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November 30, 1992

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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

Attention: Allocations Branch

RE: MM Docket No. 92-214
RM-8062
Columbia and Bourbon, Missouri

Dear Ms. Searcy:

Transmitted herewith, on behalf of Al Greenfield, d/b/a The Greenfield Group, Receiver, licensee and proposed assignor of KCMQ(FM), Columbia, Missouri, and Zimmer Radio of Mid-Missouri, Inc., proposed assignee of KCMQ(FM), are an original and four copies of their Joint Reply in the above-referenced proceeding.

Should any questions arise concerning this matter, please contact this office.

Very truly yours,

FLETCHER, HEALD & HILDRETH

Frank R. Jazzo
Frank R. Jazzo
Counsel for Zimmer Radio
of Mid-Missouri, Inc.

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BEFORE THE

Federal Communications Commission

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of Section 73.202 (b))
Table of Allotments)
FM Broadcast Stations)
(Columbia and Bourbon, Missouri))

MM Docket No. 92-214
RM-8062

To: Chief, Allocations Branch

JOINT REPLY COMMENTS

Al Greenfield, d/b/a The Greenfield Group, Receiver ("Greenfield"), licensee and proposed assignor of Station KCMQ (FM), Channel 244C3,¹ Columbia, Missouri, and Zimmer Radio of Mid-Missouri, Inc. ("ZRMMI"), proposed assignee of KCMQ (FM) (BAPLH-921015EB), by its attorney, hereby submit their Joint Reply Comments to the "Comments and Counterproposal of Lake Broadcasting, Inc." in the above-referenced proceeding. In support thereof, the following is submitted:

On November 13, 1992, Lake Broadcasting, Inc. ("Lake"), licensee of KBMX (FM), Eldon, Missouri, permittee of KXIY (FM), Cuba, Missouri, and applicant for a new FM station on Channel 244A at Bourbon, Missouri, filed its "Comments and Counterproposal of Lake Broadcasting, Inc." ("Lake Comments"). Therein, Lake submitted that Channel 244A should not be deleted at Bourbon, Missouri, as proposed by the Commission in the Notice of Proposed Rulemaking in

¹ KCMQ (FM) is presently licensed on Channel 244A at Columbia, Missouri (BLH-4969). Greenfield holds a construction permit to upgrade KCMQ (FM)'s facilities to Class C3 (BPH-911021IF). An application is pending to modify that construction permit (BMPH-920901ID).

this proceeding, DA 92-1163, released September 22, 1992 ("NPRM"), because on November 12, 1992, Lake tendered an application for that channel. Lake also argued that Greenfield's proposal to substitute Channel 244C1 for Channel 244C3 at Columbia, Missouri, was defective on engineering grounds. Finally, Lake offered a counterproposal involving the potential upgrade of the channel assigned for its construction permit for KXIY(FM), Cuba, Missouri. Since Lake's Cuba counterproposal has not yet been accepted by the Commission, Greenfield and ZRMMI will confine their instant Joint Reply Comments to Lake's comments concerning the Bourbon allotment and the purported engineering "defects" involved with Greenfield's original proposal to upgrade KCMQ(FM)'s channel of operation at Columbia, Missouri.²

Greenfield and ZRMMI believe that it is premature for the Commission to make any decision with respect to the proposed deletion of Channel 244A at Bourbon, Missouri. Lake's last minute filing of an application for the channel should not alone persuade the Commission not to delete the channel. Lake had ample opportunity to file its application earlier. The timing of Lake's filing leads to the inference that the application may have been filed solely for the anticompetitive purpose of blocking KCMQ(FM) from being upgraded. Lake shares common officers and ownership

² In addition to Lake's counterproposal, three other counterproposals were filed. Greenfield and ZRMMI intend to reply to the counterproposals at such time as the Commission accepts them and establishes a filing deadline for replies.

with Contemporary Broadcasting, Inc. ("CBI"), licensee of KCMQ(FM)'s competitor KFMZ(FM), Columbia, Missouri.³

The Commission views the filing of anticompetitive "strike" applications as a very serious offense which reflects gravely on the "strike" applicant's qualifications to be a Commission licensee. Moreover, serious criminal charges remain pending against Lake's President and 67.5% shareholder. Thus, there may exist serious questions concerning Lake's continued qualifications to remain a Commission licensee, let alone become licensee of a new station. Greenfield and ZRMMI recognize that an allotment proceeding is not an appropriate forum to explore the issues surrounding the filing of Lake's Bourbon application. Greenfield and ZRMMI believe, however, that the disposition of that application may have an impact on the Commission's ultimate decision of whether or not to delete Channel 244A at Bourbon, Missouri.

