

FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554
June 3, 2002

In Reply Refer To:
1800B3-GDG

Alison J. Shapiro, Esq.
Fletcher, Heald & Hildreth, P.L.C.
1300 North 17th Street
Arlington, VA 22209-3801

In re: WNZT(AM), Hermon, ME
Facility No. 128851
File No. BNP-20001016AAL

Dear Ms. Shapiro:

This letter concerns the uncontested May 21, 2002 notification filed on behalf of Daniel F. Priestley ("Mr. Priestley"), that the referenced construction permit be treated pursuant to the tolling provisions of 47 C.F.R. § 73.3598(b)(ii). For the reason detailed below, we grant tolling.

The referenced permit to allow Mr. Priestley to construct a new AM station to serve Hermon, Maine was granted May 29, 2001, and requires that the permittee complete construction and file an application for broadcast license no later than May 29, 2004.

You indicate that Mr. Priestley appealed adverse zoning decisions with the Maine Superior Court on August 8, 2001, and that this matter is currently under advisement. No date for the timing of a decision regarding Mr. Priestley's appeal is currently known. Mr. Priestley has, however, indicated that he will continue to appeal this matter in the event the Maine Superior Court upholds the adverse local zoning decision, but that he will also search for alternate locations. We agree that the current judicial review qualifies for tolling under 47 C.F.R. § 73.3598(b)(ii).

We caution Mr. Priestley, however, that requests for treatment pursuant to the Commission's tolling rules, 47 C.F.R. § 73.3598(c), generally must be filed within 30 days of the claimed event. Applicants failing to comply with this rule may have difficulty documenting the event and place themselves at risk of learning of a potential denial of tolling after their authorization already expired. Here, however, we are able to grant tolling based on well-documented filings made with a court shortly after the tolling event and brought to our attention well before permit expiration.

Accordingly, Mr. Priestley's May 21, 2002 request for tolling of the Commission's construction period rules, 47 C.F.R. § 73.3598(a), IS GRANTED. Upon notification to this office, pursuant to 47 C.F.R. § 73.3598(d), that the Court proceeding

has been resolved, we will permanently modify the Commission's records to reflect the appropriate expiration date. In the interim, pursuant to 47 U.S.C. § 308(b), we request that you provide status reports on this matter at six-month intervals hereafter, with the first report due December 3, 2002.

Sincerely,

Peter H. Doyle, Chief
Audio Division
Office of Broadcast License Policy
Media Bureau