

ORIGINAL RECEIVED
FILE

MAY 21 1992

Federal Communications Commission
Office of the Secretary

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

In re Applications of

SABLE COMMUNITY BROADCASTING
CORPORATION
Hobson City, Alabama

BOARD OF TRUSTEES
SHORTER COLLEGE
Rome, Georgia

GADSDEN STATE COMMUNITY COLLEGE
Radio Station WSGN(FM)
Gadsden, Alabama

TRINITY CHRISTIAN ACADEMY
Oxford, Alabama

For a Construction Permit for New
and Modified Noncommercial FM
FM Facilities on Channel 217
(91.3 MHz) at Hobson City, Alabama,
Rome, Georgia, Gadsden, Alabama,
and Oxford, Alabama

) MM Docket No. 92-70

) File No. BPED-851003MB

) File No. BPED-860205MD

) File No. BPED-860307MK

) File No. BPED-860512MB

TO: Administrative Law Judge
Arthur I. Steinberg

MOTION FOR LEAVE TO AMEND

Gadsden State Community College (hereafter Gadsden State) by its attorneys, and pursuant to Section 73.3522(b)(2) of the Rules (47 C.F.R. 73.3522(b)(2)), hereby requests the Presiding Judge to grant this motion and to accept the technical amendment to Gadsden State's application tendered concurrently herewith. In support thereof, Gadsden State respectfully states as follows.

1. This is presumptively a four party comparative hearing for new and modified noncommercial FM facilities on Channel 217

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List A B C D E

(91.3 MHz) at Hobson City, Alabama, Rome, Georgia, Gadsden, Alabama, and Oxford, Alabama. Hearing Designation Order (hereafter HDO), DA 92-412, released April 15, 1992. The Hobson City applicant (Sable Community Broadcasting Corporation) and the Rome, Georgia applicant (Board of Trustees Shorter College) have tendered late filed notices of appearance.^{1/}

2. In the HDO, the Assistant Chief, Audio Services Division, specified inter alia a Channel 6 (47 C.F.R. §73.525) issue against Gadsden State and a Section 307(b) (47 U.S.C. §307(b)) issue pertaining to all the applicants (HDO, ¶15). Section 73.3522(b)(2) of the Rules provides that in comparative broadcast cases, amendments relating to issues first raised in the designation order may be filed as a matter of right within thirty (30) days after a summary of the HDO is published in the Federal Register. A summary of the HDO in this case was published April 21, 1992 (57 F.R. 14575). Gadsden State's concurrently tendered technical amendment relates to the Channel 6 and Section 307(b) issues and therefore is a Post Designation Amendment filed as a matter of right within the meaning of Section 73.3522(b)(2) of the Rules.

^{1/} Notices of appearance were due May 5, 1992 (HDO, ¶23; Section 1.221(c) of the Commission's Rules). The Board of Trustees of Shorter College (hereafter Shorter) did not mail its notice of appearance until May 14, 1992. Shorter's late filed notice was apparently transmitted to the Presiding Judge by Federal Express. An informal check of the docket reflects, however, that Shorter has not yet filed a notice of appearance with the Commission. The Hobson City applicant (Sable Community Broadcasting Corporation) also filed a late notice of appearance on May 15, 1992, which it did not serve on Gadsden State.

3. Gadsden State is the licensee of non-commercial FM radio Station WSGN, Gadsden. WSGN presently operates on reserved Channel 218 with an effective radiated power of 3.5 KW and a height above average terrain (HAAT) of 23 meters. By its instant application, Gadsden State had proposed to operate WSGN on reserved adjacent Channel 217 with an ERP of 15 KW and an HAAT of 158.7 meters. Under the concurrently tendered amendment, Gadsden State would propose to operate WSGN on its present Channel 218 with an ERP of 6.3 KW (DA) and an HAAT of 159 meters. The purpose of the amendment is to eliminate WSGN's mutual exclusivity with the proposal of Trinity Christian Academy (hereafter Trinity) and, if their late appearances are accepted, with the proposals of Shorter and Sable (HDO, footnote 1) and also demonstrate compliance with Section 73.525 of the Rules.^{2/}

4. Gadsden State had previously tendered substantially the same amendment on March 10, 1992, prior to the consolidation and designation of the mutually exclusive applications for hearing (HDO, ¶17). The pre-designation amendment was tendered at the express invitation of the staff (see letter from Dennis Williams, Chief, FM Branch, Audio Services Division, Mass Media Bureau, date stamped November 26, 1991, Appendix A hereto, p. 4) and also claimed to resolve mutual exclusivity with all other applicants. The Chief acknowledged that "this claim may be true"; nonetheless,

^{2/} Gadsden State will move for summary decision of the Channel 6 issue.

he returned the amendment, and denied a waiver request on the premise that "acceptance [thereof] after [Gadsden State's] application proceeded through the Commission's cut-off procedures would deprive theoretical potential applicants and/or objectors of any reasonable notice of [Gadsden State's] revised intentions", (emphasis supplied) citing letter to James P. Riley, Esquire, 6 FCC Rcd 4382, 4383 (1991).

5. The concurrently tendered amendment is identical to the March 10, 1992, amendment except that it has been updated and, at the informal request of the Commission's staff, includes additional information concerning its directional antenna proposal (i.e., Figure 2, Sheet 2 and Figure 3, Sheet 2). In Gadsden State's opinion, acceptance of the concurrently tendered amendment would eliminate WSGN's mutual exclusivity with the other applicants and pave the way to the early grant of at least Gadsden State's application.

6. Gadsden State would respectfully observe too that even if the concurrently filed technical amendment were not accepted of right, there is nevertheless good cause for its acceptance. The amendment is being tendered first with due diligence, that is, within 30 days of the publication of a summary of the HDO in the Federal Register.

7. Second, while the amendment is voluntary, prior to designation the staff expressly afforded the applicants ". . . an opportunity to evaluate [their] situation and hopefully take such steps as would remove the mutual exclusivity [noting possible

alternatives to] include frequency changes to increase spectral separation of the proposed facilities" (Appendix A hereto, p. 4). Indeed, the staff urged the applicants to "amend your applications so as to remove the present conflict between them" (Ibid., p. 5).

8. Third, the acceptance of the amendment will not require the addition of parties or issues. Indeed, it is Gadsden State's belief that the acceptance of the amendment will moot the Channel 6 and Section 307(b) issues and pave the way for the early grant of at least Gadsden State's application.

9. Fourth, the acceptance of the amendment will not disrupt the hearing process. Nor will it fifth prejudice any other party. Indeed, as noted above, the acceptance of the amendment will likely eliminate the need for a hearing at least with respect to Gadsden State's application.

