

Before the
Federal Communications Commission
Washington, DC

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AUG 15 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In re Applications of)	MM Docket No. 93-107
DAVID A. RINGER)	File No. BPH-911230MA
ASF BROADCASTING CORP.)	File No. BPH-911230MB
WILBURN INDUSTRIES, INC.)	File No. BPH-911230MC
SHELLEE F. DAVIS)	File No. BPH-911231MA
OHIO RADIO ASSOCIATES)	File No. BPH-911231MC

For Construction Permit for an
FM Station on Channel 280A in
Westerville, OH

To: The Review Board

PETITION FOR LEAVE TO AMEND

Shellee F. Davis ("Davis"), by her attorney, hereby requests leave to amend her pending application for Westerville, Ohio, to propose a new transmitter site. With respect thereto, the following is stated:

1. The Amendment, a copy of which is attached as Exhibit 1, will amend Davis' application to specify a new transmitter site. As indicated in filings already made to the Commission, the transmitter site previously designated by Davis was owned by Mid-Ohio Communications, Inc. By Letter dated March 2, 1994, Ms. Davis was informed that the property and equipment has been sold to Spirit Communications, Inc. As reported by "Motion for Leave to Amend" dated March 29, 1994, "reasonable assurance" of the availability of the site was received subsequently from John Shumate, President of the new owner of the site. As explained to the Commission by "Withdrawal of Motion for Leave to

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Amend," and as indicated in the "Petition for Leave to Amend" filed by Wilburn Industries, Inc. on April 13, 1994, and the "Opposition and/or Motion to Strike Pleadings" filed by David A. Ringer on April 19, 1994, apparently on or about April 8, 1994, following the submission of Davis' amendment, Mr. Shumate changed his mind, and consequently, the site formerly used by WBBY-FM thereafter was no longer be available for use as the site of the FM station at issue in this proceeding. Accord, "Withdrawal of Petition for Leave to Amend" filed by ASF Broadcasting Corporation ("ASF") on May 13, 1994 ("ASF was led to believe that...the arrangement which certain applicants had with Mid-Ohio Communications, Inc. would be continued...[h]owever, it appears that such documentation will not be forthcoming"); "Motion for Leave to Amend and Amendment" filed by David Ringer on May 9, 1994 ("Mr. Ringer gave...his oral assurance that Spirit would be willing to lease the tower site and equipment...on April 8, 1994, Mr. Shumate changed his mind"). This information was first learned by Davis upon her counsel's receipt of Wilburn's Petition on April 14, 1994. The changed status of the site subsequently was verified by Ms. Davis through direct contact with Mr. Shumate (the new owner of the site) on April 27, 1994. Exhibit 2.

2. Since that time, Ms. Davis expeditiously took steps necessary to secure a new site. As detailed in Exhibit 2, Ms. Davis first decided to pursue a site already designated by Ohio Radio Associates ("ORA," another applicant in this proceeding), and consequently, Ms. Davis immediately began to attempt to make contact with Mr. Dolores Buell, a representative of the owner of the site, on April 27, 1994. Ms. Davis then met with Mrs. Buell in person on May 4 and 18, 1994. A draft "reasonable assurance letter" was provided to Mrs. Buell

for signature initially on May 4, 1994, and a revised "reasonable assurance letter" (as well as a \$500 retainer fee) was provided to her on May 18, 1994. Delays in finalizing negotiations were experienced when Mrs. Buell revealed to Ms. Davis that the site already was leased to a tenant, and Mrs. Buell wanted to have certain proposed language in the "reasonable assurance" letter approved by her attorney (who was not immediately available to respond to her inquires or to later inquires from Davis' counsel). Exhibit 2 at 2-3. Nevertheless, upon confirming that it appeared that the site was available (and believing that any lingering details would be worked out in short order), in order to minimize subsequent delays in submitting the amendment to the Commission, Ms. Davis decided to go forward with arranging for the preparation of the engineering portion of her amendment to specify the Buell site in early June 1994 even before final arrangements were completed, and Davis' counsel contacted WII's counsel (whose client also was preparing to propose the Buell site) on June 8, 1994 to arrange for the preparation of a shared engineering exhibit. That engineering exhibit arrived from Mr. John McKinley, Technical Consultant, on June 28, 1994.

3. In the meantime, final understandings could not be reached with Mrs. Buell due to, variously, the unavailability of Buell's legal counsel in early July, and the unavailability of Mrs. Buell in late July. In order to cope with the risk that the Buell site may not become ultimately available, Ms. Davis contacted representatives of WOSU-TV concerning the availability of space on its existing tower. She learned on July 8 that the site was available, and final written approval for the site was obtained on July 15. The engineering study for the new site was completed on August 10, 1994.

