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Federal Communications Commission
Washington, D.C. 20554

December 11, 2003

Matthew K. Wesolowski, General Manager,
SSR Communications Incorporated
5270 West Jones Bridge Road
Norcross, Georgia 30092-1628

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DEC 17 2003
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Dear Mr. Wesolowski:

This is in response to a petition for rule making that you filed on behalf of SSR Communications Incorporated ("SSR"), licensee of Station WYAB(FM) ("WYAB"), Yazoo City, Mississippi.

SSR proposes that Channel 226A, Station WYAB, Yazoo City, Mississippi, be reallocated to Benton, Mississippi, pursuant to Section 1.420(i) of the Commission's Rules. SSR states that because there will be no change in the transmitter site of Station WYAB, the proposed channel reallocation would not create any new short spacings. SSR recognizes that Station WYAB is short spaced by 2.2 kilometers to Station KQID-FM, Alexandria, Louisiana. Station WYAB has been allowed to operate at its present location because it provides equivalent protection to Station KQID-FM pursuant to Section 73.215 of the Commission's Rules. In this regard, the Commission considers a reallocation of a channel to a new community to be a new allotment. Since a new allotment is not allowed for a proposal that is short spaced, the Commission does not ordinarily grant a rulemaking request for a change of community of license to a licensee that is operating pursuant to a grant made pursuant to Section 73.215 of the Rules.¹

Traditionally, the Commission's policy is to grant no waivers of the spacing requirements in considering the allotment of an FM Channel. The Commission has created a limited exception to that policy to allow a station that complied with relevant Commission spacing rules at the time it received its construction permit, but became technically "short spaced" under new rules created after the station had been authorized, to change its community of license without changing its transmitter or technical facilities.² In *Killeen and Cedar Park, Texas ("Killeen")*,³ the Commission created a further exception to the usual policy that is limited to a situation in which (1) a station that wants to change its community of license is short spaced to a pre-1964 grandfathered station and/or other stations that had been granted pursuant to Section 73.215 of the Commission's Rules; (2) the station in question does not propose to change its transmitter site or technical facilities and does not propose to utilize contour protection for any station; and (3) the proposed change in community of license creates no new short spacing and no existing short spacing would be exacerbated.

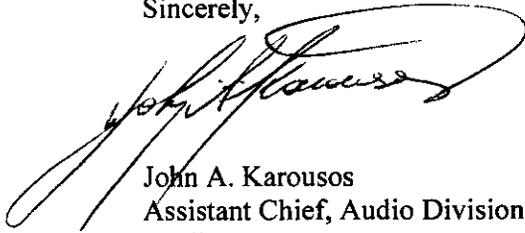
Unlike the situation in *Killeen*, Station WYAB received its current authorization pursuant to a Section 73.215 contour protection grant. The Commission has stated its reluctance to grant a waiver of the short spacing rules at the allotment stage when the station requesting the waiver has received its current grant

¹ See *Albemarle and Indian Trail, North Carolina*, 16 FCC Rcd 13876 (MMB 2001) ("*Albemarle*").
² See *Newnan and Peachtree City, Georgia*, 7 FCC Rcd 6307 (MMB 1992) and cases cited in paragraphs 3 and 4 of *Albemarle*.
³ 15 FCC Rcd 1945 (MMB 2000).

pursuant to a voluntary use of Section 73.215.⁴ Thus, unlike a pre-1964 grandfathered, short spaced station, a short spacing allowed pursuant to Section 73.215 of the Rules is treated differently when it is the result of a voluntary decision by a station to move to a short spaced site and provide contour protection rather than to utilize a fully-spaced site. Although such short spacings are permitted at the application stage, they are not allowed at the allotment stage, unless the licensee who wishes to obtain a waiver of the short spacing rules can demonstrate compelling public interest benefits that derive from its proposal. We do not find any such compelling public interest benefits in SSR's petition.

In light of the foregoing, the petition for rule making filed on behalf of SSR Communications Incorporated, licensee of Station WYAB(FM), is being returned as unacceptable for filing.

