

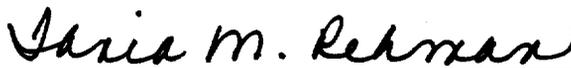
**CERTIFICATE OF SERVICE**

I, Tania M. Rehman, hereby certify that the attached Motion For Partial Summary Decision submitted on behalf of Jupiter Broadcasting, Corp. was sent this 22nd day of May, 1992 to the following persons by U.S. mail, first class postage prepaid:

Honorable Walter C. Miller  
Administrative Law Judge  
2000 L Street, N.W.  
Room 213  
Washington, D.C. 20036

Mr. Robert B. Taylor  
Stations WEXI(AM) and WTRU(FM)  
500 North Delaware Blvd.  
Jupiter, Florida 33458

Norman Goldstein, Esquire  
Hearing Branch  
2025 M Street, NW  
Room 7212  
Washington, DC 20554

---

Tania M. Rehman

**EXHIBIT NO. 1**

DECLARATION OF  
PAUL J. LEVINE

My name is Paul J. Levine. On January 18, 1989, Charles Reid and I visited the studios of Stations WEXI(AM) and WTRU(FM) at 500 North Delaware Boulevard in Jupiter, Florida. Mr. Robert Taylor was present at the studios. We asked Mr. Taylor to see the stations' public file. Mr. Taylor showed us copies of Jupiter Broadcasting Corp.'s applications and the Jose Oaks petition to deny Mr. Taylor's license renewals. He had no other documents.

I declare under penalty of perjury that the matters set out above are true.

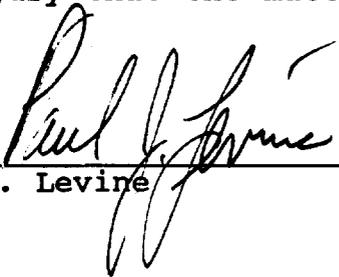
  
\_\_\_\_\_  
Paul J. Levine

EXHIBIT NO. 2

DECLARATION OF  
CHARLES E. REID

My name is Charles E. Reid. On July 12, 1990 Joseph A. Belisle and I visited the studios of Stations WEXI(AM) and WTRU(FM) at 500 North Delaware Boulevard in Jupiter, Florida. We asked Mr. Steve May, who was then the stations' program director, to see the public file.

When Mr. May could not locate a public file, he telephoned Mr. Robert Taylor. Joseph Belisle and Robert Taylor had a conversation about the public file. Mr. Belisle and I left without having seen the public file.

On August 20, 1990, I returned to the studios of Stations WEXI/WTRU and asked Mr. May for the stations' public file. Mr. May had no public file materials for me to examine.

I declare under penalty of perjury that the matters set out above are true.

  
Charles E. Reid

EXHIBIT NO. 3

DECLARATION OF  
TANIA M. SANCHEZ

My name is Tania M. Sanchez. On July 12, 1990 I typed the attached letter and sent it, via Federal Express, to Mr. Robert B. Taylor, Stations WEXI(AM) and WTRU(FM), 500 North Delaware Boulevard, Jupiter, Florida 33458.

I declare under penalty of perjury that the matters stated above are true.

  
\_\_\_\_\_  
Tania M. Sanchez

# LEIBOWITZ & SPENCER

A PARTNERSHIP OF PROFESSIONAL CORPORATIONS

MATTHEW L. LEIBOWITZ, P.A.  
JOHN M. SPENCER, P.C.\*  
JOSEPH A. BELISLE  
K. PATRICK MEEHAN  
ANTHONY T. LEPORE

OF COUNSEL  
SANFORD L. BOHRER  
SID DAVIDOFF\*  
JEROME M. BECKER\*  
100 E. 42ND STREET  
NEW YORK, N.Y. 10017

\* NOT ADMITTED TO  
FLORIDA BAR

SUITE 1450  
AMERIFIRST BUILDING  
ONE SOUTHEAST THIRD AVENUE  
MIAMI, FLORIDA 33131-1710  
TELEPHONE (305) 530-1322  
TELECOPIER (305) 530-9417

SUITE 500  
1000 CONNECTICUT AVENUE, N.W.  
WASHINGTON, D.C. 20036  
TELEPHONE (202) 293-4093  
TELECOPIER (202) 872-0604

July 12, 1990

## VIA FEDERAL EXPRESS

Mr. Robert B. Taylor  
Stations WEXI(AM) and WTRU(FM)  
500 North Delaware Boulevard  
Jupiter, Florida 33458

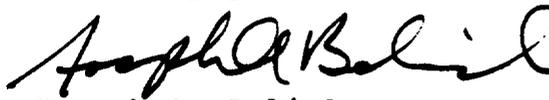
Dear Mr. Taylor:

This is to confirm the conversation we had this morning with respect to the public file for Stations WEXI(AM) and WTRU(FM), Jupiter, Florida. Steve May was unable to make this file available to Chuck Reid and me this morning when we stopped by the stations' studios. However, you have agreed to copy the public file and send it to me within a week. I have agreed to pay your photocopying and postage costs.

