

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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MAY 31 2001

In the Matter of

Amendment of Section 73.202(b))	MM Docket No. 01-62
Table of Allotments)	RM - 10053
FM Broadcast Stations)	RM - 10109
(Ardmore, Brilliant, Gadsden, Moundville,)	RM - 10110
Pleasant Grove, Scottsboro, Trussville,)	RM - 10111
Tuscaloosa and Winfield, Alabama)	RM - 10112
Columbus and Okolona, Mississippi)	RM - 10113
and McMinnville, Pulaski and)	RM - 10114
Walden, Tennessee))	RM - 10116

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: Chief, Allocations Branch
Policy & Rules Division
Mass Media Bureau

REPLY COMMENTS

Respectfully Submitted,

CAPSTAR TX LIMITED PARTNERSHIP
JACOR LICENSEE OF LOUISVILLE II, INC.
CLEAR CHANNEL BROADCASTING LICENSES, INC.

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SUMMARY

The Joint Parties hereby reply to the numerous comments and counterproposals in this proceeding. In their comments, the Joint Parties proposed a series of interrelated modifications to the FM Table of Allotments which would provide first local service to five new communities and an overall net gain in service to more than one million people. Six parties filed counterproposals. None offers anything even close to the public interest benefits that the Joint Parties proposal would achieve.

Southern Broadcasting, LLC proposes new allotments to Derma, Mississippi and Springville, Alabama, which conflict with portions of the Joint Parties' proposal. If these allotments are granted, the Joint Parties' entire proposal must be denied, and on that basis the Joint Parties' proposal, with far greater public interest benefits, must be preferred. However, even if the two allotments are compared on a community-by-community basis with the conflicting communities in the Joint Parties' proposal, the Joint Parties' communities of Okolona and Hoover are preferred under applicable case law.

STG Media, LLC proposes a new allotment to New Hope, Alabama. As discussed in the Joint Parties' comments, the New Hope proposal is contingent upon the relocation of Station WQEN to Trussville, Alabama, and the Commission's rules and policies prohibit the acceptance of contingent proposals.

Buffalo River Broadcasters proposes a new allotment to Linden, Tennessee which conflicts with the Joint Parties' proposed allotment at Ardmore, Alabama. However, since both communities would receive *first local services*, *Ardmore is preferred over Linden under well settled allotment principles*.

Yalobusha Broadcasters proposes a new allotment to Vardaman, Mississippi, in conflict with the Joint Parties' proposed allotment at Okolona. In their comments, the Joint Parties identified an alternate channel that can be allotted at Vardaman, thus removing the conflict. Even if this channel were not available, however, Okolona is clearly preferred over Vardaman under the Commission's allotment priorities.

Jim Lawson Communications, Inc. proposes an upgrade at Eutaw which is of a lower priority than the Joint Parties' proposals under Priority 3. Lawson's Moundville proposal is technically defective as discussed in the Joint Parties' earlier Reply Comments.

Finally, Cox Radio, Inc. proposes an allotment to Springville, Alabama, which is inferior to the Joint Parties' proposed allotment at Hoover as discussed above in connection with the Southern Broadcasting. Although Cox Radio raises arguments against portions of the Joint Parties' proposal, those arguments are meritless, as shown herein. In particular, Cox incorrectly argues that the Hoover proposal is contingent on an authorized change in another facility. As is shown herein, the Commission's rules and policies no longer protect a former channel allotment after a one-step upgrade application is granted.

Since it offers substantially greater public interest benefits than any of the proffered alternatives, the Joint Parties' amended proposal should be granted.

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Walden, Tennessee))	RM - 10116

To: Chief, Allocations Branch
Policy & Rules Division
Mass Media Bureau

REPLY COMMENTS

Capstar TX Limited Partnership (“Capstar”), licensee of Station WQEN(FM), Gadsden, Alabama, WENN(FM), Trussville, Alabama, WZHT(FM), Troy, Alabama and WRTR(FM), Tuscaloosa, Alabama; Jacor Licensee of Louisville, II (“Jacor”), licensee of Station WTRZ-FM, McMinnville, Tennessee; and Clear Channel Broadcasting Licenses, Inc. (“Clear Channel”), licensee of Station WKGL, Russellville, Alabama (the “Joint Parties”) by their counsel, hereby submit their Reply Comments to the various comments and counterproposals set forth in the Public Notice of May 16, 2001, Report No. 2484. The Joint Parties respond to each of the counterproposals as follows:

I. Southern Broadcasting, LLC.

1. Southern Broadcasting, LLC. (“Southern”) proposes the allotments of Channel 279A to Derma, Mississippi and Channel 288A to Springville, Alabama as first local services. Southern states that the Derma (population 959 - 1990 U.S. Census) proposal will provide 60 dBu service to 22, 042 people in an area of 2,502 sq. km. Further, the Springville (population 1,910 - 1990 U.S.

Census) proposal will provide 60 dBu service to 96,884 people in an area of 2,410 sq. km. Southern provides data to support the need for a station at each community.

2. The Derma proposal is in conflict with the Joint Parties' proposal to allot Channel 280C2 to Okolona, Mississippi (population 3,267 - 1990 U.S. Census) as its first local service which is not severable from the remainder of the Joint Parties' proposal.¹ The Springville proposal is in conflict with the Joint Parties proposal to allot Channel 288C2 to Hoover, Alabama (population 62,742 - 2000 U.S. Census/39,788 - 1990 U.S. Census) as its first local service which also is not severable.

3. Southern asserts that the Derma/Okolona comparison and the Springville/Hoover comparison are evaluated under Priority 4 because each proposal satisfies Priority 3. Southern argues that despite the greater community populations in the Joint Parties' proposal, the Southern proposals will provide new services and not merely a shuffling of existing allotments among different communities. Southern cites various cases that stand for the proposition that a Priority 3 first local service is favored over a Priority 4 increase in existing secondary or reception service. Southern also notes that there will be a disruption of existing service at Trussville, Alabama and Columbus, Mississippi.

4. While Southern concedes that Hoover and Okolona are entitled to first local service preference (Priority 3), it attempts to make an argument under Priority 4 that a change in community of license which provides a first local service, by itself, is somehow inferior to a new channel allotment which provides a first local service. The cases cited by Southern provide no support for its argument and the Joint Parties believe that the Commission never intended any such result.

1. As indicated in the Joint Parties earlier Reply, Channel 258A is also available to Derma.

5. By allotting Channel 288C2 to Hoover, that community will receive a first local service. That service is not diminished by the fact that an existing station seeks to provide it. In fact, it is more likely that the service to Hoover can be obtained more quickly than by the auction process which could take years to award a permit. The same is true for Okolona versus Derma. In fact, the Commission has faced this issue in Anniston, Alabama et al., 15 FCC Rcd 9971 (2000); recons. denied (DA 01-333 released February 9, 2001) recons. pending. (where an existing station's move to College Park, Georgia was preferred over a new allotment to Social Circle, Georgia due to its larger population). Similar arguments were made in that case. See also, Pleasanton, Bandera, Hondo and Schertz, Texas, 15 FCC Rcd 3068 (2000) at para. 7. Other cases in support of preferring the larger community include: Llano and Marble Falls, Texas, 12 FCC Rcd 6809 (1997); Three Oaks and Bridgman, Michigan 5 FCC Rcd 1004 (1990); Alva, Oklahoma et al., 2000 FCC Lexis 6810, released December 22, 2000; Cherry Valley and Cotton Plant, Arkansas 14 FCC Rcd 13543 (1999); Blanchard, Louisiana, 10 FCC Rcd 9828 (1995) and Marks and Woodville, Florida 12 FCC Rcd 11957 (1997) and numerous other cases.

6. The Joint Parties believe it is more appropriate to compare their entire proposal (first service to five communities) to Southern's Derma and Springville proposal because the entire proposal is so intertwined that it can not be severed. However, even on the basis that Hoover has a substantially larger population than Springville and Okolona is larger than Derma and based on a large body of precedent, The Joint Parties' proposal should be granted.

