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OCT - 8 1991

Federal Communications Commission
Office of the Secretary

WHITE BROADCASTING PARTNERSHIP
707 Newport Steet
Macclenny, Fl 32063
(904) 259-4821

REC'D
OCT 8 9 31 AM '91
FCC MAIL SECTION

October 5, 1991

Ms. Donna R. Searcy, Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

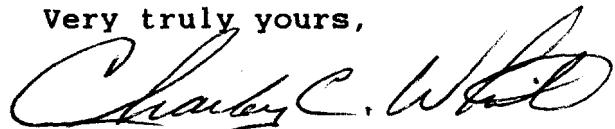
Re: MM Docket No. 91-10
File No. BPH-891214/MM
Opposition to Motion to Enlarge Issues against
White Broadcasting Partnership

Dear Ms. Searcy:

Charley C. White and Dianna M. White, d/b/a White Broadcasting partnership, hereby file an original and six (6) copies of its Opposition to Motion to Enlarge Issues Against White Broadcasting Partnership in the above-referenced Docket proceeding for a new FM Station at Baldwin, Florida.

Please direct any questions or correspondence concerning this matter to our office.

Very truly yours,



Charley C. White
Dianna M. White
White Broadcasting Partnership

pro se

Enclosures

cc: Honorable Edward Luton
All Counsel of Record

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Federal Communications Commission
Office of the Secretary

Before the
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In re Applications of) MM Docket No. 91-10
)
WHITE BROADCASTING PARTNERSHIP) File No. BPH-891214MM
et al.)

For Construction Permit for a New FM Station
on Channel 289A in Baldwin, Florida

To: The Honorable Edward Luton
Administrative Law Judge

OPPOSITION TO MOTION TO ENLARGE
ISSUES AGAINST WHITE BROADCASTING PARTNERSHIP

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OCT 8 9 31 AM '91

FCC MAIL SECTION

Charley C. White
Dianna M. White
White Broadcasting Partnership
707 Newport St.
Macclenny, Fl. 32063
(904) 259-4821

pro se

October 5, 1991

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SUMMARY OF THE FILING

This filing is an Opposition to a Motion to Enlarge Issues ("Motion") filed by Peaches Broadcasting, Ltd. ("Peaches") against White Broadcasting Partnership ("White"). The Peaches Motion is based on White's proposed budget and whether or not all sources of funds are available. This "Motion to Enlarge" fails to present anything new or significant.

In addition to being Meritless, the Peaches Motion violates the Commission's timeliness rules. Since Peaches bases part of its Motion on hearing transcripts that were available on August 20-22, 1991. The Motion should have been filed on September 9, 1991. Even allowing for the later date of September 6, 1991 as being the trigger date, the Motion was still filed late.

In summary, the Motion fails to provide for anything of new significance and is untimely filed. Consequently, the issues requested by Peaches must be rejected.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED BY
OCT 8 1991
FCC MAIL BRANCH

In re Applications of) MM Docket No. 91-10
)
WHITE BROADCASTING PARTNERSHIP) File No. BPH-891214MM____
et al.)

For Construction Permit for a New FM Station
on Channel 289A in Baldwin, Florida

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OCT - 8 1991

To: The honorable Edward Luton
Administrative Law Judge

Federal Communications Commission
Office of the Secretary

OPPOSITION TO MOTION TO ENLARGE
ISSUES AGAINST WHITE BROADCASTING PARTNERSHIP

White Broadcasting Partnership, ("White"), pro se, pursuant to Section 1.294 (c) (1) of the Commission's Rules, hereby submits its Opposition to the Motion to Enlarge Issues Against White Broadcasting Partnership ("Motion") filed by Peaches Broadcasting, Ltd. ("Peaches"), in the above captioned case, on September 23, 1991.

In support thereof the following is shown:

I. INTRODUCTION

On September 23, 1991, Peaches filed a Motion attacking White's financial sources and budget. White believes the Motion is untimely. Furthermore, Peaches argues that White has not produced a copy of the appraisal on their personal residence. This simply is not true and White will prove it later in this Opposition.