4. Based upon these facts, "good cause" exists for acceptance of the proposed engineering amendment. The amendment essentially replicates the engineering proposals already submitted by David A. Ringer and ASF Broadcasting Corp. The Mass media Bureau has determined in both instances that the proposed amendments conform with the Commission's Rules. See "Mass Media Bureau's Comments on Petition for Leave to Amend" dated July 28, 1994, "Mass Media Bureau's Comments on Petition for Leave to Amend and Amendment" dated May 18, 1994. Acceptance of the Amendment also will not require the modification or addition of issues in this proceeding at this time, require additional hearings, or unfairly prejudice the other parties. To the extent comparative "upgrading" is not permitted, acceptance of this amendment also will not cause Davis to gain a comparative advantage. Moreover, the Amendment is not "voluntary," insofar as it is required due the fact that Davis unexpectedly lost access to her previous site due to circumstances beyond her control, i.e., the sale of her former site to a corporation which now is not willing to allowing applicants for this allotment to propose the site. Accordingly, "good cause" exists for acceptance of the Amendment. Erwin O'Connor Broadcasting Co., 22 F.C.C.2d 142, 143 (Rev. Bd. 1970). Moreover, insofar as it had not been anticipated that the original transmitter site (a site at which WBBY-FM, the predecessor licensee on Channel 280A, Westerville, Ohio had operated for years) would suddenly become unavailable, the amendment also "is necessitated by events which the applicant could not reasonably have foreseen." 47 C.F.R. § 73.3522(b)(i).^{1/}

^{1/} Unlike the other applicants submitting site amendments in this proceeding, Davis is not amending her financial proposal. Her original proposal was premised on the fact that, under the terms of the WBBY-FM assurance letter, the original WBBY-FM equipment was
(continued...)

5. Moreover, as seen above, Ms. Davis has acted with due diligence in submitting this amendment. Although Davis learned of the sale of the site specified in her original application on approximately March 7, 1994, she was informed orally that the new owner, Spirit Communications, Inc., would continue to honor the Mid-Ohio commitment. Accordingly, the change of ownership of the original site did not, in and of itself, require any particular action other than notification to the Commission, which was timely submitted on March 29, 1994. Later, within six days of confirming that the site no longer would be available to applicants for the Westerville allotment, she reported the loss to the Commission and within three days of verifying the loss, began engaging in serious discussions concerning a new site. Although approximately three weeks transpired before the tentative approval was believed to have been obtained, this delay occurred because of the need for the landowner to confer with her legal counsel. Further delays occurred when it was learned that the site already was leased, and that an additional approval (from the tenant of the site) would necessarily have to be obtained prior to such time as the site could be specified in this proceeding. Exhibit 2. Those delays were wholly beyond the control of Ms. Davis, and

^{1/}(...continued)

not necessarily available and that the purchase of new equipment would therefore have to be budgeted. As before, the proposal contemplates utilizing an existing tower; therefore, there still will be no necessity to include in her budget the cost of constructing a new tower. Insofar as (1) the proposed monthly rent for the OSU site (\$1,250) is \$4,750 less per month than that proposed with respect to the WBBY-FM site, and (2) funds already previously available to her from her principal financing source, the Huntington Bank amount to \$350,000 which, when coupled with the funds she personally has committed in contribute to the project, provide her with available funds in the amount of \$400,000 (an amount which was \$100,000 over even her previous worst-case budgetary needs (see "Opposition to Motion to Enlarge Issues Against Shellee F. Davis" (dated Sept. 8, 1994) at 1-2)), the proposed site amendment will increase the amount of excess capital that will be available to Davis to finance her start-up operations. Thus, no financial amendment is necessary. Davis has confirmed that funding from the Huntington Bank remains in place. See Exhibit 3.

does not undercut her diligent behavior. Moreover, she diligently simultaneously engaged in negotiations for two distinct sites (requisitioning full engineering studies and showings for both sites), which further buttresses her "diligence," and establishes her overriding mission to obtain use of an optimum site at which true and full approval has been obtained. Davis filed a "Progress Report" in this proceeding on July 19, 1994. As indicated in the Progress Report, once "reasonable assurance" had been obtained from the OSU site, Davis briefly continued in her efforts to secure the Buell site (insofar as that site would provide somewhat greater service to the public). She also shortly thereafter began making final arrangements for the engineering portion of the amendment to begin being prepared by hiring a qualified Consulting Engineer. Almost immediately upon the completion of the engineering study (i.e., following her review of that engineering statement), this document is being submitted to the Commission. Insofar as to the best knowledge of Davis and her counsel Mrs. Buell still has not spoken with her tenant and/or cleared the arrangement with her attorney, it is believed that the Buell site still is not available at the present time. Rather than sit on the engineering that has now been completed for a site (the OSU site) that undeniably is available and evidently fully in accord with the Commission's technical rules, an amendment for the Ohio State University WOSU-TV transmitter site is being submitted herewith.

