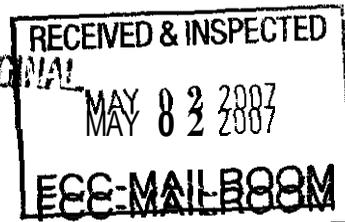


original

Indiana Community Radio Corporation  
15 Wood Street  
Greenfield, IN 46140

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Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington DC 20554

Reference : Mass Media Docket **Number 05-67** (Fishers ,Lawrence, and Clinton, Indiana)

### ICRC Response and proposed ICRC Settlement Agreement/Relocation Request

In response to the April **19,2007** letter **from** Commission Staff ICRC wishes to respond positively regarding well documented interference which affects it and other stations properly licensed from **Cumulus WWFT**.

Commission **Staff** has considered **W230AR** Mutually Exclusive with the WWFT allocation. Based on a decision in a recent Rulemaking allowing a secondary service to relocate due to interference ICRC proposes this **as** a minor change. (Exhibit FCC Peter Doyle Email)

ICRC provides a cultural and educational programming service that is of significant interest to listeners of **W230AR**. This **specific programming is not available from other sources in all of the W230AR and Primary WJCF coverage areas**. ICRC **has** spent significant funds, significant time, and significant effort to **apply for, receive a License Grant, and Construct the facilities to begin receiving interference from** a station which should not cause interference.

ICRC and **W230AR** have been involved in alerting school officials when contacted by listeners who **reported** Columbine like violence at New Castle Chrysler High School on April **17,2007**. As a result the parent with concerns **and** information spoke with school officials and the **school was placed on lockdown** and violence did not take place. If this one instance is indicative of a positive effort by ICRC we believe it demonstrates need for this **service** to continue.

ICRC has requested relocation **as it is** Mutually Exclusive with and **affected** by the Rulemaking Proceeding. This is a **minor** move and proper **based on** past Commission Decisions which we note.

Background

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W230AR was properly constructed and Cumulus did not object to the W230AR Grant in a timely manner. After improperly upgrading the WWFT signal W230AR and Primary stations began to receive interference which has been well documented.

In moving WIUX Peter Doyle of the FCC indicated **“We will routinely process non-adjacent channel changes on the basis of ANY received or caused interference reduction showing.”**

#### Service

ICRC did provide service on all parties and most importantly WWFT’s Counsel. The filing by ICRC was filed in response to the interference letter sent by Commission Staff associated with the Rulemaking Proceeding noted above and an objection of Cumulus which did not follow the accepted protocol required of a translator interference complaint. There was no complaint and the listener noted did not file a complaint.

The letter from Commission Staff was not served on all parties within the proceeding. ICRC was not sure this matter was part of the proceeding but requested it be in the proceeding. This may have lead Staff to believe the response (which was provided and service noted to all parties) was not filed on all parties.

#### Secondary and Class D Movement

As ICRC has requested movement of it’s secondary stations which provide service we note extenuating circumstances in this proceeding which should allow ICRC to move to a protected channel.

The circumstances noted are : Construction of a granted facility based on expectation of providing service and the opposing resultant interference from Cumulus WWFT which has resulted in time and energy spent with interference to service. **Cumulus** though *filings* has asserted by referencing interference with it’s current and proposed operation of WWFT that the operation of **W230AR** is Mutually Exclusive with it’s allocation of WWFT as a Class B1 station and with current operation of WWFT.

Commission Staff by letter to W230AR has referenced interference complaints and is considering W230AR Mutually Exclusive with WWFT.

Educational Stations licensed prior to **1985** noted as Class D stations were allowed to relocate to Class A facilities. Local stations WEDM Indianapolis and WJEL Indianapolis were allowed to upgrade and become Class A stations as a result of moves based on interference from other stations. Otherwise these stations would be required to become silent.

Using the non adjacent Channel movement Rule previously afforded to Class D Educational stations Licensed pre **1985** Commission Staff in 2007 allowed licensed WIUX relief from displacement and allowed a non adjacent movement. This was based

on a Petition For Reconsideration filed *after* an action by Class D stations in Arlington Oregon noted in the filing by WIUX Bloomington Indiana and Cumulus.