10. Lastly, the acceptance of the amendment will not confer a comparative benefit on Gadsden State because its application will be excluded from any comparative hearing process. In, the sum the acceptance of the amendment conforms in all material respects with traditional good cause criteria. Erwin O'Conner Broadcasting Co., 22 FCC2d 140, 143, 18 RR2d 820 (1970).

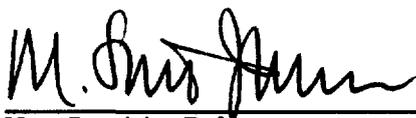
11. The acceptance of Gadsden State's technical amendment is otherwise wholly consistent with case precedent. First, because Gadsden State's application has been designated for hearing, its technical amendment is not subject to the Commission's cut-off process (Section 73.3573(a)(1) of the Commission's Rules). Las Americas Communications, Inc., 5 FCC Rcd 1634, 67 RR2d 801, 806

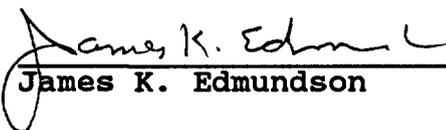
(1990), remanded on other grounds, FCC 91-62, released March 13, 1991 (settlement agreement approved and amendment accepted without subjecting application to cut-off despite applicant's failure to demonstrate strict compliance with "good cause" factors called for by post designation amendments not submitted as a matter of right). Second, as a post designation amendment, calculated to eliminate mutual exclusivity, it comports with the principal purpose of the Section 73.3522, that is, it enhances the efficient dispatch of the Commission's administrative function (Ibid.).

WHEREFORE, Gadsden State respectfully requests the Presiding Judge to grant this motion and to accept the amendment tendered concurrently herewith.

Respectfully submitted,

GADSDEN STATE COMMUNITY COLLEGE

By: 
M. Scott Johnson

By: 
James K. Edmundson

Its Attorneys

GARDNER, CARTON & DOUGLAS
1301 K Street, N.W.
Suite 900, East Tower
Washington, D.C. 20005
(202) 408-7100

DATED: May 21, 1992
[30949]

APPENDIX A

MAILED BY HAND:
11-26-91 JDB

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

26 NOV 1991

IN REPLY REFER TO:
8920-JDB

Gadsden State Community College
100 George Wallace Drive
Gadsden, AL 35999-9990

Board of Trustees
Jacksonville State University
104 Self Hall
Jacksonville, AL 36265

Sable Community Broadcasting Corporation ✓
611 Church Street
Hobson City, AL 36201

C.O. Grinstead X
Trinity Christian Academy
Route 7, Box 335
Oxford, AL 36203

Board of Trustees ✓
Shorter College
Shorter Hill
Rome, GA 30101-9989

In re: WSGN (FM), Gadsden, AL
Gadsden State Community College
BPED-860307MK
Petition For Reconsideration

WLJS (FM), Jacksonville, AL
Jacksonville State University
BPED-860321MI
Petition For Reconsideration

NEW (FM), Hobson City, AL
Sable Community Broadcasting
Corporation
BPED-851003MB

NEW (FM), Oxford, AL
Trinity Christian Academy
BPED-860512MB

NEW (FM), Rome, GA
Shorter College
BPED-860205MD

Dear Applicants:

This letter refers to the above-captioned petition filed on November 26, 1986 by Gadsden State Community College ("Gadsden") requesting reconsideration of the Commission's October 27, 1986 action returning major change application BPED-860307MK; the above-captioned petition filed on November 26, 1986 by Jacksonville State University ("Jacksonville") requesting reconsideration of the Commission's October 27, 1986 action returning application BPED-860321MI; and the above captioned applications for new non-commercial FM Stations from Sable Community Broadcasting ("Sable") in Hobson City, Alabama (BPED-851003MB); Trinity Christian Academy ("Trinity") in Oxford, Alabama (BPED-860512MB); and Shorter College ("Shorter") in Rome, Georgia (BPED-860205MD).

By way of background, all of these applications are in the same mutually exclusive group (see attached Exhibit A). Sable is the lead applicant because its application has the earliest "A" cut-off date -- May 12, 1986. The Shorter application was also placed on an "A" cut-off list with a cut-off date of October 23, 1986. Trinity's application, being mutually exclusive to Sable's application, was placed on a "B" list specifying a cut-off date of March 28, 1988. Gadsden's application was filed mutually exclusive and timely with Sable's application. In addition, Jacksonville's application was filed mutually exclusive with Gadsden's application and timely with respect to Sable's cut-off date. The Jacksonville and Gadsden proposals are "major change" applications requiring processing pursuant to 47 C.F.R. 73.3573(a) (1). Neither application has been cut-off as of this date.

GADSDEN:

Gadsden is the licensee of Station WSGN (FM), Gadsden, Alabama, which operates on Channel 218A with 3.5 kilowatts ERP and 23 meters HAAT. On March 7, 1986 Gadsden applied to upgrade WSGN to Channel 217C2 at a new transmitter site. The proposed facility would receive prohibited overlap in violation of 47 C.F.R. § 73.509 from the licensed facilities of Jacksonville on third-adjacent Channel 220A (see attached Exhibit B). However, Gadsden recognized only the

overlap with Jacksonville's proposed facilities (BPED-860321MI) and requested a waiver of 47 C.F.R. § 73.509. The overlap with the licensed facilities of Jacksonville was not addressed. The Commission, by letter dated October 27, 1986, returned Gadsden's application because of the violation of 47 C.F.R. § 73.509(a) with respect to the licensed facilities of Jacksonville but did not rule on the waiver request with respect to Jacksonville's proposed facilities. Gadsden's November 26, 1986 petition for reconsideration supplements its original waiver request to include a request for waiver of the prohibited third-adjacent overlap it would receive from the licensed facilities of Jacksonville.

Under the Public Notice entitled "Commission States Future Policy on Incomplete and Patently Defective AM and FM Construction Permit Applications," 56 RR 2d 776, 49 Fed. Reg. 47331, released August 2, 1984, the Commission indicated that it would reinstate applications nunc pro tunc where the original application was dismissed and where a petition for reconsideration is filed within 30 days of the date of the dismissal which includes a relatively minor curative amendment. The minor amendment filed November 26, 1986 in conjunction with Gadsden's petition for reconsideration seeks to rectify the deficiency which resulted in the return of the original application by requesting waiver.

The Commission recently modified its policy in regard to overlap received from the second and third adjacent channel stations.

