FEDERAL COMMUNICATIONS COMMISSION
445 12th STREET, SW
WASHINGTON, DC 20554

MEDIA BUREAU
AUDIO DIVISION
APPLICATION STATUS: (202) 418-2730
HOME PAGE: www.fcc.gov/mb/audio/

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December 19, 2008

David D. Oxenford, Esq.
Davis Wright Tremaine LLP
1919 Pennsylvania Ave., NW
Suite 200
Washington, DC 20006

Re: WMXK(FM), Morristown, TN
Educational Media Foundation
Facility ID Number 48752
File Number BPH-20081031ACE

Dear Counsel:

This letter is in reference to the above-captioned minor change application for WMXK at Morristown, TN.

Pursuant to 47 C. F. R. § 17.4(a), any proposed construction of a new antenna structure or proposed alteration of an existing antenna structure that requires Federal Aviation Administration (FAA) notification also requires registration with the Commission prior to construction or alteration. Our records indicate that the proposed antenna structure has not been registered. FCC antenna structure registration may be accomplished electronically via the Internet at http://wireless.fcc.gov/antenna/, or by sending a completed FCC Form 854, *Application for Antenna Structure Registration*, to:

Federal Communications Commission
Information Processing Branch
1270 Fairfield Road
Gettysburg, PA 17325-7245.

Following FCC registration of the antenna structure, a curative amendment to application BPH-20081031ACE, which includes the FCC antenna structure registration number, must be submitted to the Commission. If the antenna structure cannot be registered with the Commission within 90 days of the date of this letter, the applicant must notify the Commission, in writing,

concerning the delay.[1] In the event that further difficulties with the registration process occur following the applicant's initial response to this letter, the applicant must provide the Commission with written updates concerning the structure registration process every 60 days thereafter.[2]

The instant application also requires an assessment to determine applicability of the Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process (See *Report and Order* FCC 04-222 released October 5, 2004).[3] The applicant must complete the Section 106 Review Process in accordance with Sections 1.1306 and 1.1307 of the Commission's Rules.[4] Section 1.1307(a)(4) specifies the requirement to follow the procedures set forth in the rules of the Advisory Council on Historic Preservation.[5] Upon completion, the applicant shall electronically file an amendment, including the environmental certification and a statement summarizing the results of the Section 106 Review. The applicant may use the Agreements incorporated as Appendices B and C to Part 1 of the Commission's Rules to determine whether the undertaking is excluded from Section 106 Review. If the proposal is not excluded, the applicant may use the Tower Construction Notification System to notify Tribal Historic Preservation Offices. Use FCC Form 620 to notify the State Historic Preservation Office of a proposal for a new tower or FCC Form 621 for proposed collocation.

Further action on the subject application will be withheld for a period of 90 days from the date of this letter to provide the applicant an opportunity to respond. Failure to respond within this time period or to provide written updates as required will result in the dismissal of the application pursuant to 47 CFR § 73.3568(a)(1). Please note that any amendment must be signed and filed in the same manner as the original application.

Sincerely,

Susan N. Crawford
Assistant Chief
Audio Division
Media Bureau

cc: David Velasquez (EMF)
Educational Media Foundation

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[1] If the structure cannot be registered within the initial 90 day period, the first response to this letter shall be filed in triplicate with the Secretary of the Commission, and shall contain a specific narrative of the actions taken to obtain FAA approval and FCC antenna structure registration. The response shall include copies of all correspondence between the FAA, the applicant, and the applicant's agents.

[2] Each 60 day update shall be filed in triplicate with the Secretary of the Commission, and shall report specific actions toward securing FAA approval and FCC antenna structure registration taken by the applicant and its agents since the filing of the previous report.

[3] The Agreement is incorporated as Appendix C to Part 1 of the Commission's Rules.

[4] *See* 47 C.F.R. § 1.1306 and § 1.1307.

[5] *See* 36 C.F.R., Part 800.