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August 24, 1992

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

92-64 /

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

RE: MM Docket No. 92-64
Channel 295A
Ocean City, Maryland

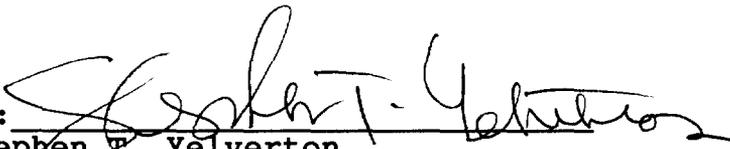
Dear Ms. Searcy:

Enclosed for filing on behalf of Wind N' Sea FM Limited Partnership and J.H. Communications is an original and six (6) copies of a "Supplement to the Joint Petition for Approval of Settlement Agreement" in regard to the above-referenced proceeding.

Please contact the undersigned in our Washington, D.C. office.

Respectfully submitted,

MAUPIN TAYLOR ELLIS & ADAMS, P.C.

BY: 
Stephen F. Yelverton
Attorneys for J.H. Communications

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

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In Re Applications of:)
)
WIND N' SEA FM LIMITED)
PARTNERSHIP)
)
J. H. COMMUNICATIONS)
)
For Construction Permit)
for a new FM station on)
Channel 295A,)
Ocean City, Maryland)
)

MM Docket No. 92-64
File No. BPH-901223ME
File No. BPH-901226MB

TO: Administrative Law Judge
Edward Luton

SUPPLEMENT TO JOINT PETITION FOR APPROVAL OF SETTLEMENT AGREEMENT

Wind N' Sea FM Limited Partnership and J.H. Communications, by their attorneys, and pursuant to Section 311(c) of the Communications Act of 1934, as amended, 47 U.S.C. Section 311(c), and Section 73.3525 of the Commission's Rules, respectfully submit this "Supplement to Joint Petition for Approval of Settlement Agreement." The supplement provides a revised settlement agreement which removes contingencies from the previously submitted settlement agreement.

Respectfully submitted,

MAUPIN TAYLOR ELLIS & ADAMS, P.C.

BY: 
Stephen T. Yelverton
Attorneys for J.H. Communications
1130 Connecticut Avenue, N.W.
Suite 750
Washington, D.C. 20036
Telephone: (202) 429-8910

BESOZZI & GAVIN

BY: Thomas L. Siebert

Thomas L. Siebert
Attorneys for Wind N' Sea FX
Limited Partnership
1901 L Street, N.W., Suite 200
Washington, D.C. 20036
Telephone: (202) 293-7405

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** TOTAL PAGE.002 **

REVISED SETTLEMENT AGREEMENT

AGREEMENT made and entered into this 21st day of August, 1992, by and between J.H. COMMUNICATIONS (hereinafter referred to as "J.H."), and WIND N' SEA FM LIMITED PARTNERSHIP (hereinafter referred to as "Wind").

WHEREAS, J.H. and Wind have mutually exclusive applications ("Applications") pending before the Federal Communications Commission ("Commission") requesting authority to construct and operate a radio broadcast station on FM Channel 295A in Ocean City, Maryland (the "facility"); and

WHEREAS, the applications of J.H. and Wind have been designated for a comparative hearing through which only one may be granted; and

WHEREAS, J.H. and Wind wish to avoid further costly proceedings and the time and financial burden that such proceedings place upon them and the Commission; and

WHEREAS, Wind is willing, subject to fulfillment of the terms of this Agreement, to dismiss with prejudice its application so as to facilitate the grant of a construction permit for FM Channel 295A to J.H., and J.H. has agreed to compensate Wind for such dismissal; and

WHEREAS, settlement of this proceeding will obviate the expense, delay, and commitment of Commission resources, and those of J.H. and Wind, otherwise necessary to resolve the pending applications through the comparative hearing process; and will bring an additional local FM radio broadcast service to the residents of Ocean City, Maryland; and

WHEREAS, the obligations of the parties hereunder are subject to the conditions set forth herein, and to the prior approval of the Commission.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, the parties agree as follows:

1. Wind agrees to petition the Commission for dismissal of its application with prejudice, conditioned upon Commission approval of the terms and conditions contained in this Agreement.

2. J.H. agrees to pay to Wind the sum of Thirty Seven Thousand Five Hundred Dollars (\$37,500.00) (the "Settlement Amount") five (5) business days after the date upon which the Commission's Order approving the Settlement Agreement, dismissing Wind's Application, and granting J.H. a construction permit for FM Channel 295A, Ocean City, Maryland, becomes final as defined in Paragraph 4 hereof.

3. The Thirty Seven Thousand Five Hundred Dollars (\$37,500.00) settlement amount shall be personally guaranteed by the principals of J.H.