Peaches goes on to say that White's \$120,705 budget is unreasonably low and insinuates that a long-time broadcaster like Mr. White can't build a small market station for that kind of money. Because of the smallness of the Baldwin market, White believes it would be fiscally irresponsible to reason otherwise. Therefore, this procedurally defective Motion against White must be rejected.

II. THE MOTION IS DEFECTIVE

A. THE MOTION IS UNTIMELY

Peaches Motion should have been filed within 15 days of discovering new facts. Peaches' trigger date for filing was based on receiving copies of the Hearing Transcript in this case, which they claimed to have received on September 6, 1991.^{1/} Making the filing 2 days late.^{2/} However, even if Peaches met the 15 day period, the information Peaches acted upon was available to them sometime during the Hearing August 20-22, 1991 making the Motion incredibly late.

Peaches offers the argument that even if the filing was late, which it was, the Motion raises matters of "probable decisional significance." It's no wonder Peaches would make that statement, because they know full-well that the Motion is untimely. Therefore Peaches needs to offer something that would be of "decisional significance" value. White will show later that what they offer is of no real value at all.

1/ Peaches provides for no certification on receiving the hearing transcripts on September 6, 1991.

2/ Since the 15 day time period is greater than 10 days, weekends are also counted and no extra time is afforded for mail service. Section 1.4(g)-(h) of the Commission's Rules.

**B. PEACHES DOCUMENTS CAN NOT SUPPORT
FILING DATE CLAIM**

In looking over Peaches' "certificate of service", (EXHIBIT 1) White can find no reason to believe that the Motion to Enlarge was filed on the date claimed. Since Counsel certifies to placing in U.S. First Class Mail, postage prepaid to all parties on September 23, 1991. White believes this statement to be true and correct and because no notation can be found on whether or not any hand deliveries were made, it's not unreasonable to assume that the Post Office did not deliver the mail the same day, nor the next. The more reasonable date would have to be September 25, 1991, even later yet than Peaches suggests.

III. THE MOTION IS WITHOUT SUBSTANTIVE MERIT

**A. The Motion is Based on the Assumption
That a Small Budget Won't Work**

White doesn't believe the budget of \$120,705 for construction is unreasonably low, (EXHIBIT 2) especially when you look at the tower site restriction and the limited number of businesses in the "Grade A" signal (EXHIBIT 3).

Peaches forgot that Mr. White has been a broadcaster and citizen in the very same area for many years. Because of that valuable experience and the real desire to serve Baldwin, Fl., and not just the larger area of Jacksonville, White proposed to stay with a budget that was more in tune with reality.

**B. The Motion Wrongly Asserts That None
of the Sources of Financing is Available**

Peaches suggests that White's two financial letters are flawed. White argues that the letters were written in "good faith" and that they do exude a "reasonable assurance" mood (EXHIBIT 4 AND 5).

Peaches, on one hand, argues that both Mr. Kennedy of the Citizens Bank of Macclenny and Mr. Richardson of the Community State Bank of Starke did not know Mr. and Mrs. White well enough to give them a "reasonable assurance" letter, on the other hand Peaches then asserts that both letters were "mere accommodations." This would suggest that Mr. Kennedy and Mr. Richardson go around signing "accommodation" letters for unknown people. To put it in the vernacular "That Dog Won't Hunt." Both gentlemen know of Mr. White's broadcasting abilities through community projects and activities and have expressed a desire to help in anyway possible.

Both banks have long standing records of helping small businesses locally (EXHIBIT 6).

Peaches also tries to eliminate Whites' "lake vacation home equity " as having been pledged for another application in which Mr. White was previously involved. That application, filed on November 24, 1987 was to serve Alachua, Florida and was designated for hearing on February 12, 1990 by HDO, DA 90-15 (EXHIBIT 7), shortly after White filed the Baldwin application. Peaches argues that Mr. White did not move to dismiss the application until March 29, 1990 (EXHIBIT 8). Mr. White has already testified that he "had decided that probably October of 1989 and -- so some way I

probably would have had my portion dismissed or whatever was legally right " quote from hearing transcript page 69 (EXHIBIT 9).

