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WASHINGTON, D.C. 20036-1573

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DIRECT DIAL: 202/452-4819

August 17, 1992

9259

BY HAND DELIVERY

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
Washington, D.C. 20554

Re: **MM Docket No. ~~92-359~~**

Dear Ms. Searcy:

On behalf of Entertainment Communications, Inc., there are transmitted herewith an original and four copies of its Opposition to Joint Request for Approval of Settlement Agreement, or, Alternatively, Supplement to Comments of Entertainment Communications, Inc. submitted in the above-referenced rule making proceeding regarding a proposed substitution of FM Channels at Bradenton, Florida.

If any additional information is desired in connection with this matter, please contact the undersigned counsel.

Very truly yours,

Brian M. Madden

Brian M. Madden

Attachment
cc: Michael C. Ruger, Esq.
Nancy J. Walls
George R. Borsari, Jr., Esq.
William D. Freedman, Esq.

No. of Copies rec'd 0+4
List A B C D E

ORIGINAL

RECEIVED
AUG 17 1992
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BEFORE THE

Federal Communications Commission

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	MM Docket No. 92-59
Table of Allotments for	)	RM-7923
Broadcast Stations	)	
(Bradenton, Florida)	)	

To: Chief, Allotments Branch
Mass Media Bureau

OPPOSITION TO JOINT REQUEST FOR APPROVAL OF SETTLEMENT AGREEMENT, OR, ALTERNATIVELY, SUPPLEMENT TO COMMENTS OF ENTERTAINMENT COMMUNICATIONS, INC.

Entertainment Communications, Inc. ("Entercom"), by its attorneys, hereby submits these comments in opposition to the Joint Request for Approval of Agreement Related to Withdrawal of Counterproposal of High Point Partners ("Joint Request"), filed in the above-captioned proceeding on August 7, 1992. Entercom is a party to this proceeding as a consequence of the filing on May 21, 1992, of its Comments opposing the request of Sunshine State Broadcasting Company, Inc. ("Sunshine") to substitute Channel 278C for Channel 277C at Bradenton, Florida, and to modify the license of Station WDUV(FM) to specify operation on the new channel. These comments are submitted in a timely fashion in accordance with the provisions of Section 1.45 of the Commission's Rules.

Entercom objects to the withdrawal of the High Point counterproposal, in consideration for the promised reimbursement

of the proponent's expenses, to the extent that such withdrawal will, as urged by Sunshine, enable Station "WDUV ... to expeditiously implement the contemplated channel change and facilities upgrade ...." Joint Request at 2. Through the analysis of an experienced aeronautical consultant, Daniel G. Tenold, Entercom has previously established that the proposed facility changes for Station WDUV will pose a hazard to air navigation at the site specified by Sunshine and elsewhere throughout the fully-spaced permissible site zone. Because of Sunshine's inability to secure approval from the Federal Aviation Administration ("FAA") for the construction of a tower of at least 1046 feet above ground level (which is barely adequate to satisfy minimum requirements for a full Class C station) at any location which is not short-spaced to another allotment or authorized facilities, Entercom believes that Sunshine's actual intention is to operate Station WDUV from a site outside of the fully-spaced area by relying on the contour protection provisions of Section 73.215 of the rules. See Entercom's Comments at 8. When Section 73.215 was adopted, the Commission emphasized that allotment proposals had to meet all minimum distance separation requirements, and that no short-spaced allocation would be permitted -- whether or not contour protection techniques could avoid otherwise objectionable interference at the application stage. Report and Order in MM Docket No. 87-121, 6 F.C.C. Rcd 5356, 5358 (1991). Entercom submits that Sunshine must establish at this time that the site proposed in its rulemaking

petition is in fact suitable for use as a full Class C antenna site. To defer such inquiry until the application stage, as Sunshine has suggested, see Consolidated Reply Comments, filed June 17, 1992, will enable Sunshine to circumvent the Commission's unequivocal proscription on short-spaced allotments by simply seeking in its application to implement the channel substitution from a site beyond the permissible site zone. Sunshine cannot be permitted to thwart the Commission's procedures by doing indirectly what the Commission prohibits directly.

