

DOCKET FILE COPY ORIGINAL

PEPPER & CORAZZINI

L. L. P.

ATTORNEYS AT LAW

1776 K STREET, NORTHWEST, SUITE 200

WASHINGTON, D. C. 20006

(202) 296-0600

GREGG P. SKALL

E. THEODORE MALLYCK

OF COUNSEL

FREDERICK W. FORD

1909-1986

TELECOPIER (202) 296-5572

INTERNET PEPCOR@COMMLAW.COM

WEB SITE HTTP://WWW.COMMLAW.COM

VINCENT A. PEPPER
ROBERT F. CORAZZINI
PETER GUTMANN
JOHN F. GARZIGLIA
NEAL J. FRIEDMAN
ELLEN S. MANDELL
HOWARD J. BARR
MICHAEL J. LEHMKUHL *
SUZANNE C. SPINK *
MICHAEL H. SHACTER
KEVIN L. SIEBERT *
PATRICIA M. CHUH

* NOT ADMITTED IN D.C.

July 25, 1997

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Washington, D.C. 20554

RECEIVED

JUL 25 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Amendment of Section 73.202(b),
FM Table of Allotments
Rose Hill, Trenton, Aurora, and Ocracoke, NC
MM Docket No. 95-88

Dear Mr. Caton:

Transmitted herewith on behalf of Conner Media Corporation ("CMC"), the licensee of WBSY(FM), Rose Hill, North Carolina, is the original plus four copies of its Motion For Leave To File Answer To Response To Supplement To Petition For Reconsideration in the above-referenced proceeding. This submission is respectfully directed to the Chief, Allocations Branch, Policy and Rules Division.

CMC's Answer To Motion For Leave To File Response And Response To Supplement To Petition For Reconsideration is being submitted simultaneously herewith under separate cover.

Please direct any questions or correspondence in connection with this matter directly to this office.

Very truly yours,


Ellen S. Mandell

Enclosure

cc (w/encl.): See Attached Service List

No. of Copies rec'd
LISTABODE

074

RECEIVED

JUL 25 1997

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

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of) MM Docket No. 95-88
)
Amendment of Section 73.202(b),) RM-8641
Table of Allotments,) RM-8688
FM Broadcast Stations) RM-8689
(Rose Hill, Trenton, Aurora,)
and Ocracoke, North Carolina))

To: Chief, Allocations Branch
Policy and Rules Division

**MOTION FOR LEAVE TO FILE ANSWER TO RESPONSE TO
SUPPLEMENT TO PETITION FOR RECONSIDERATION**

Conner Media Corporation ("CMC"), the licensee of WBSY(FM), Rose Hill, North Carolina, by its attorneys, hereby respectfully requests leave to answer the "Request For Leave To File Response and Response To Supplement To Petition For Reconsideration" ("Response") filed on July 9, 1997 by Bruce S. Cotton, who has not previously appeared in this proceeding. CMC's Answer is being filed simultaneously herewith under separate cover.

In support hereof, the following is respectfully shown:

1. The purpose of CMC's "Supplement To Petition For Reconsideration" ("Supplement")^{1/} was to place on record the Audio Services Division's June 27, 1997 letter decision ("Cancellation Letter") denying the Form 307 application (FCC File No. BMPH-970113JA) of Ocracoke Broadcasters ("OB") to extend the construction permit for unbuilt FM station WAHL, Channel 224C1, Ocracoke, North Carolina (File No. BMPH-950728IC), canceling the WAHL construction permit, and deleting the WAHL

^{1/}The Supplement was supported by a separate, simultaneous motion for leave to file.

call sign. The letter is relevant and material to the instant proceeding, as the decision in Rose Hill, Trenton, Aurora, and Ocracoke, North Carolina ("R&O"), 11 FCC Rcd 21223 (1996 Chief, Alloc. Br.), was based in part on a finding that the WAHL permit blocked CMC's proposal to allot Channel 221A in lieu of Channel 283A at Aurora, North Carolina.

2. In Cotton's Response -- his first appearance in the instant rulemaking proceeding -- he identifies himself as the "proposed assignee" of the now-extinguished WAHL(FM) construction permit. CMC's Answer demonstrates that Cotton has neither demonstrated the required present interest in this proceeding to justify his participation, nor shown that his pleading might aid the resolution of this proceeding or serve public interests.

3. CMC's Answer also shows that Cotton's Response is without substantive merit. Contrary to Cotton's suggestions, the Cancellation Letter presently is in full force and effect, and Commission policy and precedent commands deletion of the underlying substandard allotment.

4. In view of the foregoing, consideration of CMC's Answer is essential to development of a complete and accurate record in this proceeding.

WHEREFORE, the premises considered, the Bureau is respectfully requested to grant CMC's instant request for leave,

and to grant the relief requested in CMC's reconsideration petition.

Respectfully submitted,

CONNER MEDIA CORPORATION

By *Ellen S. Mandell*
Peter Gutmann
Ellen S. Mandell
Its Attorneys

Pepper & Corazzini, L.L.P.
1776 K Street, N.W., Suite 200
Washington, D.C. 20006
(202) 296-0600

July 25, 1997

CERTIFICATE OF SERVICE

The undersigned, a secretary in the law firm of Pepper & Corazzini, L.L.P., does hereby certify that a true copy of the foregoing "MOTION FOR LEAVE TO ANSWER RESPONSE TO SUPPLEMENT TO PETITION FOR RECONSIDERATION" was sent on July 25, 1997, by U.S. first class mail, postage prepaid, to the following:

- * John A. Karousos, Esquire
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

- * Peter H. Doyle, Esquire
Assistant Chief, Audio Services Division
Mass Media Bureau
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Vincent J. Curtis, Jr., Esq.
Fletcher Heald & Hildreth, P.L.C.
1300 North 17th Street - 11th Floor
Arlington, VA 22209

Frank R. Jazzo, Esquire
Fletcher Heald & Hildreth, P.L.C.
1300 North 17th Street - 11th Floor
Arlington, VA 22209

William J. Pennington, III, Esquire
P.O. Box 403
Westfield, Massachusetts 01086-0403

Gary S. Smithwick, Esquire
Smithwick & Belendiuk, P.C.
1990 M Street, N.W., Suite 510
Washington, D.C. 20036

Mark Van Bergh, Esquire
Roberts & Eckard, P.C.
1150 Connecticut Avenue, N.W. Suite 1100
Washington, D.C. 20036

A. Wray Fitch III, Esquire
Gammon & Grange, P.C.
8280 Greensboro Drive - 7th Floor
McLean, VA 22102-3807

Dina Genardi

* Hand delivery