Mr. White had a partner in the Alachua application, Mr. Greg Perich, as a matter of courtesy, Mr. White gave Mr. Perich notice that he would be pulling out of Alachua. After a while Mr. Perich decided that he too no longer was interested in pursuing the application. All this Politeness took time which Mr. White could not control.

Peaches points out that the "dismissal" did not occur until March 29, 1990, four months after Baldwin was filed. However, Mr. White signed the "dismissal" on March 1, 1990, now making it fully reasonable and credible that the preparation of that document was discussed and initiated long prior to that date (EXHIBIT 8). This cuts Peaches' 4 month theory to shreds.

C. PEACHES' ASSUMPTION THAT WHITE'S TOWER EQUITY CAN NOT BE RELIED ON ANYMORE IS WRONG

Peaches argues that because Mr. White and his tower partner, Greg Perich, have "fallen out" a sale of Mr. White's interest is "highly improbable." Such is not the case, the tower agreement calls for first refusal rights which are spelled out in Article 8 of Articles of Incorporation of Jacksonville Broadcast Group, Inc." Article 8, reads in part;

Shares held by the initial shareholders listed above may not be resold or otherwise transferred to other persons unless first offered to the remaining shareholders or to this corporation. The price and terms at which and at the time within which those shares may be offered and

sold shall be further specified by written agreement among all of the shareholders and this corporation (EXHIBIT 10).

White believes that if Mr. Perich is not interested in owning and controlling the tower, then other potential buyers would look favorably upon it because of its location and rental income.^{3/}

IV. ALL DOCUMENTS HAVE BEEN PRODUCED ON TIME

A. White's Personal Residence Appraisal Was Produced

Peaches wrongly claims that Mr. White has failed to provide an Appraisal Document on his personal residence in Macclenny. That document was indeed provided to all Counsel in "Supplemental Document Production" dated June 28, 1991 (EXHIBIT 11 and 12). White can not understand how or why Peaches could or would make this False Accusation.

^{3/} The tower is located within the city limits of Jacksonville and makes a profit from rental income.

V. DISCUSSION

The Peaches "Motion to Enlarge" against White has tried to discredit White's application at every turn. The theme was Low Budget, No Budget. The truth is many broadcasters over the years, especially in smaller markets, have put stations on the air with similar budgets, using good quality Previously-Owned equipment. Together with smart buying, in-house engineering (4/ Exhibit 13), some leasing and equipment the White's already own, a station can be put on the air with a good quality sound for this budget.

Peaches attempts to suggest that because White's budget isn't as high as Peaches', that White is not a qualified broadcaster and has Misrepresented facts to the Commission. This simply is not true.

All sources of financing are reasonable and all Documents have been produced.

4/ Mr. White holds a "General Radiotelephone Operators License" from the Federal Communications Commission and has for more than twenty years.

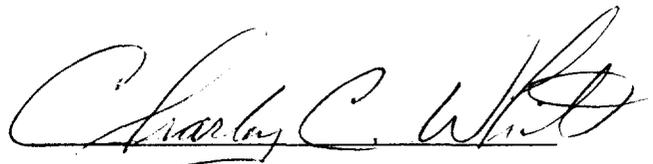
VI. CONCLUSION

The Peaches Motion is untimely, having been filed outside the 15 day window. The Motion is full of wrong assumptions and false statements against White.

Since Peaches has failed to present anything new or significant, its "Motion to Enlarge" must be denied.

Wherefore, White Broadcasting Partnership respectfully requests that the "Motion to Enlarge Issues" filed on September 23, 1991 by Peaches Broadcasting, Ltd. be denied.