In its Consolidated Reply Comments, Sunshine attempted to blunt Entercom's air hazard showing by obtaining a statement from another aeronautical consultant. Sunshine did not attempt to establish conclusively that there is, in fact, a site from which Station WDUV can operate which is fully-spaced and does not represent a hazard to air navigation. Instead, Sunshine offered only a rebuttal to certain specifics of Entercom's objections. At no point in the statement of Sunshine's consultant does he affirmatively identify a single location within the permissible site zone from which he believes the FAA will approve the construction of at least a 1046 foot tower. Sunshine's ultimate defense of its proposal has been to urge that the Commission defer to the FAA for that agency's aeronautical ruling, Consolidated Reply Comments at 5, rather than to offer any conclusive evidence that the FAA's approval of the site can be secured.

Although Sunshine is, for reasons Entercom can well understand, reluctant to ask the FAA for its views on this matter, Entercom has done so and expects an imminent -- and negative -- response. Attached hereto is a further statement from Mr. Tenold which describes the request he filed with the FAA and the FAA's preliminary response. Mr. Tenold has been advised by an FAA regional airspace specialist that, unless the tower height is reduced to not more than 500 feet above ground,[1/] the FAA will issue a determination that the facilities specified in the Sunshine rulemaking petition constitute a hazard to air navigation. The FAA's preliminary response is based upon the "substantial adverse effects to the FAA radar vectoring procedures in the area and to the operation of visual flight rule (VFR) aircraft...." See, Tenold Declaration at 1-2. In addition, Mr. Tenold reports that further objections can be expected on the grounds as electromagnetic interference to navigational frequencies are likely to be caused by the WDUV signal. The adverse ruling to be issued by the FAA will certainly constitute a sufficient demonstration that the Sunshine site is unsuitable for its intended use. As soon as the FAA's written statement to this effect is received, Entercom will file it for the record in this proceeding.

1/ The reduction in tower height contemplated by the FAA would preclude Sunshine from constructing facilities for Station WDUV that satisfy the minimum height for a full Class C station.

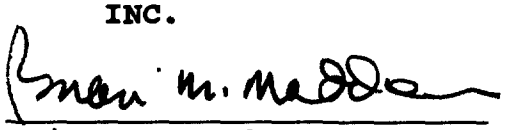
Entercom also asked its aeronautical consultants to review the material submitted by Sunshine to rebut Mr. Tenold's initial analysis. Attached hereto is the declaration of John Chevalier, Jr., the president of Aviation Systems Associates, Inc., in which he establishes that Sunshine's consultant has erred in his assessment of the aeronuatical considerations applicable to Sunshine's proposal, especially regarding the impact of the tower constuction upon established VFR and the existing minimum vectoring altitude (MVA). Mr. Allen's analysis rests in substantial measure upon purported future changes in existing VFR routes and MVA regulations, whereas Entercom's consultants have based their analyses upon current regulations and policies, as well as their past experience, taking into account all relevant factors. Whether or not the speculations offered by Sunshine of possible new procedures premised upon the Tampa Terminal Control Area ("TCA") or the proposed closing of McDill Air Force Base ever, in fact, materialize, Mr. Chevalier confirms the original evaluation of the hazard to navigation posed by Sunshine's operation of Station WDUV from a tall tower anywhere within the permissible site area. As noted previously, Sunshine merely asserts that its proposal is suitable, and its consultant never expressly states his concurrence with this postulation.

Based upon the foregoing, Entercom submits that the Joint Request should be denied to the extent that it is premised upon the award to Sunshine of the channel substitution it has requested.

As Entercom has contended throughout this proceeding, the construction of a tall tower at the coordinates proposed by Sunshine, or elsewhere within the fully-spaced permissible site zone, will be opposed by the FAA as a hazard to air navigation. Sunshine has not offered any evidence to the contrary for the site it specified in the rulemaking petition, or elsewhere. Accordingly, Entercom urges that the Commission deny Sunshine's requested channel substitution.

Respectfully submitted

ENTERTAINMENT COMMUNICATIONS, INC.