Sincerely,



John A. Karousos
Assistant Chief, Audio Division
Media Bureau

⁴ See *Albemarle, supra*, 16 FCC Rcd at 13879

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D C 20554

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In the Matter of)
)
 Amendment of Section 73.202(b),)
 Table of Allotments)
 FM Broadcast Stations)
 (Yazoo City and Benton, Mississippi))

MM Docket No _____
 RM _____

To Chief, Allocations Branch
 Policy and Rules Division
 Mass Media Bureau

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MEDIA BUREAU

PETITION FOR RULEMAKING

SSR Communications Incorporated ("SSR"), licensee of WYAB (formerly WMGO-FM), Yazoo City, Mississippi, pursuant to Rule 1.401, hereby petitions the Federal Communications Commission for the initiation of a rulemaking proceeding to amend the FM Table of Allotments (§73.202(b) of the Commission's Rules) to delete FM Channel 226A at Yazoo City, Mississippi and reassign FM Channel 226A to Benton, Mississippi, as that community's first local broadcast service, as follows

<u>City</u>	<u>Present</u>	<u>Proposed</u>
Yazoo City, Mississippi	208A, 221C3, 226A	208A, 221C3
Benton, Mississippi	---	226A

1 Benton is a bona-fide community for allotment purposes. Although it is not an incorporated city, it does have the requisite characteristics of a community. As of January of 2002, there were 2,112 residents living within the community's zip code point 39039. According to the 1990 U.S. Census Gazetteer Zip Code data, there were only 1114 residents living in Benton in the year 1990, making for a 12-year increase in

population of almost 90%. The community sports its own Post Office (39039), private school (the Benton Academy), large volunteer fire department, several churches, and numerous businesses. An attached presentation (attached hereto as Exhibit 1) better illustrates SSR's contention that Benton is a community for allotment purposes with photographs and telephone listings, among other showings.

2 Per the attached Engineering Statement (attached hereto as Exhibit 2), Channel 226A can be assigned to the community of Benton using the reference site of 32-49-19 N, 90-16-46 W. The reference site is the same as the current tower location for WYAB, so SSR would not have to construct new facilities to meet its desired outcome of this Petition. At the reference site, there is a previously existing shortspacing to the license of KQID-FM (226C) at Alexandria, Louisiana, of approximately two kilometers (2,2). As the tower site would not change, no new shortspacings would be created as a result of this Petition. All other minimum distance separation requirements of §73.202(b) of the Commission's Rules are met. The principal community contour coverage requirements of §73.315 are also met at the reference site.

3 SSR believes that this Petition will result in a preferential arrangement of the Table of Allotments, as Benton would receive its first local broadcast service. Yazoo City will continue to be well served by its other broadcast outlets, including WJNS-FM on FM Channel 221C3 as well as a yet-to-be constructed station on FM Channel 208A. The population receiving service from WYAB on FM Channel 226A would not change (as the tower site would not change), so SSR respectfully believes that no gain/loss area showings are required in this Petition. SSR also respectfully asserts that, as the reference site would not provide city-grade service to any part of an urbanized area, it is not

required to provide a *Tuck* showing to the Commission. If the Commission should decide that SSR has made errant assumptions in either of these points, then SSR will be more than happy to provide any required showing(s) to make this Petition complete

4 SSR believes that, for reasons stated above and in its exhibits, a rulemaking proceeding should be initiated to amend §73 202(b) to delete FM Channel 226A at Yazoo City, Mississippi, reassign FM Channel 226A to Benton, Mississippi, and modify the license of WYAB accordingly

Dated April 14, 2003

SSR Communications Incorporated
5270 West Jones Bridge Road
Norcross, GA 30092-1628
(770) 447-0026

Respectfully submitted,

SSR Communications Incorporated

By 

Matthew K. Wesolowski
General Manager

SSR Communications Incorporated
Petition for Rulemaking
April 14, 2003

EXHIBIT 1

Evidence that Benton, Mississippi is a Bona-Fide Community

EXHIBIT 1, PART A: PHOTOGRAPHS OF BENTON COMMUNITY



Benton Academy - Home of the Red Raiders and ~500 K-12 students.



Benton Volunteer Fire Department - Facility is only a few years old.



Benton Mini-Storage - A Company in town with "Benton" in its name.



U.S. Post Office - Serves Benton with the 39039 Zip Code.



Benton United Methodist Church - one of several Benton churches.



The Trading Post Store - Another popular business in Benton.