7. In addition, as a Priority 4 matter, the Joint Parties' proposal will result in a net gain in 60 dBu service to 1,252,870 people in a 20,982 sq. km. area. The Southern proposal for 60 dBu gains in service pales in comparison.

II. STG Media, LLC.

8. STG Media, LLC. (“STG”) proposes the allotment of Channel 278A to New Hope, Alabama (population 2,248). As stated in the Joint Parties’ Reply Comments of May 9, 2001, this proposal is contingent on Station WQEN being reallocated to Trussville. The Joint Parties maintain that under the Cut and Shoot, Texas 11 FCC Rcd 16383 (1996) policy this proposal is unacceptable for consideration in this proceeding. See Littlefield, Wolfforth and Tahoka, Texas, 12 FCC Rcd 3215 (1997) and discussion incorporated by reference in the Joint Parties’ Reply Comments of May 9, 2001.² STG makes no other comments concerning the Joint Parties’ proposal.

III. Buffalo River Broadcasters

9. Buffalo River Broadcasters (“BRB”) proposes the allotment of Channel 253A to Linden, Tennessee as a first local service which conflicts with the Joint Parties’ proposed allotment of Channel 252C1 at Ardmore, Alabama as a first local service. Linden is listed in the 1990 U.S. Census with a population of 1,099 and in the 2000 Census with a population of 1,015. See Exhibit 1. Ardmore’s 1990 U.S. Census population is 1,090. Ardmore’s 2000 U.S. Census figure is 1,034. See Exhibit 1. In its Reply Comments of May 9, 2001, the Joint Parties propose an alternate allotment of Channel 267A to Linden, Tennessee to provide a first local service.

10. While BRB acknowledges that the Ardmore proposal qualifies under Priority 3, it cites some of the same cases as Southern for the argument that the Ardmore proposal should be treated like a Priority 4 increase in secondary service only. Those cases are an inapposite and none stand for the proposition that a change in community of license which proposes a first local service,

2. The Joint Parties take the position that the issuance of the Public Notice does not mean that the Commission has made a determination that the STG proposal or any proposal set forth therein is necessarily acceptable.

by itself, is any less preferable under Priority 3 than proposing a new allotment as a first local service.

11. In addition BRB cites the case of Van Wert, Ohio and Monroeville, Indiana 7 FCC Rcd 6519 (1992) for the assertion that Commission policy favors retaining a station at a larger community which has other local service (like Pulaski) over a first local service to a smaller community (like Ardmore). However, that case was explicitly overruled in Fredericksburg, Helotes and Castroville, Texas 11 FCC Rcd 22317 (1996) and therefore is not a valid precedent.

12. BRB states that a 60 dBu service will be provided to 17,400 persons. Taking the Ardmore proposal alone, the proposed 60 dBu contour will provide a new service to 696,884 people with no loss in service to any existing listeners. The Joint Parties' urge the Commission to allot Channel 267A to Linden, Tennessee as a first local service. However, if for any reason that channel can not be allotted, the Joint Parties' contend that a difference of 9 persons in population from the 1990 Census is too insignificant to provide a basis for favoring Linden over Ardmore for Channel 253 under Priority 4. More importantly, based on the 2000 Census, Ardmore is now larger than Linden (1,034 to 1,015). See Blanchard, Louisiana, supra (difference of 38 people was decisionally significant); Bostwick and Good Hope, Georgia, 6 FCC Rcd 5796 (1991). Nevertheless, the difference in 60 dBu population to be served is so large (679,484 persons) that the Commission would be justified in basing its decision on that factor in favor of Ardmore.

IV. Yalobusha Broadcasters

13. Yalobusha Broadcasters ("Yalobusha") proposes the allotment of Channel 279A to Vardaman, Mississippi as its first local service. This proposal conflicts with the Joint Parties' proposal to allot Channel 280C2 to Okolona, Mississippi as its first local service for Station WACR(FM). In its Reply Comments, the Joint Parties noted that Channel 258A is available as an

alternate channel for Vardaman. Should that channel not be allotted to Vardaman for any reason, the Commission should favor Okolona under Priority 4 because it is the larger community. See e.g., Mount Horeb, Mazomanie and Dodgeville, Wisconsin, 12 FCC Rcd 11963 (1997); Clarksville and Lanesville, Indiana, 4 FCC Rcd 4968 (1989) and Stamford and Whitesboro, New York, 7 FCC Rcd 1674 (1992).

14. Yalobusha also makes the argument that a new allotment to a community that provides a first local service is preferable under Commission policy to a first local service proposal resulting from a change in community of license. Yalobusha's theory would favor a new allotment to a community no matter how small the population. However, the cases cited by Yalobusha (in note 5) do not support this position. Most of the cases involve an upgrade in class at the same community of license. Such proposal offers only an increase in secondary service under Priority 4. The change in community of license provides a first local service under Priority 3. The only cited case that is relevant to Priority 3 is Sibley, Iowa and Brandon, South Dakota, 13 FCC Rcd 22209 (1998); recons. denied, 15 FCC Rcd 19130 (2000). In that case, the Sibley licensee proposed a change in community of license and a first local service to Brandon, South Dakota. Another party proposed a conflicting allotment as a first local service at Brandon, the Commission found that by favoring the latter party's proposal both a new allotment at Brandon and the retention of existing service at Sibley could be achieved.

15. However, in the present case, the Joint Parties propose a first local service to Okolona population 3,267 (1990 U.S. Census). No other party is proposing a new allotment as a first local service to Okolona instead. Rather the comparison is between Okolona (population 3,267) and a much smaller community, Vardaman (population 1,065). The case precedent clearly supports Okolona. See e.g., Anniston, Alabama et al., supra. Yalobusha also suggests that the current city

of license for WACR, Columbus, the larger community, should be favored over the smaller community, Okolona even though Columbus has six other stations. Yalobusha cites Van Wert, Ohio and Monroeville, Indiana, 7 FCC Rcd 6519 (1992) supra. However, as mentioned earlier, that case was overruled in Fredericksburg, Helotes and Castroville, Texas, 11 FCC Rcd 22317 (1996) where the smaller community of Helotes was favored over Fredericksburg.

16. Finally, despite Yalobusha's suggestion to the contrary, the Okolona proposal will provide a net gain in 60 dBu service to 90,879 persons while the Vardaman proposal will provide a 60 dBu service to 28,420 persons.

V. Jim Lawson Communications, Inc.

17. The Jim Lawson Communications, Inc. ("Lawson") proposes to upgrade Station WQZZ on a non-adjacent channel (282A to 278C3) and proposes a new short spaced and contingent allotment of Channel 282A at Moundville. Putting aside the technical problems with the Moundville proposal mentioned in the Joint Parties' Reply Comments of May 9, 2001 for a moment, both the Eutaw upgrade under Priority 4 and the Moundville allotment under Priority 3 would be disfavored under the Commission's allotment criteria to the conflicting proposals submitted by the Joint Parties.

18. The Eutaw proposal conflicts with the Trussville proposal. The Trussville proposal replaces the service moving to Hoover, Alabama as a first local service. Even if the Hoover proposal were evaluated separately from the remainder of the Joint Parties proposal, it would be favored under Priority 3 as opposed to the upgrade at Eutaw under Priority 4.

19. As for Moundville, Channel 282A does not conflict with any proposal in the proceeding and is therefore contingent on the removal of Channel 282A from Eutaw. Such contingent proposals are generally not accepted at the counterproposal stage. See Cut and Shoot, Texas, supra.

20. In its Reply, Lawson proposes two alternate sites for the Trussville station relocation to eliminate the conflict with Channel 278C3 at Eutaw. As noted in the attached Engineering Statements, both of these alternate sites will require towers at heights that the city of Birmingham and Shelby County are not willing to approve. In addition, the first site is near an airport. The second site suffers from terrain obstructions prohibiting line-of-sight to Trussville.