The Commission has long recognized the unique characteristics of the noncommercial service and the need for flexibility to respond to the growing demand for such service. We are also more sensitive today to the increasing limitations within the reserved band which reflect the increased demand for service over the last 30 years. For these reasons, we are now inclined to grant waivers of second or third adjacent channel overlap in circumstances such as WCPE's, where the benefit of increased noncommercial educational service so heavily outweighs the potential for interference in very small areas. However, because of the concern for the ability of the stations causing interference to make any future changes in their own facilities, as discussed below, we believe that the waiver of interference received must be granted with the acknowledgement that future modifications proposed by the affected licensees will not be construed as a per se modification of the waiver recipient's license.

See Educational Information Corporation (WCPE-FM), 6 FCC Rcd 2207 (1991). The overlap between Gadsden's proposal and the licensed facilities of Jacksonville is directly analogous to that in the WCPE case. In light of the Commission's changed policy, waiver of this overlap is warranted and will be granted with an appropriate condition.¹ Accordingly, Gadsden's application will be reinstated. Further review shows that the application as amended is acceptable for filing.

¹ Waiver of 47 C.F.R. § 73.509 with respect to Jacksonville's application is not necessary for the acceptance of Gadsden's application because they are both timely filed with respect to Sable's cut-off date.

JACKSONVILLE:

Jacksonville is the licensee of Station WLJS (FM), Jacksonville, Alabama, which is licensed to operate on Channel 220A with 3.0 kilowatts ERP and 44 meters HAAT. On March 21, 1986 Jacksonville applied to move to a new transmitter site. The proposed facility would receive prohibited overlap in violation of 47 C.F.R. § 73.509 from the licensed facilities of Gadsden on second adjacent Channel 218 (see attached Exhibit C). Jacksonville recognized the conflict with Gadsden's licensed facilities and requested a waiver of 47 C.F.R. § 73.509. The Commission, by letter dated October 27, 1986, returned Jacksonville's application because of the violation of 47 C.F.R. § 73.509(a) with respect to the licensed facilities of Gadsden.² Jacksonville's November 26, 1986 petition for reconsideration was filed within 30 days of the dismissal and contains a minor curative amendment in the form of a supplement to the waiver request in the original application. Accordingly, under the Public Notice, supra, it is eligible for reinstatement nunc pro tunc. The overlap between Jacksonville's proposed 60 dBu protected contour and the licensed 80 dBu interfering contour of second adjacent channel Station WSGN is directly analogous to that in the WCPE case, supra. Therefore, waiver of this overlap is warranted and will be granted with an appropriate condition and the application will be reinstated.³ Furthermore, our review shows that the application as amended is acceptable for filing.

HEARING:

Because all of the above-referenced applications are in the same mutually exclusive group, grant of any of these applications would come only after a comparative hearing. The policy of the Commission is to avoid sending educational applications to hearing, if at all possible, so that the substantial delays and expenses involved in the hearing can be avoided. This policy finds its underpinnings in the inability of many educational applicants to bear the costs (such as legal fees) that they would incur in prosecuting mutually exclusive applications through the hearing process. Accordingly, we are taking this opportunity to make you aware of your application's mutual exclusivity. We will withhold further action with respect to the subject applications for a period of sixty (60) days so that you have an opportunity to evaluate the situation and hopefully take such steps as would remove the mutual exclusivity. Possible alternatives include frequency changes to increase the spectral separation of the proposed facilities. Share-time agreements between

² The return letter mistakenly identifies the overlap as occurring within WSGN's 60 dBu contour. It actually occurs within Jacksonville's proposed 60 dBu contour.

³ Jacksonville's proposal would also cause prohibited overlap to Gadsden's proposed facilities on third adjacent Channel 217. Waiver of 47 C.F.R. § 73.509 with respect to Gadsden's application is not necessary for the acceptance of Jacksonville's application because they are both timely filed with respect to Sable's cut-off date.

mutually exclusive educational applicants have also been employed to avoid designating their applications for hearing.

In sum, we urge you to communicate with each other concerning the mutual exclusivity issue and, if possible, to amend your applications so as to remove the present conflict between them. Action on these applications will be deferred for 60 days, to allow you the opportunity to negotiate. If no response is received during this period, these applications will be designated for a comparative hearing.

GADSDEN & JACKSONVILLE / WBRC (TV) :

When the Gadsden and Jacksonville applications were originally filed, WBRC (TV), Birmingham, Alabama was operating pursuant to BLCT-1880 with 100 kW and 338 meters HAAT. Subsequently the Commission has granted construction permit BLCT-870713KH for WBRC (TV) to increase its HAAT to 420 meters, and a license BLCT-880229KI to cover the construction permit was granted on May 31, 1988. Section 73.525(a) (2) states that: "[w]here a NCE-FM application has been accepted for filing or granted, the subsequent acceptance of an application filed by a relevant TV Channel 6 station will not require revision of the pending NCE-FM application..." Because the Gadsden and Jacksonville applications have not been accepted for filing, it is necessary pursuant to 47 C.F.R. § 73.525(a) (2), that they submit an updated Channel 6 television interference study. The interference showing must include: tabulations of the protected TV Channel 6 field strength contours and the corresponding FM interfering field strength contours (see the Public Notice dated July 15, 1985, Mimeo 5795); diagrams of the interference area plotted on a Census County Subdivision Map (MCD, CCD, or equivalent); details of any population adjustments claimed; and tabulations of the number of persons contained within the predicted interference area, as adjusted. The showings must address all applicable requirements of 47 C.F.R. § 73.525.

SHORTER:

Shorter's application BPED-860205MD contains two complete sets of engineering data, including two maps and two Section V-B's of FCC Form 340. One set proposes the coordinates 34° 15' 25" N.L. and 85° 11' 50" W.L., while the other proposes the coordinates 34° 15' 25" N.L. and 85° 11' 45" W.L. Therefore, Shorter must amend its application to clarify which coordinates are correct.

TRINITY:

With respect to Trinity's application BPED-860512MB, pursuant to the Second Report and Order in MM Docket 88-375, 54 F.R. 35335, Class A stations are allowed facilities equivalent to 6 kW at 100 meters. Accordingly, Trinity's proposal has been reclassified as a Class A facility. In addition, the Channel 6 television study submitted is incorrect. Under 47 C.F.R. § 73.525(e) (1) (iii), when using vertical polarization only, the 6 dB adjustment for antenna directivity cannot be utilized. Therefore, the Channel 6 television study must be amended to correct this deficiency. Finally, there is a discrepancy between the proposed tower height above mean sea level (AMSL) and the tower height (AMSL) on file with the Commission. The application indicated

that the tower height (AMSL) is 910 meters, while our files show it to be 909 meters. If the tower has been built to 910 meters, a copy of the FAA determination that authorizes a 910 meter tower must be submitted. However, if the tower is 909 meters above ground level, then all pertinent sections of the application may simply be corrected and submitted as an amendment in triplicate to the Secretary of the Commission and signed in the same manner as the original application.

