

DOCKET FILE COPY ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Amendment of Section 73.202(b),) MB Docket No. 07-125
Table of Allotments,) RM-11375
FM Broadcast Stations.)
(Oolitic, IN))
)

FILED/ACCEPTED

AUG 20 2007

Federal Communications Commission
Office of the Secretary

To: The Office of the Secretary, FCC
To the Attention of: Chief, Audio Division

COUNTERPROPOSAL

L. Dean Spencer, by his attorneys, pursuant to the *Notice of Proposed Rule Making*, DA 07-2854, MB Docket No. 074-125, RM-11375, released June 29, 2007 (the "NPRM"), hereby submits his counterproposal¹ to allot FM Channel 231A to Worthington, Indiana (population 1,481) as its first local transmission service, in lieu of the allotment proposed in the NPRM as a second local transmission service to Oolitic, IN. At the same time this Counterproposal is filed, in accord with the procedures set forth in *Revision of Procedures Governing Amendments to FM Table of Allotments and Changes of Community of License in the Radio Broadcast Services*, 21 FCC Rcd 14212 (2006), a complete FCC Form 301 for a new station serving Worthington, IN, and the requisite FCC new application filing fee, are being filed. In support of the allotment of Channel 231A to Worthington, Indiana, the following is submitted:

1. In response to a Petition for Rule Making filed by Bruce Quinn, the Commission released the NPRM proposing the allotment of Channel 231A to Oolitic, Indiana. As an initial matter, the Petition for Rule Making filed by Mr. Quinn was in error in its claim that its proposal

¹ The NPRM established August 20, 2007 as the deadline for filing comments and counterproposals. Accordingly, this Counterproposal is timely filed.

would provide a first local transmission service to Oolitic, Indiana. In fact, Mr. Quinn’s proposal would provide a SECOND local transmission service to Oolitic, Indiana as non-commercial educational FM station WMYJ-FM (FCC Facility ID No. 92257) is presently licensed to Oolitic, Indiana.

2. In lieu of Mr. Quinn’s proposal which would provide a second local transmission service, L. Dean Spencer requests that a first local transmission service be provided to the more deserving community of Worthington, Indiana with the FM Table of Allotments being amended as follows:

<u>Community</u>	<u>Channel No.</u>		<u>Coordinates</u>
	<u>Present</u>	<u>Proposed</u>	
Worthington, IN	-----	231A	N 39-00-31 W 86-55-05

3. Worthington, Indiana is a is a community listed in the 2000 U.S. Census with a population of 1,481² and its own zip code of 47471. The community of Worthington has its own public primary/middle school which is Worthington Elementary /Junior High School with 345 students and a location at 484 West Main Street (Grades: KG - 08) . In addition, the community of Worthington has a private primary/middle school which is the Hilltop Christian School. Located in Worthington is the Worthington Jefferson Township Public Library at 26 N Commercial Street with an operating income of \$91,952, 20,458 books, 370 audio materials, 661 video materials and 52 serial subscriptions. For banking services, The First Financial Bank, National Association, Worthington State Branch, is located at 9 North Commercial Street in Worthington.

² See *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88, 100 (1982) (requirement of an allotment to a community is generally satisfied if the community is either incorporated or listed in the U.S. Census).

4. Some of the businesses located in Worthington are: Antique Alley at 5 S Commercial St, Worthington; Log Cabin Treasures at 1 S Commercial St, Worthington; Carriage House Antiques at 318 S Jefferson St, Worthington; Washington Street Peddler at 25 N Washington St, Worthington; Wendy's Antique Ally at 5 S Commercial St, Worthington; Nathan Butler Funeral Home at 219 Terre Haute Road, Worthington; Speedi Mart at 119 S Commercial St, Worthington; Traylor's Mini Mart also at 119 S Commercial St, Worthington; Vest Quick Mart at 820 S Commercial St, Worthington; Brewer Heating Service at 105 Christian St, Worthington; Stahl's Plumbing & Heating at 425 E Main St, Worthington; Stoner's Plumbing & Heating also at 425 E Main St, Worthington; Dyar & Associates at Hwy 67 S, Worthington; 1st Security Insurance also at Hwy 67 S, Worthington; Indiana Farmers Mutual Insurance at 12 N Washington St, Worthington; Flynn's Auto Service at 218 S Commercial St, Worthington; Haircut Parlor at 210 E Main St, Worthington; Royer Veterinary Services at 118 S Commercial St, Worthington; and Worthington Coin Shop at 210 E Main St, Worthington. Churches located in Worthington include: Assembly Of God Church at 303 Canal St, Worthington; and Christian Church at 105 E Main St, Worthington.