VI. Cox Radio, Inc.

21. Cox Radio, Inc. (“Cox”) proposes the allotment of Channel 288A to Springville, Alabama as a first local service. The Joint Parties previously addressed this proposal in Section I (Southern Broadcasting, LLC). The Cox comments address the Joint Parties’ original proposals for Pleasant Grove and Brilliant, Alabama.³ Both proposals were eliminated in the Joint Parties’ Amended Proposal filed on April 24, 2001. Therefore, the Joint Parties’ will focus on the Reply Comments of Cox.

22. First, Cox contends that the proposal for Channel 288C2 at Hoover is contingent on the licensing of Channel 287C1 at Bowden. Cox is wrong. The Commission stated in its “Technical Streamlining Proceeding” NPRM, 13 FCC Rcd 14849 at note 22:

We take this opportunity to clarify the consequences of the grant of a one-step FM commercial station application to change channel or station class. Such a grant amends the table of allotments and modifies the station license to operate on the new channel and/or class. See Amendment of the Commission’s Rules to Permit FM Channel and Class Modifications by Application, 8 FCC Rcd 4735 (1993). During the construction permit period, the licensee may continue to operate the previously authorized facilities on an interim or “implied Special Temporary Authority” basis. However, in contrast to our treatment of routine minor modification applications under Section 73.208, the formerly authorized facilities are no longer protected from subsequently filed applications. If the permittee fails to timely construct and lets its permit lapse, the permittee is not relived of the obligation to change to the channel and class specified in the amended Table of Allotments. A new one-step application

3. If for any reason the Commission finds that Channel 288C2 can not be allotted to Hoover, the Joint Parties would still be interested in applying for Channel 288C3 at Pleasant Grove.

revising the prior modification would be required in order to return to the former allotment. This filing would be subject to the first-come, first-served processing rule for minor modification.⁴

23. The one step upgrade proceeding, Amendment of the Commission's Rules to Permit FM Channel and Class Modification by Application, 8 FCC Rcd 4735 (1993) held that such applications would be processed under the Commission's allocation standards. As such when an allotment is made (such as Channel 287C1 at Bowden) the action is final on the 40th day after issuance of the permit. The Bowden licensee, which, as Cox notes, is an affiliate of one of the petitioners in this proceeding, could not just let the permit expire and return to Channel 288A. As set forth in the above quoted language in note 22 of the Technical Streamlining Notice it would take another application to return the channel to its former allotment status or to change its channel or class and any such application would be subject to prior filed applications or rule making proposals.⁵

24. Here, the Commission granted the one-step application of Clear Channel for Station WYAI, Bowden, Georgia on Channel 287C1 on June 28, 2000 (BPH-20000131ACC). The attached permit (See Exhibit 2) amends the FM Table of Allotments and that amendment was final prior to the filing by the Joint Parties. Upon the effectiveness of that action, the Commission can accept subsequent minor change applications and rule making petitions which rely on the Bowden channel

4. In the First R&O in MM Docket 98-93, 14 FCC Rcd 5272 at note 45 the Commission noted a distinction where the licensee filed a downgrade application. See Revision of Section 73.3573(a)(1) of the Commission's Rules concerning the Lower Classification of an FM Allotment, 4 FCC Rcd 2413, 2415 (1989). However, this distinction does not apply to the downgrade of a vacant channel. Id. Nor does it apply to an upgrade, such as the Channel 287C1 upgrade at Bowden.

5. In a recent related proceeding, Hewitt, Texas, DA 01-1236, released May 18, 2001, Channel 294A was allotted to Hewitt even though it is short spaced to Channel 296A at Waco, Texas and Channel 294C at Granbury, Texas. Both the Waco and Granbury channels were changed in MM Docket 98-198 but neither the Waco nor the Granbury (Benbrook) station has been licensed on its new channel. Thus, the Hewitt, Texas allotment would still be contingent under Cox's theory.

change. See Apalachicola, Monticello, Perry, Quincy, Springfield, Trenton and Woodville, Florida, 11 FCC Rcd 8772 (1996) at para. 5. Accordingly, Cox's arguments which rely on the Commission's Cut and Shoot, Texas, policy are inapplicable here.

25. Cox's recitation of the history of WYAI upgrade process is distorted. Clear Channel has provided a statement (See Exhibit 3) which indicates that the new site that Clear Channel has applied for has already received FAA and zoning approval. See Exhibit 4. There is no uncertainty about Clear Channel's ability or incentive to construct this facility expeditiously.⁶

26. As supported by the attached Declaration of Jeff Littlejohn (Exhibit 3), Clear Channel desires to assure the Commission that it is ready, willing and anxious to construct the proposed new tower and commence operations well in advance of the implementation of the instant rule making.⁷

27. As for the comparison of Hoover to Springville, Cox does not even attempt to argue that Springville should be favored under the Commission's allotment priorities. Clearly Hoover, alone the sixth largest city in Alabama, and the largest community without a local service should be favored over Springville under Priority 4.

28. Cox also argues that the community of Brookwood is dependent on Tuscaloosa under the Tuck criteria and therefore should not be preferred for a first local service. Cox is wrong on two counts. First, the Tuck criteria do not apply in this instance because Station WRTR is not moving from a rural area to an urbanized area. In fact, WRTR is now licensed to Tuscaloosa, the

6. It is ironic that Cox raises issues of uncertainty when it is the Cox tower site on which Clear Channel originally believed it could construct pursuant to a lease. Cox now attempts to use its control of the tower to place doubts on the WYAI upgrade.

7. At note 13, Cox refers to a statement made by the Joint Parties' engineer. The quote was not properly interpreted by the author of the article. The engineer was referring to his belief that there should be no doubt about the qualifications of Hoover (population 62,742 - 2000 U.S. Census) as a community.

central city in the Tuscaloosa Urbanized Area. The station is actually proposed to be licensed to Brookwood which is located outside the Tuscaloosa Urbanized Area. Although the Joint Parties provided a Tuck showing and believe that the showing more than adequately demonstrates that Brookwood is an independent community, no such showing is required. See Boulder and Lafayette, Colorado, 11 FCC Rcd 3632 (1996) and Long Beach and East Los Angeles, California, 10 FCC Rcd 2864 (1995). Brookwood easily satisfies the less stringent criteria to be classified as a community for allotment purposes. Brookwood has its own local government, police and fire departments, churches, schools, numerous businesses, a newsletter, zip code (35444) and medical facilities. These indicia also satisfy the more stringent Tuck criteria.

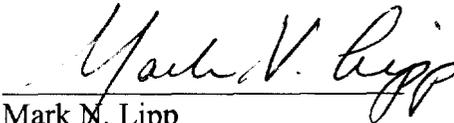
29. Second, the Joint Parties maintain that since the entire proposal is inextricably intertwined, it is not appropriate to compare one portion of the proposal as a separate piece. The move from Tuscaloosa to Brookwood is necessary for the overall benefits of the proposal to be achieved. As such the Commission should compare the benefit of a first local service to five communities, including Hoover and the overall net gain in 60 dBu service to 1,252,870 persons to the counterproposals submitted in this proceeding.

30. In this connection, Cox's argument that there are losses in coverage for WZHT, Troy, Alabama and WKXM, Winfield, Alabama (Priority 4 factors) should also be weighed against the substantial benefits offered in overall gains of service (Priority 4) and first local services (Priority 3).

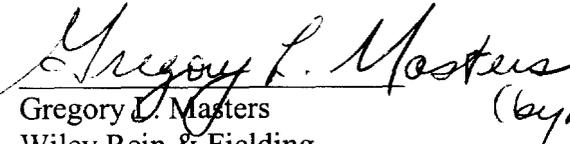
31. Accordingly, for the above stated reasons, the Joint Parties' amended proposal as filed on April 24, 2001 should be granted.

Respectfully Submitted,

CAPSTAR TX LIMITED PARTNERSHIP
JACOR LICENSEE OF LOUISVILLE II, INC.
CLEAR CHANNEL BROADCASTING LICENSES, INC.

