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JUN 17 2002

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

June 17, 2002

By Hand Delivery

Marlene Dortch, Secretary
Federal Communications Commission
445 12th Street, N.W.
Washington, D.C. 20554

RE: Amendment of Section 73.202(b), FM Table of Allotments
MM Docket No. 00-69, RM-9850, RM-9945, RM-9946
Northern Radio of Michigan, Inc.

Dear Mr. Dortch:

Transmitted herewith is an original and four copies of a "Petition for Reconsideration" filed on behalf of Northern Radio of Michigan, Inc. in the above-referenced proceeding.

Should there be any questions regarding this filing, please contact undersigned counsel.

Sincerely,



Lee G. Petro

Counsel to Northern Radio of Michigan, Inc.

Enclosures

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

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JUN 17 2002

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re:	}	
	}	
Amendment of Section 73.202(b)	}	
Table of Allotments,	}	MM Docket No. 00-69
FM Broadcast Stations.	}	RM-9850
(Cheboygan, Rogers City, Bear Lake,	}	RM-9945
Bellaire, Rapid River, Manistique,	}	RM-9946
Ludington, Walhalla and	}	
Onaway, Michigan)	}	

To: Chief, Media Bureau

PETITION FOR RECONSIDERATION

Northern Radio of Michigan, Inc. ("Northern"), by and through its attorneys, and pursuant to Section 1.106 of the Commission's rules, 47 C.F.R. § 1.106 (2001), hereby submits the instant "Petition for Reconsideration" of the *Report and Order* in the above-referenced proceeding, released on May 17, 2002, DA 02-1156 (the "Order"). In the *Order*, *inter alia*, the Commission's staff declined to reallocate Channel 260C1 from Bear Lake to Bellaire, Michigan, due to the supposed unavailability of Channel 291A as a back-fill allotment at Bear Lake, Michigan. Instead, Channel 292C2 was allotted to Onaway, Michigan as its first local service, and Channel 249C3 was allotted to Cheboygan, Michigan as its second local service. *Id.*, paras. 9, 10.

As discussed in more detail below, the stated justification for declining to reallocate Channel 260C1 at Bellaire is in error. The *Order* is in direct conflict with a decision issued on the same date where the Commission's staff specifically determined that there were two sites from which an allotment of Channel 291A will provide requisite city-grade service to Bear Lake.¹

¹ See *Honor, Bear Lake, Ludington, Walhalla and Custer, Michigan*, Report and Order, DA 02-1155, nt. 4 (rel. May 17, 2002) (disputing claims of terrain and spacing problems, and stating that the Commission's staff conducted further engineering analysis, and that requisite city-grade coverage would be provided to Bear Lake from two different sites).

In light of this error, which served as the sole articulated basis for the determination that Channel 260C1 can not be reallocated at Bellaire, Northern is filing the instant Petition for Reconsideration so that the Commission may articulate a separate and more valid basis for the rejection of Channel 260C1 at Bellaire. Specifically, the Commission cannot reallocate Channel 260C1 at Bellaire because there are five substantial obstructions between the proposed allotment site for Channel 260C1 and Bellaire. This fact was demonstrated by Northern in its timely-filed Reply Comments in the proceeding,² and serves as the sustainable basis for the Commission's decision to not reallocate Channel 260C1 to Bellaire.

DISCUSSION

Section 1.106 of the Commission's rules permits parties in a proceeding to file a petition for reconsideration if they believe the decision was reached in error.³ In such instances, the Commission requires the petitioning party to provide the basis for its conclusion that a decision was reached in error, and state with particularity how the decision should be reformed.

In its Reply Comments, Northern demonstrated that several large obstructions block line-of-sight service from the proposed Channel 260C1 transmitter site to its proposed community of license, thereby precluding the Bellaire assignment under rule Section 73.315(a)(requiring city-grade

² The deadline for filing Reply Comments to the Counterproposal proposing the reallocation of Channel 260C1 at Bellaire, Michigan was September 8, 2000. *See Public Notice*, Rept. 2431 (rel. Aug. 24, 2000).

³ Specifically, Section 1.106(d) requires that:

(1) The petition shall state with particularity the respects in which petitioner believes the action taken by the Commission or the designated authority should be changed. The petition shall state specifically the form or relief sought and, subject to this requirement, may contain alternative requests.

(2) The petition for reconsideration shall also, where appropriate, cite the findings of fact and/or conclusions of law which petitioner believes to be erroneous, and shall state with particularity the respects in which he believes such findings and conclusions should be changed. The petition may request that additional findings of fact and conclusions of law be made.