By 
Brian M. Madden

Cohn and Marks
Suite 600
1333 New Hampshire Ave.,NW
Washington, DC 20036
(202) 293-3860

Its Attorneys

August 17, 1992

DECLARATION

I, Daniel G. Tenold, hereby declare, certify and state as follows:

I am an Airspace and Flight Procedures Specialist with Aviation Systems Associates, Inc., (ASA) at 23430 Hawthorne Blvd., Suite 200, Skypark Building 3, Torrance, California, 90505. One of the principal activities of ASA is in the obstruction evaluation (OE) field conducting studies of proposed structures, such as broadcasting towers, cellular telephone towers, high-rise buildings, utility company towers and transmission lines, and other structures, and determining their compatibility with aircraft operating procedures, regulations, and air traffic control handling procedures.

My personal experience includes over 38 years in aviation as a military and commercial pilot and in FAA as an air traffic controller, flight procedures pilot, and as the Manager of various FAA flight procedures staffs. My experience is set forth more fully in the attached resume.

I have previously completed a ASA in-house aeronautical study to determine the probability of obtaining FAA approval for a proposed 1,025' above ground level (AGL), 1,049' AMSL antenna tower at Latitude 27°-49'-20" North, Longitude 82°-21'-50" West. My conclusion was that such a proposal would cause substantial adverse effects upon aviation and would, if filed with FAA, result in a FAA Determination of Hazard.

To substantiate my conclusion, I filed, on June 30, 1992, a FAA Form 7460-1, "Notice of Proposed Construction or Alteration", with FAA Atlanta proposing such an antenna tower. This filing proposed a tower of 1,025' AGL, 1,049' AMSL at Latitude 27°-49'-20" North, Longitude 82°-21'-50" West and a ERP of 100 KW on FM Channel 278. A copy of the filing is attached hereto. FAA has designated my filing as Aeronautical Study #92-ASO-1364-OE.

Since filing, I have had several telephone conversations with Mr. Armando Castro, the FAA airspace specialist in Atlanta concerning this proposal. Mr. Castro has advised me, on each occasion, that, in his opinion, the proposed antenna tower would cause substantial adverse effects to the FAA radar vectoring procedures in the area and to the operation of visual flight rule (VFR) aircraft which operate along VFR flight routes over and in the vicinity of the proposed tower.

Mr. Castro also advised me that my proposal had been circulated to other interested offices in FAA for review and comment. One of the other technical offices concerned will review and evaluate the proposal with regard to any potential electromagnetic interference (EMI) effect that the FM signal might have upon FAA navigational and communications frequencies. That analysis is not yet complete in FAA but ASA has conducted its own EMI analysis using the same FAA EMI computer program. This ASA analysis indicates there will be a substantial EMI adverse effect as well.

Mr. Castro has advised me that due to his analysis of substantial adverse effect he intends to respond to me in writing that, unless the proposed tower height is reduced to 500' above ground level, or less, FAA will issue a Determination of Hazard.

Daniel G. Tenold

Daniel Tenold

August 14, 1992

AVIATION SYSTEMS ASSOCIATES, INC.

AVIATION CONSULTANTS

ACCIDENT INVESTIGATION
AVIATION SAFETY STUDIES
OBSTRUCTION EVALUATION STUDIES
ENVIRONMENTAL IMPACT STUDIES
AIRPORT STUDIES

23430 HAWTHORNE BLVD.
SUITE 200, SKYPARK BUILDING 3
TORRANCE, CALIFORNIA 90505
(310) 378-3299
FAX (310) 791-1546

June 30, 1992

Federal Aviation Administration
Southern Regional office
Air Traffic Division, ASO-530
3400 Norman Berry Drive
East Point, GA 30344

Attn: Armando Castro

RE: PROPOSED FM ANTENNA TOWER, OUR FILE #1590

Dear Armando:

Enclosed is a Notice of Proposed Construction for the antenna tower southeast of MacDill AFB that we have discussed.

I would appreciate your internal study and advice as to the feasibility of such a structure at this site, along with any potential operational or EMI impacts.

If you need any further information, please do not hesitate to call me.

Thanks for your help.