ALL APPLICANTS:

With respect to all of the applications, an engineering study based upon OST Bulletin No. 65, October, 1985 entitled "Evaluating Compliance with FCC-Specified Guidelines for Human Exposure to Radiofrequency Radiation" reveals that the issue of potential occupational hazards caused by the proposed facilities was not addressed. Accordingly, all applicants must explain what steps will be taken to limit the RF radiation exposure to persons authorized access to their towers.

ORDERING CLAUSES:

For the reasons stated above, the waiver request of 47 C.F.R. § 73.509 with respect to Jacksonville's license filed by Gadsden State Community College and its petition for reconsideration ARE HEREBY GRANTED. Application BPED-860307MK for Gadsden IS HEREBY REINSTATED NUNC PRO TUNC and IS HEREBY ACCEPTED FOR FILING. The application will be placed on the next available "B" cutoff list. If Application BPED-860307MK for Gadsden is subsequently granted, the following condition will be attached: "Further modification to the facilities of Station WLJS (FM) on Channel 220A in Jacksonville, Alabama will not be construed as a per se modification of WSGN's license." (see "Educational Information Corporation" 6 FCC Rcd. 2207 (1991)).

For the reasons stated above, the waiver request of 47 C.F.R. § 73.509 with respect to Gadsden's license filed by Jacksonville State University and its petition for reconsideration ARE HEREBY GRANTED. Application BPED-860321MI for Jacksonville IS HEREBY REINSTATED NUNC PRO TUNC and IS HEREBY ACCEPTED FOR FILING. The application will be placed on the next available "B" cutoff list. If Application BPED-860321MI for Jacksonville is subsequently granted, the following condition will be attached: "Further modification to the facilities of Station WSGN (FM) on Channel 218A in Gadsden, Alabama will not be construed as a per se modification of WLJS's license." (see "Educational Information Corporation" 6 FCC Rcd. 2207 (1991)).

Further action on the subject applications will be withheld for a period of sixty days from the date of this letter to provide you an opportunity to reply. Failure to respond within this time period will result in the dismissal of the applications pursuant to 47 C.F.R § 73.3568 (b). Please note that any amendment must be submitted in triplicate to the Secretary of the Commission and signed in the same manner as the original application.