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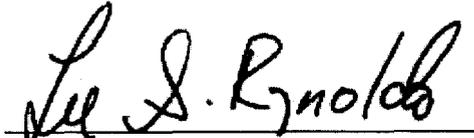
Its Counsel

Engineering Statement

Of Lee S. Reynolds

The proposed site listed by Jim Lawson Communications, Inc. (ALT-1) at 33-31-10/86-37-50 is within the city limits of the City of Birmingham.

In speaking with persons at the City of Birmingham's Planning and Zoning department, they made clear that each separate zoning district had a height limitation with respect to towers. Because the tallest tower in the City of Birmingham is 706 feet tall, the necessary tower height for a class C1 (1,047' AGL) would exceed the current maximum tower height by 341 feet. Persons at the City of Birmingham Planning and Zoning department, while unable to render a definitive answer over the telephone, estimated that the possibilities of constructing a tower of this height inside the city limits would be unlikely.



Lee S. Reynolds

“ALT-1” Coordinates 33-31-10~86-37-50

This site is 6.7 nautical miles from the Birmingham International Airport (BHM). The bearing towards the airport is 293 degrees.

6.7 nautical miles is approximately 40,700 feet. To achieve a C1 facility at the reference coordinates suggested by Lawson would require an antenna height AMSL of 1,695 feet. Presumably any tower would have to be even taller to allow for lighting, etc. The airport elevation is 644 feet AMSL leaving a difference of 1,051 feet for airplanes to climb in order to avoid impact and only 40,700 feet (or less) to gain sufficient altitude.

Typically commercial airports presume a 100:1 distance to height ratio within 17 nautical miles of an airport as large as Birmingham. The proposed coordinates would necessitate a tower that violates that protection by over 60%.

Coincidentally, all the towers in the Tower Registration Database (numbering 7 in all) that are within 5 KM of the proposed “ALT-1” coordinates are over 100 meters too short to accommodate the facility. This is because of proximity to the Birmingham International Airport.

“ALT-2” Coordinates 33-23-10~86-35-30

These are somewhat better in terms of the proximity to airports. The Birmingham International Airport is 12.9 nautical miles away, the Shelby County airport is 15.3 nautical miles and the Bessemer airport is 16.6 nautical miles. While still within the 17 nautical mile zone, there is at least some likelihood that a full facilities class C1 could be built.

Unfortunately, such a facility would not provide line of sight to Trussville. Approximately 4 KM along the bearing towards Trussville (357 degrees) there is a ridge, some 450 meters AMSL in height. Then, further on towards Trussville on that same bearing, approximately 9 KM towards Trussville, there is yet another ridge of approximately 340 meters AMSL height. Either of these would severely impair the reliable coverage of Trussville. Both in combination would make the proposed location unusable for service to Trussville.

"ALT-2"

Frank McCoy

TOWERS
WITHIN
5 KM

05-31-2001
Page 1

Project: PRINTOUT

SOURCE COORDINATES: 33-31-10 North 86-37-50 West

This program uses FAA/FCC database used by Antenna Survey Branch

All tower heights are taken directly from database, not computed.

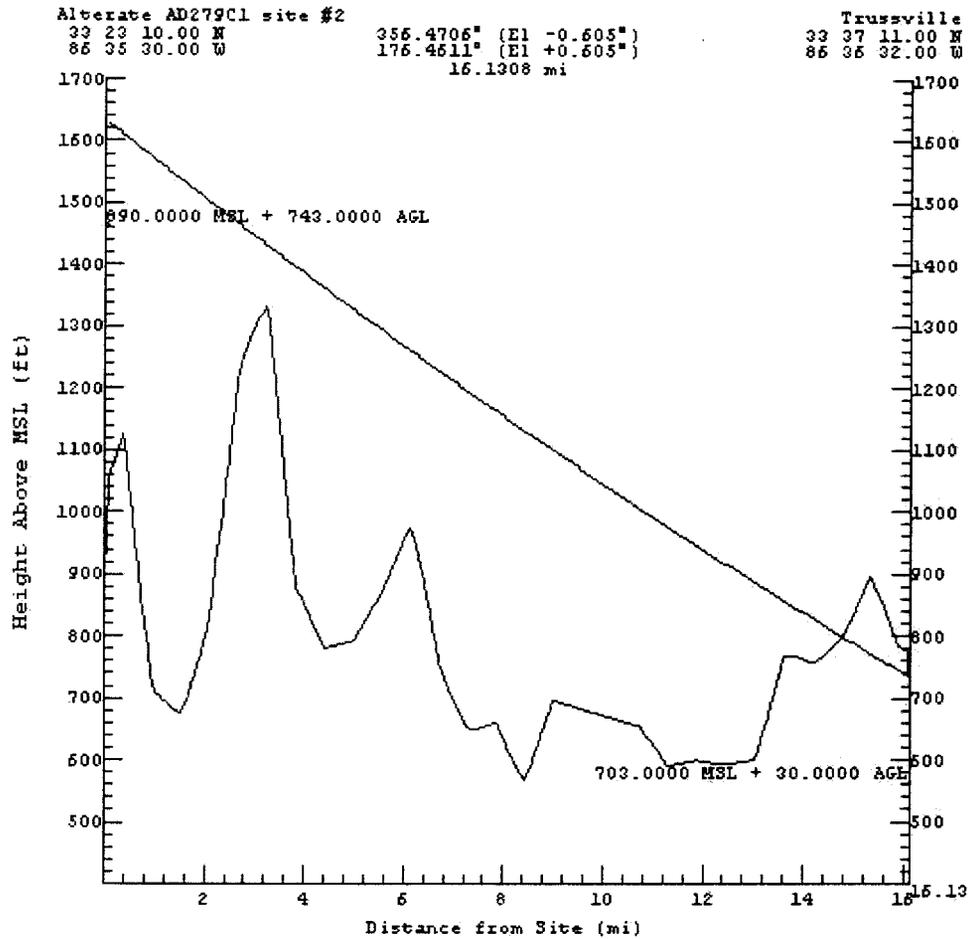
Registration	-NAD83-	FCC AMSL	Latitude	Distance
State Location		FCC AGL	Longitude	Bearing
Street Address	[Owner]		/Structure	

1029024		289.1 m	33-31-05	2.4 km
AL, IRONDALE		94.4 m	86-39-24	266.4 deg
1906 GRANTS MILL RD		/TOWER	Gnd: 194.7 m	
GTE MOBILNET OF BIRMINGHA				
245 PERIMETER CTR PK				
ATLANTA, GA 30346		770-353-3517		
1001946		288.7 m	33-31-05	2.4 km
AL, IRONDALE		94.0 m	86-39-24	266.4 deg
1906 GRANTS MILL RD		/TOWER	Gnd: 194.7 m	
GTE MOBILNET OF BIRMINGHA				
245 PERIMETER CENTER				
ATLANTA, GA 30346		770-391-1705		
1035615		346.5 m	33-33-05	3.6 km
AL, IRONDALE		89.6 m	86-38-11	351.3 deg
5230 HWY 78		/TOWER	Gnd: 256.9 m	
BELLSOUTH MOBILITY LLC				
17330 PRESTON ROAD,				
DALLAS, TX 75252		972-733-2000		
1209792		392.2 m	33-32-25	3.9 km
AL, IRONDALE		71.6 m	86-39-50	306.7 deg
OLDBROOKWOOD CLUB DRIVE		/TOWER	Gnd: 320.6 m	
CROWN COMMUNICATION INC				
375 SOUTHPOINTE BOUL				
CANONSBURG, PA 15317		724-416-2000		
1029187		320.3 m	33-31-57	4.3 km
AL, LEEDS		50.0 m	86-35-15	70.1 deg
1 MI S OF I-20 ON PINE RIDGE		/TOWER	Gnd: 270.3 m	
GTE WIRELESS OF THE SOUTH				
ONE GTE PLACE				
ALPHARETTA, GA 30004		678-339-4271		
1035723		276.4 m	33-31-57	4.5 km
AL, LEEDS		34.7 m	86-35-03	71.4 deg
LOT #6 CASEY CIRCLE		/TOWER	Gnd: 241.7 m	
BELLSOUTH MOBILITY LLC				
17330 PRESTON ROAD,				
DALLAS, TX 75252		972-733-2000		
1037862		285.0 m	33-32-54	4.6 km
AL, BIRMINGHAM		59.0 m	86-39-56	314.6 deg
5200 ATLANTA HWY E		/TOWER	Gnd: 226.0 m	
BIRMINGHAM CHRISTIAN RADI				
5200 ATLANTA HWY E				
BIRMINGHAM, AL 35210		205-956-5470		