Sincerely,

Dan Tenold

DT/cv

Enclosure(s)

DO NOT REMOVE CARBONS

Form Approved OMB No. 2120-0001

US Department of Transportation
Federal Aviation Administration

NOTICE OF PROPOSED CONSTRUCTION OR ALTERATION

Aeronautical Study Number

1. Nature of Proposal

A. Type	B. Class	C. Work Schedule Dates
☒ New Construction	☒ Permanent	Beginning ASAP
☐ Alteration	☐ Temporary (Duration _____ months)	End _____

2. Complete Description of Structure

A. Include effective radiated power and assigned frequency of all existing, proposed or modified AM, FM, or TV broadcast stations utilizing this structure

B. Include size and configuration of power transmission lines and their supporting towers in the vicinity of FAA facilities and public airports

C. Include information showing site orientation, dimensions and construction materials of the proposed structure

A. 100 KW, FM Channel 278 (103.5 Mhz)

(if more space is required, continue on a separate sheet.)

3A. Name and address of individual, company, corporation, etc. proposing the construction or alteration. *(Number, Street, City, State and Zip Code)*

(310) 378-3299
area code Telephone Number

Aviation Systems Associates, Inc.
23430 Hawthorne Blvd., Suite 200
Skypark Building 3
Torrance, CA 90505

B. Name, address and telephone number of proponent's representative if different than 3 above.

4. Location of Structure

A. Coordinates *(To nearest second)*	B. Nearest City or Town, and State	C. Name of nearest airport, heliport, flightpark or seaplane base
	Remlap, FL	Peter O'Knight
27° 49' 20" Latitude	(1) Distance to 4B 0.7 NM Miles	(1) Distance from structure to nearest point of nearest runway 6.9 NM
82° 21' 50" Longitude	(2) Direction to 4B West Northwest	(2) Direction from structure to airport Northwest

5. Height and Elevation *(Complete to the nearest foot)*

A. Elevation of site above mean sea level	24'
B. Height of Structure including all appurtenances and lighting *(if any)* above ground, or water if so situated	1025'
C. Overall height above mean sea level *(A + B)*	1049'

D. Description of location of site with respect to highways, streets, airports, prominent terrain features, existing structures, etc. Attach a U.S. Geological Survey quadrangle map or equivalent showing the relationship of construction site to nearest airport(s). *(if more space is required, continue on a separate sheet of paper and attach to this notice.)*

Portions of Riverview and Gibsonton Quad Charts enclosed.

Notice is required by Part 77 of the Federal Aviation Regulations (14 C.F.R. Part 77) pursuant to Section 1101 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1101). Persons who knowingly and willingly violate the Notice requirements of Part 77 are subject to a fine (criminal penalty) of not more than $500 for the first offense and not more than $2,000 for subsequent offenses, pursuant to Section 902(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472(a)).

I HEREBY CERTIFY that all of the above statements made by me are true, complete, and correct to the best of my knowledge. In addition, I agree to obstruction mark and/or light the structure in accordance with established marking & lighting standards if necessary.

Date	Typed Name/Title of Person Filing Notice	Signature
6-30-92	Dan Tenold - Aero. Consultant	Daniel G. Tenold

FOR FAA USE ONLY — *FAA will either return this form or issue a separate acknowledgement.*

The Proposal:

- ☐ Does not require a notice to FAA.
- ☐ Is not identified as an obstruction under any standard of FAR, Part 77, Subpart C, and would not be a hazard to air navigation.
- ☐ Is identified as an obstruction under the standards of FAR, Part 77, Subpart C, but would not be a hazard to air navigation.
- ☐ Should be obstruction ☐ marked, ☐ lighted per FAA Advisory Circular 70/7460-1, Chapter(s) _____
- ☐ Obstruction marking and lighting are not necessary.

Remarks:

Supplemental Notice of Construction FAA Form 7460-2 is required any time the project is abandoned, or

- ☐ At least 48 hours before the start of construction.
- ☐ Within five days after the construction reaches its greatest height.

This determination expires on _____ unless:

(a) extended, revised or terminated by the issuing office.
(b) the construction is subject to the licensing authority of the Federal Communications Commission and an application for a construction permit is made to the FCC on or before the above expiration date. In such case the determination expires on the date prescribed by the FCC for completion of construction, or on the date the FCC denies the application.

