

BEFORE THE
Federal Communications Commission

WASHINGTON, D.C.

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In re)
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)
Amendment to Section 73.202(b),)
Table of Allotments,)
FM Broadcast Stations)
(Walker and Nashwauk, Minnesota))

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

MM Docket No. 94-4
RM-8413 and RM-

To: The Chief, Allocations Branch,
Mass Media Bureau

COMMENTS AND COUNTERPROPOSAL

Ingstad Broadcasting, Inc. ("Ingstad"), by its counsel, hereby submits its Comments and Counterproposal in response to the Commission's Notice of Proposed Rule Making ("NPRM") in the above-referenced proceeding. As set forth below, Ingstad respectfully requests that the following change be made to the FM Table of Allotments in lieu of the change proposed in the NPRM:

<u>City</u>	<u>Present</u>	<u>Proposed</u>
Nashwauk, MN	----	270C3

Discussion

1. The NPRM proposed the allotment of FM Channel 270A to Walker, Minnesota, as a second FM broadcast service. According to the underlying Petition for Rule Making of Roger Paskvan, Walker has a population of 950 persons.

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2. Ingstad hereby counters by proposing the allotment of Channel 270C3 to Nashwauk, Minnesota as that community's first local FM service. According to the 1990 U.S. Census, Nashwauk is an incorporated township with a population of 1,026 persons. Nashwauk has a mayor council government. Nashwauk has its own police and fire departments. Nashwauk also has a 175-bed hospital and 36 doctors. Nashwauk's cultural facilities include four places of worship, two parks, a weekly newspaper, and a library. Nashwauk has its own elementary school and high school. Nashwauk's retail sales exceed \$265 million annually.

3. Despite its status as a substantial and fully functioning community, Nashwauk currently lacks a local FM service. Ingstad proposes that the Commission remedy this situation by allotting Channel 270C3 to Nashwauk. Channel 270C3 may be assigned to Nashwauk in full compliance with all of the Commission's FM technical rules (including spacing and city-grade-service requirements), and without any further modification to the FM Table of Allotments. See Exhibit A hereto, the Engineering Exhibit of Paul Titchenal, Ingstad's Director of Engineering.

4. Allotting Channel 270C3 to Nashwauk would better serve the public interest than allotting Channel 270A to Walker. The FCC judges conflicting FM allotment proposals according to the following set of priorities:

- (1) first aural service;
- (2) second aural service;
- (3) first local service; and

(4) other public-interest factors,

with priorities (2) and (3) sharing co-equal rank. Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88, 92 (1982). In this case, the NPRM would provide Walker with a third local service and a second local FM service. This Counterproposal, on the other hand, would provide Nashwauk with its first local FM service, thereby satisfying an important Commission priority. Moreover, all other things being equal in conflicting proposals, the Commission has consistently favored the town with the greatest population. See, e.g., Seymour and Pigeon Forge, Tennessee, 2 FCC Rcd 2016 (1987). Here, Nashwauk also prevails.

5. Not only does Nashwauk have a greater population than Walker, but Nashwauk is at least comparable to Walker with regard to civic, cultural, and commercial attributes. Therefore, Nashwauk would inarguably derive more benefit from a first local FM service than Walker would from a second local FM service. A full-time FM broadcast outlet will supplement Nashwauk's weekly newspaper's service to the community by providing the people of Nashwauk with much fresher coverage of local events.

6. Without a doubt, Nashwauk has the greater need for a new FM allotment. This is particularly the case since Walker, a community of 950 persons, already is served by both an AM and an FM radio station, while the larger community of Nashwauk lacks a local FM service. Moreover, Ingstad proposes a Class C3 channel at Nashwauk, which will be capable of serving greater areas and populations than the Class A Walker channel proposed in the NPRM. By adopting this Counterproposal, therefore, the Commission would

better serve the public interest and would discharge its mandate under Section 307(b) of the Communications Act of 1934, as amended, "to make the distribution of [transmission facilities] among the several States and communities as to provide a fair, efficient, and equitable distribution of radio service to each of the same."

7. Should the Commission allot Channel 270C3 to Nashwauk, Ingstad intends to apply for a construction permit for the Nashwauk facility. Should the Commission grant that application, Ingstad intends to construct expeditiously, place into operation, and seek a covering license for its broadcast station at Nashwauk.

Conclusion

For the reasons stated above, allotting FM Channel 270C3 to Nashwauk, Minnesota will best serve the public interest. Accordingly, the Commission should deny Roger Paskvan's Petition to allot Channel 270A to Walker, Minnesota and instead allot Channel 270C3 to Nashwauk, Minnesota, as Ingstad has requested herein.