LINE OF SIGHT STUDY

From Jim Lawson Communications, Inc.'s ALT-2 Site

For AD279C1, Trussville, Alabama

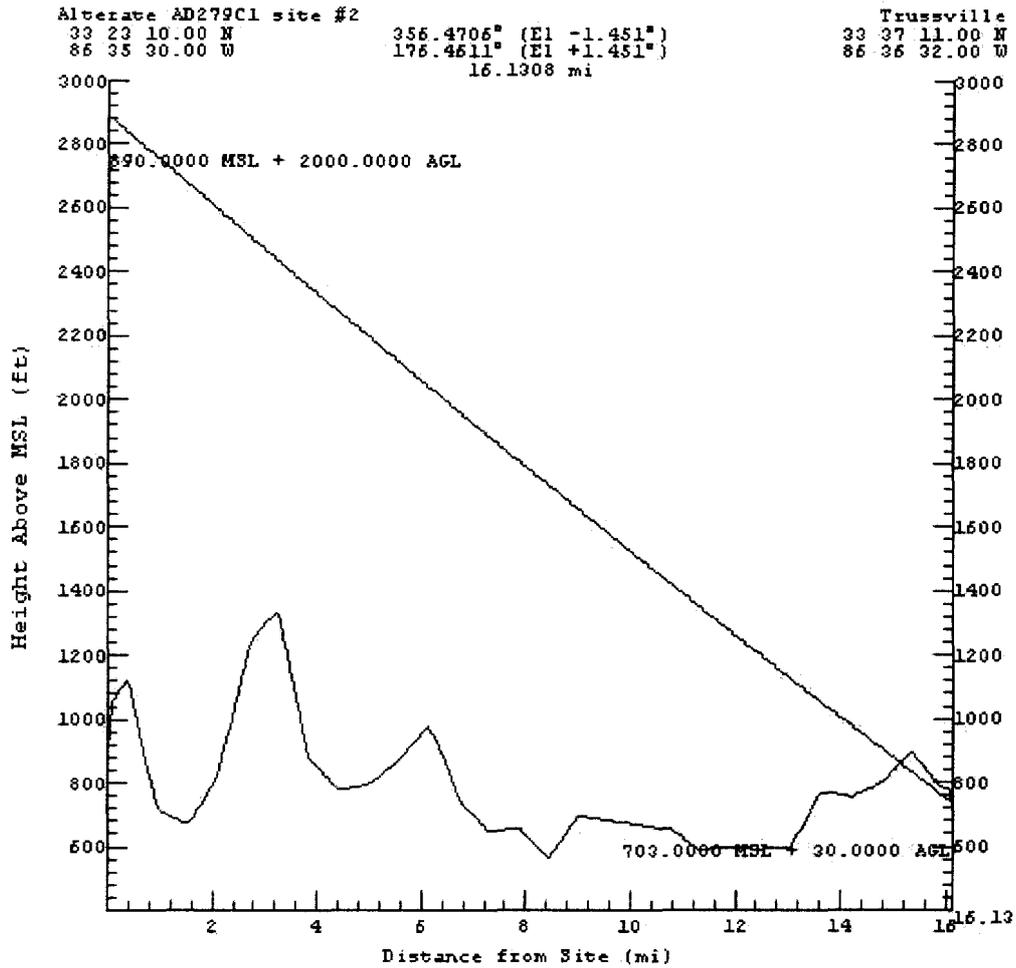


This exhibit shows that a 743' AGL tower (height needed to provide a maximum class C1) does not provide line of sight to the city reference coordinates for the city of Trussville provided by Jim Lawson Communications, Inc.

LINE OF SIGHT STUDY

From Jim Lawson Communications, Inc.'s ALT-2 Site

For AD279C1, Trussville, Alabama



This exhibit shows that a 2,000' AGL tower does not provide line of sight to the city reference coordinates for the city of Trussville provided by Jim Lawson Communications, Inc.

EXHIBIT 1

Total Population, Tennessee Places, Census 2000 (continued)

Place	Census April 1, 2000	Place	Census April 1, 2000
Lebanon city	20,235	Mount Juliet city	12,366
Lenoir City city	6,819	Mount Pleasant city	4,491
Lewisburg city	10,413	Mountain City town	2,383
Lexington city	7,393	Munford town	4,708
Liberty town	367	Murfreesboro city	68,816
Linden town	1,015	Nashville-Davidson (balance)	545,524
Livingston town	3,498	New Hope city	1,043
Lobelville city	915	New Johnsonville city	1,905
Lookout Mountain town	2,000	New Market town	1,234
Loretto city	1,665	New Tazewell town	2,871
Loudon town	4,476	Newbern town	2,988
Louisville city	2,001	Newport city	7,242
Luttrell town	915	Niota city	781
Lynchburg, Moore County	5,740	Nolensville town	3,099
Lynnville town	345	Normandy town	141
Madisonville town	3,939	Norris city	1,446
Manchester city	8,294	Oak Grove CDP	4,072
Martin city	10,515	Oak Hill city	4,493
Maryville city	23,120	Oak Ridge city	27,387
Mascot CDP	2,119	Oakdale town	244
Mason town	1,089	Oakland town	1,279
Maury City town	704	Obion town	1,134
Maynardville city	1,782	Oliver Springs town	3,303
McEwen city	1,702	Oneida town	3,615
McKenzie city	5,295	Ooltewah CDP	5,681
McLemoresville town	259	Orlinda town	594
McMinnville city	12,749	Orme town	124
Medina city	969	Palmer town	726
Medon city	191	Paris city	9,763
Memphis city	650,100	Parkers Crossroads city	241
Michie town	647	Parrottsville town	207
Middle Valley CDP	11,854	Parsons city	2,452
Middleton city	602	Pegram town	2,146
Midtown city	1,306	Petersburg town	580
Midway CDP	2,491	Philadelphia city	533
Milan city	7,664	Pigeon Forge city	5,083
Milledgeville town	287	Pikeville city	1,781
Millersville city	5,308	Pine Crest CDP	2,872
Millington city	10,433	Piperton city	589
Minor Hill city	437	Pittman Center town	477
Mitchellville city	207	Plainview city	1,866
Monteagle town	1,238	Pleasant Hill town	544
Monterey town	2,717	Pleasant View city	2,934
Morrison town	684	Portland city	8,458
Morristown city	24,965	Powells Crossroads town	1,286
Moscow city	422	Pulaski city	7,871
Mosheim town	1,749	Puryear city	667
Mount Carmel town	4,795	Ramer city	354

Total Population, Tennessee Places, Census 2000 (continued)