4. J.H. shall disburse the Settlement Amount as follows. It shall pay to Wind, within five (5) business days after the date upon which the Commission order granting the Joint Request and grant of J.H.'s construction permit application is a final order, the Thirty Seven Thousand Five Hundred Dollar (\$37,500.00) Settlement Amount by hand-delivery to Wind's counsel of a cashier's or certified check payable to Wind. An order will be deemed final when (1) the order contains no terms,

restrictions, or qualifications which materially limit or conflict with any of the rights of the parties set forth or contemplated herein or in this Agreement or which would prevent J.H. from operating the facility in substantially the manner as is contemplated in its Application, as now amended, and (2) under the express provisions of the Communications Act of 1934, as amended, and the applicable Rules of the Commission and the Courts, the time for filing a request for administrative or judicial review of the action, or for the Commission to review such action on its own motion, shall have expired without such filing having been made or Commission action having been taken or, in the event of such filing or action, shall have been disposed of favorably, to J.H., and the time for seeking further review of the action shall have expired without any request for such further review having been filed. The grant of J.H.'s application shall also be deemed final when the dismissal of any competing application is final and non-appealable. It is agreed that a Commission order becomes final on the 42nd day after release of the text of the order, if no timely petition for reconsideration or judicial appeal is filed and the Commission has not reviewed the order on its own motion by that date pursuant to Section 1.117 of the Rules.

5. J.H. requests that it be allowed to withdraw its proposed divestiture of Station WBSK-FM, Windsor, Virginia. However, this Settlement Agreement is not conditioned upon Commission approval of withdrawal of the divestiture pledge.

6. Within five (5) business days after the execution of this Agreement, J.H. and Wind shall file it with the Commission together with a "Joint Request for Approval of Settlement Agreement" ("Joint Request"). The "Joint Request" shall be filed pursuant to, and shall comply with Section 73.3525 of the Commission's Rules, and shall have attached thereto properly executed declarations.

7. Recognizing that this Agreement is expressly subject to the prior consent of the Commission and the need for Commission approval prior to closing, J.H. and Wind shall cooperate and use their respective best efforts in the preparation and filing of all Commission applications and related documents as shall be necessary or appropriate to consummate the transactions contemplated by this Agreement, including, but not limited to, appeals, applications and petitions, as appropriate, of any adverse rulings by the Commission or delegated authorities of the Commission. The parties hereto shall cause all such filings to be made as soon as reasonably practicable following the execution of this Agreement and each of them shall prosecute such filings with all reasonable diligence and otherwise cooperate with each other and use their best efforts to obtain the requisite Commission consent and approval promptly so that a Final Order may be obtained at the earliest possible date. It is understood and agreed that J.H. will bear the primary responsibility for coordinating, researching, preparing, and filing any materials submitted pursuant to this Agreement. In

the event of a disagreement between J.H. and Wind as to strategy, the views of J.H. shall prevail.

8. This Agreement is the only agreement between the parties hereto and contains all of the terms and conditions agreed upon with respect to the subject matter hereof. All other Agreements, written or oral, between the parties are incorporated herein. This Agreement shall be binding upon the parties hereto, their heirs, legatees, successors, assigns and executors.

9. Each signatory to this Agreement warrants and represents that he has full legal authority to enter into, execute and carry out this Agreement.

10. Any notice required hereunder shall be in writing and shall be deemed given when delivered personally, or filed by certified mail, postage prepaid, with return receipt requested to the following or their respective designees:

To J.H. Communications

Stephen T. Yelverton, Esq.
Maupin Taylor Ellis & Adams, P.C.
1130 Connecticut Avenue, N.W., Suite 750
Washington, D.C. 20036
Telephone: (202) 429-8910

To Wind N' Sea FM Limited Partnership

Thomas L. Siebert, Esq.
Besozzi & Gavin
1901 L. Street, N.W., Suite 200
Washington, D.C. 20036
(202) 293-7405

11. The parties agree that this Agreement can be executed in counterparts, all of which together, so executed, shall constitute one and the same instrument.

12. J.H. and Wind each acknowledge that they have made no representations or warranties except as specifically set forth herein.

13. This Agreement shall be construed under and governed by the laws of the District of Columbia.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first written above.

J.H. COMMUNICATIONS

BY: _____
Title: _____

WIND N' SEA FM LIMITED PARTNERSHIP

BY: *J. [Signature]*
Title: *General Partner*

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12. J.H. and Wind each acknowledge that they have made no representations or warranties except as specifically set forth herein.

13. This Agreement shall be construed under and governed by the laws of the District of Columbia.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first written above.

J.H. COMMUNICATIONS

BY: _____

Title: _____

[Handwritten Signature] 22 Aug 92
[Handwritten Title] PARTNER

WIND N' SEA FM LIMITED PARTNERSHIP

BY: _____

Title: _____

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CERTIFICATE OF SERVICE

I, Kate D. Shawcross, secretary in the law offices of Maupin Taylor Ellis & Adams, P.C., do hereby certify that on this 24th day of August, 1992, have caused to be hand-delivered or mailed, U.S. Mail, first-class, postage prepaid, a copy of the foregoing "Supplement to Joint Petition for Approval of Settlement Agreement" to the following:

The Honorable Edward Luton*
Administrative Law Judge
Federal Communications Commission
Room 225
2000 L Street, N.W.
Washington, D.C. 20554

Gary Schonman, Esquire*
Hearing Branch
Mass Media Bureau
Room 7212
Federal Communications Commission
Washington, D.C. 20554

Alan Campbell, Esquire
Dow, Lohnes & Albertson
1255 23rd Street, N.W.
Suite 500
Washington, D.C. 20037
Counsel for Family Station, Inc.



Kate D. Shawcross

*Hand Delivery