47 C.F.R. § 1.106(d) (2001).

coverage of the community) and Section 73.315(b)(requiring line-of-sight service over the principal community). Northern provided an Engineering Statement prepared by its consulting engineering, Carl T. Jones Corporation, which demonstrated that “there are five major terrain obstructions between the proposed allotment reference site [and] Bellaire. *See* Reply Comments, *Statement of William J. Getz*, pg. 2. As a result, the terrain obstructions would require the construction of a tower greater than 1,700 feet for the proposed allotment to provide line-of-sight service to Bellaire. *Id.* A tower of such height is unreasonable under the Commission’s standards,⁴ and would likely be blocked by the Federal Aviation Administration.⁵

Despite the overwhelming evidence provided by Northern in its timely-filed Reply Comments demonstrating that the reallocation of Channel 260C1 at Bellaire would not comply with Sections 73.315(a)&(b) of the Commission’s rules, there was absolutely no mention of this fact, *or of Northern’s pleading*,⁶ in the *Order*. Instead, the Commission stated:

It is our determination that Channel 291A cannot be allotted to Bear Lake as a back-fill channel as requested by Fort Bend to accommodate the reallocation of Channel 260C1... Since our engineering analysis has determined that Channel 291A cannot be used as a back-fill channel at Bear Lake, we cannot find that the reallocation of Channel 260C1 from Bear Lake to Bellaire, Michigan, provides a public interest benefit of enough significance to outweigh the loss of the sole transmission service from Bear Lake or offset the disruption of an existing service.

Order, ¶9. Thus, while it might be the case that the Commission reviewed the availability of a back-fill allocation *prior to* the review of whether an reallocation of Channel 260C1 at Bellaire was technically feasible, in light of the decision in the *Honor, Michigan, supra, note 1*, which found that Channel 291A at Bear Lake was technically feasible, and the strongly-expressed interest of the

⁴ *Jefferson City, Cumberland Gap, Elizabethton, Tennessee and Jonesville, Virginia*, 13 FCC Rcd 2303, 2304 (1998)(Commission found a terrain obstruction requiring a tower 1,261 feet in height (384 meters) to provide line-of-sight coverage to all of the proposed community of license precluded compliance with Section 73.315(b) of the Commission’s rules).

⁵ Northern provided a Statement from John P. Allen of Airspace Consultants, Inc. which discussed the unlikely chance that the Federal Aviation Administration would approve the extremely tall tower located in close proximity to the Charlevoix Airport.

⁶ A stamped-in copy of Northern’s Reply Comments is attached.

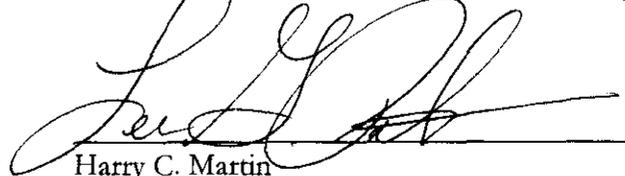
involved parties, it is vital that the Commission articulate an alternate justification for the denial of the proposed reallocation of Channel 260C1. Given the insurmountable challenges presented by the proposed reallocation of Channel 260C1 at Bellaire, Michigan, including terrain obstructions and the resulting requirement that an unreasonably tall tower would need to be constructed, it is clear that the reallocation can not be granted.

CONCLUSION

Therefore, Northern Radio of Michigan, Inc. respectfully requests that the Commission reconsider the basis for its decision denying the request for a reallocation of Channel 260C1 at Bellaire, Michigan. Northern does not support the reallocation of Channel 260C1 at Bellaire, Michigan because such action would be counter to the Commission's rules prohibiting the allotment of a new service that would not provide the requisite city-grade or line-of-sight service to the proposed community of license. As such, the allocation is not in the public interest, and should be denied.

Respectfully submitted,

NORTHERN RADIO OF MICHIGAN, INC.

A handwritten signature in black ink, appearing to read "Lee G. Petro", is written over a horizontal line.

Harry C. Martin
Lee G. Petro
Its Attorneys

FLETCHER, HEALD & HILDRETH, P.L.C.
1300 North 17th Street, 11th Floor
Arlington, Virginia 22209
(703) 812-0400

June 17, 2002

**Petition for Reconsideration
Attachment**

**Reply Comments of
Northern Radio of Michigan, Inc.**

September 8, 2000

(Not considered in the *Report and Order*)

"PLEASE STAMP"
AND RETURN
THIS COPY TO
FLETCHER, HEALD & MILDRETH

BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

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SEP 8 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of Section 73.202(b),)
Table of Allotments,)
FM Broadcast Stations,)
(Cheboygan and)
Rogers City, Michigan))

MM Docket No. 00-69
RM-9850

To: Chief, Allocations Branch

REPLY COMMENTS OF
NORTHERN RADIO OF MICHIGAN, INC.