Historic Marker - explains the history of the Benton community:

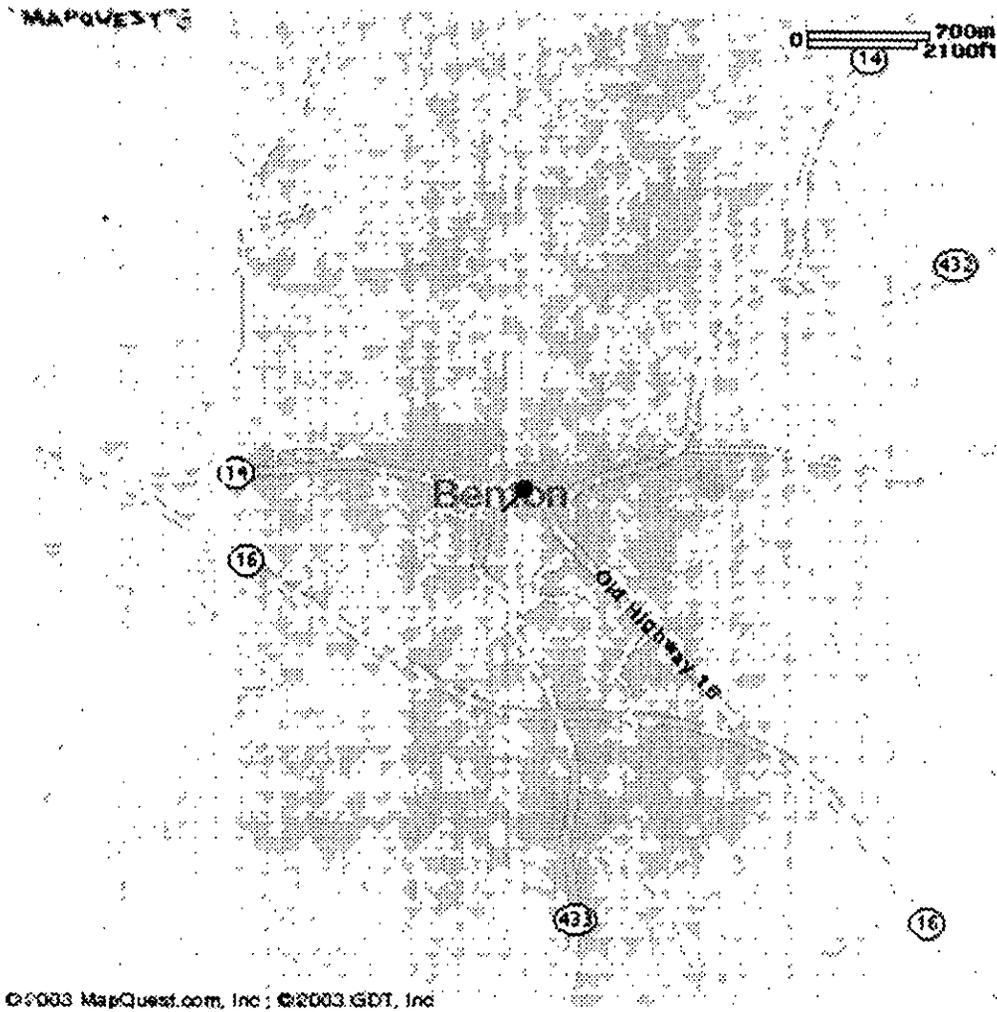
BENTON

- * -

Yazoo County seat, 1829-50.
Settled by Wm. Y. Gadberry,
1828, first court being held
in his log home. Chartered,
1836, Nearby Cedar Grove
Plantation was home of
Col. John Sharp & of famed
Sen. John Sharp Williams.

Mississippi Historical Commission

EXHIBIT 1, PART B: BENTON ON A MAP



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Benton is the intersection point for Mississippi State Highways 14, 16, 432, and 433.