To assist you in identifying the documents I am seeking, I left a copy of the public file rule, Rule 73.3526, with Steve May. I'm enclosing a second copy of the rule with this letter. The specific documents I need are described in subparts (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (a)(6), (a)(7), (a)(9) and (a)(10) of Rule 73.3526.

Thank you for your cooperation in this matter.

Sincerely yours,

  
Joseph A. Belisle

JAB:tms

cc: Mr. Charles Reid

## FEDERAL COMMUNICATIONS COMMISSION RULES - PART 73

(f) Affidavits filed pursuant to this section shall be executed by the applicant, permittee or licensee, if an individual; a partner having personal knowledge of the facts, if a corporation or association. (Revised 83-152, 4/7/83)

(g) Requests and affidavits which relate to an application which has not been designated for hearing shall bear the file number of such application. If the affiant is also an applicant, the affidavit shall also bear the file number of affiant's pending application(s). Requests and affidavits which relate to an application which is designated for hearing shall bear the file number of that application and the hearing docket number and will be acted on by the presiding officer. (Revised 83-152, 4/7/83)

(h) For the purposes of this section an application shall be deemed to be "pending" before the FCC and a party shall be considered to have the status of an "applicant" from the time an application is filed with the FCC until an order of the FCC granting or denying it is no longer subject to reconsideration by the FCC or to review by any court. (Revised 83-152, 4/7/83)

## 73.3526 LOCAL PUBLIC INSPECTION FILE OF COMMERCIAL STATIONS.

## (a) RECORDS TO BE MAINTAINED.

Every applicant for a construction permit for a new station in the commercial broadcast services shall maintain for public inspection a file containing the material described in paragraph (a)(1) of this section. Every permittee or licensee of an AM, FM or TV station in the commercial broadcast services shall maintain for public inspection a file containing the material described in paragraphs (a)(1), (2), (3), (4), (5), (6), (7) and ~~(11)~~ (10) of this section. In addition, every permittee or licensee of a TV station shall maintain for public inspection a file containing the material described in paragraphs (a)(8) and ~~(9)~~ of this section; every permittee or licensee of an AM or FM station shall maintain for public inspection a file containing material described in paragraph (a)~~(10)~~ (9) of this section. The material to be contained in the file is as follows:

FEDERAL COMMUNICATIONS COMMISSION RULES - PART 73

- (1) A copy of every application tendered for filing, with respect to which local public notice is required to be given under the provisions of §73.3580 or §73.3594; and all exhibits, letters and other documents tendered for filing as part thereof; all amendments thereto, copies of all documents incorporated therein by reference, all correspondence between the FCC and the applicant pertaining to the application after it has been tendered for filing, and copies of Initial Decisions and Final Decisions in hearing cases pertaining thereto, which according to the provisions of §§0.451 through 0.461 of the rules are open for public inspection at the offices of the FCC. Information incorporated by reference which is already in the local file need not be duplicated if the entry making the reference sufficiently identifies the information so that it may be found in the file, and if there has been no change in the document since the date of filing and the applicant, after making the reference, so states. If petitions to deny are filed against the application, and have been duly served on the applicant, a statement that such a petition has been filed shall appear in the local file together with the name and address of the party filing the petition. The file shall also contain a copy of every written citizen agreement. For purposes of this section, a citizen agreement is a written agreement between a broadcast applicant, permittee, or licensee, and one or more citizens or citizen groups, entered for primarily noncommercial purposes. This definition includes those agreements that deal with goals or proposed practices directly or indirectly affecting station operation in the public interest, in areas such as - but not limited to - community ascertainment, programming, and employment. It excludes common commercial agreements such as advertising contracts; union, employment, and personal services contracts; network affiliation, syndication, program supply contracts and so on. However, the mere inclusion of commercial terms in a primarily noncommercial agreement - such as a provision for payment of fees for future services of the citizen-parties (see "Report and Order," Docket 19518, 57 FCC 2d 494 (1976)) - would not cause the agreement to be considered commercial for purposes of this section.