Northern Radio of Michigan, Inc. ("Northern Radio"), by counsel, hereby submits its comments in response to the "Counterproposal," filed June 16, 2000 ("Counterproposal"), by D&B Broadcasting L.L.C. ("D&B") and Fort Bend Broadcasting Company ("Fort Bend") (collectively, "Counterproponents") in the above-captioned proceeding. In support of these reply comments, the following is stated:

In response to a Petition for Rulemaking filed by Escanaba License Corp., the Commission issued a *Notice of Proposed Rule Making and Order to Show Cause*, 15 FCC Rcd 10292 (Allocations Branch 2000), proposing (i) the allotment of Channel 260C2 to Cheboygan, Michigan, as that community's second local FM service, and (ii) the modification of the license for Station WHAK(FM), Rogers City, Michigan, to specify operation on Channel 292C2 in lieu of Channel 260C2.

On June 16, 2000, Counterproponents filed their subject Counterproposal proposing, *inter alia*, that the license for Station WSRQ(FM), Bear Lake, Michigan, be modified to specify operation on Channel 260C1 in lieu of Channel 261A, and that Channel 260C1 be reassigned to Bellaire, Michigan, as that community's first local aural service.¹ For the reasons stated herein, the proposed substitution of Channel 260C1 for the existing Channel 261A allotment at Bear Lake, and the reassignment of Channel 260C1 to Bellaire, is technically defective and should not be adopted.

Counterproponents claim that the reallocation of Channel 260C1 at Bellaire, Michigan, can be made at the reference coordinates North Latitude: 45° 20' 48"; West Longitude: 85° 07' 46".² Counterproponents allege that the proposed allotment reference point is 25 kilometers north of the community of Bellaire, and that a transmitter operating from the allotment reference site would comply with the Commission's city-grade and minimum distance separation requirements. *Id.* However, as demonstrated in the attached engineering statement of William J. Getz, there are five (5) major terrain obstructions between the proposed allotment reference site and the community of Bellaire. *See* Getz Engineering Statement, p. 2. The most severe obstruction is located 32.7 kilometers from the allotment reference point at an elevation of 289 meters above ground. *Id.* From the Counterproposal's proposed allotment reference point, this terrain obstruction would require a tower height of 1,700 feet (518 meters) above ground in order to provide line-of-sight coverage to the entire community of Bellaire. *Id.* at 2-3. As the Commission has previously determined, the

¹ On August 24, 2000, the FCC issued a *Public Notice*, Report No. 2431 (released August 24, 2000), announcing that the Counterproposal filed by D&B and Fort Bend would be treated as a counterproposal in the above-captioned proceeding, and affording interested parties 15 days in which to submit reply comments.

² *See* Engineering Statement in Support of Counterproposal, p. 4.

tower height necessary to obviate the significant terrain obstruction such as that involved in this case is unrealistic. Accordingly, the proposal to substitute Channel 260C1 for the existing Channel 261A allotment at Bear Lake, and the reassignment of Channel 260C1 to Bellaire, fails to comply with the line-of-sight coverage requirement contained in Section 73.315(b) of the Commission's rules.³

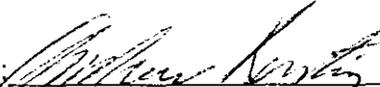
Furthermore, even assuming, *arguendo*, that the Commission were to conclude that the requirement of constructing a 1,700 foot tower for the proposed reallocation of Channel 260C1 at Bellaire would not render the Counterproponents' Counterproposal technically defective, Mr. Getz' attached engineering statement contains the results of an evaluation by John P. Allen, an airspace consultant, concerning the possibility of erecting a tower 1,700 feet above ground at the proposed allotment reference point. Mr. Allen's attached statement demonstrates that the tower height required to overcome the significant terrain obstructions between the proposed allotment reference point and the community of Bellaire would exceed Federal Aviation Administration obstruction standards by as much as 1,380 feet. *See* Getz Engineering Statement, Exhibit 2, p. 2. Therefore, the proposed reallocation of Channel 260C1 to Bellaire, Michigan, is technically defective because a major terrain obstruction between the proposed allotment reference point and the community of Bellaire would preclude line-of-sight coverage to the entire proposed community of license as required by Section 73.315(b) of the Commission's rules.