EXHIBIT 1, PART C: BENTON TELEPHONE DIRECTORY SAMPLING

NAME	ADDRESS	TELEPHONE
CHURCHES	<i>All: BENTON, MS 39039</i>	(Benton Exchange: 673)
St. Luke C of God/Chr.	59 Saint Luke Church Rd	(662) 673-8252
Benton Baptist Church	2507 Fugates Rd	(662) 673-2328
Scotland Baptist	6169 Scotland Rd	(662) 673-9959
Oak Grove AME	8866 Hwy 16 East	(662) 673-9176
GOVT/ED/COMMUNITY/OTHER		
Benton Academy (K-12)	Hwy 433	(662) 673-9722
U.S. Post Office 39039	1224 Old Hwy 16	(662) 673-9773
Benton Volunteer Fire	Hwy 433	
YCA Headstart Office	735 E Powell St	(662) 673-1667
AUTOMOBILE		
Benton Phillip 66	6161 Highway 16 E	(662) 673-9066
Fast Lube	Hwy 433	
Midway Grocery/Garage		(662) 673-9731
Berry's Gas		(662) 673-9652
British Petroleum	Hwy 14	
Carter's Auto Repair	Hwy 433	
Banks		
Bank of Yazoo City	1291 Old Hwy 16	(662) 673-0119
MEDICAL		
Carlsbad Physician Asc.	189 Whispering Pines Rd	(662) 673-0202
OTHER BUSINESSES		
Final Touch Family Salon	8801 Hwy 16 E	(662) 673-0304
Architectural Millworks		(662) 673-2332
Ashland Discount Outlet	3337 Hwy 4 W	(662) 224-8008
Bar Mixes, Ltd.	6727 Highway 16 E	(662) 673-9761
Benton Country Club	Hwy 432	
Benton Farm Supply	6303 Highway 16 E	(662) 673-8811
Benton Mini Storage	Hwy 14	(662) 673-9652
Boatner Enterprises	6161 Highway 16 E	(662) 673-9011
Champion Hill Farms	7391 Highway 16 E	(662) 673-8227
Matthew's Farms	Hwy 433	
Mills Taxidermy	11437 Hwy 433 S	(662) 673-2284
MS Plastic Molders, Inc	Hwy 16	(662) 673-9077
Mona's Barber/Styling	1326 Old Hwy 16	(662) 673-9947
Nelson Builders		(662) 673-9350
Network Supply, Inc.		(662) 673-9388
Reece Surveying	688 Hwy 433	(662) 673-8881
Riverview Marketing	4561 Paradise Rd	(662) 673-8132
Shell Pipe Line Corp.	Hwy 16	(662) 673-9160
Super Saver Grocery	1269 Old Hwy 16	(662) 673-9814
Super Saver Laundry	1269 Old Hwy 16	(662) 673-9814
Video Shak	1326 Old Highway 16	(662) 673-9635
Williams Electric Svc.	11901 Highway 16 E	(662) 673-0181
Wylie, Ruth CPA	1918 Old Highway 16	(662) 673-9080
Trading Post	Old Hwy 16	