NOTE.— Applications tendered for filing on or before May 13, 1965, which are subsequently designated for hearing after May 13, 1965, with local notice being given pursuant to the provisions of §73.3594, and material related to such applications, need not be placed in the file required to be kept by this section. Applications tendered for filing after May 13, 1965, which contain major amendments to applications tendered for filing on or before May 13, 1965, with local notice of the amending application being given pursuant to the provisions of §73.3580, need not be placed in the file required to be kept by this section.  
(Added 79-371, 7/9/79)

## FEDERAL COMMUNICATIONS COMMISSION RULES - PART 73

- (2) A copy of every application tendered for filing by the licensee or permittee for such station which is not included in paragraph (a)(1) of this section and which involves changes in program service, which requests an extension of time in which to complete construction of a new station, or which requests consent to involuntary assignment or transfer, or to voluntary assignment or transfer not resulting in a substantial change in ownership or control and which may be applied for on FCC Form 316; and copies of all exhibits, letters, and other documents filed as part thereof, all amendments thereto, all correspondence between the FCC and the applicant pertaining to the application after it has been tendered for filing, and copies of all documents incorporated therein by reference, which according to the provisions of §§0.451 through 0.461 of the rules are open for public inspection at the offices of the FCC. Information incorporated by reference which is already in the local file need not be duplicated if the entry making the reference sufficiently identifies the information so that it may be found in the file, and there has been no change in the document since the date of filing and the licensee, after making the reference, so states. If petitions to deny are filed against the application, and have been duly served on the applicant, a statement that such a petition has been filed shall appear in the local file together with the name and address of the party filing the petition.

**NOTE.**—The engineering section of the applications mentioned in paragraphs (a)(1) and (2) of this section, and material related to the engineering section, need not be kept in the file required to be maintained by this paragraph. If such engineering section contains service contour maps submitted with that section, copies of such maps and information (State, county, city, street address, or other identifying information showing main studio and transmitter location shall be kept in the file.

FEDERAL COMMUNICATIONS COMMISSION RULES - PART 73

- (3) A copy of every ownership report or supplemental ownership report filed by the licensee or permittee for such station after May 13, 1965, pursuant to the provisions of this part; and copies of all exhibits, letters, and other documents filed as part thereof, all amendments thereto, all correspondence between the permittee or licensee and the FCC pertaining to the reports after they have been filed, and all documents incorporated therein by reference, including contracts listed in such reports in accordance with the provisions of §73.3615(a)(4)(i) and which according to the provisions of §§0.451 through 0.461 of the rules are open for public inspection at the offices of the FCC. Information incorporated by reference which is already in the local file need not be duplicated if the entry making the reference sufficiently identifies the information so that it may be found in the file, and if there has been no change in the document since the date of filing and the licensee or permittee, after making the reference, so states.
- (4) Such records as are required to be kept by §73.1940 concerning broadcasts by candidates for public office. (Added 79-371. 7/9/79)
- (5) A copy of every annual employment report filed by the licensee or permittee for such station pursuant to the provisions of this part; and copies of all exhibits, letters and other documents filed as part thereof, all amendments thereto, and all correspondence between the permittee or licensee and the FCC pertaining to reports after they have been filed and all documents incorporated therein by reference and which according to the provisions of §§0.451 through 0.461 of the rules are open for public inspection at the offices of the FCC.
- (6) The Public and Broadcasting - A Procedure Manual (see FCC 74-942, 39 FR 32288, September 5, 1974). (Added 79-371. 7/9/79)
- (7) Letters received from members of the public as are required to be retained by §73.1202. (Added 79-371. 7/9/79)

## FEDERAL COMMUNICATIONS COMMISSION RULES - PART 73

**EDITOR'S NOTE:** Section 73.3526 paragraphs (a)(8) and (a)(9) have been so completely revised as of June 27, 1986 that the previous wording is not shown.