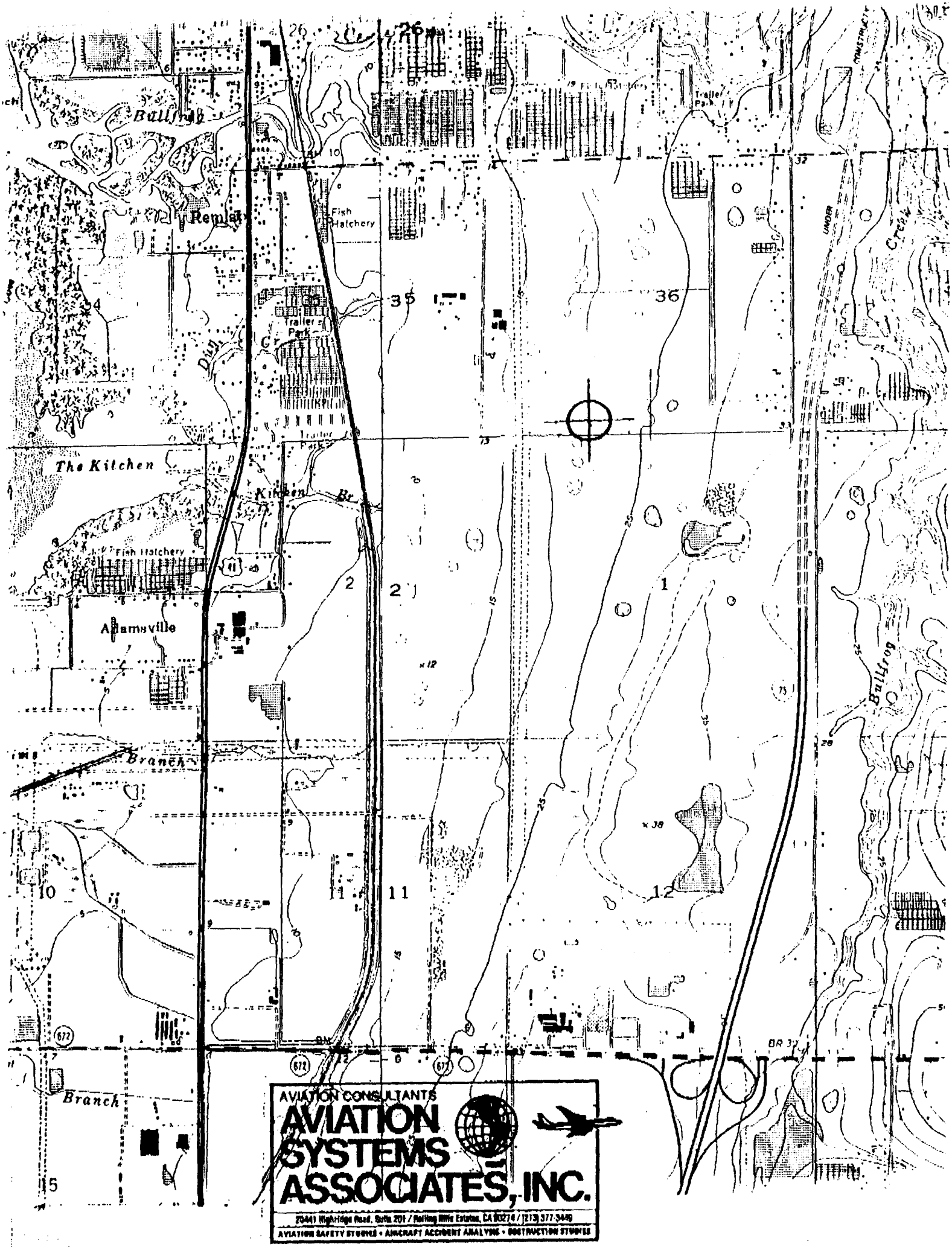
NOTE: Request for extension of the effective period of this determination must be postmarked or delivered to the issuing office at least 15 days prior to the expiration date.

If the structure is subject to the licensing authority of the FCC, a copy of this determination will be sent to that Agency.

