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Before the  
Federal Communications Commission  
Washington, D.C. 20554

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Federal Communications Commission  
Office of Secretary

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	
Table of Allotments,	)	
FM Broadcast Stations	)	
(Caseville and Pigeon, Michigan)	)	MM Docket No. 01-229
	)	RM-10257
	)	RM-11285
	)	RM-11291
	)	
(Harbor Beach and Lexington, Michigan)	)	MM Docket No. 01-231
	)	RM-10259
	)	RM-11285

To: Office of Secretary  
Attention: Chief, Audio Division, Media Bureau

**PETITION FOR RECONSIDERATION**

Sanilac Broadcasting Company ("Sanilac"), the licensee of WTGV-FM and WMIC(AM), Sandusky, Michigan, hereby petitions for reconsideration of the Report and Order adopted on December 14, 2005 and released December 16, 2005 in the above-referenced proceeding (DA 05-3214) (the "Order").<sup>1</sup> The Media Bureau, pursuant to delegated authority, has amended the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, by adding a second commercial FM channel to Lexington, Michigan and by adding a first FM channel to Pigeon, Michigan. However, as shown below, recently discovered evidence has come to light which demonstrates that the Bureau's decision to allot commercial Channel 256A to Lexington,

<sup>1</sup> The *Order* was published in the Federal Register on January 4, 2006. See Caseville, Harbor Beach, Lexington, and Pigeon, Michigan, 71 Fed. Reg. 246 (Jan. 4, 2006).

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Michigan should be reconsidered and reversed.<sup>2</sup>

In its *Order*, the Bureau stated that “[i]t is the Commission’s policy to refrain from making an allotment to a community absent an adequate expression of interest.” *Order* at 2. Due to the absence of such expressions for the Caseville and Harbor Beach, Michigan, allotments, the Bureau declined to make those allotments. However, the Bureau did rely upon Mr. Czelada’s statement of “intention to apply for and build the facilities form Channel 256A at Lexington, Michigan...” in deciding to allot that channel. *Id.* Since that time, Salinac has discovered that Mr. Czelda does not intend to construct the facilities at issue.

Specifically, principals of Sanilac spoke with Mr. Czelada yesterday, January 26, 2006, to determine his intention to apply for, enter the auction, and ultimately construct an FM commercial broadcast station on FM Channel 256A at Lexington, Michigan. Mr. Czelada informed the Sanilac principals that he had no intention of applying for the permit because the Bureau had allotted a commercial channel rather than his stated preferred choice of a noncommercial channel.<sup>3</sup> In fact, today, January 27, 2006, Mr. Czelada informed principals of Salinac that he intends to file a Petition for Reconsideration requesting that the Bureau either change the status of Channel 256A in Lexington, Michigan to noncommercial status or, in the alternative, delete the channel altogether.

As noted previously, in granting the instant proposal the Bureau specifically relied on Mr. Czelada’s assurance that he would “apply for 256A at Lexington and build it promptly once it is

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<sup>2</sup> Sanilac is an interested party in this matter be virtue of the fact that its stations compete in the Lexington, Michigan radio market. Good cause exists for the relief requested as the instant Petition raises new evidence that has only recently become available.

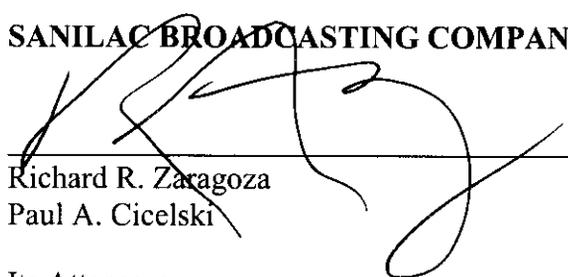
<sup>3</sup> See Attached photocopy of the executed Declaration from George E. Benko, President of Sanilac, attesting to the conversation with Mr. Czelda.

authorized.”<sup>4</sup> Thus, if the Bureau had known that Mr. Czelada had not intended to construct a commercial station on FM Channel 256A at Lexington, it would not have granted his counterproposal. In any case, regardless of whether or not Mr. Czelada ever intended to construct the proposed facilities, it is now apparent that he has no intention of doing so. Under these circumstances, the Bureau has no choice but to reconsider and rescind at least that portion of the *Order* which allotted commercial FM Channel 256A to Lexington, Michigan.

Respectfully submitted,

**SANILAC BROADCASTING COMPANY**

By:

  
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Its Attorneys

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Dated: January 27, 2006

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<sup>4</sup> See *Order* at 4; Comments and Counterproposal at 2.

**FM  
97.7 WTGV**



**WMIC  
660**

*The Thumb's Information Station*

**92.5  
WBGV  
THE POWER 92.5**

**Sanilac Broadcasting Company**

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**DECLARATION OF GEORGE E. BENKO**

**Under penalty of perjury, I declare as follows:**

**I am the President of Sanilac Broadcasting Company. Yesterday afternoon, January 26, my manager, Bob Armstrong and I, called Mr. Edward T. Czelada and asked him if he intended to apply for commercial FM Channel 256 A at Lexington, Michigan. He said no, that he had really wanted the FCC to allot a Noncommercial channel at Lexington.**

**At our urging, Mr. Czelada said that he would set the record straight and and so inform the FCC.**

**Dated: January 27, 2006**

**GEORGE E. BENKO**

A handwritten signature in black ink, appearing to read "George Benko", written over a horizontal line.

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## CERTIFICATE OF SERVICE

I, Cherie L. Mills, a secretary with the law firm of Pillsbury Winthrop Shaw Pittman LLP, hereby certify that a copy of the foregoing "PETITION FOR RECONSIDERATION" was served via U.S. mail on this 27<sup>th</sup> day of January 2006, to the following:

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Cherie L. Mills

*\* Sent Via Hand Delivery*