Sincerely,

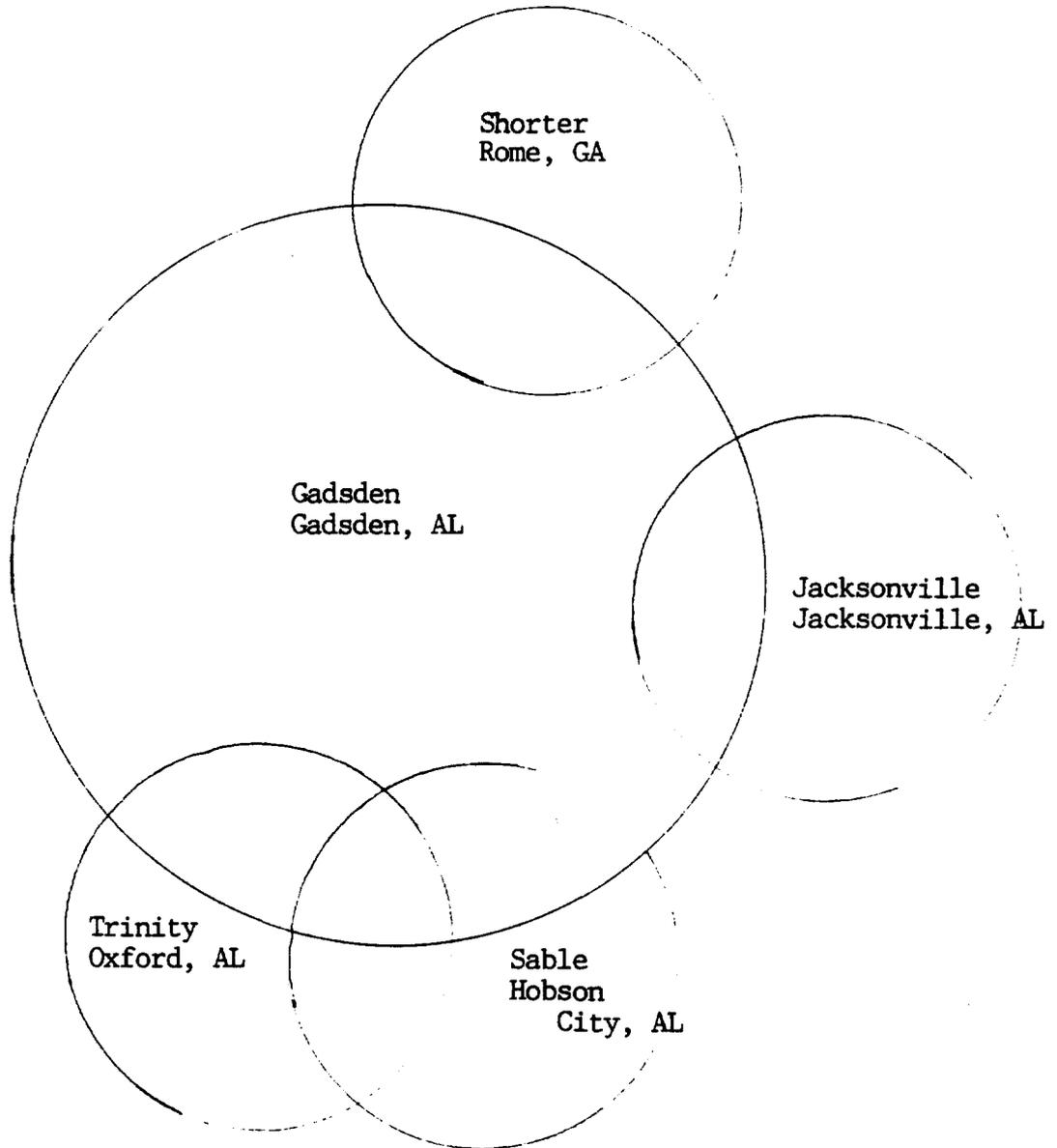


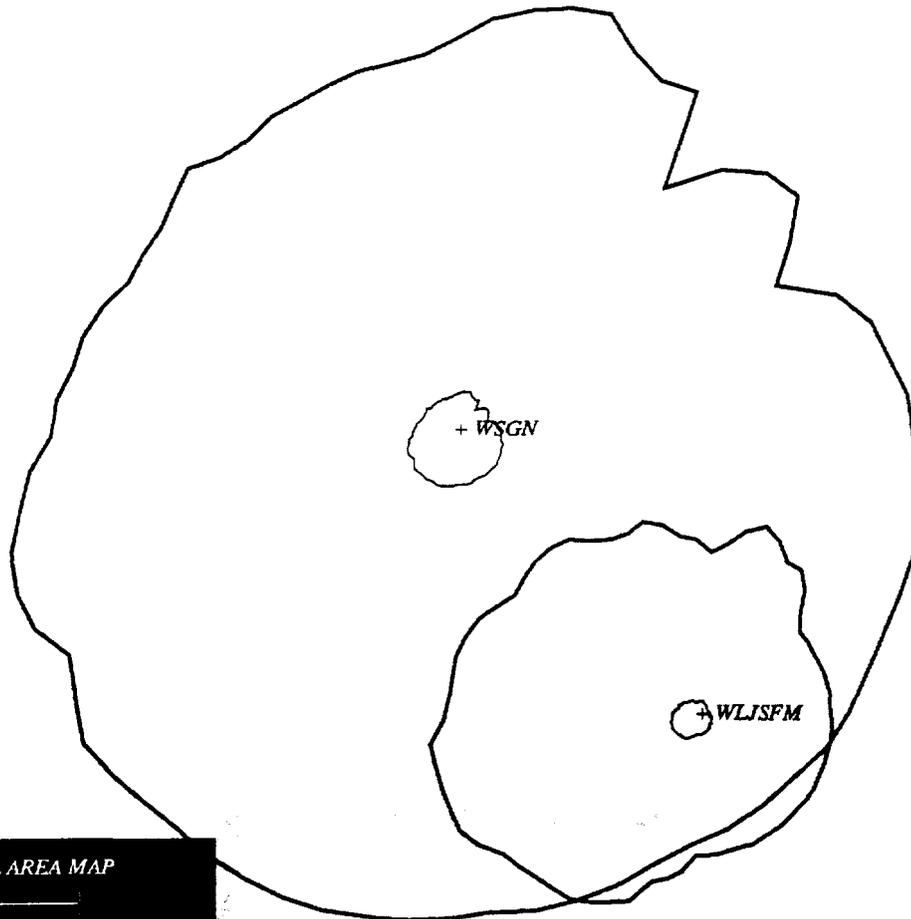
Dennis Williams
Chief, FM Branch
Audio Services Division
Mass Media Bureau

cc: M. Scott Johnson (Gadsden, Jacksonville)
Richard L. Biby, P.E. (Gadsden, Jacksonville)
B. Scott Baxter (Sable)
Maudine J. Holloway (Sable)
Louis R. du Treil, P.E. (Shorter, Trinity)
Mr. Dennis Vogel (Shorter)
Reddy, Begley & Martin (Trinity)

attachments

Symbolic Graph Showing Mutual Exclusivity





LAMBERT EQUAL AREA MAP

25 0
KILOMETERS

ENGINEER: DATE:
BRADSHAW 11/26/91

THE FOLLOWING IS A LIST OF THE DATA WHICH APPEARS ON THE ABOVE MAP

TOM LATITUDE: 33.53 TOP LATITUDE: 34.56 LEFT LONGITUDE: -86.69 RIGHT LONGITUDE: -85.33

MAP: ENLARGED CONUS MAP PROJECTION: Lambert Equal-area CENTER LAT: 34.05 LONG: -86.01 GRID SPACING: 0.00

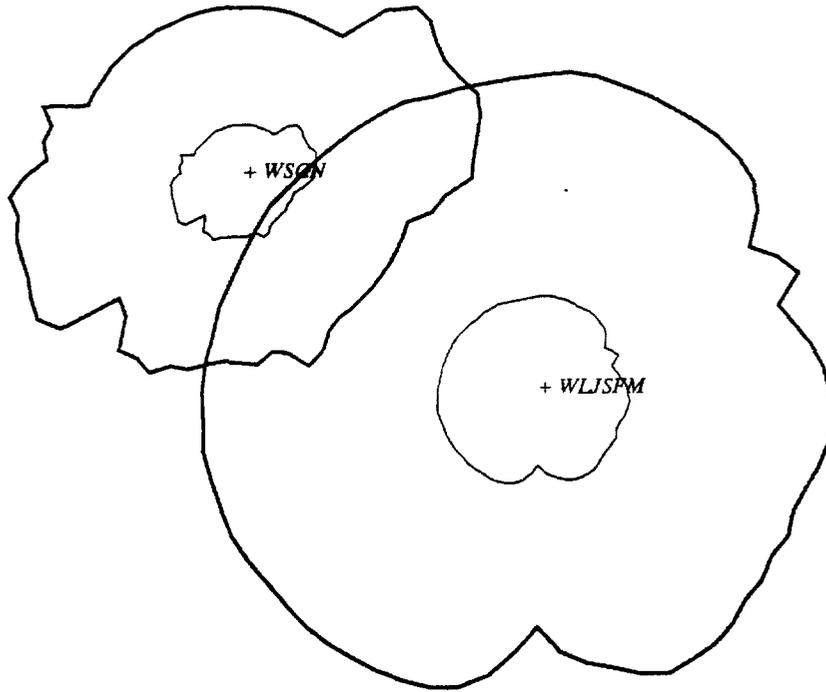
KILOMETERS / INCH = 18.72

PLOT MADE ON : 26 NOVEMBER, 1991 8:19 HOURS

call	serv	application no.	contour	chan	erp	haat	rcamsl	coverage area	A1	A
WSGN	FM	BPED860307MK	60.0 dBu (50,50)	217	15.000	159.0	384.0	5648.5 sq km	0	(
WSGN	FM	BPED860307MK	100.0 dBu (50,10)	217	15.000	159.0	384.0	60.3 sq km	0	(
WLJS	FM	BLED810415AA	60.0 dBu (50,50)	220	3.000	44.0	287.0	1070.1 sq km	0	2
WLJS	FM	BLED810415AA	100.0 dBu (50,10)	220	3.000	44.0	287.0	26.3 sq km	29	(

A1 - Number of radials where free space equation was used for field strength calculations.

A7 - Number of radials where a HAAT less than 30 meters was adjusted to 30 meters.