We note **WIUX** Bloomington (a secondary station) was relocated to a non adjacent channel. *The number of channels is irrelevant* in the test case cited in moving WIUX. Of note is the fact that **WIUX is a secondary station and the movement allowed exception of non adjacent move Rules by a Secondary station or Class D station.**

Other exceptions granted to WIUX which have previously been unacceptable to other broadcasters and should be noted are many and noted in comparison. 1) When running a Channel Study **there is no acceptable fully spaced LPFM frequency available** for Bloomington Indiana. 2) **The Channel designated is short spaced by Commission Rules** to WZKF Salem Indiana. 3) Acceptance of the application violated Commission Rules as the WIUX application was accepted outside of an accepted LPFM filing window. 4) The WIUX application was allowed to designate WIUX at a non standard not previously allowed power level. (It was however in the Public Interest **as** in this instance.)

There was no reported interference and WIUX did not receive a hard look in requesting displacement relief. ICRC believes the circumstances of harm are more appropriately placed with it's secondary station and requests relief which would allow exception to Rules in place in a manner consistent with the measures taken to relocate WIUX.

Commission Staff made the decision to apply Rules which had previously been reserved for long licensed Educational Class D stations to specifically be applied to *Secondary Stations*. Of note is Commission **Staff has** previously not applied this Rule to Secondary stations. In allowing the movement Commission Staff did not note extenuating circumstances on the licensee of WIUX which **has** both full power and television facilities along with the Low Power facility.

Commission Staff included WIUX and it's settlement in the Rulemaking proceeding and provided a positive outcome for WIUX which did not receive interference **as W230AR has.**

The test case noted which allowed WIUX to move was a Class D Educational station. If a fully spaced channel had been available the Rules which Commission Staff applied to Secondary WIUX (which is not a Class D station) the LPFM or the Class D in the noted instance could have moved to such a channel. In both instances neither station requested assignment to a Class A Channel.

W230AR is a Class D FM Translator. ICRC has presented that it **has** been severely affected by interference and has well documented the interference from Cumulus to Primary or Protected stations. This interference is well documented.

Hard Look

In comparing the ICRC request Commission Staff should consider and compare the circumstances of Arlington and WIUX to ICRC.

WIUX	W230AR
Non Standard Power Level	Requests Class A Facilities
Application outside of LPFM Window	Minor Modification
No fully spaced Channel Available	Several Class A Facilities
Arlington Oregon	W230AR
<i>Could Move to Non Adjacent or Class A Facility</i>	<i>Class A Allocation Available(Many)</i>
<i>Allowed a non adjacent move</i>	

WIUX	W230AR
<i>Could Move to a Non Adjacent or Class A Facility</i>	<i>Non Adjacent Channel Available</i>
<i>Allowed Non Adjacent Move</i>	
No Class A facility available	
No fully spaced LPFM 100 available	

Pre 1985 Secondary stations were allowed the availability to move to non adjacent channels and become Class A facilities.

In both instances the stations did not have an open allocation which would allow movement to a Class A Facility. ICRC has found channels for fully spaced Class A operation.

WIUX	W230AR
No Interference	Well documented Interference
Arlington Oregon	W230AR
No Interference	Well documented Interference

Arlington Oregon and WIUX only became involved *after a Rulemaking proceeding*. ICRC and W230AR have been asking for *relief from the beginning of the Rulemaking Proceeding*.

During the course of the proceeding ICRC has been experiencing interference from WWFT. The WWFT facilities would be Mxed with the current facilities of W230AR by argument of WWFT.

ICRC has provided several options for relocation and provides available alternate allocations to relocate and continue service.

**Available Alternate Channels**

Ch 218A

ICRC has prepared **an** application for CH 218A. Equipment **from** W230AR would be reused to construct the facility.

Conclusion

Upon acceptance by Commission Staff that the application would resolve the Mutually exclusive interference issues. ICRC **has** no issue with interference to it's new facilities on CH 218A.

We include additional information from Paul Ford of WPFR Clinton Indiana which **further** documents interference from WWFT.

Respectfully Submitted

April 27,2007



Jennifer Cok-Hensley  
15 Wood Street  
Greenfield, IN 46140  
317 467-1064

## Interference Report Concerning WWTN (Formerly WISG Fishers, Indiana)

**Station W230AR has** previously provided a detailed interference analysis which I assisted in preparing utilizing maps from Com Study and personal analysis of signals within the 60dbu protected contours of WPFR Clinton, Indiana.

Station W230AR New Castle, Indiana and WPFR Clinton **Indiana** have both received interference following signal upgrades by WWFT Fishers, Indiana, formerly WISG.

### Background

WISG is owned by Cumulus, a publicly traded company. **Cumulus** has a long standing legal battle in Nashville, TN with station WNSR. WNSR requested relief after claiming violation of Federal Rules by Cumulus in removing one of it's networks as well as **anti** trade acts related to the coverage area of WNSR.

