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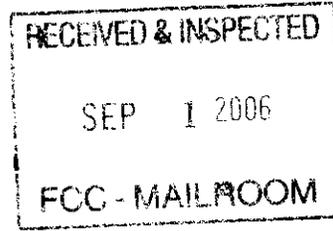
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Via Overnight Mail and ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
9300 East Hampton Drive
Capitol Heights, MD 20743

Re: **WPTZ-DT, North Pole, New York**
MB Docket No. 05-317
TELEVISION STATION SECTION 339(a)(2)(D)(vii)
WAIVER EXTENSION REQUEST

Dear Ms. Dortch:

On behalf of Hearst-Argyle Stations, Inc. ("Hearst-Argyle"), permittee of Digital Television Station WPTZ-DT, North Pole, New York, this letter requests an extension of waiver to prohibit satellite subscribers from obtaining signal tests of WPTZ-DT's digital signal pursuant to Section 339(a)(2)(D)(vii) of the Communications Act, as amended by the Satellite Home Viewer Extension and Reauthorization Act of 2004 ("SHVERA"). The instant request is filed pursuant to the procedures set forth in the Commission's Public Notice in DA 05-2979 (Nov. 17, 2005) and in *Waiver of Digital Testing Pursuant to the Satellite Home Viewer Extension and Reauthorization Act of 2004*, Order, DA 06-801 (rel. May 1, 2006) ("*Order*"). Because WPTZ-DT has experienced

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“clear zoning or environmental legal impediments,” the Commission granted Hearst-Argyle’s initial waiver request in the *Order*. *See Order*, ¶ 20.

WPTZ-DT is the NBC affiliate located in the Burlington-Plattsburgh Designated Market Area (“DMA”). The Burlington-Plattsburgh DMA is ranked 90th among Nielsen Media’s 210 television markets for the 2006-2007 television season. WPTZ-DT has received a tentative digital channel designation of Channel 14, which is WPTZ-DT’s allotted digital channel. *See Public Notice*, DA 05-2649 (Oct. 4, 2005). Accordingly, absent grant of the instant extension request, effective October 31, 2006, satellite subscribers may request a signal test to demonstrate eligibility under SHVERA to receive a distant digital signal of a station affiliated with the same network as WPTZ-DT.

Pursuant to **Section 339(a)(2)(D)(viii)(II)** of the Act, Hearst-Argyle requests an extension of waiver on the basis that WPTZ-DT experiences “clear zoning [and] environmental legal impediments.”

In WPTZ’s FCC Form 381 filing, FCC File Number BCERCT-20041105AAP, WPTZ certified that it will operate its post-transition DTV station as authorized by its construction permit in FCC File No. BPCDT-19991020ACA. However, due to the reasons set forth therein, WPTZ-DT is not currently on the air with a DTV signal. The Commission last granted WPTZ-DT an extension of its DTV construction permit and its request for waiver of the DTV maximization deadline on May 20, 2005 (FCC File No. BEPCDT-20050406AAB). A request for further extension of these deadlines remains pending in FCC File No. BEPCDT-20051116AAZ. On July 17, 2006, the Commission granted WPTZ-DT’s application to modify its construction permit (File No. BMPCDT-20060403BHW).

As previously explained to the Commission, Hearst-Argyle is a member of a coalition with four other television stations (and two radio stations) that proposes co-location of DTV facilities on top of Mt. Mansfield in Vermont on land owned by the University of Vermont. Such co-location will plainly serve the public interest by minimizing the number of towers necessary for all seven stations. However, the co-location is complicated because the State of Vermont has a comprehensive state and local environmental permitting process, particularly for development on the top of Mt. Mansfield, the tallest mountain peak in Vermont, and because Mt. Mansfield has a short construction season due to extreme weather conditions.

After a lengthy and complex process, the coalition obtained the necessary “Act 250” approval from Vermont in 2005, and construction of the new tower site commenced in late spring of 2005. Because construction is generally limited to the months of May through October, and because of Vermont’s “Act 250” permit constraints, the most the coalition was able to do in 2005 was to complete the transmitter building and tower foundations. The coalition resumed construction in spring 2006. Installation of WPTZ-DT’s tower is scheduled for August 30, 2006, and Hearst-Argyle

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projects that construction will be complete and WPTZ-DT will be able to begin on-air testing in the fall of 2006. Because the *Order* requires the instant waiver extension request to be filed two months in advance of the expiration of the initial waiver, i.e., by August 31, 2006 (*see Order*, ¶ 46), Hearst-Argyle cannot state with certainty whether the WPTZ-DT facility will be complete and on-air before the initial testing waiver's expiration on October 31, 2006.

While the circumstances and complexities of Vermont's environmental review and approval processes, and the short construction season on Mt. Mansfield, are beyond WPTZ's control, Hearst-Argyle is taking all reasonable steps to complete construction.

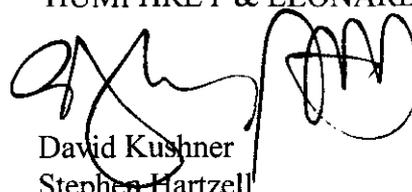
Thus, absent grant of the instant extension request to prevent signal testing under SHVERA, WPTZ-DT is in jeopardy of losing service to a significant portion (which, theoretically, could reach 100%) of the people predicted to receive service from the station, all of whom may otherwise be eligible to receive service from a distant network affiliate.

Accordingly, because WPTZ-DT has experienced construction delays due to Vermont's "zoning [and] environmental legal impediments," WPTZ-DT satisfies the waiver criterion of Section 339(a)(2)(D)(viii)(II) of the Act and should be granted an extension of the initial waiver granted by the *Order*.

For the reasons stated herein, Hearst-Argyle requests an extension of waiver to prohibit digital signal testing under SHVERA. If any questions should arise during the course of your consideration of this request, it is respectfully requested that you communicate with this office.

Sincerely,

BROOKS, PIERCE, McLENDON,
HUMPHREY & LEONARD, L.L.P.



David Kushner
Stephen Hartzell

Counsel to Hearst-Argyle Stations, Inc.

cc: Nazifa Sawez, FCC (via email)