5. As demonstrated in the attached Engineering Exhibit prepared by Charles M. Anderson and Associates, Channel 231A can be allotted to Worthington, Indiana in full compliance with FCC rules, 47 C.F.R. § 73.207. The Counterproposal is in the public interest because it will result in a fair and efficient distribution of allocations by providing Worthington, Indiana its first local aural transmission service. Under *Revision of FM Assignment Policies and Procedures, Second Report and Order*, 90 FCC 2d 88, 91 (1991), the provision of a first local service at Worthington (which is a Priority Three) would result in a preferential arrangement of allotments over the allotment of a second local service at Oolitic (which is a Priority Four).

6. L. Dean Spencer hereby certifies that he has a present intention to pursue his simultaneously filed application for Channel 231A at Worthington, Indiana, and when authorized, will construct the facilities promptly and commence operations.

WHEREFORE, for the reasons above, Channel 231A should be allotted to Worthington, Indiana, in lieu of the proposal set forth in the NPRM.

Respectfully submitted,

L. DEAN SPENCER

By: 
John F. Garziglia, Esq.
His Attorney

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August 20, 2007

TECHNICAL REPORT

This Technical Report has been developed in support of a proposed rulemaking requesting the allotment of channel 231A at Worthington, IN (1,481) serving a population of 46,418 and an area of 2,465.4 sq km in the terrain based 60 dBu contour. This proposal is in conflict with the addition of channel 231A as a second local service at Oolitic, IN (1,152) proposed in MB Docket No. 07-125, and is filed as a counterproposal to that docket.

I. Summary of Proposed Allocations Changes

Community	Existing	Proposed	Coordinates
Worthington, IN	-----	231A	N 39-00-31 W86-55-05

A channel study is provided as E1 demonstrating that 231A may be assigned in accordance with Section 73.207. The proposed allotment will encompass Worthington, IN with a 70 dBu contour (see exhibit E2), and will obtain line of sight to the community.

II. Conclusion:

The proposed channel 231A first local service at Worthington, IN is preferred under priority three of the FM allocation priorities because Worthington (1,481) is a larger community than Oolitic (1,152), and Oolitic already receives a first local service from station WMYJ-FM on channel 205A. In fact, WMYJ-FM places a 70 dBu over the entire community.

Charles M. Anderson Associates

Charles M. Anderson

Charles M. Anderson 8/15/2007

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E1 WORTHINGTON 231A CHANNEL STUDY

REFERENCE

39 00 31.0 N.
86 55 05.0 W.

CLASS = A

Current Spacings

DISPLAY DATES

DATA 08-15-07

SEARCH 08-15-07

----- Channel 231 - 94.1 MHz -----

Call	Channel	Location		Azi	Dist	FCC	Margin
RADD	ADD 231A	Oolitic	IN	95.2	25.08	114.5	-89.42(1)

(1) Point of conflict with MB Docket No. 07-125.

RADD	ADD 230B1	Clinton	IN	318.0	74.69	95.5	-20.81(2)
WQKC	LIC-Z 229B	Seymour	IN	93.3	65.14	68.5	-3.36(2)

(2) Deleted in MB Docket No. 05-67. See WQKC at Sellersburg below.