Commission Staff has a belief that a Licensee will operate at a specific power level which would allow service by other facilities based on this Licensed power operation.

Based on specific interference to WPFR Clinton, Indiana and similar interference to W230AR New Castle, Indiana it appears WWFT is operating at variance from parameters as at least two facilities have reported interference in areas that WWFT should not even be heard and is in fact removing a Licensed station or stations from being heard within areas they should have expectancy of coverage.

In moving WIUX Peter Doyle of the FCC indicated **“We will routinely process non-adjacent channel changes on the basis of ANY received or caused interference reduction showing.”**

Additional Interference Reported by WPFR Clinton, Indiana

Reports of Interference by the WPFR Chief Operator are summarized within the brief note included herein and received via email April 24,2007.

Marty Hensley

I have roughly scanned the WPFR(FM) mail for letters from listeners reporting interference to WPFR(FM) **from** WISG. I **could** not find the letters I was looking for because of the large volume of mail we normally receive from listeners and I simply don't have the time for a thorough search.

You are welcome to come to our studios and personally look at all of our received listener mail if you wish.

I can, however, report the following:

A telephone call was received **January 11, 2007 at 10:53pm** from a **Duane Daugherty**, **1227 West Pine** forest Drive, Terre Haute, IN reporting severe interference to **WPFR(FM) from WISG** (at) Seelyville, IN on east. **Seelyville is well inside the WPFR(FM) 60dBu contour and just outside the 70dBu contour.**

I received a telephone call, probably in January, 2007 from a Mr. Jim Soard, 340 West Willow Street, Dana, IN. He complained that **WISG completely wiped out WPFR(FM)** on a Sunday morning while he was wanting to listen to the Moody Church Hour. The city of Dana, IN is just outside the **WPFR(FM) 60dBu contour** and is almost due north of the **WPFR(FM) transmitter site.**

One Monday, I believe it was August 7th, 2006, I attended a Word Power Men's meeting in **Terre Haute, IN.** Upon leaving the meeting early afternoon, maybe about 2pm, I turned on my radio to check on **WPFR(FM).** The signal was strong, as usual but the programming was hard Christian rock music. Since **WPFR(FM)** does not play that kind of music, my first thought was that the automation had gone wild. When I listened a little, it was obvious that I was listening to **WISG, Indianapolis, IN.** I did dial the **WPFR(FM)** transmitter and discovered that it was off the air. There had been a power failure and it had to be turned back on. With the transmitter back on, the interference was overpowered in Terre Haute, IN. When I arrived at the studio, I had received a telephone call from Marshall, IL complaining that we had changed **our** programming. The **WISG** signal was so strong in Marshall, IL that the listener believed that they were listening to **WPFR(FM)** instead of **WISG.** Marshall, IL is just inside the **WPFR(FM) 60dBu contour** to the west on **highway 40.** **WISG** must have been running a lot of power that day to appear **as a local FM station at about 90 or 100 miles away.**

Charlie Miller of Rosedale, IN **has** often reported severe interference to **WPFR(FM)** from **WISG.** Rosedale, IN is well inside the **WPFR(FM) 60dBu contour.** One morning at about **6am,** Charlie was driving to the **WPFR** studio and received severe interference to **WPFR(FM)** from **WISG** at the intersection of highway 150 and the Sandford Road, within sight of the **WPFR(FM) tower** and less than 2 miles away.

Several people outside the **WPFR(FM) 60dBu contour** often complain of interference from **WISG.** These generally **are** people who *can* normally receive **WPFR(FM)** but who have suddenly received much interference from **WISG.** One was from Coal City, IN. Bobby Shipman from the Spencer, IN area often receives interference from **WISG** to west of Brazil, IN while driving to Terre Haute, IN. Recently, Bobby Hopper from Fillmore, IN drove to the **WPFR(FM)** studio and was quite **amazed** to be able to receive **WPFR(FM)** well from Greencastle, IN to the studio. He stated that his most recent experiences had been that of receiving terrible interference from **WISG** to **WPFR(FM),** so he was surprised to receive **WPFR(FM)** clearly.

Please let me know if you need additional information.

Paul

Exhibit :Map of WWFT Licensed Facilities

Using *the* Licensed Contours *of* WWFT it would appear there should be no interference to the WPFR Facilities.

We present that an occasional interference issue related to **warm** air inversions or similar rf enhancing phenomena are expected. The specific interference related to phenomena **are** not involved **as** the interference is regular, predictable, and repeatable.