6. The Commission has stated that six months is the "outer limit" of due diligence^{2/} -- here, it has been approximately four months since Shellee Davis learned that she unexpectedly and unforeseeably had lost the previously-designated transmitter site. More importantly, Ms. Davis at all continued to act in a diligent manner to securing the proper

^{2/} California Broadcasting Corp., 90 F.C.C.2d 800, 808 ¶ 19 (1982), cited in, Imagists, 8 FCC Rcd 2763, 2765 n. 17 (1993).

clearances and materials that are required prior to submitting an amendment to the Commission. A review of the chronology detailed in Exhibit 2 demonstrates that Davis engaged in an ongoing efforts to secure a replacement site at all times since learning of the loss of her previous site -- at no time did any significant period of time elapse during which some additional effort to secure a suitable site transpire.

7. In Elijah Broadcasting Corp., 65 R.R.2d 461 (Rev. Bd. 1988), aff'd, 68 R.R.2d 205 (1990), "due diligence" was found to exist where, as here, an applicant timely informed the Commission of the loss of its transmitter site, immediately began a search for a suitable alternative site, and specified a new site within six months of the loss. Id. at 465, ¶ 15. In Mabelton Broadcasting Co., Inc., 5 FCC Rcd 6314, 6320-21 ¶ 28 (Rev. Bd. 1990), the Review Board reversed an ALJ finding of lack of "due diligence" for an engineering amendment where an applicant took approximately three months to amend to new site. Consistent with these past rulings, and especially in light of Ms. Davis' detailed chronology of activity and continuing progress, it should be found that Shellee F. Davis has properly established that she exercised "due diligence" in locating a new site and submitting her amendment on a timely basis. Accord, Montgomery County Media Network, Inc. d/b/a Imagists, 8 FCC Rcd 2763, 2764-65 ¶¶ 10-14 (1993). Thus, it should be found that "good cause" for acceptance of the amendment exists.^{3/}

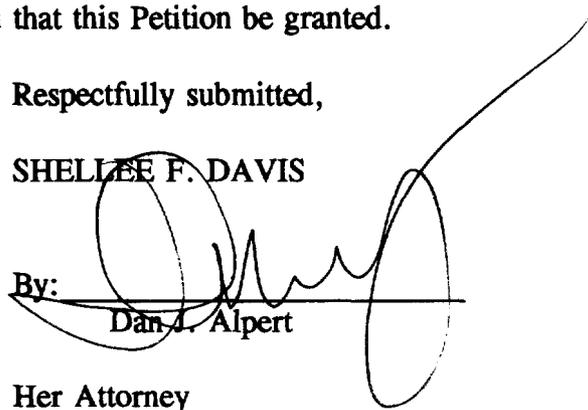
^{3/} A finding of "due diligence" especially is warranted in light of the Commission's Public Notice regarding the freeze of comparative hearings. Public Notice, FCC 94-41 (Feb. 25, 1994), modified, Public Notice, FCC 94-204 (Aug. 4, 1994). In that Public Notice, the FCC stated in relevant part that "[a]ll...procedures involving the filing of pleadings...will be held in abeyance." Id. at 2.

WHEREFORE, it is respectfully requested that this Petition be granted.

Respectfully submitted,

SHELLIE F. DAVIS

By:


Dan J. Alpert

Her Attorney

*The Law Office of Dan J. Alpert
1250 Connecticut Avenue, N.W.
Suite 700
Washington, D.C. 20036
(202) 637-9158*

August 15, 1994

EXHIBIT 1

AMENDMENT

Please amend the application of Shellee F. Davis, for a new FM broadcast station to serve Westerville, Ohio on Channel 280A, to include the following attached amended engineering information.

SHELLEE F. DAVIS

A handwritten signature in black ink, appearing to be 'Shellee F. Davis', written over a horizontal line. The signature is stylized and somewhat cursive.