SSR Communications Incorporated
Petition for Rulemaking
April 14, 2003

EXHIBIT 2
Engineering Statement

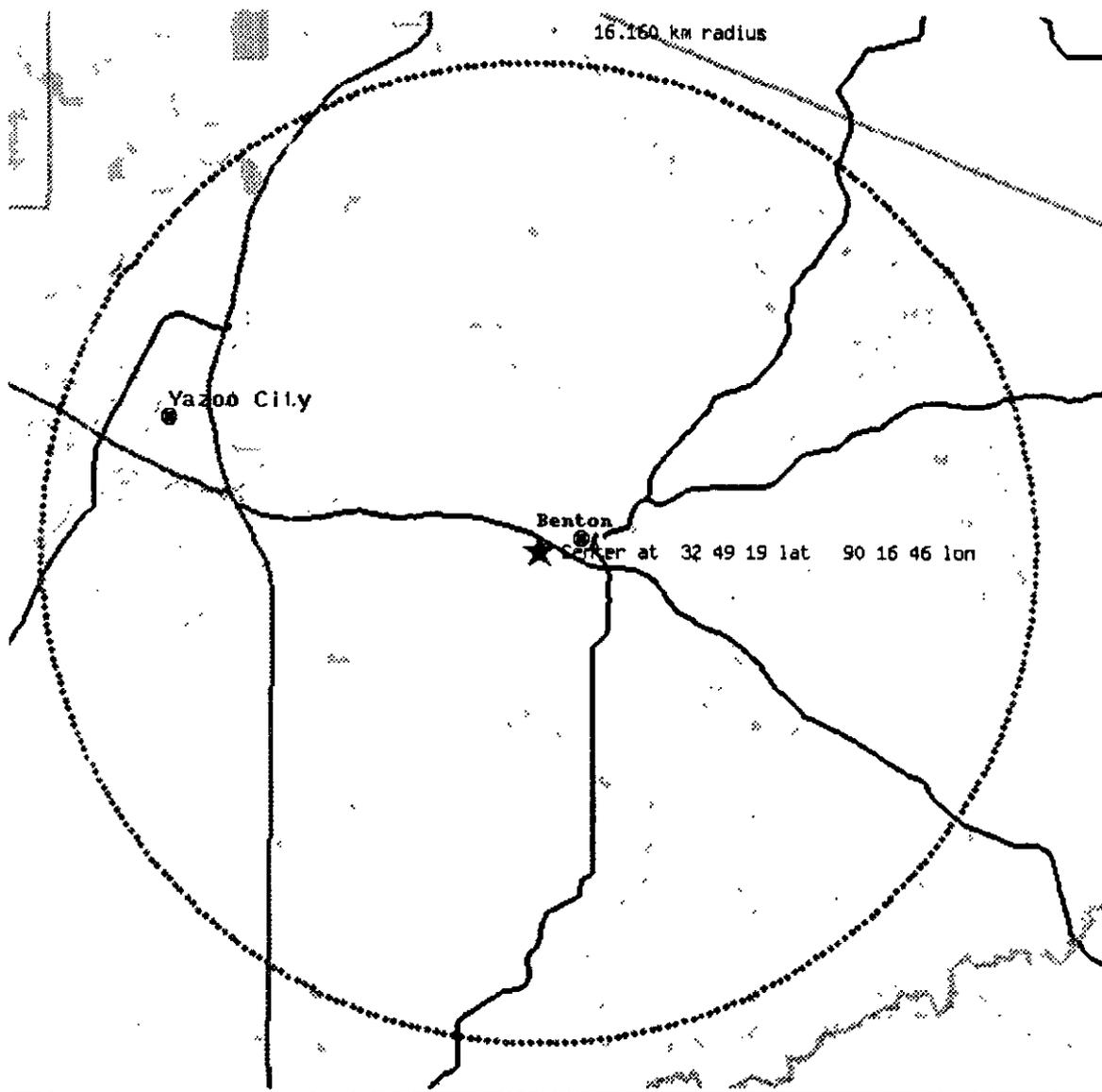


FIGURE 1 - SITE MAP

Proposed FM Channel 226A (93.1 MHz) Benton, MS
70 dBu Contour

TABLE 1 - ALLOCATION STUDY

ALL DISTANCES GIVEN IN KILOMETERS

Channel: 226A

FCC Database Date: 04/14/2003

Station	Ch	Freq.	Class	Type	City of License	St	Dist	Req Dist	Diff	Result
PROPOSEC	226	93.1	A	PRC LIC	BENTON	MS	0 00	115	115	okay*
PROPOSEC	226	93.1	A	PRC USE	BENTON	MS	2.21	115	112.79	okay*
WMGO-FM	226	93.1	A	FM LIC	YAZOO CITY	MS	0 00	115	115	okay*
--	226	93.1	A	FA USE	YAZOO CITY	MS	2.21	115	112.79	okay*
KQID-FM	226	93.1	C	FM LIC	ALEXANDRIA	LA	223 95	226	2 05	short**
--	226	93.1	C	FA USE	ALEXANDRIA	LA	223 95	226	2 05	short**
WQST-FM	223	92.5	C	FM LIC	FOREST	MS	95.00	95	0	close
--	223	92.5	C	FA USE	FOREST	MS	95.00	95	0	close
WSYE	227	93.3	C	FM LIC	HOUSTON	MS	166 37	165	-1 37	close
WDTL-FM	225	92.9	C2	FM LIC	CLEVELAND	MS	107 55	106	-1.55	close
--	225	92.9	C2	FA USE	CLEVELAND	MS	110.89	106	-4 89	close
--	227	93.3	C	FA USE	HOUSTON	MS	170.78	165	-5.78	okay
--	228	93.5	A	FA USE	CLINTON	MS	47 23	31	-16 23	okay
WHJT	228	93.5	A	FM LIC	CLINTON	MS	53 93	31	-22.93	okay
--	225	92.9	A	FA USE	HAZLEHURST	MS	103.68	72	-31.68	okay
WDXO	225	92.9	A	FM LIC	HAZLEHURST	MS	103.68	72	-31 68	okay

* = these shortspacings are only mutually exclusive with Petitioner's present assignment.

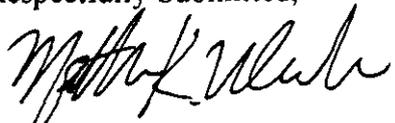
** = this is a pre-existing shortspacing. This shortspacing will NOT increase as a result of this Petition

CERTIFICATION

I certify that I have directly prepared or supervised the preparation of this entire document. Although I have received no legal counsel on the authoring of this Petition for Rule Making, I believe it to be accurate and true, to the best of my knowledge.

Date: April 14, 2003

Respectfully Submitted,



Matthew K. Wesolowski
 General Manager
 SSR Communications, Inc
 5270 West Jones Bridge Road
 Norcross, GA 30092-1628

(770) 447-0026