Measuring rf signals leaves room for theories and **are** typically unreliable. In past cases **of** interference there are no instances I have viewed in which regular, predictable, and repeatable interference occurs outside **of** the interfering station's 40dbu contour and within the victim station's 60dbu or 70dbu contour.

Of special note is the distance to the victim locations and the Licensed HAAT of WWFT compared to the victim signal locations for WPFR Clinton, Indiana.

In each noted interference instance none of the victim locations are within the WWFT 40dbu contour. All **of** the locations **are** within the WPFR 40dbu contour.

Additionally, interference is noted by listeners within the 60 and 70dbu contours **of** WPFR Clinton, Indiana. We present that Dana Indiana while outside of the theoretical WPFR Clinton ~~Indiana~~ 60dbu contour, **is** within the Longely Rice 60dbu contour.

Reports from WPFR Chief operator Paul Ford report hearing WWFT on a portable or mobile device in Terre Haute, Indiana when WPFR was off the air.

Individually and isolated instances **are** not the scope of the interference. This is a regular, predictable, and repeatable instance.

WPFR **had** a previously clean signal in the area **of** it's 50 dbu contour but after changes by WWFT this previously clean signal does not exist.

W230AR

We accept that W230AR is a secondary service but that the facility is Mutually Exclusive with WWFT in MB Docket 05-67.

The facility was constructed and began operation and had good coverage in the New Castle area.

After being on the air the WWFT signal changed and the W230AR signal can no longer be heard in places where it was previously heard. Previous presentation of contours and interference locations are noted.

*When* comparing *interference* on **W230AR** it is *remarkable* to note that the two stations receiving interference are receiving the interference in opposite directions from each other. Both stations are receiving interference that is regular, predictable, and repeatable within their 60dbu and 70dbu contours in geographical areas which are far from each other.

W230AR and WPFR are receiving interference that is regular, predictable, and repeatable within their licensed or permitted 60dbu and 70dbu contours and both report interference within sight of their broadcast towers.

My personal observations typically note noise and interference from WWFT on W230AR within a block of the W230Ar transmit tower. The interference is varying depending on location but is always present in the W230AR signal.

The technical facilities of WPFR and W230AR have been investigated thoroughly to determine no malfunction of either station's transmitter or antenna.

All of the interference reported is outside of the WWFT 40dbu contour based on licensed values.

All of the interference is at locations which WWFT should have no line of sight signal to. No line of sight from licensed facilities would indicate there should be no interference.

WWFT **has** no signal interference from the stations which are victim to interference from WWFT.

Other stations are also affected. One of these stations, WQKC Seymour Indiana, was purchased by Cumulus to prevent interference issues.

Commission Staff can request power bills from each of the Cumulus transmitter sites if it wishes to verify the power consumption and operation at each Cumulus site.

#### Conclusion

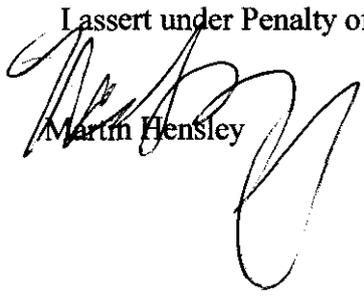
WWFT can be generating the **regular**, predictable, and repeatable signals which cause interference by only 2 known methods: 1) Operation at variance from parameters; or 2) an **as** yet unexplained phenomena never before reported or viewed.

The only relief for each Licensee affected would be to relocate each station to a channel which is not within Class B facilities for WWFT.

We have determined facilities for W230AR would place it on CH 218A with a similar coverage and signal as a replacement for W230Ar's currently interference subject signal.

The issue of WPFR is another altogether. While WPFR had never previously received interference but now receives it regularly since the changes at WWFT it will continue to receive interference if it remains on the same channel.

I assert under Penalty of Perjury the statements herein to be true and correct.



Martin Hensley

**Mc Kaig, Richard N**

---

**From:** Lipp, Mark [MLipp@wrf.com]  
**sent:** Tuesday, November 14, 2006 7:15 PM  
**To:** Mc Kaig, Richard N  
**Subject:** FW: LPFM

Mr. McKaig—while you and your advisors are considering our proposal to change to another frequency, I decided to ask the Chief, Audio Division, of the Media Bureau whether the FCC would entertain an application for the LPFM station to change to a non-adjacent frequency. Here is his response.

—Original Message—

**From:** Peter Doyle [mailto:Peter.Doyle@fcc.gov]  
**Sent:** Tuesday, November 14, 2006 7:09 PM  
**To:** Lipp, Mark  
**Subject:** Re: LPFM

We will routinely process non-adj channel change apps on the basis of ANY received or caused interference reduction showing.