Lake claims there are two engineering bases for denying the proposed substitution of Channel 244C1 for Channel 244C3 at Columbia, Missouri. As shown below, neither has any merit. Lake asserts that Greenfield's proposal to upgrade KCMQ(FM) (1) will not place a principal community contour over any part of Columbia, Missouri, in violation of Section 73.315(a) of the FCC's Rules and (2) has significant line-of-sight obstruction in violation of Section 73.315(b) of the FCC's Rules. As demonstrated in the attached Technical Statement of du Treil, Lundin & Rackley, Inc., Lake's allegations are flawed and Greenfield's Channel 244C1

³ CBI separately has filed a Petition to Deny Greenfield's application to assign KCMQ(FM)'s license to ZRMMI.

proposal complies with Sections 73.315(a) and (b) of the FCC's Rules.

The distance to the 70 dBu contour for a maximum Class C1 facility is 50.1 kilometers, whereas, the distance from the proposed Channel 244C1 reference coordinates to the most distant point of Columbia, Missouri, is 46.0 kilometers. Thus, Greenfield's proposal complies with the city grade coverage requirements of Section 73.315(a). Moreover, the distance to KCMQ(FM)'s 70 dBu contour assuming maximum Class C1 facilities along the radial toward the Columbia reference point calculated with the relevant height above average terrain in the direction of Columbia would be 49.1 kilometers. Thus, the Channel 244C1 proposal complies with Section 73.315(a) taking into account the terrain along the radial in the direction of the Columbia reference point.

The engineering statement accompanying the Lake Comments based its conclusion that "no part of Columbia will receive a signal of 70 dBu or greater" on an alternative prediction method using the "methods suggested by NBS Technical Note 101." Lake, however, provides no description of the procedures used, assumptions made and methodology employed in making its alternative prediction of coverage. Therefore, its supplemental propagation showing is not valid and must be disregarded. See, Elkins, West Virginia; Mountain Lake Park and Westernport, Maryland, DA 92-1039, released August 27, 1992, at footnote 10.

Likewise, Lake's assertion that there is a major line-of-sight obstruction is unfounded. In the Technical Statement attached hereto, W. Jeffrey Reynolds of du Treil, Lundin and Rackley, Inc.

concludes that there are no obstructions, major or minor, between the reference point and the Columbia city limits which would result in shadowing in Columbia. There are terrain obstructions located within the Columbia city limits; however, they would not be considered major because they do not vary by more than 60 meters. Thus, Greenfield's Channel 244C1 proposal complies with Section 73.315(b) of the FCC's Rules.

Finally, Lake contends that Greenfield's Channel 244C1 proposal is contingent upon the availability of Channel 297A at Bourbon, Missouri, and thus, is void as a "contingent" rulemaking because Channel 297A had been proposed as a substitute channel for Lake's construction permit on Channel 271A at Cuba, Missouri. Lake had filed for reconsideration of the Commission's denial of its proposal which would have resulted in the Cuba Channel 297A substitution. The Commission's NPRM did not make the Channel 244C1 upgrade contingent on the availability of Channel 297A at Bourbon, Missouri. In fact, the deletion of Channel 244A at Bourbon, Missouri, was proposed as another option to accommodate the upgrade. Clearly, Lake has mischaracterized Greenfield's original proposal.

WHEREFORE, for the foregoing reasons, Greenfield and ZRMMI respectfully request that Channel 244C1 be substituted for Channel 244C3 at Columbia, Missouri, and that the license of KCMQ(FM) be modified to specify operation thereon.

By my signature below, I verify under penalty of perjury that the information provided in these Joint Reply Comments is true and correct.

Respectfully submitted,

AL GREENFIELD DBA THE
GREENFIELD GROUP, RECEIVER

A. Greenfield
Al Greenfield *SRJ*

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ZIMMER RADIO OF MID-MISSOURI, INC.

By: Frank R. Jazzo
Frank R. Jazzo

Its Attorney

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TECHNICAL STATEMENT
IN SUPPORT OF REPLY COMMENTS OF
AL GREENFIELD, D.B.A. THE GREENFIELD GROUP, RECEIVER AND
ZIMMER RADIO OF MID-MISSOURI, INC.
COLUMBIA, MISSOURI

This technical statement has been prepared on behalf of Al Greenfield, D.B.A. The Greenfield Group, Receiver and Zimmer Radio of Mid-Missouri, Inc. (herein "Greenfield") to provide technical information in support of reply comments being filed in response to the Federal Communications Commission Notice of Proposed Rule Making in MM Docket No. 92-214 (Notice). The Notice was issued in response to the Petition for Rule Making filed by Greenfield requesting amendment of 47 CFR 73.202(b) by the substitution of channel 244C1 for channel 244C3 at Columbia, Missouri and modification of the construction permit of station KCMQ, channel 244C3, Columbia, Missouri accordingly.