Respectfully submitted,

INGSTAD BROADCASTING, INC.

By Lauren S. Drake

David D. Oxenford
Lauren S. Drake
Fisher Wayland Cooper
Leader & Zaragoza
2001 Pennsylvania Avenue, N.W.
Suite 400
Washington, D.C. 20006

Dated: April 1, 1994

Its Attorneys

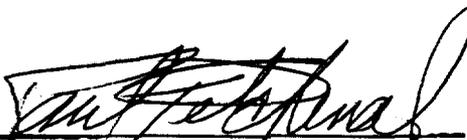
EXHIBIT A

DECLARATION

I, Paul Titchenal, hereby offer the following statement of facts:

1. I am a broadcast technical consultant experienced in the preparation of the technical portions of FM rule-making proposals and applications filed with the FCC.
2. The attached spacing study indicates that a reference point meeting the spacing requirements of 47 C.F.R. § 73.207 exists for the proposed allotment of Channel 270C3 to Nashwauk, Minnesota.
3. The reference point in question is close enough to Nashwauk to permit full 70-dBu coverage of the community as § 73.315(a) requires.

The foregoing is a true and correct statement of my personal knowledge, information, and belief, under penalty of perjury.


Paul Titchenal

Date: March 29, 1994

JAMES INGSTAD BROADCASTING
FARIBAUT, MN

Page :
March 17, 1994

FM Spacing study

Title: NASHWAUK, MN.
Channel 270C3 (101.9 MHz)
Database: FCC 01/25/94

Latitude: 47-15-00
Longitude: 93-12-00
Safety zone: 45 km

Call	Auth	Licensee name	Chan	ERP-kW	Latitude	Br-to	Dist.	Req.
City of	License	St	FCC File no.	Freq	EAH-a	Longitude	-from	(km)
=====								
KNOV-FM	LIC	Minnesota Public Radio,	*216C	100	45-03-44	178.9	243.2	3.
Minneapolis-St. Paul		MN		91.1	400	93-08-21	358.9	212.2 CLEAR
KUWS	LIC	Board of Regents of Univ	*217C1	83	46-47-21	121.5	97.16	2.
Superior		WI		91.3	197	92-06-51	302.3	73.16 CLEAR
KDWB-FM	LIC	Midcontinent Radio of Mi	267C	100	45-03-30	178.6	243.7	9.
Richfield		MN BLH-910814KA		101.3	315	93-07-27	358.7	147.7 CLEAR
KTCF-FM	LIC	First Radio Station of C	268C3	25	46-33-51	217.1	95.32	4.
Crosby		MN BLH-930614KC		101.5	100	93-57-03	36.5	52.32 CLEAR
ALLOC			269A			46-49-52	119.6	93.35
Duluth		MN DOC-84-471		101.7		92-08-08	300.4	4.346 CLOS
SITE RESTRICTED - EFFECTIVE 4-23-85								
KLXK	CP	Segue Communications Cor	269A	1.60	46-47-13	121.8	96.83	8.
Duluth		MN BMPH-920807IC		101.7	136	92-07-17	302.6	7.829 CLOS
ALLOC			269B			48-37-27	349.5	155.5
Fort Frances		ON		101.7		93-35-07	169.2	6.478 CLOS
PKM	ADD	Roger Paskvan	270A		47-07-08	262.4	103.8	14.
Walker		MN		101.9		94-33-22	81.4	-38.2 SHOR
PKM-Canadian concurrence required-Site Restriction 3km Northeast								
ALLOC			271C			48-45-00	34.6	204.4
Atikokan		ON		102.1		91-37-00	215.8	9.400 CLOS
NEW	APC	Lake to Lake Broadcastin	272C2	50	47-08-18	262.9	195.7	5.
Detroit Lakes		MN BPH-920514ML		102.3	150	95-45-16	81.0	139.7 CLEAR
Cut-off 09/30/92								
KZIO	LIC	WDSM/KZIO, Inc.	273C1	100	46-47-21	121.6	96.84	7.
Superior		WI BLH-790827AE		102.5	183	92-07-09	302.4	20.84 CLEAR
ALLOC			273C1			46-47-21	121.6	96.84
Superior		WI		102.5		92-07-09	302.4	20.84 CLEAR
Coordinates updated from LIC record BLH790827AE								

