

APR:gln

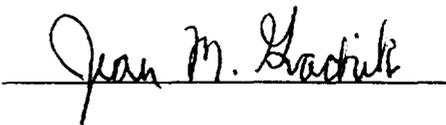
Enclosure

cc: Christopher J. Wright, Esq.,
General Counsel, FCC (w/enc.)

I, **Jean M. Gradick**, hereby declare as follows:

1. I have reviewed the foregoing Request for extension of time to construct facilities.
2. The foregoing is true and correct to the best of my knowledge and belief.

Jean M. Gradick

A handwritten signature in cursive script, reading "Jean M. Gradick", is written over a horizontal line.

Executed on March 15, 1999.