In comments and counterproposal filed by Lake Broadcasting, Inc. (herein "Lake"), it is alleged that the proposed channel 244C1 allotment violates Section 73.315(a) as it does not provide a principal community contour "over any part of the city" and violates Section 73.315(b) as it has "significant line-of-sight obstruction". However, as demonstrated below, Lake's allegations are flawed. Furthermore, as stated in Greenfield's Petition, the channel 244C1 proposal will comply with Sections 73.315(a) and 73.315(b).

In support of the allegation that "no part" of Columbia will receive a signal of 70 dBu or greater, Lake states that "methods suggested by NBS Technical Note 101 were employed to analyze the coverage within the city of Columbia." The only additional information supporting this conclusion is a map showing, by shading, the purported areas where a signal of less than 70 dBu would be received within Columbia. However, in order for a supplemental propagation showing to be valid, the Commission requires that the procedures used, assumptions made, and methodology employed must be described.¹ As this information was not provided, Lake's supplemental technical showing is flawed.

At the threshold level, a proposed allotment is considered by the Commission to comply with Section 73.315(a) if the distance from the reference coordinates to the most distant point of the city is less than the distance to the 70 dBu contour based on maximum facilities for the Class. For the channel 244C1 proposal, the most distant point of Columbia is located 46.0 kilometers from the reference coordinates, whereas the distance to the 70 dBu contour based on maximum Class C1 facilities (ERP 100 kW/HAAT 299 meters) is 50.1 kilometers. Therefore, the proposal complies with Section 73.315(a).

¹See Memorandum Opinion and Order in MM Docket No. 89-580 (Elkins, West Virginia; Mountain Lake Park and Westernport, Maryland, DA 92-1039) at footnote 10; Memorandum Opinion and Order in Docket No. 87-589 (Creswell, Oregon, DA 89-1167)) at paragraph 9.

Furthermore, based on operation from the reference coordinates with maximum Class C1 facilities, and with consideration given to the antenna height above average terrain (284.7 meters²) along the radial toward the Columbia reference point³ at 333.2° true, the distance to the 70 dBu contour is 49.1 kilometers. Accordingly, the proposal also complies with Section 73.315(a) with consideration given to actual terrain along the radial in the direction of the Columbia reference point. Distances to the 70 dBu contour were determined using the Commission's standard prediction method. It is noted that the channel 244C1 reference point is intended for allotment purposes, and may not represent a potential site location.

In the Memorandum Opinion and Order in MM Docket No. 89-580 (Elkins, West Virginia; Mountain Lake Park and Westernport, Maryland) the Commission notes at paragraphs 18 and 19 that Section 73.315 "only recommends that a line-of-sight path be chosen with no major obstruction, and that it requires that a 70 dBu signal be received over the entire principal city, irrespective of whether there is shadowing." Received signal strength is predicted regardless of terrain using the Commission's standard propagation methodology which assumes average terrain with a terrain roughness (or delta-h) of 50 meters. Only where

²Based on NGDC 30-second terrain data.

³The geographic coordinates of the Columbia reference point as listed in the Index to the USGS National Atlas are Latitude 38°57'24", Longitude 92°19'48".

the terrain obstruction is characterized as major and the shadowing severe does the Commission consider it likely that no site could be found which would provide the required city grade coverage.

In MM Docket No. 89-580, the Commission further stated that "use of the Commission's F(50,50) curves is appropriate because the terrain obstruction is not considered major. The obstruction varies in elevation about 60 or so meters, which does not qualify it as major, and approximates the delta-h of 50 meters. Therefore, employing the Commission's standard prediction methodology, despite the relatively minor shadowing, we predict that a signal of 70 dBu or greater would likely be received in Mountain Lake Park". Finally, the Commission states "the submission of an alternative propagation study should not have been necessary to demonstrate principal city coverage."

Examination of the terrain profile submitted by Lake in the direction of Columbia (Exhibit 2 of the Engineering Statement) indicates there are no obstructions, major or minor, between the reference point and the Columbia city limits which would cause shadowing in Columbia. Those areas that would be shadowed within Columbia result from terrain obstructions located within the Columbia city limits. However, these obstructions do not vary by more than 60 meters and are not considered major by the Commission. Therefore, the channel 244C1 proposal complies with Section 73.315(b) of the rules.

In conclusion, the channel 244C1 proposal at Columbia complies with Sections 73.315(a) and 73.315(b) of the Commission's rules.

W. Jeffrey Reynolds

W. Jeffrey Reynolds

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November 24, 1992

CERTIFICATE OF SERVICE

I, Elizabeth Stout, a secretary in the law firm of Fletcher, Heald & Hildreth, do hereby certify that true copies of the foregoing "Joint Reply" were mailed this 30th day of November, 1992, by first class mail, postage prepaid, to the following:

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Mass Media Bureau
Federal Communications Commission
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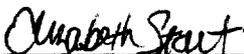
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