Respectfully Submitted,
White Broadcasting Partnership



Charley C. White
Dianna M. White

October 5, 1991

White Broadcasting Partnership
707 Newport St.
Macclenny, Fl. 32063
(904) 259-4821

pro se

White Broadcasting Partnership
October 5, 1991

EXHIBIT 1

CERTIFICATE OF SERVICE

I, David Honig, this 23rd day of September, 1991, hereby certify that I have caused to be placed in U.S. First Class Mail, postage prepaid, the foregoing "Motion to Enlarge Issues" addressed to the following:

Hon. Edward Luton
Administrative Law Judge
Federal Communications
Commission
2000 L Street N.W.
Washington, D.C. 20554

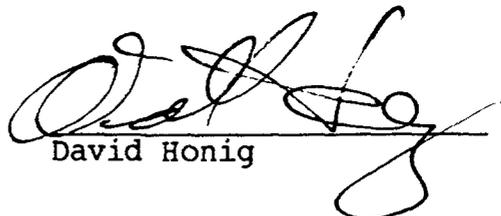
Y. Paulette Laden, Esq.
FCC Hearing Branch
2025 M Street N.W. #7212
Washington, D.C. 20554

Charles Cecil White
and Dianna White d/b/a
White Broadcasting
Partnership
707 Newport Street
Macclenny, FL 32063

Arthur V. Belendiuk, Esq.
Smithwick & Belendiuk
2033 M Street N.W.
Washington, D.C. 20036
Counsel for Johnson

James L. Winston, Esq.
Rubin Winston & Diercks
1730 M St. N.W. #412
Washington, D.C. 20036
Counsel for Northeast

Avelino G. Halagao, Esq.
7799 Leesburg Pike #900
Falls Church, VA 22043
Counsel for JEM



David Honig

White Broadcasting Partnership
October 5, 1991

EXHIBIT 2

SECTION III - FINANCIAL QUALIFICATIONS

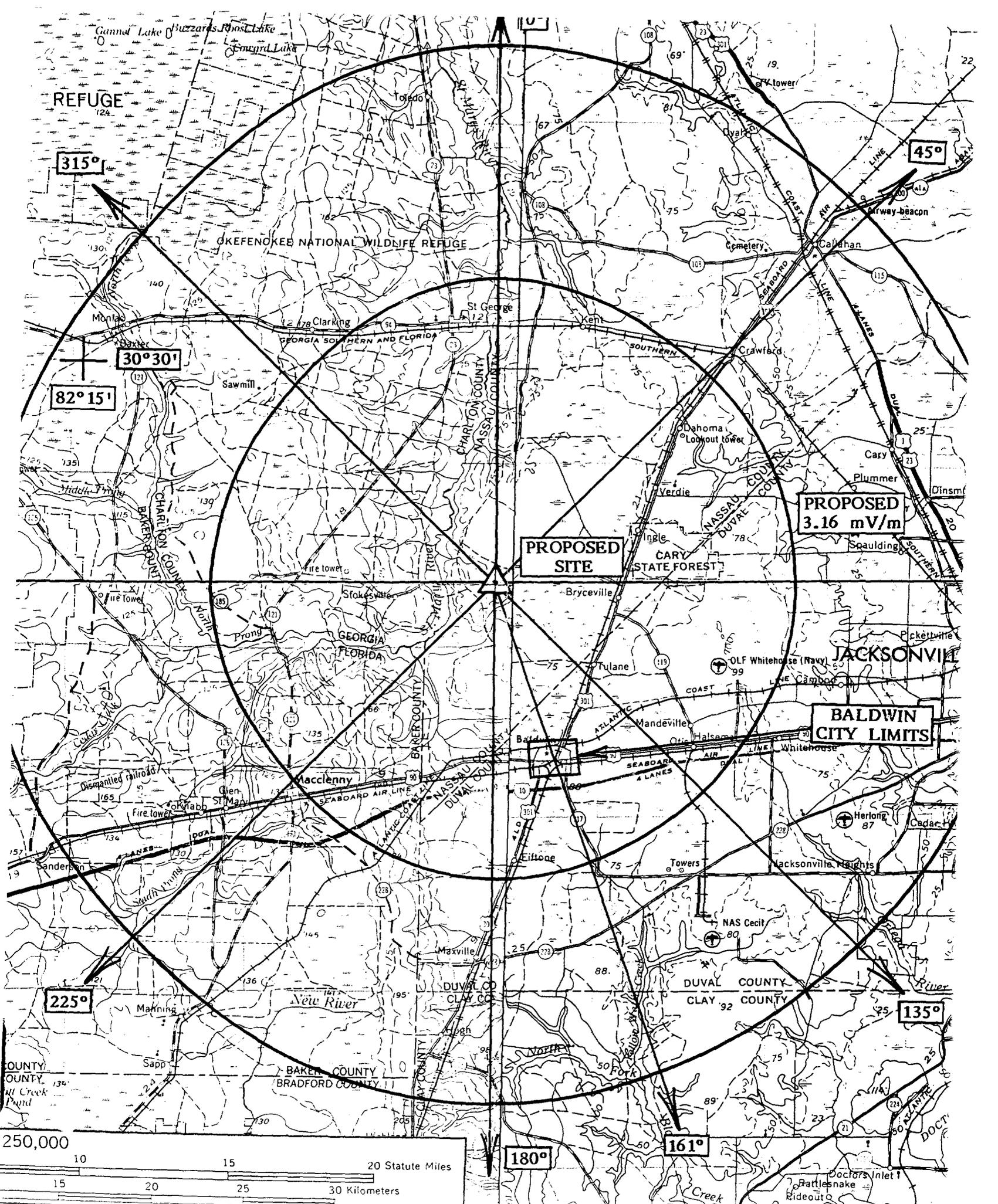
NOTE: If this application is for a change in an operating facility do not fill out this section.