³ *Jefferson City, Cumberland Gap, Elizabethton, Tennessee, and Jonesville, Virginia*, 13 FCC Rcd 2303, 2304 (Policy & Rules Div. 1998) (Commission found that a terrain obstruction requiring a tower 1,261 feet in height (384 meters) to provide line-of-sight coverage to all of the proposed community of license precluded compliance with Section 73.315(b) of the Commission's rules).

WHEREFORE, in light of the foregoing, Northern Radio of Michigan, Inc. respectfully requests that the Counterproposal filed by D&B Broadcasting L.L.C. and Fort Bend Broadcasting Company be DENIED.

Respectfully submitted,

NORTHERN RADIO OF MICHIGAN, INC.

By:  _____

Harry C. Martin
Andrew S. Kersting

Its Counsel

Fletcher, Heald & Hildreth, P.L.C.
1300 North 17th Street, 11th Floor
Arlington, Virginia 22209
(703) 812-0400

September 8, 2000

c:\ask...martin\mi\CheboyganRep.com.wpd

CARL T. JONES
CORPORATION

STATEMENT OF WILLIAM J. GETZ
IN SUPPORT OF REPLY COMMENTS IN
OPPOSITION TO A COUNTERPROPOSAL
IN MM DOCKET NO. 00-69, RM-9946

Prepared for: Northern Radio of Michigan, Inc.

I am a Radio Engineer, an employee in the firm of Carl T. Jones Corporation with offices located in Springfield, VA. My education and experience are a matter of record with the Federal Communications Commission.

This office has been authorized by the Northern Radio of Michigan, Inc., to prepare this statement and the associated exhibits as Comments in opposition to a counterproposal filed in the above-referenced MM Docket No. 00-69.

NPR Escanaba License Corp ("Petitioner") filed the original Petition to Amend the FM Table of Allotments, Section 73.202(b) of the FCC Rules seeking a second local service in Cheboygan, Michigan, and a change in the allotted channel at Rogers City, Michigan. On April 25, 2000, the Allocations Branch adopted a Notice of Proposed Rulemaking ("NPRM") setting forth the Petitioner's request to modify Section 73.202(b) of the FCC Rules.

On June 16, 2000, D & B Broadcasting, L.L.C. filed a multichannel counterproposal ("D & B Counterproposal") to the Petitioner's proposed arrangement of allotments. The FCC released a Public Notice on August 24, 2000, describing the nature of the D & B

STATEMENT OF WILLIAM J. GETZ
PAGE 2

Counterproposal and established a reply comment date of September 8, 2000. This material is prepared as reply comments in opposition to the D & B Broadcasting, L.L.C. proposed channel 260C1 at Bellaire, Michigan.

Channel 260C1, Bellaire, Michigan (45-20-48 & 85-07-46)

According to the Engineering Report filed in support of the D & B Counterproposal ("D & B Engineering Report"), "The assignment of FM Channel 260C1 at Bellaire, Michigan can be made at reference co-ordinates N45-20-48, W85-07-46. This allotment site is 25 km north of the community of Bellaire, Michigan and a transmitter operating from this allotment site will fully comply with the Commission's city grade illumination and milage separation requirements".¹ It is submitted that the proposed Channel 260C1 allotment at Bellaire is technically defective because a major obstruction between the proposed allotment reference site and Bellaire would preclude line-of-sight coverage to all of Bellaire as required by Section 73.315(b) of the Commission's Rules.

Exhibit 1 is a computer-generated, 3-second terrain database, terrain profile from the D & B Counterproposal, Channel 260C1 allotment reference site toward Bellaire. As shown in Exhibit 1, there are five major terrain obstructions between the proposed allotment reference site Bellaire. The most severe obstruction is located 32.7 km from the allotment reference site at an elevation of 289 meters. From the proposed allotment reference site, the terrain obstruction in this instance would require a tower height of 1,700

¹ See D & B Broadcasting, L.L.C., Engineering Report, Page 4.