Place	Census April 1, 2000	Place	Census April 1, 2000
Red Bank city	12,418	Stantonville town	312
Red Boiling Springs city	1,023	Sunbright city	577
Ridgely town	1,667	Surgoinsville town	1,484
Ridgeside city	389	Sweetwater city	5,586
Ridgetop city	1,083	Tazewell town	2,165
Ripley city	7,844	Tellico Plains town	859
Rives town	331	Tennessee Ridge town	1,334
Roan Mountain CDP	1,160	Thompson's Station town	1,283
Rockford city	798	Three Way city	1,375
Rockwood city	5,774	Tiptonville town	2,439
Rogersville town	4,240	Toone town	330
Rossville town	380	Townsend city	244
Rural Hill CDP	2,032	Tracy City town	1,679
Rutherford town	1,272	Trenton city	4,683
Rutledge town	1,187	Trezevant town	901
Saltillo town	342	Trimble town	728
Samburg town	260	Troy town	1,273
Sardis town	445	Tullahoma city	17,994
Saulsbury town	99	Tusculum city	2,004
Savannah city	6,917	Unicoi town	3,519
Scotts Hill town	894	Union City city	10,876
Selmer town	4,541	Vanleer town	310
Sevierville city	11,757	Viola town	129
Sewanee CDP	2,361	Vonore town	1,162
Seymour CDP	8,850	Walden town	1,960
Sharon town	988	Walnut Grove town	677
Shelbyville city	16,105	Walnut Hill CDP	2,756
Signal Mountain town	7,429	Walterhill CDP	1,523
Silerton town	60	Wartburg city	890
Slayden town	185	Wartrace town	548
Smithville city	3,994	Watauga city	403
Smyrna town	25,569	Watertown city	1,358
Sneedville town	1,257	Waverly city	4,028
Soddy-Daisy city	11,530	Waynesboro city	2,228
Somerville town	2,519	Westmoreland town	2,093
South Carthage town	1,302	White Bluff town	2,142
South Cleveland CDP	6,216	White House city	7,220
South Fulton city	2,517	White Pine town	1,997
South Pittsburg city	3,295	Whiteville town	3,148
Sparta city	4,599	Whitwell city	1,660
Spencer town	1,713	Wildwood Lake CDP	3,050
Spring City town	2,025	Williston city	341
Spring Hill city	7,715	Winchester city	7,329
Springfield city	14,329	Winfield town	911
Spurgeon CDP	3,460	Woodbury town	2,428
St. Joseph city	829	Woodland Mills city	296
Stanton town	615	Yorkville city	293



Source: U.S. Department of Commerce, Bureau of the Census, *2000 Census of Population and Housing, Public Law 94-171 File, Tennessee*, March 22, 2001.

Population of Alabama Cities and Towns, 1980, 1990, and 2000
(See note at end of table.)

NAME	1980	1990	2000	1990 - 2000	
				Number Change	Percent Change
1 Abbeville city	3,155	3,173	2,987	-186	-5.9
2 Adamsville city	2,498	4,161	4,965	804	19.3
3 Addison town	746	626	723	97	15.5
4 Akron town	604	468	521	53	11.3
5 Alabaster city	7,079	14,732	22,619	7,887	53.5
6 Albertville city	12,039	14,507	17,247	2,740	18.9
7 Alexander City city	13,807	14,917	15,008	91	0.6
8 Alexandria CDP			3,692	3,692	
9 Aliceville city	3,207	3,009	2,567	-442	-14.7
10 Allgood town	387	464	629	165	35.6
11 Altoona town	928	960	984	24	2.5
12 Andalusia city	10,415	9,269	8,794	-475	-5.1
13 Anderson town	405	339	354	15	4.4
14 Anniston city	29,135	26,623	24,276	-2,347	-8.8
15 Arab city	6,053	6,321	7,174	853	13.5
16 Ardmore town	1,096	1,090	1,034	-56	-5.1
17 Argo town		930	1,780	850	91.4
18 Ariton town	844	743	772	29	3.9
19 Arley town	276	338	290	-48	-14.2
20 Ashford city	2,165	1,926	1,853	-73	-3.8
21 Ashland city	2,052	2,034	1,965	-69	-3.4
22 Ashville town	1,489	1,494	2,260	766	51.3
23 Athens city	14,558	16,901	18,967	2,066	12.2
24 Atmore city	8,789	8,046	7,676	-370	-4.6
25 Attalla city	7,737	6,859	6,592	-267	-3.9
26 Auburn city	28,471	33,830	42,987	9,157	27.1
27 Autaugaville town	843	681	820	139	20.4
28 Avon town	433	462	466	4	0.9
29 Babbie town	553	576	627	51	8.9
30 Baileyton town	396	352	684	332	94.3
31 Banks town	160	195	224	29	14.9
32 Bay Minette city	7,455	7,168	7,820	652	9.1
33 Bayou La Batre city	2,005	2,456	2,313	-143	-5.8
34 Bear Creek town	353	913	1,053	140	15.3
35 Beatrice town	558	454	412	-42	-9.3
36 Beaverton town	360	319	226	-93	-29.2
37 Belk town	308	255	214	-41	-16.1
38 Benton town	74	48	47	-1	-2.1
39 Berry town	916	1,218	1,238	20	1.6
40 Bessemer city	31,729	33,497	29,672	-3,825	-11.4
41 Billingsley town	106	150	116	-34	-22.7
42 Birmingham city	284,413	265,968	242,820	-23,148	-8.7
43 Black town	156	174	202	28	16.1
44 Blountsville town	1,509	1,527	1,768	241	15.8
45 Blue Mountain town	284	221	233	12	5.4
46 Blue Ridge (CDP)		1,151	1,331	180	15.6
47 Blue Springs town	112	108	121	13	12.0
48 Boaz city	7,151	6,928	7,411	483	7.0
49 Boligee town	164	268	369	101	37.7
50 Bon Air town	118	91	96	5	5.5
51 Branchville town	365	370	825	455	123.0
52 Brantley town	1,151	1,015	920	-95	-9.4
53 Brent city	2,862	2,776	4,024	1,248	45.0
54 Brewton city	6,680	5,885	5,498	-387	-6.6
55 Bridgeport city	2,974	2,936	2,728	-208	-7.1
56 Brighton city	5,308	4,518	3,640	-878	-19.4
57 Brilliant town	871	751	762	11	1.5
58 Brookside town	1,409	1,365	1,393	28	2.1
59 Brookwood town	492	658	1,483	825	125.4
60 Brundidge city	3,213	2,472	2,341	-131	-5.3
61 Butler city	1,882	1,872	1,952	80	4.3

470 Vance town	254	248	500	252	101.6
471 Vernon city	2,609	2,247	2,143	-104	-4.6
472 Vestavia Hills city	15,722	19,749	24,476	4,727	23.9
473 Vina town	346	356	400	44	12.4
474 Vincent town	1,652	1,767	1,853	86	4.9
475 Vredenburgh town	433	313	327	14	4.5
476 Wadley town	532	517	640	123	23.8
477 Waldo town	231	309	281	-28	-9.1
478 Walnut Grove town	510	717	710	-7	-1.0
479 Warrior city	3,260	3,280	3,169	-111	-3.4
480 Waterloo town	260	250	208	-42	-16.8
481 Waverly town	228	152	184	32	21.1
482 Weaver city	2,765	2,715	2,619	-96	-3.5
483 Webb town	448	1,039	1,298	259	24.9
484 Wedowee town	908	796	818	22	2.8
485 West Blocton town	1,147	1,468	1,372	-96	-6.5
486 West End-Cobb Town (CDP)	5,189	4,034	3,924	-110	-2.7
487 West Jefferson town	357	388	344	-44	-11.3
488 West Point town	248	257	295	38	14.8
489 Wetumpka city	4,341	4,670	5,726	1,056	22.6
490 White Hall town	195	814	1,014	200	24.6
491 Wilsonville town	914	1,185	1,551	366	30.9
492 Wilton town	642	602	580	-22	-3.7
493 Winfield city	3,781	3,689	4,540	851	23.1
494 Woodland town	192	189	192	3	1.6
495 Woodville town	609	687	761	74	10.8
496 Yellow Bluff town		245	181	-64	-26.1
497 York city	3,392	3,160	2,854	-306	-9.7

*Spanish Fort was a CDP in 1980 with slightly different boundaries from the incorporated city.

Note: The numbers reported here are the unrevised numbers originally reported in the censuses. Sometimes they will differ significantly from the numbers in tabulations that use revised census numbers.