Issued In	Signature	Date

FAA Form 7460-1 (8-85)

DO NOT REMOVE CARBONS


Bullfrog
Remlap
Fish Hatchery
Trailer Park
The Kitchen
Kitchen Br
Fish Hatchery
Adamsville
Branch
Branch
Bullfrog
26
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AVIATION CONSULTANTS
AVIATION SYSTEMS ASSOCIATES, INC.
AVIATION SAFETY STUDIES • AIRCRAFT ACCIDENT ANALYSIS • OBSTRUCTION STUDIES

Daniel G. Tenold

Flight Inspection and Procedures Specialist

- **General Qualifications**

Prior to joining ASA in 1984, Mr. Tenold had 30 years of experience with the Air Force, a civil air carrier and the FAA as an air traffic controller, pilot and procedures developer. He is a licensed commercial pilot with ATP privileges and several thousand hours of flight time. At ASA, Mr. Tenold specializes in obstruction evaluations and aircraft accident investigations.

- **Experience**

While in the military service, Mr. Tenold was a controller in both towers and radar approach control facilities. He continued as a controller for the FAA in Air Route Traffic Control Centers (ARTCC) for several years after leaving the Air Force.

After a three year stint as Second Officer for a commercial Air Carrier, Mr. Tenold returned to the FAA and for 10 years was a pilot and crew member on flight inspection missions. This experience included performing periodic, special, post-accident and commissioning type flight checks of navigational aids.

He later became a Procedures Specialist developing instrument approach procedures, procedure reviews, obstruction evaluations, and site evaluations.

Mr. Tenold then managed the Procedures Section in an FAA Field Office until joining ASA.

During his Air Force and FAA career, Mr. Tenold received several awards for outstanding performance and special achievement.

- **Education**

Mr. Tenold attended Mankato State College in Minnesota and graduated from USAF and FAA air traffic control schools. He also graduated from numerous FAA flight inspection, technical and managerial training programs and from the flight safety program at the University of Southern California.

DECLARATION

I, John Chevalier, Jr., hereby declare, certify and state as follows:

I am the President of Aviation Systems Associates, Inc. (ASA), located at 23430 Hawthorne Blvd., Suite 200, Torrance, California 90505.

Aviation Systems Associates, Inc., has been in existence for 20 years and provides aviation technical and regulatory consulting services in all areas of aviation activity. Our Staff of over 50 associates is comprised entirely of career aviation specialists with broad FAA, industry, and military aviation backgrounds in, among other things, airspace analysis, air traffic control, aviation safety, flight operations, navigational aid design, engineering and operational analysis, and aviation regulatory and legal areas.

One of our primary areas of activity is in obstruction evaluation (OE) studies of proposed structures, such as broadcasting towers, cellular telephone towers, high-rise buildings, and utility company towers and transmission lines. At any one time we are involved in 75 to 100 of these projects throughout the Country. These OE projects typically involve working with the proponent in evaluating the potential aeronautical impacts of the proposed sites, negotiations with FAA to obtain No

Hazard Determinations, and providing assistance and advice on acceptable marking and lighting systems.

My personal experience covers some 48 years in aviation, including air traffic control operational and facility management, procedures and airspace development and policy, development and implementation of criteria and policy regarding obstruction evaluation matters, and development, drafting, and implementation of Federal Aviation Regulations involving airspace utilization and operations. Approximately 12 years were spent in the Procedures and Airspace Divisions in the FAA Washington Headquarters. Of particular significance, in Washington I was the original Project Manager for the Terminal Control Area plan and developed and drafted all of the proposed and final Federal Aviation Regulations and procedures governing operations in and around TCAs. I also drafted the TCA airspace descriptions for the first 22 TCA locations throughout the Country. My resume detailing other experience is attached hereto.

While based in FAA Washington, I also authored and amended, on a continuing basis, FAA Handbook 7400.2, "Procedures for Handling Airspace Matters". Handbook 7400.2, among other things, sets out policy, criteria, and responsibilities of FAA personnel throughout the U.S. in the performance of obstruction evaluation studies of all proposed structures within the purview of FAR 77. Handbook 7400.2 is one of the publications noted in FAR 77.3 (b) which are used in the conduct of obstruction evaluation studies.

ASA previously prepared a Study discussing substantial adverse aeronautical impacts that would result from a proposed 1049' FM

antenna tower at 27°-49'-20" North Latitude, 82°-21'-50" West Longitude. The ASA Study concluded that if such a proposal were filed, FAA would issue a Determination of Hazard.