LAMBERT EQUAL AREA MAP

25 0
KILOMETERS

ENGINEER: DATE:
BRADSHAW 11/26/91

THE FOLLOWING IS A LIST OF THE DATA WHICH APPEARS ON THE ABOVE MAP
 FROM LATITUDE: 33.45 TOP LATITUDE: 34.29 LEFT LONGITUDE: -86.39 RIGHT LONGITUDE: -85.28
 MAP: ENLARGED CONUS MAP PROJECTION: Lambert Equal-area CENTER LAT: 33.87 LONG: -85.84 GRID SPACING: 0.00
 KILOMETERS / INCH = 15.40
 PLOT MADE ON : 26 NOVEMBER, 1991 7:48 HOURS

call	serv	application no.	contour	chan	erp	haat	rcamsl	coverage area	A1	A7
WLJS	FM	BPED860321MI	60.0 dBu (50,50)	220	0.320	315.0	575.0	1920.3 sq km	0	0
WLJS	FM	BPED860321MI	80.0 dBu (50,10)	220	0.320	315.0	575.0	177.3 sq km	0	0
WSGN	FM	BLED1362	60.0 dBu (50,50)	218	3.500	23.0	220.0	791.2 sq km	0	31
WSGN	FM	BLED1362	80.0 dBu (50,10)	218	3.500	23.0	220.0	77.6 sq km	0	31

A1 - Number of radials where free space equation was used for field strength calculations.
 A7 - Number of radials where a HAAT less than 30 meters was adjusted to 30 meters.

A M E N D M E N T

**APPLICATION FOR CONSTRUCTION PERMIT FOR
NONCOMMERCIAL EDUCATIONAL BROADCAST STATION**
(Carefully read instructions before filling out Form—RETURN ONLY FORM TO FCC)

For Commission Use Only
File No.

Section I

General Information

1. Name of Applicant

Street Address

GADSDEN STATE COMMUNITY COLLEGE

1 0 0 1 G e o r g e W a l l a c e D r

City

State

ZIP Code

Telephone No.

(Include Area Code)

G a d s d e n

A L

3 5 9 9 9 - 9 9 9 0

(205) 549-8439

Send notices and communications to the following named person at the address below:

Name

Street Address

Neil D. Mullin, Director
Department of Radio and Television

1 0 0 1 G e o r g e W a l l a c e D r

Copies to: *

City

State

ZIP Code

Telephone No.

(Include Area Code)

G a d s d e n

A L

3 5 9 9 9 - 9 9 9 0

(205) 549-8439

2. This application is for: AM FM TV

(a) Channel No. or Frequency: 218 (91.5 MHz)

(b) Community of license:

City

State

G a d s d e n

A L

(c) Check one of the following boxes:

- Application for new station
- Major Change in Existing station; call sign: _____
- Minor Change in Existing station; call sign: _____
- Modification of Construction Permit; File No. of CP: _____
- Amendment to Pending Application; Reference Number (ARN): BPED-860307MK

NOTE: It is not necessary to use this form to amend a previously filed application. Should you do so, however, please submit only Section I and those other portions of the form that contain the amended information.

3. Is this application mutually exclusive with a renewal application?

YES NO

If Yes, State:

Call letters:

Community of license:

City

State

_____ - _____

* M. Scott Johnson, Esq.
Gardner, Carton & Douglas
1301 K Street, N.W., 900 East Tower
Washington, D.C. 20005

1. Does the applicant propose to employ five or more fulltime employees? N/A YES NO

If the answer is Yes, the applicant must include an EEO program called for in the separate 5 Point Model EEO Program [FCC Form 396 (A)].

Section VII

Certification

1. Has or will the applicant comply with the public notice requirement of Section 73.3580 of the Commission's Rules? YES NO

The APPLICANT hereby waives any claim to the use of any particular frequency as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and requests an authorization in accordance with this application. (See Section 304 of the Communications Act of 1934, as amended.)

The APPLICANT acknowledges that all the statements made in this application and attached exhibits are considered material representations, and that all exhibits are a material part hereof and are incorporated herein.

The APPLICANT represents that this application is not filed for the purpose of impeding, obstructing, or delaying determination on any other application with which it may be in conflict.

In accordance with Section 1.65 of the Commission's Rules, the APPLICANT has a continuing obligation to advise the Commission, through amendments, of any substantial and significant changes in information furnished.

WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND IMPRISONMENT. U.S. CODE, TITLE 18, Section 1001.

I certify that the statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith.

Signed and dated this 18th day of May, 19 92.

GADSDEN STATE COMMUNITY COLLEGE

Name of Applicant

[Handwritten Signature]

Signature

President

Title

FCC NOTICE TO INDIVIDUALS REQUIRED BY THE PRIVACY ACT AND THE PAPERWORK REDUCTION ACT

The solicitation of personal information requested in this application is authorized by the Communications Act of 1934, as amended. The principal purpose for which the information will be used is to determine if the benefit requested is consistent with the public interest. The staff, consisting variously of attorneys, accountants, engineers, and application examiners, will use the information to determine whether the application should be granted, denied, dismissed, or designated for hearing. If all the information requested is not provided, the application may be returned without action having been taken upon it or its processing may be delayed while a request is made to provide the missing information. Accordingly, every effort should be made to provide all necessary information. Your response is required to obtain the requested Permit.

THE FOREGOING NOTICE IS REQUIRED BY THE PRIVACY ACT OF 1974, P.L. 93-579, DECEMBER 31, 1974, 5 U.S.C. 552a(e)(3), AND THE PAPERWORK REDUCTION ACT OF 1980, P.L. 96-511, DECEMBER 11, 1980, 44 U.S.C. 3507.

Section V-B - FM BROADCAST ENGINEERING DATA	FOR COMMISSION USE ONLY File No. _____ ASB Referral Date _____ Referred by _____
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Name of Applicant

Gadsden State Community College

Call letters (if issued) <p style="text-align: center;">WSGN</p>	Is this application being filed in response to a window? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, specify closing date: <u>N/A</u>
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Purpose of Application: (check appropriate boxes)

- | | |
|--|---|
| <input type="checkbox"/> Construct a new (main) facility | <input type="checkbox"/> Construct a new auxiliary facility |
| <input type="checkbox"/> Modify existing construction permit for main facility | <input type="checkbox"/> Modify existing construction permit for auxiliary facility |
| <input checked="" type="checkbox"/> Amend application to | <input type="checkbox"/> Modify licensed auxiliary facility |
| <input checked="" type="checkbox"/> Modify licensed main facility | |

If purpose is to modify, indicate below the nature of change(s) and specify the file number(s) of the authorizations affected.