Source: U.S. Department of Commerce, Bureau of the Census, Censuses of Population 1980, 1990, and 2000

EXHIBIT 2



United States of America
FEDERAL COMMUNICATIONS COMMISSION
FM BROADCAST STATION CONSTRUCTION PERMIT

Official Mailing Address:

WYAI, INC.
102 PARKWOOD CIRCLE
CARROLLTON GA 30117

Authorizing Official:

for 
Edward P. De La Hunt
Assistant Chief
Audio Services Division
Mass Media Bureau

Facility ID: 63406

Call Sign: WYAI

Permit File Number: BPH-20000131ACC

Grant Date: JUN 28 2000

This permit expires 3:00 a.m.
local time, 36 months after the
grant date specified above.

Subject to the provisions of the Communications Act of 1934, as amended, subsequent acts and treaties, and all regulations heretofore or hereafter made by this Commission, and further subject to the conditions set forth in this permit, the permittee is hereby authorized to construct the radio transmitting apparatus herein described. Installation and adjustment of equipment not specifically set forth herein shall be in accordance with representations contained in the permittee's application for construction permit except for such modifications as are presently permitted, without application, by the Commission's Rules.

Commission rules which became effective on February 16, 1999, have a bearing on this construction permit. See Report & Order, Streamlining of Mass Media Applications, MM Docket No. 98-43, 13 FCC RCD 23056, Para. 77-90 (November 25, 1998); 63 Fed. Reg. 70039 (December 18, 1998). Pursuant to these rules, this construction permit will be subject to automatic forfeiture unless construction is complete and an application for license to cover is filed prior to expiration. See Section 73.3598.

Equipment and program tests shall be conducted only pursuant to Sections 73.1610 and 73.1620 of the Commission's Rules.

Name of Permittee: WYAI, INC.

Station Location: GA-BOWDON

Frequency (MHz): 105.3

Channel: 287

Class: C1

Hours of Operation: Unlimited

allsign: WYAI

Permit No.: BPH-20000131ACC

Transmitter: Type Accepted. See Sections 73.1660, 73.1665 and 73.1670 of the Commission's Rules.

Transmitter output power: As required to achieve authorized ERP.

Antenna type: (directional or non-directional): Non-Directional

Antenna Coordinates: North Latitude: 33 deg 24 min 43 sec

West Longitude: 84 deg 50 min 3 sec

	Horizontally Polarized Antenna	Vertically Polarized Antenna
Effective radiated power in the Horizontal Plane (kW):	60	60
Height of radiation center above ground (Meters):	346	346
Height of radiation center above mean sea level (Meters):	618	618
Height of radiation center above average terrain (Meters):	371	371

Antenna structure registration number: 1057861

Overall height of antenna structure above ground (including obstruction lighting if any) see the registration for this antenna structure.

Special operating conditions or restrictions:

1 PROGRAM TESTS FOR WYAI(FM) WILL NOT COMMENCE ON CHANNEL 287C1 UNTIL PROGRAM TESTS FOR WQSB(FM) AND WDEN-FM COMMENCE ON CHANNELS 286C3 AND 288C3, RESPECTIVELY, AND A LICENSE WILL NOT BE GRANTED FOR WYAI(FM) ON CHANNEL 287C1 UNTIL A LICENSE IS GRANTED FOR WQSB(FM) AND WDEN-FM ON CHANNELS 286C3 AND 288C3, RESPECTIVELY.

2 Pursuant to the grant of this construction permit and the authority found in Sections 4(i), 5(c)(1), 303 and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b), 0.283, 1.420, 73.203(b), and 73.3573 of the Commission's Rules, the FM Table of Allotments, 47 C.F.R. Section 73.202(b), IS AMENDED as follows:

Community	Channel No.
Bowdon, Georgia	Add 287C1, Delete 288A

Pursuant to Section 316(a) of the Communication Act of 1934, as amended, license BLH-19961218KA IS MODIFIED to specify operation on Channel 287C1 in lieu of Channel 288A.

3 ***** This is a Section 73.215 contour protection grant *****
 ***** as requested by this applicant *****

4 BEFORE PROGRAM TESTS COMMENCE, sufficient measurements shall be made to establish that the operation authorized in this construction permit is in compliance with the spurious emissions requirements of 47 C.F.R. Sections 73.317(b) through 73.317(d). All measurements must be made with all stations simultaneously utilizing the shared antenna. These measurements shall be submitted to the Commission along with the FCC Form 302-FM application for license.

Callsign: WYAI

Permit No.: BPH-20000131ACC

Special operating conditions or restrictions:

- 5 The permittee/licensee in coordination with other users of the site must reduce power or cease operation as necessary to protect persons having access to the site, tower or antenna from radiofrequency electromagnetic fields in excess of FCC guidelines.

*** END OF AUTHORIZATION ***

EXHIBIT 3

DECLARATION OF JEFF LITTLEJOHN

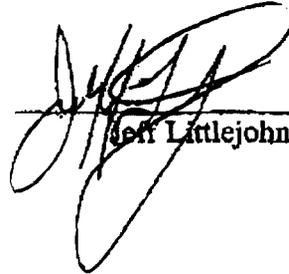
I, Jeff Littlejohn, hereby declare under penalty of perjury as follows:

1. I am Vice President, Engineering, of Clear Channel Broadcasting Licenses, Inc. ("Clear Channel"), the licensee of radio station WYAI(FM), Bowdon, Georgia. This Declaration is in response to Reply Comments filed on May 9, 2001 by Cox Radio, Inc. ("Cox") in MM Docket No. 01-62. In its Reply Comments, Cox has speculated on various factors that could delay construction of modified facilities for WYAI(FM). WYAI(FM) holds a construction permit to modify its facilities (File No. BPH-20000131ACC), and has an application pending to modify that construction permit (File No. BMPH-20010424AAM).

2. Notwithstanding Cox's speculation, Clear Channel foresees no delays in the prompt implementation of the WYAI(FM) facility modification. FAA and zoning approvals have been obtained for the site specified in Clear Channel's pending application to modify the WYAI(FM) construction permit. Copies of these approvals are attached hereto. Clear Channel will shortly assume an existing contract for purchase of the land, and will close on the purchase as soon as possible thereafter. The antenna tower has been ordered from the manufacturer, which will erect the tower under a turnkey contract. Assuming grant in due course of the pending application to modify the construction permit, Clear Channel's goal is to activate WYAI(FM)'s operation with the modified facilities by the end of 2001.

3. Except for facts of which official notice can be taken, the facts contained in the foregoing Declaration are true and correct.

Dated: May 30, 2001



Jeff Littlejohn

COWETA COUNTY, GEORGIA

ZONING APPROVAL FOR

SIDNEY POPE JONES SITE

Steve Davis
Assistant Planner

Coweta County Planning Department
Robert L. Tolleson, Director
22 East Broad Street
Newnan, Georgia 30263
Ph# (770) 254-2635
Fax # (770) 254-2606

Sandra Parker
Zoning Technician

March 27, 2001

To: M. Douglas A. Standley, President
SpectraSite Broadcast Group
5601 North MacArthur, Suite 1000
Irving, Texas 75038

From: Robert L. Tolleson
Director of Planning

Re: Special Use Permit
Site Location: Ga. Hwy 16 and Sidney Pope Road (27.877 Acres)
Petition #002-01SUP
Tax I. D. # 061-5092-001

Dear Applicant:

This letter is to officially inform you that on Tuesday, March 21, 2001, the Coweta County Board of Commissioners **approved** your request to construct a 1,200 foot guyed radio transmission tower subject to the following conditions:

- (1) The county maintained portion of Sidney Pope Road shall be left in the same condition which it currently is after construction.
- (2) This special use permit will allow the construction and placement of only one tower on the 27.877 acre tract Special Use Permit District. The height of the tower including antennas and lighting rods shall be approved by the Building Official. All equipment needed to operate this telecommunication facility must be installed within the fenced area of the tower compound.
- (3) Plant material shall meet the minimum landscaping standards as specified under Article 25 of the Coweta County Zoning Ordinance, and a buffer plan shall be required to be submitted for approval with the predevelopment site plan. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible.