Signed and dated this 10 day of August, 1994.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

ENGINEERING EXHIBIT EE-1

AMENDMENT TO BPH-911231MA,
APPLICATION FOR CONSTRUCTION PERMIT
FOR A NEW FM STATION ON CHANNEL 280A
AT WESTERVILLE, OHIO

SHELLEE F. DAVIS

AUGUST 10, 1994

Prepared By: Robert M. Lund
Broadcast Consultants
34 Lorna Drive
Auburn, MA 01501
(508) 832-2611

TABLE OF CONTENTS

Title Page

Contents

FCC Form 301, Section V-B

Engineering Statement

Affidavit

Table 1 - Allocation Study

Table 2 - WPAY-FM Contours

Table 3 - Proposed Directional Pattern

Table 4 - Vertical Radiation Pattern

Table 5 - Proposed Contours

Table 6 - Power Density Calculation

Figure 1 - Vertical Plan

Figure 2 - Proposed Service Contours

Figure 3 - Allocation Study

Figure 4 - Site Location

Figure 5 - Proposed Directional Pattern

Figure 6 - Vertical Radiation Pattern

Section V-B - FM BROADCAST ENGINEERING DATA	FOR COMMISSION USE ONLY File No. _____ ASB Referral Date _____ Referred by _____
--	--

Name of Applicant Shellee F. Davis

Call letters (if issued) _____	Is this application being filed in response to a window? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, specify closing date: _____
--------------------------------	---

Purpose of Application: (check appropriate boxes)

- | | |
|--|---|
| <input checked="" type="checkbox"/> Construct a new (main) facility | <input type="checkbox"/> Construct a new auxiliary facility |
| <input type="checkbox"/> Modify existing construction permit for main facility | <input type="checkbox"/> Modify existing construction permit for auxiliary facility |
| <input type="checkbox"/> Modify licensed main facility | <input type="checkbox"/> Modify licensed auxiliary facility |

If purpose is to modify, indicate below the nature of change(s) and specify the file number(s) of the authorizations affected.

- | | |
|---|--|
| <input type="checkbox"/> Antenna supporting-structure height | <input type="checkbox"/> Effective radiated power |
| <input type="checkbox"/> Antenna height above average terrain | <input type="checkbox"/> Frequency |
| <input type="checkbox"/> Antenna location | <input type="checkbox"/> Class |
| <input type="checkbox"/> Main Studio location | <input type="checkbox"/> Other (Summarize briefly) |

File Number(s) BPH-911231MA

1. Allocation:

Channel No.	Principal community to be served:			Class (check only one box below)
280	City	County	State	<input checked="" type="checkbox"/> A <input type="checkbox"/> B1 <input type="checkbox"/> B <input type="checkbox"/> C3 <input type="checkbox"/> C2 <input type="checkbox"/> C1 <input type="checkbox"/> C
	Westerville	Franklin	OH	

2. Exact location of antenna.

- (a) Specify address, city, county and state. If no address, specify distance and bearing relative to the nearest town or landmark.
6680 State Route 3, Westerville, Delaware County, Ohio
- (b) Geographical coordinates (to nearest second). If mounted on element of an AM array, specify coordinates of center of array. Otherwise, specify tower location. Specify South Latitude or East Longitude where applicable; otherwise, North Latitude or West Longitude will be presumed.

Latitude	40°	09'	33"	Longitude	82°	55'	21"
----------	-----	-----	-----	-----------	-----	-----	-----

3. Is the supporting structure the same as that of another station(s) or proposed in another pending application(s)? Yes No

If Yes, give call letter(s) or file number(s) or both. WOSU(TV), WTTE(TV), W15AU(CP), W41BB(CP), W62BE

If proposal involves a change in height of an existing structure, specify existing height above ground level including antenna, all other appurtenances, and lighting, if any.

SECTION V-B - FM BROADCAST ENGINEERING DATA (Page 2)

4. Does the application propose to correct previous site coordinates? Yes No
 If Yes, list old coordinates.

Latitude ° ' "	Longitude ° ' "
---	--

5. Has the FAA been notified of the proposed construction? Yes No
 If Yes, give date and office where notice was filed and attach as an Exhibit a copy of FAA determination, if available.

Exhibit No.

Date _____ Office where filed _____

6. List all landing areas within 8 km of antenna site. Specify distance and bearing from structure to nearest point of the nearest runway.