1. The applicant certifies that sufficient net liquid assets are on hand or that sufficient funds are available from committed sources to construct and operate the requested facilities for three months without revenue. Yes No
2. State the total funds you estimate are necessary to construct and operate the requested facility for three months without revenue. \$ 120,705.00
3. Identify each source of funds, including the name, address, and telephone number of the source (and a contact person if the source is an entity), the relationship (if any) of the source to the applicant, and the amount of funds to be supplied by each source.

Source of Funds (Name and Address)	Telephone Number	Relationship	Amount
Community State Bank of Starke P.O. Drawer 460 Starke, Florida 32091 Eugene Richardson Asst.V.P.	(904) 964-7830		\$100,000.00
Citizens Bank of Macclenny 32 Fifth Street North Macclenny, Florida 32063 John D. Kennedy, President	(904) 259-3116		\$75,000.00
Charley and Dianna White (Lake House Equity) 7153 King Street Keystone Heights, Florida 32656	(904) 259-4821		\$50,000.00
Charley White (Rental Tower Equity)(50%) 20,000 West Beaver Street Jacksonville, florida	(904) 259-4821		\$18,000.00
Charley and Dianna White (Home Equity) 707 Newport Street Macclenny, Florida 32063	(904) 259-4821		\$15,000.00
Charley White Citibank Preferred Visa Acct# 4271-3820-8013-0392 B. 6062 Sioux Falls, SD. 57117	(800) 645-9565		\$5,000.00

White Broadcasting Partnership
October 5, 1991

EXHIBIT 3



White Broadcasting Partnership
October 5, 1991

EXHIBIT 4



Citizens Bank of Macclenny · 32 Fifth Street North · P.O. Box 545 · Macclenny, Florida 32063 · (904) 259-3116

November 21, 1989

Mr. & Mrs. Charles White
707 Newport Street
Macclenny, Florida 32063

Dear Charles and Dianna:

In connection with your plans to file an application with the Federal Communications Commission for a permit to construct a new FM broadcast station in Baldwin, Florida, and based upon the preliminary projections you have submitted, we are willing to provide you with a letter of credit in the amount of \$75,000.00 for funding necessary costs in connection with the construction and operation of the FM station provided the following conditions are met:

- a. You are successful in obtaining approval from the FCC to construct the proposed station in Baldwin, Florida;
- b. All reasonable and ordinary credit criteria of Citizens Bank of Macclenny, Florida are met at such time as you formally request the letter of credit.
- c. Current appraisals sufficient to secure Letter of Credit on the property being pledged as collateral.