The ASA Study was reviewed by Airspace Consultant John P. Allen who disagreed with the stated impacts and conclusion.

Mr. Allen's rebuttal points concerned the following ASA stated impacts:

1. VFR Route Impact:

   The proposed site is within the airspace two statute miles each side of several natural or manmade landmarks (I-75, U.S. Highway 41, and the Coastline).

   As stated in FAA Handbook 7400.2, "Pilots operating VFR over most portions of the United States are encouraged to fly routes that parallel rivers, coastlines, mountain passes, valleys, and similar types of natural landmarks or to follow major highways, railroads, powerlines, canals, or other manmade objects. The basic consideration in evaluating the effect of obstructions on operations along these routes is whether pilots would be able to visually observe and avoid them during marginal VFR weather conditions." (7400.2C, paragraph 2421.g) Further, "Evaluation of obstructions that would be located within VFR routes must consider the fact that pilots may and sometimes do operate below the floor of controlled airspace with low ceilings and 1 mile flight visibility." (7400.2C, paragraph 2422.b).

Mr. Allen contends that other airspace requirements, changes, and factors make these VFR routes go away. That is not the case. The proposed site is within the VFR route airspace of three very prominent landmarks available and often used for VFR navigation under deteriorating weather conditions down to 500 feet above the surface. Mr. Allen's contentions that the 1200 foot floor of the Tampa TCA over the site and the TCA requirements for altitude reporting (Mode C) transponder and two-way radio would cause the VFR route to shift eastward to Highway 301 simply have no bearing. (As a matter of fact, Mr. Allen misstates the TCA regulation regarding two-way radio communications. This requirement applies within the TCA airspace, not below the floors of the TCA - here 1200 feet.) The VFR routes are still there and, as a practical matter, the 1200 foot floor would encourage the pilot to go down lower to his 500 foot minimum. Also, contrary to Mr. Allen's allusion regarding Mode C, two-way radio (which is wrong), and Highway 301, the requirement for Mode C extends further East to the 30 NM "TCA veil", or about 20 miles East of Highway 301. So the same transponder requirement would also apply over Highway 301.

Mr. Allen further states that somehow the 1000 foot minimum safe altitude provision of FAR 91.119 would apply due to the congested areas of Sun City, Sun City Center,

Ruskin, and Yankee. These towns or settlements are, respectively, 12, 7 1/2, 8 1/2, and 5 statute miles from the tower site. FAR 91.119 (b) only requires the pilot to operate, when over a congested area, at 1000 feet above the highest obstacle within 2,000 feet of the aircraft. When over other-than-congested areas (such as the proposed site) the pilot may operate down to an altitude of 500 feet above the surface (91.119 (c)). Therefore, the towns cited have no bearing on the pilot's prerogative to operate down to 500 feet.

2. Radar Minimum Vectoring Altitude (MVA):

The MVA over the tower site presently is 1600' MSL. With the tower proposed at 1049' MSL, the MVA would need to be increased to 2000' MSL. The minimum vectoring altitudes, as established, are important to the total control of all IFR and VFR traffic to all of the airports in the Tampa TRACON airspace, not just, as in this instance, for MacDill AFB.

Also, as far as military base closures go, to our knowledge, every military base slated for closure is being hotly pursued by local authorities for conversion to civil aviation use or joint military/civil use. Therefore, the need for retention of minimum vectoring altitudes will remain. Further, in our coordination with FAA we have not learned of any relevant airspace changes

under consideration for Tampa/MacDill terminal area, and expect none that would have any bearing.

3. Tampa Terminal Control Area (TCA):

TCA airspace is designed, intended, and regulated to provide complete positive control airspace protection for operations to and from the Primary Airport (here Tampa International) and for other operations within the TCA. All of the TCA locations are continually evaluated for safety, efficiency, and effectiveness. TCA airspace areas are always subject to amendment or alteration to continue to provide complete positive control protection for aircraft to and from the airport surface at Tampa International, through all phases of approach and departure flight, to and from the overlying Positive Control Airspace. All regulatory or procedural changes and tailoring of TCA airspace areas are directed to this goal. No changes, conversions, or reuse of MacDill AFB will affect the TCA airspace designations.