	Distance (km)	Bearing (degrees True)
(a) <u> Grover (Private) </u>	<u> 6.6 </u>	<u> 350° </u>
(b) <u> Pine Lake (Private) </u>	<u> 8.0 </u>	<u> 8° </u>

7. (a) Elevation: (to the nearest meter)

- (1) of site above mean sea level; 281 meters
- (2) of the top of supporting structure above ground (including antenna, all other appurtenances, and lighting, if any); and 343 meters
- (3) of the top of supporting structure above mean sea level [(a)(1) + (a)(2)] 624 meters

(b) Height of radiation center: (to the nearest meter) H - Horizontal; V - Vertical

- (1) above ground 102 meters (H)
- 102 meters (V)
- (2) above mean sea level [(a)(1) + (b)(1)] 383 meters (H)
- 383 meters (V)
- (3) above average terrain, 100 meters (H)
- 100 meters (V)

8. Attach as an Exhibit sketch(es) of the supporting structure, labelling all elevations required in Question 7 above, except Item 7(b)(3). If mounted on an AM directional-array element, specify heights and orientations of all array towers, as well as location of FM radiator.

Exhibit No.
EE-1

9. Effective Radiated Power:

(a) ERP in the horizontal plane 6.0 kw (H*) 6.0 kw (V*)

(b) Is beam tilt proposed? Yes No

If Yes, specify maximum ERP in the plane of the tilted beam, and attach as an Exhibit a vertical elevational plot of radiated field.

Exhibit No.

_____ kw (H*) _____ kw (V*)

*Polarization

SECTION V-B - FM BROADCAST ENGINEERING DATA (Page 3)

10. Is a directional antenna proposed?

Yes No

If Yes, attach as an Exhibit a statement with all data specified in 47 C.F.R. Section 73.316, including plot(s) and tabulations of the relative field.

Exhibit No.
EE-1

11. Will the proposed facility satisfy the requirements of 47 C.F.R. Sections 73.315(a) and (b)?

Yes No

If No, attach as an Exhibit a request for waiver and justification therefor, including amounts and percentages of population and area that will not receive 3.16 mV/m service.

Exhibit No.

12. Will the main studio be within the protected 3.16 mV/m field strength contour of this proposal?

Yes No

If No, attach as an Exhibit justification pursuant to 47 C.F.R. Section 73.1125.

Exhibit No.

13. (a) Does the proposed facility satisfy the requirements of 47 C.F.R. Section 73.207?

Yes No

(b) If the answer to (a) is No, does 47 C.F.R. Section 73.213 apply?

Yes No

(c) If the answer to (b) is Yes, attach as an Exhibit a justification, including a summary of previous waivers.

Exhibit No.
EE-1

(d) If the answer to (a) is No and the answer to (b) is No, attach as an Exhibit a statement describing the short spacing(s) and how it or they arose.

Exhibit No.

(e) If authorization pursuant to 47 C.F.R. Section 73.215 is requested, attach as an Exhibit a complete engineering study to establish the lack of prohibited overlap of contours involving affected stations. The engineering study must include the following:

Exhibit No.
EE-1

- (1) Protected and interfering contours, in all directions (360), for the proposed operation.
- (2) Protected and interfering contours, over pertinent arcs, of all short-spaced assignments, applications and allotments, including a plot showing each transmitter location, with identifying call letters or file numbers, and indication of whether facility is operating or proposed. For vacant allotments, use the reference coordinates as the transmitter location.
- (3) When necessary to show more detail, an additional allocation study utilizing a map with a larger scale to clearly show prohibited overlap will not occur.
- (4) A scale of kilometers and properly labeled longitude and latitude lines, shown across the entire exhibit(s). Sufficient lines should be shown so that the location of the sites may be verified.
- (5) The official title(s) of the map(s) used in the exhibit(s).

14. Are there: (a) within 60 meters of the proposed antenna, any proposed or authorized FM or TV transmitters, or any nonbroadcast (except citizens band or amateur) radio stations; or (b) within the blanketing contour, any established commercial or government receiving stations, cable head-end facilities, or populated areas; or (c) within ten (10) kilometers of the proposed antenna, any proposed or authorized FM or TV transmitters which may produce receiver-induced intermodulation interference?

Yes No

If Yes, attach as an Exhibit a description of any expected, undesired effects of operations and remedial steps to be pursued if necessary, and a statement accepting full responsibility for the elimination of any objectionable interference (including that caused by receiver-induced or other types of modulation) to facilities in existence or authorized or to radio receivers in use prior to grant of this application. (See 47 C.F.R. Sections 73.315(b), 73.316(a) and 73.318.)

Exhibit No.
EE-1

15. Attach as an Exhibit a 7.5 minute series U.S. Geological Survey topographic quadrangle map that shows clearly, legibly, and accurately, the location of the proposed transmitting antenna. This map must comply with the requirements set forth in Instruction V (D). The map must further clearly and legibly display the original printed contour lines and data as well as latitude and longitude markings, and must bear a scale of distance in kilometers.