>> End of channel 270C3 study <<

JAMES INGSTAD BROADCASTING →→→ FISHER WAYLAND
 FARIBAULT, MN

002

March 17, 1994

FM Spacing study

Title: NASHWAUK, MN.
 Channel 270C3 (101.9 MHz)
 Database: DW 03/07/94

Latitude: 47-15-00
 Longitude: 93-12-00
 Safety zone: 45 km

Call	Auth	Licensee name	Chan	ERP-kW	Latitude	Br-to	Dist.	Req.
City of License	St	FCC File no.	Freq	EAM-g	Longitude	-from	(km)	(km)
KNOW-FM LIC	MINNESOTA	PUBLIC RADIO,	*216C	100	45-03-44	178.9	243.2	31
MINNEAPOLIS	MN		91.1	400	93-08-21	358.9	212.2	CLEAR

Was KSJN 03/11/91 per FCC release #153 dated 03/08/91; Affiliated with KNOW(AM)

KIWS	LIC	BD OF REGENTS UNIV OF WI	*217C1	83	46-47-21	121.5	97.16	24
SUPERIOR	WI	BLED-910122KA	91.3	197	92-06-51	302.3	73.16	CLEAR

License Granted 09/25/92 per FCC release #21479 dated 10/01/92; Was WSSU 08/01/88

KDWB-FM LIC	MIDCONTINENT RADIO (F MN	267C	100	45-03-30	178.6	243.7	96	
RICHFIELD	MN	BLH-910814KA	101.3	315	93-07-27	358.7	147.7	CLEAR

See MINNEAPOLIS MINN; License Granted 02/26/92 per FCC release #21326 dated 03/04/92; Ant: Alan Dick Co, Ltd F08-108C12.3SP; Affiliated with WOGY(AM)

KTCF	LIC	1ST RADIO STATION (F CRO	268C3	25	46-33-51	217.1	95.32	43
CROSSBY	MN	BLH-930614KC	101.5	100	93-57-03	36.5	52.32	CLEAR

DOC-91-225; License Granted 09/14/93 per FCC release #21722 dated 09/22/93; Call Granted 03/23/89; Ant: Elec. Res. Inc. G5CPM

KLXK	CP	SEGUE COMMUNICATIONS COR	269A	1.60	46-47-13	121.8	96.83	89
DULUTH	MN	BMPH-920807IC	101.7	136	92-07-17	302.6	7.829	CLOSE

CP Granted 10/06/92 per FCC release #21495 dated 10/26/92; Was KVNW 11/15/93 per FCC release #218 dated 11/15/93

ALLOD			269B		48-37-27	349.5	155.5	149
FORT FRANCES	ON		101.7		93-35-07	169.2	6.478	CLOSE

KFGD-FM LIC	KFRU, INC.	270C1	100	47-00-48	266.5	304.1	21	
FARGO	ND	BLH-840301DE	101.9	268	97-11-37	83.6	93.14	CLEAR

Was KRRZ 05/31/86; Affiliated with KFGU(AM)

ALLOD			271C		48-45-00	34.6	204.4	19
ATIKOKAN	ON		102.1		91-37-00	215.8	9.400	CLOSE

KRCQ	CP	ROBERT D. SPILMAN	272C2	50	46-48-24	256.8	201.7	5
DETROIT LAKES	MN	BPH-920514MI	102.3	150	95-46-23	74.9	145.7	CLEAR

CP Granted 12/27/93 per FCC release #21804 dated 01/14/94; Call Granted 02/01/94 per FCC release #223 dated 02/11/94

KZIO	LIC	WDSM-KZIO	273C1	100	46-47-21	121.6	96.84	7
SUPERIOR	WI		102.5	183	92-07-09	302.4	20.84	CLEAR

Affiliated with WDSM(AM)

>> End of channel 270C3 study <<

CERTIFICATE OF SERVICE

I, Renee Gray, a secretary to the law firm of Fisher Wayland Cooper Leader and Zaragoza hereby certify that I have on this 1st day of April, 1994, mailed by first class United States mail, postage prepaid, a copy of the foregoing "COMMENTS AND COUNTERPROPOSAL" to the following:

*John A. Karousos
Acting Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau
Federal Communications Commission
2025 M Street, N.W., Room 8102
Washington, D.C. 20554

*Kathleen Scheuerle
Mass Media Bureau
Federal Communications Commission
2025 M Street, N.W., Room 8314
Washington, D.C. 20554

Harry F. Cole, Esq.
Bechtel & Cole, Chartered
1901 L Street, N.W.
Suite 250
Washington, D.C. 20036



Renee Gray

*VIA HAND DELIVERY