- <sup>2</sup> (8) For commercial TV broadcast stations, every three months a list of programs that have provided the station's most significant treatment of community issues during the preceding three month period. The list for each calendar quarter is to be filed by the tenth day of the succeeding calendar quarter (e.g., January 10 for the quarter October-December, April 10 for the quarter January-March, etc.). The list shall include a brief narrative describing what issues were given significant treatment and the programming that provided this treatment. The description of the programs should include, but is not limited to, the time, date, duration and title of each program in which the issue was treated.
- <sup>1</sup> (9) For commercial AM and FM broadcast stations, every three months a list of programs that have provided the station's most significant treatment of community issues during the preceding three month period. The list for each calendar quarter is to be filed by the tenth of the succeeding calendar quarter (e.g., January 10 for the quarter October-December, April 10 for the quarter January-March, etc.). The list shall include a brief narrative describing what issues were given significant treatment and the programming that provided this treatment. The description of the programs should include, but is not limited to, the time, date, duration and title of each program in which the issue was treated.

FEDERAL COMMUNICATIONS COMMISSION RULES - PART 73

(10) Each applicant for renewal of license shall, within 7 days of the last day of broadcast of the local public notice of filing announcements required pursuant to §73.3580(h), place in the station's local public inspection file a statement certifying compliance with this requirement. The dates and times that the pre-filing and post-filing notices were broadcast and the text thereof shall be made part of the certifying statement. (Edit. Amdt. 4/3/85)

(b) RESPONSIBILITY IN CASE OF ASSIGNMENT OR TRANSFER.

(1) In cases involving applications for consent to assignment of broadcast station construction permits or licenses, with respect to which public notice is required to be given under the provisions of §73.3580 or §73.3594, the file mentioned in paragraph (a) of this section shall be maintained by the assignor. If the assignment is consented to by the FCC and consummated, the assignee shall maintain the file commencing with the date on which notice of the consummation of the assignment is filed with the FCC. The file maintained by the assignee shall cover the period both before and after the time when the notice of consummation of assignment was filed. The assignee is responsible for obtaining copies of the necessary documents from the assignor or from the FCC files. (Added 79-371, 7/9/79)

(2) In cases involving applications for consent to transfer of control of a permittee or licensee of a broadcast station, the file mentioned in paragraph (a) of this section shall be maintained by the permittee or licensee. (Added 79-371, 7/9/79)

(c) STATION TO WHICH RECORDS PERTAIN.

The file need contain only applications, ownership reports, and related material that concern the station for which the file is kept. Applicants, permittees, and licensees need not keep in the file copies of such applications, reports, and material which pertain to other stations with regard to which they may be applicants, permittees, or licensees, except to the extent that such information is reflected in the materials required to be kept under the provisions of this section. (Added 79-371, 7/9/79)

(d) LOCATION OF RECORDS.

The file shall be maintained at the main studio of the station, where such studio is located in the community to which the station is licensed, or where such studio is located outside of the community of license pursuant to authorization granted under §73.1125(a) of the rules prior to July 16, 1987, or at any accessible place (such as a public registry for documents or an attorney's office) in the community to which the station is or is proposed to be licensed, and the file shall be available for public inspection at any time during regular business hours.

## FEDERAL COMMUNICATIONS COMMISSION RULES - PART 73

## (e) PERIOD OF RETENTION.

The records specified in paragraph (a)(4) of this section shall be retained for periods specified in §73.1940 (2 years). The manual specified in paragraph (a)(6) of this section shall be retained indefinitely. The letters specified in paragraph (a)(7) of this section shall be retained for the period specified in §73.1202 (3 years). The "significant treatment of community issues" ~~programs~~ list specified in paragraphs (a)(8) and (9) of this section shall be retained for the term of license (5 and 7 years for TV and radio, respectively). The certification specified in paragraph (a)(10) of this section shall be retained for the period specified in §73.3580 (for as long as the application to which it refers). The records specified in paragraphs (a)(1), (2), (3), and (5) of this section shall be retained, as follows:

- (1) The applicant for a construction permit for a new station shall maintain such file so long as the application is pending before the FCC or any proceeding involving that application is pending before the courts. (If the application is granted, paragraph (e)(2) of this section shall apply.) (Added 79-371, 7/9/79)

FEDERAL COMMUNICATIONS COMMISSION RULES - PART 73

- (2) The permittee or licensee shall maintain such a file so long as an authorization to operate the station is outstanding, and shall permit public inspection of the material so long as it is retained by the licensee even though the request for inspection is made after the conclusion of the required retention period specified in this sub-paragraph. However, material which is voluntarily retained after the required retention time may be kept in a form and place convenient to the licensee, and shall be made available to the inquiring party, in good faith after written request, at a time and place convenient to both the party and the licensee.