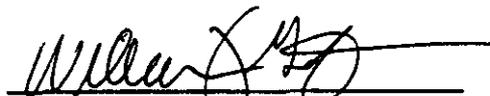
STATEMENT OF WILLIAM J. GETZ
PAGE 3

feet (518 meters) above ground level to provide line-of-site coverage to all of Bellaire. Consistent with FCC precedent, this is an unrealistic requirement to obviate a major terrain obstruction.²

To further substantiate the unsuitability of the proposed Bellaire allotment reference site, Exhibit 2 contains the results of an evaluation by a professional airspace consulting firm, concerning the possibility of a 1,700 foot above ground level tower at the proposed Bellaire allotment reference site. In addition to unrealistic tower height necessary to satisfy line-of-sight requirements considering FCC precedent, the required tower height is also unrealistic considering the required tower height would exceed Federal Aviation Administration obstruction standards by as much as 1,380 feet (see Exhibit 2). The Commission has specifically set forth, as an example of an unsuitable allotment reference site, sites in areas in which tower construction would necessarily present a hazard to air navigation.³

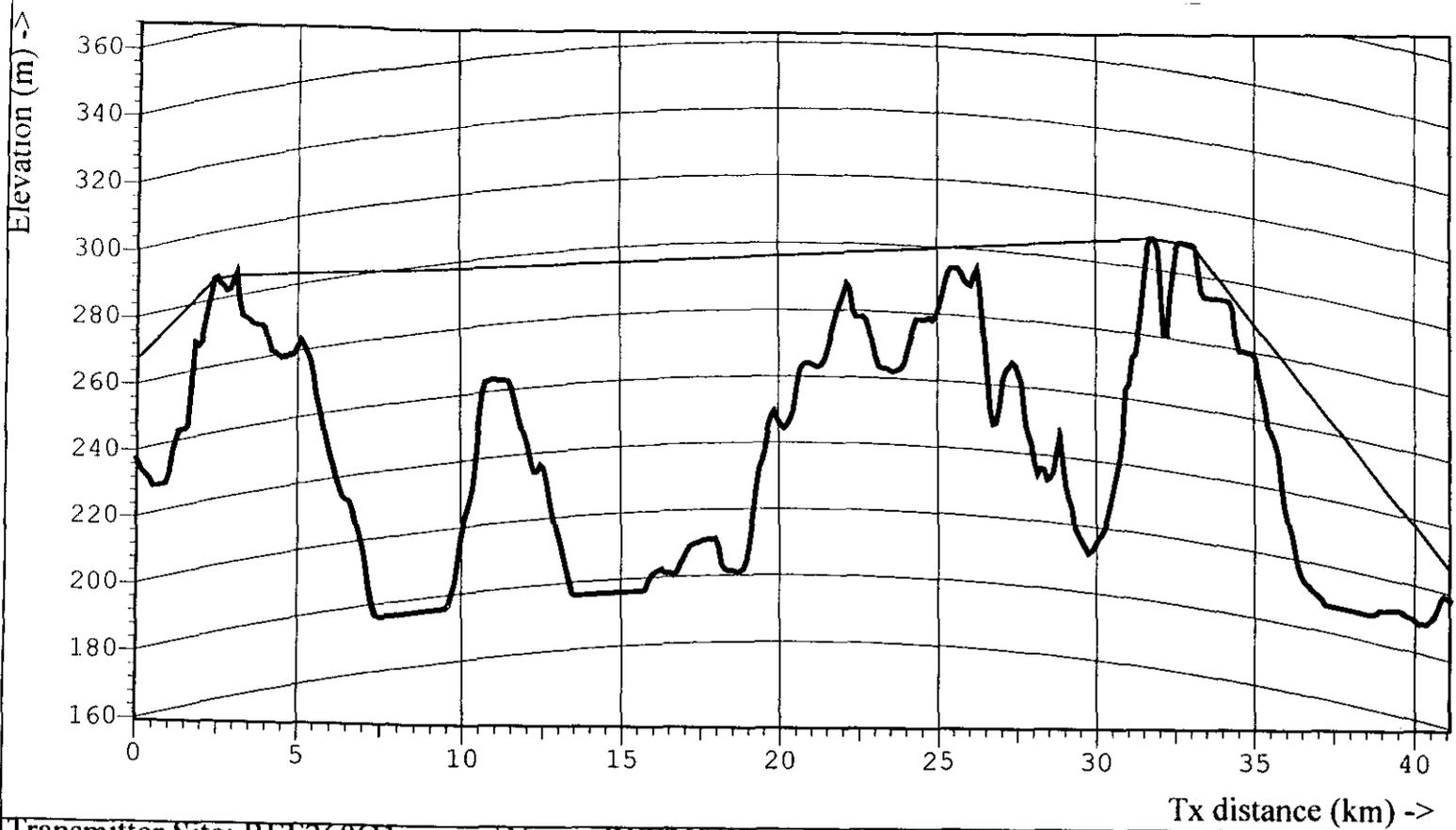
This statement and the attached Exhibit 1 have been prepared by me or under my direct supervision and are believed to be true and correct.

