FEDERAL COMMUNICATIONS COMMISSION
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Ace Radio Corporation
2801 Via Fortuna Drive
Suite 675
Austin, TX 78746

In re: NEW(FM), Waynesboro, GA
Facility ID No.: 166071
Ace Radio Corporation ("Ace")
BNPH-20060309ADH

Dear Applicant:

The staff has under consideration the above-captioned FM Auction No. 62, as amended on July 26, 2006, to file an application for a new commercial FM facility to serve Waynesboro, GA.

An engineering review of the application, as originally filed, revealed that, although Item 17 in Section III-B has been entered as "Yes," an environmental evaluation had not been completed. On August 28, 2006 and December 27, 2006, the staff called the assistant of Ace's attorney and requested an update regarding this deficiency. On April 10, 2007 and May 4, 2007, the staff spoke with Ace's attorney who indicated that there was no resolution on the environmental process, but that he would check with his client. On July 5, 2007, the staff again spoke with Ace's attorney who stated that they did get some clearances from some Indian tribes, but he was not sure if the entire environmental review had been completed. On July 1, 2008 and September 9, 2008, the staff contacted the assistant of Ace's attorney and requested an update. She responded to the second call and stated that the applicant needed more time to complete the process. On October 27, 2008, the staff again spoke with the assistant, who indicated that the applicant hoped to complete the environmental review within four months. On February 18, 2009 and May 5, 2009, the staff spoke with the assistant, who stated that they needed to check with the client to find out the status.

By letter dated June 11, 2009, Ace was informed that its application still required the completion of the environmental certification. Furthermore, Ace was given 60 days in which to respond to the letter. In the letter the Commission stated "[f]ailure to respond within this time period or to provide the written updates every 60 days will result in the dismissal of the application for failure

to prosecute pursuant to 47 C.F.R. § 73.3568(a)(1). On August 12, 2009, October 13, 2009, and December 11, 2009, Ace's attorney responded to the letter and stated that the Section 106 NHPA Review Process has not been completed and the applicant was working toward completion of this environmental study. Furthermore, he indicated in each response that he would submit a written update in sixty days. On May 5, 2010, after not receiving a further response, the staff again contacted the assistant and requested a status update. She stated that she would check on the status of the environmental review. We have received no further status reports since that time.

Ace's overall lack of responsiveness and failure to timely file status updates of its environmental evaluation leaves Ace's application subject to dismissal. Nevertheless, we are affording Ace with one final opportunity to file an amendment that either certifies compliance with the Environmental Protection Act at the current site or proposes to relocate to an existing site that does not need further environmental analysis. Further action on the subject application will be withheld for a period of thirty (30) days from the date of this letter to provide an opportunity to file the requested amendment. Failure to correct all remaining grantability defects within this time period will result in the dismissal of the application for failure to prosecute pursuant to 47 C.F.R. § 73.3568(a)(1). Please note, we will not entertain any further requests for additional time as Ace has already had almost five years since the staff initially contacted Ace to provide this information.

Sincerely,

Rodolfo F. Bonacci
Assistant Chief
Audio Division
Media Bureau

cc: Mark N. Lipp, Esq.