- (4) The tower and all appurtenances, including structures within the tower compound shall either maintain a galvanized finish, or subject to any applicable standards of the FAA, be painted a neutral color to reduce visual obtrusiveness (i. e. light to medium gray or light brown).
- (5) Should the State Historic Preservation Officer submit a finding of effect upon potentially eligible historic structures or places within the one-mile area of potential effect surrounding the tower site, SpectraSite Broadcast Group shall comply with mitigating actions recommended by the State.
- (6) Coweta County shall have the right to co-locate County communication equipment on the subject tower provided that the placement of County equipment does not interfere with the tower's equipment or operations.
- (7) Lighting shall be established so adjacent properties and roadways are not adversely affected, and so that no direct light is cast upon adjacent properties and roadways.
- (8) The following documents, information, or designs must be submitted to the building official for review and approval prior to issuance of a building permit:

SpectraSite Broadcast Group shall:

- (A) Submit a pre-development site plan, indicating grading, drainage and erosion control for the proposed tower site.
- (B) Provide proof to the Building Official that FAA has approved the design and location of the tower. Final plans must depict the lighting/obstruction marking, or other requirement imposed by FAA.
- (C) Submit a notarized Indemnification Agreement on a form acceptable to the County Attorney, holding the County harmless from any liability in the event that the tower collapses.
- (D) Prior to issuance of certificate of occupancy, establish either a cash deposit or bond or letter of credit as required under Article 6 Section 69.5. III General Guidelines and Requirements for Permitted and Special Use Districts, Tower Obsolescence or Abandonment, Item (a).

In addition, SepctraSite Broadcast Group, or the owner of the tower subject to this special use permit shall:

(E) Conduct annual safety inspections of the tower and all antennas and lighting rods mounted on the tower. The tower owner shall submit the name and qualifications of the selected maintenance contractor and a safety inspection checklist to the Building Official for his approval prior to issuance of a building permit. Reports certifying the safe condition of the tower and appurtenances shall be filed with the Building Official and are due on February 1 each year. Failure to file an inspection report by the 15th day following the due date constitutes a violation of these conditions and corrective action shall be taken by the Building Official as authorized under Article 27, Section 273. Violations.

If you should have any questions, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert L. Tolleson". The signature is fluid and cursive, written over a light blue horizontal line.

Robert L. Tolleson
Director of Planning

cc: Building Department

**FAA APPROVAL FOR
SIDNEY POPE JONES SITE**

Mar 12 01 08:41a

FRA/FCC Group

Cary, NC 919-466-5503

P.2

Federal Aviation Administration
Southern Region, ASO-520
P.O. Box 20636
Atlanta, GA 30320

AERONAUTICAL STUDY
RECEIVED No: 00-ASO-9047-OE

MAR 12 2001

ISSUED DATE: 03/05/01

MARIA GABRIEL/ATLANTA TEST SITE #2
SPECTRASITE COMMUNICATIONS, INC
100 REGENCY FOREST DR., SUITE 400
CARY, NC 27511

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has completed an aeronautical study under the provisions of 49 U.S.C., Section 44718 and, if applicable, Title 14 of the Code of Federal Regulations, part 77, concerning:

Description: NEW ANTENNA TOWER-STRUCTURE

Location: NEWNAN GA
Latitude: 33-24-40.99 NAD 83
Longitude: 084-49-47.78
Heights: 1200 feet above ground level (AGL)
2043 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure would have no substantial adverse effect on the safe and efficient utilization of the navigable airspace by aircraft or on the operation of air navigation facilities. Therefore, pursuant to the authority delegated to me, it is hereby determined that the structure would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

-As a condition to this determination, the structure should be marked and/or lighted in accordance with FAA Advisory Circular 70/7460-1K Change 1, Obstruction Marking and Lighting, Chapters 4, 9(H-Dual), & 12.

-It is required that the enclosed FAA Form 7460-2, Notice of Actual Construction or Alteration, be completed and returned to this office any time the project is abandoned or:

At least 10 days prior to start of construction
(7460-2, Part I)

Within 5 days after construction reaches its greatest height
(7460-2, Part II)

-See attachment for additional condition(s) or information.

This determination expires on 10/14/02 unless:

- (a) extended, revised or terminated by the issuing office or
- (b) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case the determination expires on the date prescribed by the FCC for completion of construction or on the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE POSTMARKED OR DELIVERED TO THIS OFFICE AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE.

Mar 12 01 08:41a

FAA/FCC Group

Cary, NC 919-466-5503

p.3

-As a result of this structure being critical to flight safety, it is required that the FAA be kept apprised as to the status of this project. Failure to respond to periodic FAA inquiries could invalidate this determination.

This determination is subject to review if an interested party files a petition on or before 04/04/01. In the event a petition for review is filed, it must contain a full statement of the basis upon which it is made and be submitted in triplicate to the Manager, Airspace & Rules Division, ATA-400 Federal Aviation Administration, Washington, D.C. 20591.

This determination becomes final on 04/14/01 unless a petition is timely filed. In which case, this determination will not become final pending disposition of the petition. Interested parties will be notified of the grant of any review.

This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights, frequency(ies) or use of greater power will void this determination. Any future construction or alteration, including increase in heights, power, or the addition of other transmitters, requires separate notice to the FAA.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

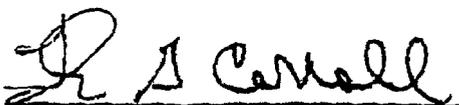
This aeronautical study considered and analyzed the impact on existing and proposed arrival, departure, and en route procedures for aircraft operating under both visual flight rules and instrument flight rules; the impact on all existing and planned public-use airports, military airports and aeronautical facilities; and the cumulative impact resulting from the studied structure when combined with the impact of other existing or proposed structures. The study disclosed that the described structure would have no substantial adverse effect to air navigation.

An account of the study findings, aeronautical objections received by the FAA during the study (if any), and the basis for the FAA's decision in this matter can be found on the following page(s).

A copy of this determination will be forwarded to the Federal Communications Commission if the structure is subject to their licensing authority.

FCC licensees are required to file an environmental assessment with the Commission when seeking authorization for use of the high intensity flashing white system.

If we can be of further assistance, please contact our office at 404-305-5597. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 00-ASO-9047-08.



Walter R. Cochran
Manager, Airspace Branch

(DNH)

7460-2 Attached

ATTACHMENT

**AERONAUTICAL STUDY
NO. 00-ASO-9047-OE**

The proposed structure would be located approximately 6.66 nautical miles northwest of the Newnan-Coweta County (CCO) Airport Reference Point. The structure, as proposed, will exceed the standard for determining obstructions to air navigation contained in Part 77, Subpart C, of the Federal Aviation Regulations as follows:

Exceeds FAR Part 77.23 (a)(1) by 700 feet, its height more than 500 feet above ground level (AGL), at its site with respect to Savannah International Airport.

The proposed structure was found to have no adverse effect on the VFR airport traffic patterns in the vicinity of the site.

Details of the structure were circularized to the aeronautical public for comment. No objections were received.

The impact on arrival, departure, and en route procedures for aircraft operating under VFR/IFR conditions at existing and planned public use airports, as well as aeronautical facilities, was considered during the analysis of the structure. The aeronautical study disclosed that the structure, at a height of 2043 feet above mean sea level (AMSL), would have no adverse effect upon any terminal or en route instrument procedure or altitude.

The cumulative impact resulting from the structure, when combined with the impact of other existing or proposed structures was considered and found to be acceptable.

Therefore, it is determined that the structure will have no substantial adverse effect upon the safe and efficient utilization of the navigable airspace by aircraft or on the operation of navigational facilities and will not be a hazard to air navigation.

//////////////////////////////////////END OF COMMENTS//////////////////////////////////////

CERTIFICATE OF SERVICE

I, Lisa M. Balzer, a secretary in the law firm of Shook, Hardy and Bacon, do hereby certify that I have on this 31st day of May, 2001 caused to be mailed by first class mail, postage prepaid, copies of the foregoing "REPLY COMMENTS" to the following:

- * Ms. Nancy V. Joyner
Federal Communications Commission
Mass Media Bureau
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Washington, DC 20554

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* HAND DELIVERED