~~Applications and related material placed in the file shall be retained for a period of 7 years from beginning with the date the application is that they are tendered for filing with the FCC, with two exceptions: First, engineering material pertaining to a former mode of operation need not be retained longer than 3 years after a station commences operation under a new or modified mode; and second, all of the material shall be retained for whatever longer period is necessary to comply with the following requirements: and ending with the expiration of one license term (five (5) years for television licensees or seven (7) years for radio licensees) or until the grant of the first renewal application of the television or radio broadcast license in question, whichever is later, with two exceptions:~~

- ~~(i) Material shall be retained until final FCC action on the second renewal application following the application or other material in question: Engineering material pertaining to a former mode of operation need not be retained longer than 3 years after a station commences operation under a new or modified mode; and~~

## FEDERAL COMMUNICATIONS COMMISSION RULES - PART 73

(ii) Material having a substantial bearing on a matter which is the subject of a claim against the licensee, or relating to an FCC investigation or a complaint to the FCC of which the licensee has been advised, shall be retained until the licensee is notified in writing that the material may be discarded, or, if the matter is a private one, the claim has been satisfied or is barred by statute of limitations. Where an application or related material incorporates by reference material in earlier applications and material concerning programming and related matters (Section IV and related material), the material so referred to shall be retained as long as the application referring to it. If a written agreement is not incorporated in an application tendered for filing with the FCC, the starting date of the retention period for that agreement is the date the agreement is executed. (Added 79-371, 7/9/79)

(f) Copies of any material required to be in the public file of any applicant for a construction permit, or permittee or licensee of any commercial TV or radio station shall be available for machine reproduction upon request made in person, provided the requesting party shall pay the reasonable cost of reproduction. Requests for machine copies shall be fulfilled at a location specified by the applicant, permittee or licensee, within a reasonable period of time which, in no event, shall be longer than seven days unless reproduction facilities are unavailable in the applicant's, permittee's, or licensee's community. The applicant, permittee or licensee is not required to honor requests made by mail, but may do so if it chooses.

[Next Page is No. 680.1]

EXHIBIT NO. 4

DECLARATION OF  
DEBORAH PELLAND

My name is Deborah Pelland. On July 16, 1990, Leibowitz and Spencer received the following documents, postage prepaid, return receipt request from Robert B. Taylor:

- (a) Letter dated July 12, 1990 from Robert B. Taylor to Joseph A. Belisle;
- (b) Letter dated April 6, 1989 from Robert B. Taylor to Donna R. Searcy;
- (c) Petition to Deny, FCC File No. BP-890103AB, dated April 6, 1989;
- (d) Letter dated July 20, 1989 from Robert B. Taylor to Donna R. Searcy; and
- (e) Petition to Deny, FCC File No. BPH-890103MD dated July 20, 1989.

These documents, comprising a total of 22 pages, were the entire contents of the envelope sent to Joseph A. Belisle at Leibowitz and Spencer. These documents, the original envelope and a memo I wrote to Joseph Belisle are attached hereto.

I declare under penalty of perjury that the matters set out above are true.

  
Deborah Pelland

Mr Joseph Belisle,

I Deborah Pelland received on this day of  
July 16, 1990 this letter and enclosures of 22 pages  
regarding WTRU FM. I have numbered, signed and date  
stamped each page.

  
Deborah Pelland

*July 16, 1990*

# WTRU 99.5 FM

*The Palm Beaches True Adult Contemporary*

July 12, 1990

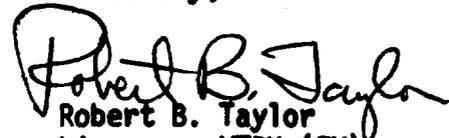
Joseph A. Belisle  
Leibowitz & Spencer  
AmeriFirst Building, Suite 1450  
One SE Third Avenue  
Miami, FL 33131

Dear Mr. Belisle:

Enclosed are copies of the WTRU public file documents which I have with me today.

The complete WTRU public file is in my office at the radio station building in Jupiter. I am temporarily in Indiana on business. As we agreed in our telephone conversation today, upon returning to my Jupiter office I will photocopy the other documents in the WTRU public file and mail them to you in Miami.

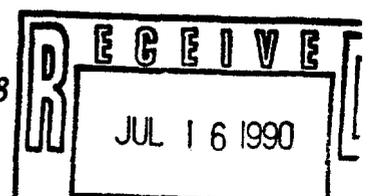
Sincerely,

  
Robert B. Taylor  
Licensee, WTRU (FM)  
Licensee, WEXI (AM)

RBT/ms

enc.