- | | |
|---|--|
| <input type="checkbox"/> Antenna supporting-structure height | <input checked="" type="checkbox"/> Effective radiated power |
| <input type="checkbox"/> Antenna height above average terrain | <input checked="" type="checkbox"/> Frequency |
| <input type="checkbox"/> Antenna location | <input checked="" type="checkbox"/> Class |
| <input type="checkbox"/> Main Studio location | <input type="checkbox"/> Other (Summarize briefly) |

File Number(s) BPED-860307MK/BLED-1362

1. Allocation:

Channel No. 218	Principal community to be served:			Class (check only one box below)						
	City Gadsden	County Etowah	State AL	<input type="checkbox"/> A	<input type="checkbox"/> B1	<input type="checkbox"/> B	<input checked="" type="checkbox"/> C3	<input type="checkbox"/> C2	<input type="checkbox"/> C1	<input type="checkbox"/> C

2. Exact location of antenna.

(a) Specify address, city, county and state. If no address, specify distance and bearing relative to the nearest town or landmark.
Lookout Mountain, near Tuckahoe Hts., Etowah Co., AL

(b) Geographical coordinates (to nearest second). If mounted on element of an AM array, specify coordinates of center of array. Otherwise, specify tower location. Specify South Latitude or East Longitude where applicable; otherwise, North Latitude or West Longitude will be presumed.

Latitude	°	'	"	Longitude	°	'	"
34	04	29		86	01	11	

3. Is the supporting structure the same as that of another station(s) or proposed in another pending application(s)? Yes No

If Yes, give call letter(s) or file number(s) or both. _____

If proposal involves a change in height of an existing structure, specify existing height above ground level including antenna, all other appurtenances, and lighting, if any. _____

4. Does the application propose to correct previous site coordinates? Yes No
 If Yes, list old coordinates.

Latitude ° ' "	Longitude ° ' "
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5. Has the FAA been notified of the proposed construction? Yes No
 If Yes, give date and office where notice was filed and attach as an Exhibit a copy of FAA determination, if available. Note: Existing tower, no construction proposed Exhibit No. N/A
 Date _____ Office where filed _____

6. List all landing areas within 8 km of antenna site. Specify distance and bearing from structure to nearest point of the nearest runway.

Landing Area	Distance (km)	Bearing (degrees True)
(a) <u>None</u>	_____	_____
(b) _____	_____	_____

7. (a) Elevation: *(to the nearest meter)*

(1) of site above mean sea level; _____ 329 meters

(2) of the top of supporting structure above ground (including antenna, all other appurtenances, and lighting, if any); and _____ 60 meters

(3) of the top of supporting structure above mean sea level [(aX1) + (aX2)] _____ 389 meters

(b) Height of radiation center: *(to the nearest meter)* H = Horizontal; V = Vertical

(1) above ground _____ --- meters (H)
_____ 55 meters (V)

(2) above mean sea level [(aX1) + (bX1)] _____ --- meters (H)
_____ 384 meters (V)

(3) above average terrain _____ --- meters (H)
_____ 159 meters (V)

8. Attach as an Exhibit sketch(es) of the supporting structure, labelling all elevations required in Question 7 above, except item 7(bX3). If mounted on an AM directional-array element, specify heights and orientations of all array towers, as well as location of FM radiator. *On file - no change

Exhibit No.
 *

9. Effective Radiated Power:

(a) ERP in the horizontal plane _____ --- kw (H*) _____ 6.3 kw (V*)
(MAX-DA)

(b) Is beam tilt proposed? Yes No

If Yes, specify maximum ERP in the plane of the tilted beam, and attach as an Exhibit a vertical elevational plot of radiated field.

_____ kw (H*) _____ kw (V*)

Exhibit No.
 N/A

*Polarization

10. Is a directional antenna proposed?

Yes No

If Yes, attach as an Exhibit a statement with all data specified in 47 C.F.R. Section 73.316, including plot(s) and tabulations of horizontally and vertically polarized radiated components in terms of relative field.

Exhibit No.
Tech.

11. Will the main studio be located within the 70 dBu or 3.16 mV/m contour?

Yes No

If No, attach as an Exhibit justification pursuant to 47 C.F.R. Section 73.1125.

Exhibit No.
N/A

12. Are there: (a) within 60 meters of the proposed antenna, any proposed or authorized FM or TV transmitters, or any nonbroadcast (except citizens band or amateur) radio stations; or (b) within the blanketing contour, any established commercial or government receiving stations, cable head-end facilities, or populated areas; or (c) within ten (10) kilometers of the proposed antenna, any proposed or authorized FM or TV transmitters which may produce receiver-induced intermodulation interference?

Yes No

If Yes, attach as an Exhibit a description of any expected, undesired effects of operations and remedial steps to be pursued if necessary, and a statement accepting full responsibility for the elimination of any objectionable interference (including that caused by receiver-induced or other types of modulation) to facilities in existence or authorized or to radio receivers in use prior to grant of this application. (See 47 C.F.R. Sections 73.315(b), 73.316(d) and 73.318.)

Exhibit No.
Tech.

13. Attach as an Exhibit a 7.5 minute series U.S. Geological Survey topographic quadrangle map that shows clearly, legibly, and accurately, the location of the proposed transmitting antenna. This map must comply with the requirements set forth in Instruction D for Section V. Further, the map must clearly and legibly display the original printed contour lines and data as well as latitude and longitude markings, and must bear a scale of distance in kilometers.

Exhibit No.
*

*No change -
on file

14. Attach as an Exhibit (use the source) a map which shows clearly, legibly, and accurately, and with the original printed latitude and longitude markings and a scale of distance in kilometers:

Exhibit No.
Tech.

(a) the proposed transmitter location, and the radials along with profile graphs have been prepared;

(b) the 1 mV/m predicted contour and, for noncommercial educational applicants applying on a commercial channel, the 3.16 mV/m contour; and

(c) the legal boundaries of the principal community to be served.

15. Specify area in square kilometers (1 sq. mi. = 2.59 sq. km.) and population (latest census) within the predicted 1 mV/m contour.

Area 2,359 sq. km. Population 131,235

16. Attach as an Exhibit a map (Sectional Aeronautical charts where obtainable) showing the present and proposed 1 mV/m (60 dbw) contours.

Exhibit No.
Tech.

Enter the following from Exhibit above:

Gain Area 1,630 ~~SQ. KM~~ sq. km.
Loss Area 48 ~~SQ. KM~~ sq. km.

Percent change (gain area plus loss area as percentage of present area) 220 %.

If 50% or more this constitutes a major change. Indicate in question 2(c), Section I, accordingly.