Exhibit No.
EE-1

16. Attach as an Exhibit *(name the source)* a map which shows clearly, legibly, and accurately, and with the original printed latitude and longitude markings and a scale of distance in kilometers:

Exhibit No.
EE-1

(a) the proposed transmitter location, and the radials along which profile graphs have been prepared;

(b) the 3.16 mV/m and 1 mV/m predicted contours; and

(c) the legal boundaries of the principal community to be served.

17. Specify area in square kilometers (1 sq. mi. = 259 sq. km.) and population (latest census) within the predicted 1 mV/m contour.

Area 1,977 sq. km. Population 579,476

18. For an application involving an auxiliary facility only, attach as an Exhibit a map *(Sectional Aeronautical Chart or equivalent)* that shows clearly, legibly, and accurately, and with latitude and longitude markings and a scale of distance in kilometers:

Exhibit No.

(a) the proposed auxiliary 1 mV/m contour; and

(b) the 1 mV/m contour of the licensed main facility for which the applied-for facility will be auxiliary. Also specify the file number of the license.

19. Terrain and coverage data *(to be calculated in accordance with 47 C.F.R. Section 73.313)*

Source of terrain data: *(check only one box below)*

Linearly interpolated 30-second database 7.5 minute topographic map

(Source: NGDC)

Other *(briefly summarize)*

SECTION V-B - FM BROADCAST ENGINEERING DATA (Page 5)

Radial bearing (degrees True)	Height of radiation center above average elevation of radial from 3 to 16 km (meters)	Predicted Distances	
		To the 3.16 mV/m contour (kilometers)	To the 1 mV/m contour (kilometers)
*			
0	98	13.3	24.0
45	82	14.5	25.8
90	69	13.3	23.9
135	85	13.1	23.6
180	133	10.7	19.3
225	120	14.9	26.5
270	111	17.2	29.7
315	105	14.1	25.3

*Radial through principal community, if not one of the major radials. This radial should NOT be included in the calculation of HAAT.

20. Environmental Statement (See 47 C.F.R. Section 1.1301 et seq.)

Would a Commission grant of this application come within Section 1.1307 of the FCC Rules, such that it may have a significant environmental impact? Yes No

If you answer Yes, submit as an Exhibit an Environmental Assessment required by Section 1.1311.

If No, explain briefly why not. Excluded by the provisions of Section 1.1306 of the Rules.

CERTIFICATION

I certify that I have prepared this Section of this application on behalf of the applicant, and that after such preparation, I have examined the foregoing and found it to be accurate and true to the best of my knowledge and belief.

Name (Typed or Printed) Robert M. Lund	Relationship to Applicant (e.g., Consulting Engineer) Engineering Consultant
Signature 	Address (Include ZIP Code) 34 Lorna Drive Auburn, MA 01501
Date August 10, 1994	Telephone No. (Include Area Code) (508) 832-2611

ENGINEERING EXHIBIT EE-1
AMENDMENT TO BPH-911231MA,
APPLICATION FOR CONSTRUCTION PERMIT
FOR A NEW FM STATION ON CHANNEL 280A
AT WESTERVILLE, OHIO

SHELLEE F. DAVIS

AUGUST 10, 1994

Engineering Statement

This engineering exhibit is prepared on behalf of Shellee F. Davis, applicant for a construction permit for a new FM station on channel 280A in Westerville, Ohio (BPH-911231MA). The purpose of this engineering exhibit is to amend the above application to specify a new transmitter site.

It is proposed to operate with a maximum effective radiated power of 6.0 KW at 100 meters above average terrain using a directional antenna. The proposed antenna will be side-mounted on an existing tower.

The vertical plan is shown in Figure 1 and the site location is shown in Figure 4 on a section of the Galena, Ohio 7.5 minute topographical map.

ALLOCATION STUDY

Table 1 lists the pertinent facilities taken into consideration. This is a grandfathered allotment. Therefor, WTTF-FM, channel 279B, Tiffin, Ohio was evaluated in accordance with Section 73.213(c)(1) of the Rules. The proposal is fully spaced under the provision of that Rule. The maximum proposed ERP in the arc toward WTTF-FM is 3.0 KW.

WPAY-FM, channel 281C, Portsmouth, Ohio was evaluated in accordance with Section 73.215 of the Rules. There is no overlap of the proposed 54 dbu (F50,10) contour with the WPAY-FM 60 dbu service contour and there is no overlap of the WPAY-FM 54 dbu (F50,10) contour with the proposed 60 dbu service contour. The distances to the WPAY-FM contours in the pertinent directions toward the proposal are tabulated in Table 2 and the distances to the proposed contours are tabulated in Table 5. The allocation study is shown in Figure 3.