The terms of repayment of any loan or credit commitment will be contingent upon the exact credit conditions prevailing at the time of such commitment. It is the Bank's normal practice to calculate interest on any loan at the rate of two percent (2%) above prime rate of Citizens Bank, at the time of any loan, and to require that the loans be repaid, ranging from five (5) to fifteen (15) years dependent upon the collateral being offered.

We understand that this letter may be provided to the FCC as proof of reasonable assurance of financing. This letter shall not, however, be construed as a binding loan or credit commitment at this time.

It is a pleasure to furnish you this letter of reasonable assurance. We hope you will receive approval for the construction of a new FM broadcast station at any early date.

Very truly yours,

CITIZENS BANK OF MACCLENNY, FL

John D. Kennedy, President



"A FRIENDLY BANK SERVING A FRIENDLY COMMUNITY"



White Broadcasting Partnership
October 5, 1991

EXHIBIT 5

COMMUNITY STATE BANK

of Starke



CHARLEY E. JOHNS
Chairman of the Board

JEROME JOHNS
President

DR. PETE G. FELOS
Vice President

December 6, 1989

Mr. and Mrs. Charles White
707 Newport Street
Macclenny, Florida 32063

Dear Charles and Dianna:

In connection with your plans to file an application with the Federal Communications Commission for a permit to construct a new FM broadcast station in Baldwin, Florida, and based upon the preliminary projections you have submitted, we are willing to provide you with a letter of credit in the amount of \$100,000.00 for funding necessary costs in connection with the construction and operation of the FM station provided the following conditions are met:

- a. You are successful in obtaining approval from the FCC to construct the proposed station in Baldwin, Florida;
- b. All reasonable and ordinary credit criteria of Community State Bank of Starke are met at such time as you formally request the letter of credit.

The terms of repayment of any loan or credit commitment will be contingent upon the exact credit conditions prevailing at the time of such commitment. It is the Bank's normal practice to calculate interest on any loan at the rate of 2% above the prime rate of the Bank at the time of any loan. It is the Bank's practice to ask for collateral for its loans and for credit extended to its customers, and the Bank is usually willing to accept as such collateral a first security interest in the Company's equipment, personal guarantees of the principals, or such other collateral as permitted by law.

We understand that this letter may be provided to the FCC as proof of reasonable assurance of financing. This letter shall not, however, be construed as a binding loan or credit commitment at this time.

It is a pleasure to furnish you this letter of reasonable assurance. We hope you will receive approval for the construction of a new FM broadcast station at an early date.

Very truly yours,

A handwritten signature in cursive script that reads "Eugene Richardson".

Eugene Richardson
Asst. Vice President

STARKE'S FRIENDLY BANK

White Broadcasting Partnership
October 5, 1991

EXHIBIT 6

CITIZENS BANK of Macclenny



- MONEY ORDERS
- COLLECTIONS
- LOANS
- SAFE DEPOSIT BOXES
- DRIVE-IN FACILITIES
- PERSONALIZED ACCOUNTS
- CASHIERS CHECKS
- ATM 24-HOUR BANKING SERVICE
- IRAS
- TRAVELERS CHEQUES
- NIGHT DEPOSITORY
- CERTIFICATES OF DEPOSIT
- CHECKING ACCOUNTS
- SAVINGS ACCOUNTS

Each depositor insured to \$100,000



MEMBER OF FDIC

Branch: 1168 S. 6th St., SR 121 S., 259-3683

Main Branch: 32 N. 5th St., 259-3116

MACCLENNY

(Branch Office is open Saturdays for your convenience)

White Broadcasting Partnership
October 5, 1991

EXHIBIT 7