DATED: September 6, 2000


William J. Getz

² See Memorandum Opinion and Order, *In the Matter of Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Jefferson City, Cumberland Gap, Elizabethton, Tennessee, and Jonesville, Virginia)*, MM Docket No. 94-116, Adopted January 21, 1998; Released January 30, 1998.

³ See Report and Order, *In the Matter of Amendment of the Commission's Rules To Permit FM Channel and Class Modifications by Application*. MM Docket No. 92-159, Footnote 19, Adopted June 4, 1993; Released July 13, 1993.



SIGNAL^(M)

Prop. model: FCC-FCC
 Time: 90.00 % Loc.: 50.00 %
 Margin: 0.00 dB
 Climate: Continental Temperate
 Groundcover: None
 Atm. factor: none
 K factors: 1.333, 0.500, 2.000

Reliability Analysis
 Fade outage method:
 Vigants-Barnett
 C param. for Vigants-Barnett:
 average prop. conditions: C=1
 Adj. chan. interf.: -200.0 dBmW
 External interf.: -200.0 dBmW
 Dispersive fade margin: 80.0 dB
 Div. type: unprotected 80.0 dB
 Ant. spacing for diversity: 10.0 d
 Rain outage method: Crane
 Rain region: A

Transmitter Site: REF260CT
 Name: Bellaire REF
 Location:
 N45°20'48.00" W85°07'46.00"
 Site elevation: 237.3 m
 Antenna height: 30.0 m
 Pointing azimuth: 189.0 deg
 Transmitter power: 30.00 dBm
 Trans. line loss: 0.00 dB
 Other losses: 0.00 dB
 Antenna gain: 0.00 dB
 Antenna file:
 Total ERP: 30.00 dBm

Name: REF260CT -> CITY
 Frequency: 99.9000 MHz
 Polarization: vertical
 Length: 41.23 km
 Number of obstacles: 5
 Excess path loss: 71.1 dB
 Atm. absorption loss: 0.0 dB
 Path loss for stats: 175.86 dB
 Flat fade margin: -175.86 dB
 Total fade margin: -175.86 dB
 Annual fade outage: 31536000.00 s
 Annual rain outage: 0.00 s
 Link availability: 0.0000 %

Receiver Site: CITY
 Name: Bellaire City
 Location:
 N44°58'49.00" W85°12'40.00"
 Site elevation: 198.0 m
 Antenna height: 9.1 m
 Pointing azimuth: 9.0 deg
 Receiver threshold: 30.00 dBm
 Trans. line loss: 0.00 dB
 Other losses: 0.00 dB
 Antenna gain: 0.00 dB
 Antenna file:
 Received signal level: -145.86 dBm

Notes

JOHN P. ALLEN

AIRSPACE CONSULTANTS, INC.

P.O. BOX 1008

FERNANDINA BEACH, FL 32035-1008*

JOHN P. ALLEN
MARY C. LOWETELEPHONE (904) 261-6523
FAX (904) 277-3651

September 6, 2000

Mr. Bill Getz
Carl T. Jones Corporation
7901 Yarnwood Court
Springfield, VA 22153-2899

Dear Bill:

Pursuant to your request, an aeronautical evaluation was conducted near the Bay Shore, MI area for your new proposed tall antenna tower. The aeronautical evaluation was conducted in accordance with the standards for determining obstructions to the navigable airspace as set forth in Subpart C of Part 77 of the Federal Aviation Regulations.

COORDINATES: Latitude 45-20-48.00 N - Longitude 85-07-46.00 W
(NORTH AMERICAN DATUM - 27)COORDINATES: Latitude 45-20-48.03 N - Longitude 85-07-46.21 W
(NORTH AMERICAN DATUM - 1983)

HEIGHT: 778 feet AMSL 1700 feet AGL 2478 feet AMSL

The evaluation disclosed that the proposed site was located 6.64 nautical miles from the Charlevoix Municipal Airport reference point. The controlling aeronautical surfaces for the proposed site are the potential VFR Routes, the minimum vectoring altitude and the existing instrument approach surfaces.