All other facilities were evaluated in accordance with Section 73.207 of the Rules.

DIRECTIONAL ANTENNA

The proposed antenna is a Jampro model JSCP-3 (DA), three bay circularly polarized directional antenna. It will be side mounted on an existing tower. No antenna or other device that may distort the directional pattern will be installed in the vicinity of the proposed antenna. The proposed antenna will be manufactured, tested and measured under conditions identical to those expected in the field.

The proposed pattern is tabulated in Table 3 and is shown in Figure 5. The vertical radiation pattern is tabulated in Table 4 and is shown in Figure 6.

SERVICE CONTOURS, AREA & POPULATION

The proposed service contours are tabulated in Table 5 and are shown in Figure 2. The proposed 70 dbu contour completely encompasses Westerville, the community of license. The population within the 60 dbu contour was computed by overlaying the contour on a minor civil division map and taking the total of the population of the communities covered. Where the contour encompassed only part of a community, the population covered was computed based on the proportion of the community covered.

RF ANALYSIS

The tower structure proposed for use currently supports the antennas of several other broadcast facilities. The cumulative power density of these facilities and the proposed facility is calculated in Table 6. This study assumes a "worst-case" situation and was computed using the equations in FCC OST Bulletin No. 65 (October 1985): equation (4) on page 8 for the proposed FM facility and equation (5) on page 13 for the television facilities. The proposed total power density falls well within the ANSI guidelines.

To facilitate tower work, the applicant will coordinate with existing users and the proposed FM facility will reduce power as necessary so that workers are not exposed to RF fields exceeding the recommended maximum.

Shellee F. Davis
Engineering Exhibit EE-1
Page 3

While no inter-modulation effects are anticipated, the applicant will assume all responsibility for correcting any detrimental effects its operation may cause within the blanketing contour and any possible inter-modulation effects.

Robert M. Lund

Robert M. Lund
Broadcast Consultant

August 10, 1994

Commonwealth of Massachusetts)
County of Worcester) ss.
)

AFFIDAVIT

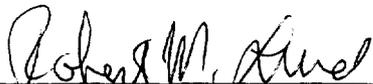
Robert M. Lund, being duly sworn, deposes and states as follows:

That he is proprietor of Robert M. Lund Broadcast Consultants, 34 Lorna Drive, Auburn, Massachusetts, and

That he is an experienced radio engineer and his qualifications are a matter of record before the Federal Communications Commission, and

That he has been retained by Shellee F. Davis, applicant for a new FM station at Westerville, Ohio, to prepare the accompanying Engineering Exhibit EE-1, Amendment To BPH-911231MA, Application For Construction Permit For A New FM Station At Westerville, Ohio, and

That all statments contained herein are true to the best of his knowledge and belief.



Robert M. Lund

Subscribed and sworn before me this 10th day of August 1994



Notary Public
My Commission Expires Aug. 5, 1999

TABLE 1
ALLOCATION STUDY

SHELLEE F. DAVIS

New-FM, Channel 280A
Westerville, Ohio

August 1994

Call -----	City -----	St --	Channel/ Class -----	Distance (km) -----	Required (km) -----
WTF-FM	Tiffin	OH	279-B	112.18	105 (73.213(c)(1))
WYMJ-FM	Beavercreek	OH	280-A	115.46	115 (73.207)
WPAY-FM	Portsmouth	OH	281-C	159.68	142 (73.215(e))
(CP)	Richwood	OH	282-A	36.62	31 (73.207)

TABLE 2

WPAY-FM CONTOURS

SHELLEE F. DAVIS

New-FM, Channel 280A
Westerville, Ohio

August 1994

Bearing (deg T)	HAAT (m)	ERP (kw)	Distance To Contour (km)	
			60 dbu F(50,50)	54 dbu F(50,10)
330	613	100	92.3	137.2
340	611	100	92.2	137.1
350	632	100	93.0	138.1
0	666	100	94.3	139.8
10	640	100	93.3	138.5
20	554	100	89.8	134.1
30	575	100	90.8	135.3