500 N. Delaware Blvd. • Jupiter, FL 33458 • (407) 744-6398



April 6, 1989

Robert B. Taylor, Licensee  
WZIP-AM  
500 N. Delaware Blvd.  
P.O. Box 848  
Jupiter, FL 33458

Ms. Donna R. Searcy, Secretary  
Federal Communications Commission  
1919 M Street NW  
Washington, D.C. 20554

RE: File No. BP-890103AB

Dear Ms. Searcy:

Please find enclosed for filing the original and two copies of a "Petition to Deny."

This "Petition to Deny" is in reference to an application for a new standard broadcast station at Jupiter, FL, filed by Jupiter Broadcasting Corp., which is mutually exclusive with a renewal application for WZIP-AM (formerly WTRU-AM), Jupiter, FL, of which I am the licensee. The Jupiter Broadcasting Corp. application was accepted for filing by the Commission on March 13, 1989.

Please call the undersigned at (407) 744-6398 should there be any questions about this matter.

Sincerely,

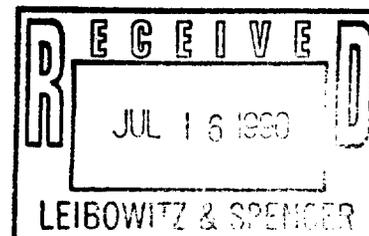


Robert B. Taylor  
Licensee, WZIP-AM

RBT/ms

cc: Paul J. Levine

Enc.



BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

In re Application of

Jupiter Broadcasting Corp.

For a NEW standard broadcast station  
at Jupiter, FL (Mutually exclusive with  
the renewal application for WZIP-AM,  
formerly WTRU-AM, Jupiter, FL)

File No. BP-890103AB

To: Chief, Mass Media Bureau

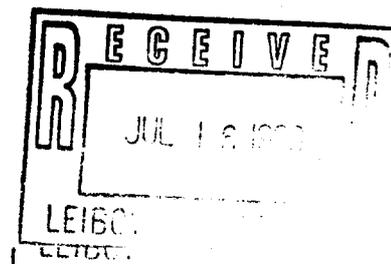
PETITION TO DENY

1) In its application Jupiter Broadcasting Corp. proposes to use the present transmitter site of WZIP-AM, Jupiter, FL for its proposed station.

2) The WZIP-AM transmitter site is controlled by the undersigned, and I hereby state for the record that the site is not and will not be available for use by Jupiter Broadcasting Corp.

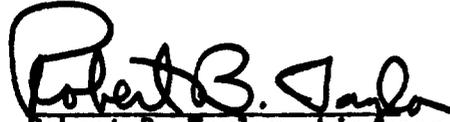
3) On March 30, 1989, the Commission eliminated the Cameron doctrine which is cited by Jupiter Broadcasting Corp. in Exhibit 3 of its application. See George E. Cameron Jr. Communications, 71 FCC 2d 460, 467 (1979).

4) Petitioner hereby requests that the application of Jupiter Broadcasting Corp. be dismissed by the Commission because it does not indicate a useable transmitter site: a) its proposed site is unavailable because I control the site and can thus state that it is not and will not be available,



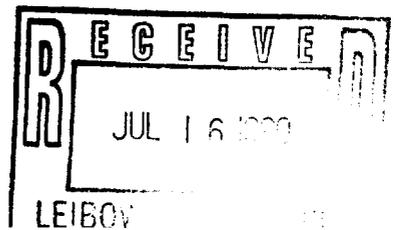
and b) the assumed availability of the site cannot be used because the Commission no longer accepts the Cameron doctrine.

Respectfully submitted,



Robert B. Taylor, Licensee  
WZIP-AM  
500 N. Delaware Blvd.  
P.O. Box 848  
Jupiter, FL 33458

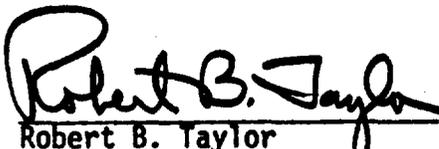
Dated: April 6, 1989



CERTIFICATE OF SERVICE

I, Robert B. Taylor, hereby certify that on this 6th day of April, 1989, a copy of the foregoing "Petition to Deny" was mailed by United States first class mail, postage prepaid, to the following:

Paul J. Levine, Director  
Jupiter Broadcasting Corp.  
Grossman and Roth  
Grand Bay Plaza, Penthouse 1  
2665 S. Bayshore Dr.  
Miami, FL 33133

  
Robert B. Taylor