\_\_\_\_\_  
Sent from my BlackBerry Wireless Handheld

— Original Message —

**From:** Lipp, Mark <MLipp@wrf.com>  
**To:** Peter Doyle  
**Sent:** Tue Nov 14 18:24:49 2006  
**Subject:** LPFM

Peter—can a LPFM station which will be receiving interference change to a nonadjacent frequency without a window filing opportunity? The rules do not allow translators to do so. But Section 73.870(a) seems to indicate that it may be possible for a LPFM station to apply for a nonadjacent frequency upon a showing that it will be reducing interference.

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November 9, 2006

Mark Lipp  
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mlipp@wrf.com

VIA EMAIL

Mr. Richard N. McKaig  
Dean of Students & Vice President of Student Affairs, Bloomington  
Indiana University  
Bryan Hall 205  
Bloomington, IN 47405

Re: Petition for Reconsideration  
MB Docket 06-77

Dear Mr. McKaig:

We are writing on behalf of the various parties ("Joint Parties") that filed proposals which were adopted in the above referenced proceeding before the FCC and in response to your undated letter styled as "Petition for Reconsideration." Your letter makes reference to the University's low power FM station WIUX-LP operating on 100.3 MHz and the impact that a channel change for Station WYGB, Edinburgh, IN will have on the University's station. The letter acknowledges that due to Section 73.807 of the FCC's Rules, the action taken by the FCC in this proceeding "could result in WIUX-LP being displaced or turned off." The letter mentions that the proposal involving the Edinburgh channel change did not appear on the Commission's website or Public Notice until after the comment reply deadline of June 13, 2006 and the Commission has a proceeding pending which could afford LPFM stations protection from full power stations. In view of the service that the LPFM station provides to the University community, the letter asks the FCC to establish precedent by allowing the LPFM station to continue to operate.

The Joint Parties have no desire to affect the continuation of the University's radio station. Had the potential impact been brought to our attention in a timely manner before the FCC issued its Order we may have been able to work out an accommodation. At the outset, we note that the FCC did issue an additional Public Notice on July 17, 2006 which specifically listed the Edinburgh, IN channel change and offered a 15 day reply period during which at least one other party which operates translator stations filed comments. A copy of that Public Notice is attached. While the University's letter does recognize that the FCC will not tolerate interference caused by the low power station to the full power station, the FCC's Rules (Section 73.809) provide that the LPFM station can continue to operate in a situation like the present one where the LPFM station would cause interference within the 60 dBu (or 1 mV/m) contour which is a secondary coverage area of the

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Mr. Richard N. McKaig

November 9, 2006

Page 2

full power station as long as it does not affect that station's primary or 70 dBu (3.16 mV/m) contour or its city of license. Therefore it is not certain what impact there will be until the Edinburgh station actually changes channels. Nevertheless, the FCC did speak to this very issue in another decision issued on the same day as the Edinburgh case. That decision (Port Norris, NJ) is also enclosed and involved an objection filed by two low power FM stations. The FCC stated at Paragraph 6, that "[p]roposed allotments for full power FM stations are not required to protect low power stations."

Rather than respond to each of the assertions made in the University's letter at this time, the purpose of the Joint Parties' letter is to explore the possibility of having Station WIUX-LP change its frequency in order to resolve the conflict that exists. The Joint Parties have asked their engineering consultant to find another frequency that will be acceptable to the FCC and there is such a frequency. Section 73.870(a) of the FCC's Rules will allow the University to file a minor change application to change its frequency to a nonadjacent channel if by doing so interference will be reduced. If the University is willing to consider this proposal, than the Joint Parties will be pleased to work with the FCC staff to facilitate the change when the Edinburgh station is ready to commence operation on its new frequency. That process could take at least 6 months. Please let me know as soon as possible and we will provide more information about the new frequency.

Sincerely,

  
Mark N. Lipp

Enclosures

Cc: Kevin Reed, Esq, Counsel to CXR Holdings, LLC



**Certificate of Service**

**I am Jennifer Cox-Hensley and I declare under penalty of perjury I have submitted the enclosed documents 1) Response/Settlement ; 2) Interference Showing; 3) Interference Map ; 4) Commission Communication on the following :**



**Word Power Inc  
C/o Frank Jazzo Esq  
Fletcher Health Hildreth PLC  
1300 N 17<sup>th</sup> St  
11<sup>th</sup> Floor  
Arlington VA 22209 – 3801**

**Indy Lico WFMS Lico  
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