The proposal as specified will exceed the standards of Part 77 as follows:

77.23(a)(1) by 1200 feet, its height in excess of 500 feet AGL

77.23(a)(3) by 800 feet, as it will require Minneapolis Center minimum vectoring altitude to be increased from 2,700 feet AMSL to 3,500 feet AMSL within 3 nautical miles of the proposed site

Mr. Bill Getz
September 6, 2000
Page -2-

77.23(a)(3) by 1380 feet, as it will effect straight in portion of the NDB or GPS Runway 27 standard instrument approach procedure serving the Charlevoix Airport

77.23(a)(3) by 1103 feet, as it will effect aircraft departing Runway 9 at the Lake Charlevoix Airport and proceeding in the direction of the proposed antenna tower site

When a structure is proposed at a height in excess of 500 feet AGL, you must consider the potential of being within a VFR Route. FAA defines VFR Routes as airspace available for visual flight rule (VFR) en route navigation in accordance with the criteria contained within FAR Part 91. VFR Routes consist of identifiable well defined natural or man-made landmarks (highways, power lines, railroads, etc.), specific VOR radials (Federal Airways), and airport transition (direct routes between airports). Proposed construction within an identified VFR Route (2 statute miles on either side of the route centerline) is limited by FAA to 500 feet AGL.

To determine whether or not these routes exist, requires a complete aeronautical study by FAA, including circularization of the proposal to the aeronautical community. Based upon the received responses to the proposal, FAA will then know whether or not a VFR route exists.

NOTE: FAA does not maintain a listing of VFR Routes, they instead rely upon the aeronautical community to respond to aeronautical circulars describing the type, location and height of the proposed structure. When the responses are received by FAA, they will validate the information (radar analysis, when possible). If you are within a VFR Route FAA will allow you relocate, reduce height or accept a determination of hazard.

The next aeronautical effect is to the Minneapolis Center minimum vectoring altitude. The present minimum vectoring altitude within 3 nautical miles of your proposed site is 2,700 feet AMSL. With 1,000 feet of required obstacle clearance and with mathematical rounding the allowable overall height for construction is 1,749 feet AMSL. With a proposed height of 2,478 feet AMSL, the minimum vectoring altitude will have to be increased from 2,700 feet AMSL

Mr. Bill Getz
September 6, 2000
Page -3-

to 3,500 feet AMSL. For this to happen Minneapolis Center will have to agree with the requisite change.

The requisite height increase will also cause the FAA to lose a cardinal altitude (3,000 feet AMSL). Air traffic control uses cardinal altitudes (3,000, 4,000, etc.) to effect vertical separation between aircraft. The loss of a cardinal altitude can be considered by the FAA as a compression of the navigable airspace and could lead to user delays. In either case, the FAA would be justified in writing a determination of hazard.

The next aeronautical effect deals with the instrument approach surfaces (initial, final and missed) for the Charlevoix Airport. The proposed site is located within the final approach course for the NDB or GPS Runway 14 standard instrument approach procedure. The allowable height is determined by subtracting the required obstacle clearance (350 feet) from the published minimum descent altitude (1460 feet AMSL). Subtracting 350 from 1460 leaves 1110 feet AMSL for overall construction height with a certified site survey attesting to a "2-C" accuracy standard. The criteria for instrument approach procedures is contained within the United States Standard for Terminal Instrument procedures (TERPS). TERPS limits the vertical changes that can be implemented to accommodate proposed construction. The final approach portion of the effected procedures can not be changed to accommodate the requested height. The allowable overall height for construction for the procedures that can not be amended is 1,110 feet AMSL. To understand the protected airspace associated with these procedures, I have outlined the protected airspace in RED.

The last aeronautical effect is the departures from Charlevoix Airport. As it stands today, there are no restrictions or departure procedures for aircraft departing Runway 9 and proceeding in the direction of the proposed site. The FAA would be required to develop a departure restriction to accommodate the requested height. Developing departure restrictions is generally not that difficult, as most pilots do not fully understand the procedure and generally do not object. However, if the aeronautical community responds to the FAA describing the proposed alteration and advises the FAA that they can not comply, the FAA is justified in writing a determination of hazard. The aeronautical community would have to state that in order to

Mr. Bill Getz
September 6, 2000
Page -4-

comply with the departure restriction they would have to either off load fuel, passengers or baggage. I have never seen this statement offered to the FAA, however, there is always a first time.

For your information, pilots have the sole responsibility to visually acquire obstacles and avoid them. However, there are times because of reduced visibility and/or low cloud ceilings the pilots can not visually acquire an obstacle and avoid it. In those circumstances the FAA is required to develop a departure restriction consisting of a cloud ceiling and visibility requirement, a rate of climb above the normal 200 feet per nautical mile or maintain a specific heading (runway heading) until leaving a specified altitude.