In summary:

1. The VFR routes along Interstate 75, U.S. Highway 41, and the Coastline do, and will, exist regardless of changing airspace requirements associated with the Tampa TCA, the status of MacDill AFB, the floor of the TCA airspace, or the operational and equipment requirements of the TCA.
2. The site of the proposed tower is within "other than

congested" areas and the Federal Aviation regulations allow operation of aircraft at the site down to 500 feet above the surface. The towns and settlements noted by Mr. Allen are far from the tower site and do not impose any higher minimum safe altitudes for the pilot over the site.

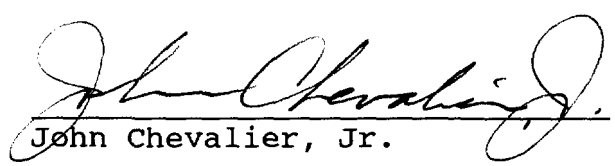
3. The minimum radar vectoring altitudes in place are necessary for the safe and efficient air traffic control handling of aircraft in the Greater Tampa area.

4. Any airspace revisions or TCA modifications that may be now or later considered would have no mitigating effect upon the adverse impacts of the proposed tower.

5. FAA obstruction evaluation studies are made on the basis of existing factors, not on what they used to be or may be in the future.

In view of the above, it is my professional opinion that a proposal to FAA for a 1049' MSL structure at the site proposed, or anywhere within the FCC permissible area would result in FAA issuing a Determination of Hazard.

I hereby declare, certify and state, under penalty of perjury, the foregoing is true and correct, to the best of my knowledge, information and belief.



John Chevalier, Jr.

Executed on: July 10, 1992

John Chevalier, Jr.

President and General Counsel

- **General Qualifications**

Mr. Chevalier, the founder of ASA, has over 43 years of aviation experience including 27 years with the FAA and Army Air Corps. From this experience, Mr. Chevalier has developed nationally recognized expertise in airspace analysis, aircraft accident analysis, expert witness testimony, and in negotiations with the FAA on the aeronautical effect of potential airspace obstructions.

- **Experience**

Mr. Chevalier's military and FAA career included 15 years in air traffic control. His operational/managerial experience ranged from Assistant Controller to Facility Chief in terminal, enroute and flight service facilities and included extensive radar control experience in major terminals.

Mr. Chevalier was assigned to FAA's Washington Headquarters for 10 years as Section Chief of the Air Traffic Rules Branch and as Assistant Chief in the Airspace Regulations Branch. Mr. Chevalier also worked with FAA's Office of General Counsel for 2 years recodifying the Federal Aviation Regulations.

He later served in the FAA's Western Region Office as Regional Airport Airspace Analyst where he gained wide experience in air traffic operations, procedures, evaluation, planning, and regulations.

- **Education**

Mr. Chevalier holds a Bachelor of Science in Management from Chase College and a Juris Doctor in Law from American University.

- **Publications**

Co-author, FAA Handbook 7400.2, "Procedures for Handling Airspace Matters."
Draftsman, many portions of recodified Federal Aviation Regulations
Author, "A Treatise of Aircraft Collisions with Obstructions," October 1977
Author, "Airport Noise Controls and Their Legal Implications," June 1978

- **Affiliation**

Member, California and Virginia State Bars
Member, Lawyer-Pilots Bar Association
Member, American Bar Association
Admitted to Practice Before the United States Supreme Court
Member , Los Angeles Mayor Bradley's Airline Passenger Fire and Life Safety Task Force

CERTIFICATE OF SERVICE

This is to certify that on the 17th day of August, 1992, a copy of the foregoing Opposition to Joint Request for Approval of Settlement Agreement, or, Alternatively, Supplement to Comments of Entertainment Communications, Inc. was addressed as follows and deposited with the U.S. Postal Service with adequate postage, prepaid, to the following:

Michael C. Ruger, Esq.
Allocations Branch
Mass Media Bureau
Federal Communications Commission
2025 M Street, N.W.
Room 8322
Washington, D.C. 20554

Nancy J. Walls
Mass Media Bureau
Federal Communications Commission
2025 M Street, N.W.
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