TABLE 3

PROPOSED DIRECTIONAL ANTENNA

SHELLEE F. DAVIS

New-FM, Channel 280A
Westerville, Ohio

August 1994

Azimuth (deg T)	Relative Field	---ERP---		Azimuth (deg T)	Relative Field	---ERP---	
		dbk	KW			dbk	KW
0	0.707	4.77	3.00	185	0.320	-2.12	0.61
10	0.707	4.77	3.00	190	0.330	-1.85	0.65
20	0.790	5.73	3.74	200	0.410	0.04	1.01
30	0.980	7.60	5.75	210	0.510	1.93	1.56
40	1.000	7.78	6.00	220	0.640	3.91	2.46
45	1.000	7.78	6.00	225	0.720	4.93	3.11
50	1.000	7.78	6.00	230	0.800	5.84	3.84
60	1.000	7.78	6.00	240	1.000	7.78	6.00
70	1.000	7.78	6.00	250	1.000	7.78	6.00
80	1.000	7.78	6.00	260	1.000	7.78	6.00
90	1.000	7.78	6.00	270	1.000	7.78	6.00
100	1.000	7.78	6.00	280	1.000	7.78	6.00
110	1.000	7.78	6.00	290	1.000	7.78	6.00
120	1.000	7.78	6.00	300	0.980	7.60	5.75
130	0.880	6.67	4.65	310	0.790	5.73	3.74
135	0.800	5.84	3.84	315	0.740	5.17	3.29
140	0.710	4.81	3.03	320	0.707	4.77	3.00
150	0.570	2.90	1.95	330	0.707	4.77	3.00
160	0.460	1.04	1.27	340	0.707	4.77	3.00
170	0.370	-0.85	0.82	350	0.707	4.77	3.00
180	0.330	-1.85	0.65				

TABLE 4

VERTICAL RADIATION PATTERN

SHELLEE F. DAVIS

New-FM, Channel 280A
Westerville, Ohio

August 1994

Elev. Rel. Angle Field									
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90	0.100	54	0.308	18	0.085	-18	0.085	-54	0.308
89	0.108	53	0.294	17	0.147	-19	0.026	-55	0.320
88	0.114	52	0.278	16	0.212	-20	0.028	-56	0.330
87	0.123	51	0.259	15	0.280	-21	0.078	-57	0.337
86	0.131	50	0.239	14	0.349	-22	0.123	-58	0.342
85	0.139	49	0.214	13	0.419	-23	0.162	-59	0.346
84	0.147	48	0.188	12	0.489	-24	0.196	-60	0.347
83	0.154	47	0.161	11	0.559	-25	0.225	-61	0.349
82	0.162	46	0.132	10	0.626	-26	0.247	-62	0.348
81	0.170	45	0.102	9	0.689	-27	0.264	-63	0.346
80	0.177	44	0.070	8	0.747	-28	0.275	-64	0.343
79	0.191	43	0.038	7	0.801	-29	0.280	-65	0.339
78	0.204	42	0.004	6	0.850	-30	0.281	-66	0.333
77	0.218	41	0.026	5	0.892	-31	0.274	-67	0.326
76	0.231	40	0.058	4	0.929	-32	0.262	-68	0.319
75	0.243	39	0.090	3	0.958	-33	0.246	-69	0.310
74	0.256	38	0.121	2	0.980	-34	0.227	-70	0.301
73	0.268	37	0.151	1	0.994	-35	0.204	-71	0.291
72	0.280	36	0.179	0	1.000	-36	0.179	-72	0.280
71	0.291	35	0.204	-1	0.994	-37	0.151	-73	0.268
70	0.301	34	0.227	-2	0.980	-38	0.121	-74	0.256
69	0.310	33	0.246	-3	0.958	-39	0.090	-75	0.243
68	0.319	32	0.262	-4	0.929	-40	0.058	-76	0.231
67	0.326	31	0.274	-5	0.892	-41	0.026	-77	0.218
66	0.333	30	0.281	-6	0.850	-42	0.004	-78	0.204
65	0.339	29	0.280	-7	0.801	-43	0.038	-79	0.191
64	0.343	28	0.275	-8	0.747	-44	0.070	-80	0.177
63	0.346	27	0.264	-9	0.689	-45	0.102	-81	0.170
62	0.348	26	0.247	-10	0.626	-46	0.132	-82	0.162
61	0.349	25	0.225	-11	0.559	-47	0.161	-83	0.154
60	0.347	24	0.247	-12	0.489	-48	0.188	-84	0.147
59	0.346	23	0.162	-13	0.419	-49	0.214	-85	0.139
58	0.342	22	0.123	-14	0.349	-50	0.239	-86	0.131
57	0.337	21	0.078	-15	0.280	-51	0.259	-87	0.123
56	0.330	20	0.028	-16	0.212	-52	0.278	-88	0.116
55	0.320	19	0.029	-17	0.147	-53	0.294	-89	0.108
								-90	0.100