In conclusion, the proposal does exceed the standards of Part 77. The FAA will be required to circularize this proposal to the interested aeronautical community for their comments, prior to issuing a determination. Any proposed height above 1,110 feet AMSL will require the FAA to adjust existing aeronautical procedures (NDB or GPS Runway 27). The potential for adjusting this aeronautical procedure, in my opinion does not exist. Relocating outside of the depicted airspace, the allowable height will increase from 1,110 feet AMSL to 1,749 feet AMSL. Generally speaking, the FAA's Great Lakes Regional Office does not go along with redesigning instrument approach procedures to accommodate proposed construction. If you moved outside of the final approach trapezoid to the northeast, the allowable height would increase to 1,849 feet AMSL and with full cooperation from the FAA the height could be increased to 2,049 feet AMSL. If the FAA does object the allowable height for construction will only be 1,849 feet AMSL. The probability of over coming these objections, in my opinion, will be real difficult. The FAA to sustain there position is only required to demonstrate that one aeronautical operation per day would be effected by the required changes.

Regarding the minimum vectoring altitude, with full FAA cooperation the aeronautical surface could be increased from 2,700 feet AMSL to 3,000 feet AMSL. At 3,000 feet AMSL, the FAA would not lose a cardinal altitude. Without FAA's cooperation, the allowable height for proposed construction will remain at 1,749 feet AMSL.

Mr. Bill Getz
September 6, 2000
Page -5-

If there are any questions regarding the evaluation, please do not hesitate to call.

Sincerely,


John P. Allen
President

Enclosures

MICHIGAN ISLAND NATIONAL WILDLIFE REFUGE

STRAITS OF MACKINAC

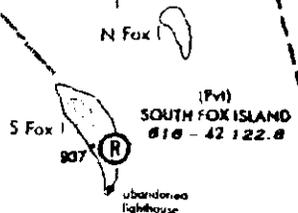
1135 ROUND I (553) WILDERNESS AREA

21

11

BEAVER ISLAND (SI) 809° 1' 40" 122.0

WELKE (6Y8) 604-35722.0
ST JAMES 382 SJX

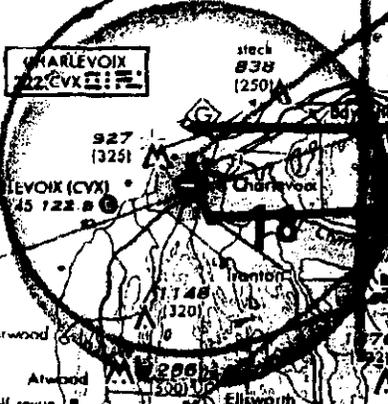


14

WOOLSEY MEML (SDS) 628° 1' 36" 122.9

CHARLEVOIX (CVX) 670° 1' 45" 122.8

CHARLEVOIX (CVX) 22 CVX



23

BOYNE FALLS 211 BF

BOYNE MEML 210 BF

WORLDWIDE GAYLORD 198.2 GR 29 GLR 75 21

OTSEGO CO (GL) ASOS 118-278 1328° 1' 45" 122.8

45

1405 (480)

SUGAR LOAF RESORT (VW) 628° 1' 35" 122.9

MILLER HEROLD 628° 1' 26" 122.8

YORCHPORT (S9M) 640-33 122.9

ANTERA CO (AC) 722° 1' 50" 122.8

MANGELON (D9) 739-24 122.8

1896 CO (330)

RESTRICTED R-430

750 (500) UC

GWENNA 385 TV

GRAYLING 108.6

RESTRICTED

108.6

1070 (255) UC

1425 (430)

1498 (399)

122.9

1270

1345

124.2

126.0

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CERTIFICATE OF SERVICE

I, Mary Haller, a secretary in the law firm of Fletcher, Heald & Hildreth, P.L.C., hereby certify that on this 8th day of September, 2000, copies of the foregoing "Reply Comments of Northern Radio of Michigan, Inc." were hand delivered or mailed first-class, postage pre-paid, to the following:

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Allocations Branch
Policy and Rules Division
Mass Media Bureau
Federal Communications Commission
The Portals II, Room 3-A266
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Washington, DC 20554

Ms. Kathleen Scheuerle*
Allocations Branch
Policy and Rules Division
Mass Media Bureau
Federal Communications Commission
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Mary Haller

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CERTIFICATE OF SERVICE

I, Carla M. Whitlock, a Secretary with the law firm Fletcher, Heald & Hildreth PLC, do hereby certify that on this 17th day of June, 2002, true copies of the foregoing "PETITION FOR RECONSIDERATION" were hand-delivered or mailed first-class, postage pre-paid, to the following:

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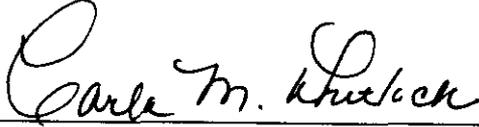
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By: 
Carla M. Whitlock