17. For an application involving an auxiliary facility only, attach as an Exhibit a map (*Sectional Aeronautical Chart or equivalent*) that shows clearly, legibly, and accurately, and with latitude and longitude markings and a scale of distance in kilometers:

Exhibit No.
N/A

(a) the proposed auxiliary 1 mV/m contour; and

(b) the 1 mV/m contour of the licensed main facility for which the applied-for facility will be auxiliary. Also specify the file number of the license. See 47 C.F.R. Section 73.1675. (File No.: _____)

18. Terrain and coverage data *(to be calculated in accordance with 47 C.F.R. Section 73.313)*.

Source of terrain data: *(check only one box below)*

Linearly interpolated 30-second database 7.5 minute topographic map

(Source: _____)

Other *(briefly summarize)* Standard eight radials from BPED-860307MK. Other supplemental radials from NGDC 30-second database.

Radial bearing (degrees True)	Height of radiation center above average elevation of radial from 3 to 16 km (meters)	Predicted Distances to the 1 mV/m contour (kilometers)
0	127.3	31.9
45	109.0	29.8
90	176.9	37.3
135	207.0	29.0
180	207.4	20.0
225	202.3	17.6
270	129.4	17.7
315	110.3	27.0

Allocation Studies

(See Subpart C of 47 C.F.R. Part 73)

19. Is the proposed antenna location within 320 kilometers (199 miles) of the common border between the United States and Mexico?

Yes No

If Yes, attach as an Exhibit a showing of compliance with all provisions of the Agreement between the United States of America and the United Mexican States concerning Frequency Modulation Broadcasting in the 88 to 108 MHz band.

Exhibit No.
N/A

20. Is the proposed antenna location within 320 kilometers of the common border between the United States and Canada?

Yes No

If Yes, attach as an Exhibit a showing of compliance with all provisions of the Working Agreement for Allocation of FM Broadcasting Stations on Channels 201-300 under The Canada-United States FM Agreement of 1947.

Exhibit No.
N/A

21. If the proposed operation is for a channel in the range from channel 201 through 220 (88.1 through 91.9 MHz), or if this proposed operation is for a class D station in the range from Channel 221 through 300 (92.1 through 107.9 MHz), attach as an Exhibit a complete allocation study to establish the lack of prohibited overlap of contours with other U.S. stations. The allocation study should include the following:

Exhibit No.
Tech.

- (a) The normally protected interference-free and the interfering contours for the proposed operation along all azimuths.
- (b) Complete normally protected interference-free contours of all other proposals and existing stations to which objectionable interference would be caused.
- (c) Interfering contours over pertinent arcs of all other proposals and existing stations from which objectionable interference would be received.
- (d) Normally protected and interfering contours over pertinent arcs, of all other proposals and existing stations, which require study to show the absence of objectionable interference.
- (e) Plot of the transmitter location of each station or proposal requiring investigation, with identifying call letters, file numbers and operating or proposed facilities.
- (f) When necessary to show more detail, an additional allocation study will be attached utilizing a map with a larger scale to clearly show interference or absence thereof.
- (g) A scale of kilometers and properly labeled longitude and latitude lines, shown across the entire Exhibit(s). Sufficient lines should be shown so that the location of the sites may be verified.
- (h) The name of the map(s) used in the Exhibit(s).

22. With regard to any stations separated by 53 or 54 channels (10.6 or 10.8 MHz) attach as an Exhibit information required in 1/ *(separation requirements involving intermediate frequency (i.f.) interference).*

Exhibit No.
Tech.

23.(a) Is the proposed operation on Channel 218, 219, or 220?

Yes No

(b) If the answer to (a) is yes, does the proposed operation satisfy the requirements of 47 C.F.R. Section 73.207?

Yes No

(c) If the answer to (b) is yes, attach as an Exhibit information required in 1/ regarding separation requirements with respect to stations on Channels 221, 222 and 223.

Exhibit No.
Tech.

(d) If the answer to (b) is no, attach as an Exhibit a statement describing the short spacing(s) and how it or they arose.

Exhibit No.
N/A

1/ A showing that the proposed operation meets the minimum distance separation requirements. Include existing stations, proposed stations, and cities which appear in the Table of Allotments; the location and geographic coordinates of each antenna, proposed antenna or reference point, as appropriate; and distance to each from proposed antenna location.

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(e) If authorization pursuant to 47 C.F.R. Section 73.215 is requested, attach as an Exhibit a complete engineering study to establish the lack of prohibited overlap of contours involving affected stations. The engineering study must include the following:

Exhibit No.
N/A

- (1) Protected and interfering contours, in all directions (360°), for the proposed operation.
- (2) Protected and interfering contours, over pertinent arcs, of all short-spaced assignments, applications and allotments, including a plot showing each transmitter location, with identifying call letters or file numbers, and indication of whether facility is operating or proposed. For vacant allotments, use the reference coordinates as transmitter location.
- (3) When necessary to show more detail, an additional allocation study utilizing a map with a larger scale to clearly show prohibited overlap will not occur.
- (4) A scale of kilometers and properly labeled longitude and latitude lines, shown across the entire exhibit(s). Sufficient lines should be shown so that the location of the sites may be verified.
- (5) The official title(s) of the map(s) used in the exhibit(s).

24. Is the proposed station for a channel in the range from Channel 201 to 220 (88.1 through 91.9 MHz) and the proposed antenna location within the distance to an affected TV Channel 6 station(s) as defined in 47 C.F.R. Section 73.525?

Yes No

If Yes, attach as an Exhibit either a TV Channel 6 agreement letter dated and signed by both parties or a map and an engineering statement with calculations demonstrating compliance with 47 C.F.R. Section 73.525 for each affected TV Channel 6 station.

Exhibit No.
Tech.

25. Is the proposed station for a channel in the range from Channel 221 to 300 (92.1-107.9 MHz)?

Yes No

If Yes, attach as an Exhibit information required in 1/. (Except for Class B (secondary) proposals.)

Exhibit No.
N/A

26. Environmental Statement (See 47 C.F.R. Section 1.1307 et seq.)

Would a Commission grant of this application come within Section 1.1307 of the FCC Rules, such that it may have a significant environmental impact?

Yes No

If you answer Yes, submit as an Exhibit an Environmental Assessment required by Section 1.1311.

Exhibit No.
N/A

If No, explain briefly why not. Categorically excluded per 47 CFR 1.1306. See Technical Narrative.

CERTIFICATION

I certify that I have prepared this Section of this application on behalf of the applicant, and that after such preparation, I have examined the foregoing and found it to be accurate and true to the best of my knowledge and belief.

Name (Typed or Printed)	Relationship to Applicant (e.g., Consulting Engineer)
David E. Dickmann	Technical Consultant
Signature	Address (Include ZIP Code)
	du Treil, Lundin & Rackley, Inc. 1019 19th Street, N.W., 3rd Floor Washington, D.C. 20036
Date	Telephone No. (Include Area Code)
May 14, 1992	(202) 223-6700