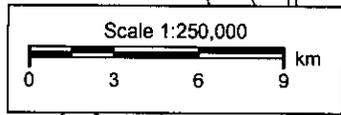
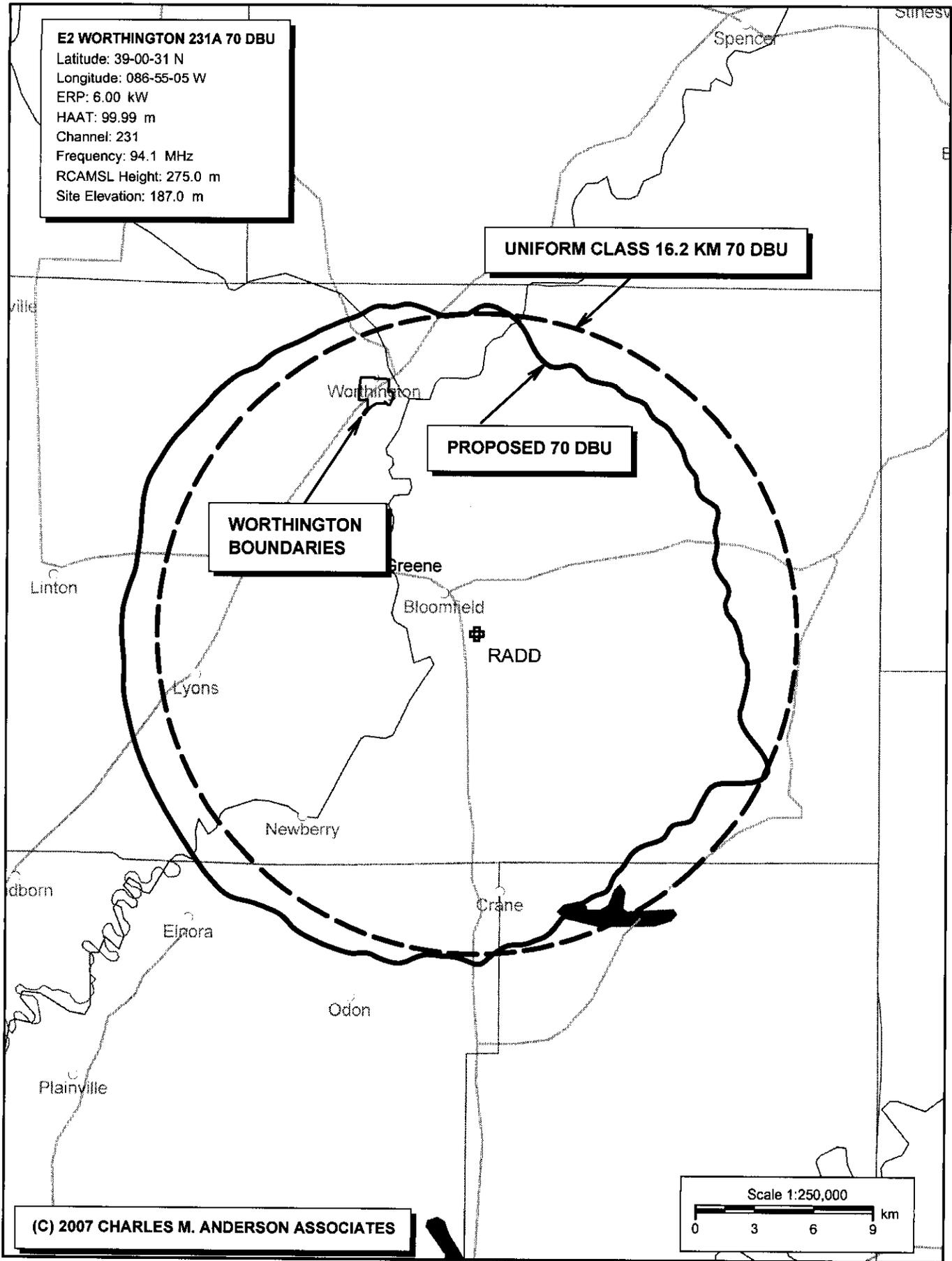
WREB	LIC 232A	Greencastle	IN	1.7	72.41	71.5	0.91
WPFR-FM	LIC 230A	Clinton	IN	321.6	77.00	71.5	5.50
RDEL	DEL 230A	Clinton	IN	321.6	77.00	71.5	5.50
RDEL	DEL 230A	Clinton	IN	321.6	77.00	71.5	5.50
WMIX-FM	LIC 231B	Mount Vernon	IL	248.4	188.21	177.5	10.71
WRZR	LIC-N 233A	Loogootee	IN	186.4	43.50	30.5	13.00
RADD	ADD 230B1	Lawrence	IN	42.8	109.34	95.5	13.84
WVMX	LIC 231B	Cincinnati	OH	86.0	209.46	177.5	31.96
WULF	LIC-N 232C2	Hardinsburg	KY	155.7	138.38	105.5	32.88
WGFA-FM	LIC 231B	Watseka	IL	340.5	210.71	177.5	33.21
RADD	ADD 229A	Clinton	IN	321.6	77.00	30.5	46.50
WFBQ	LIC 234B	Indianapolis	IN	31.8	116.18	68.5	47.68
WWFT	LIC-N 230A	Fishers	IN	41.2	121.57	71.5	50.07
RDEL	DEL 230A	Fishers	IN	41.2	121.57	71.5	50.07
RDEL	DEL 230A	Fishers	IN	41.2	121.57	71.5	50.07
AL9876	RSV 230A	Sellersburg	IN	127.7	128.78	71.5	57.28
RADD	ADD 230A	Lawrence	IN	43.8	129.48	71.5	57.98
WITZ-FM	LIC 284B	Jasper	IN	181.5	73.07	14.5	58.57
WQKC	CP 230A	Sellersburg	IN	129.3	131.07	71.5	59.57

E2 WORTHINGTON 231A 70 DBU
Latitude: 39-00-31 N
Longitude: 086-55-05 W
ERP: 6.00 kW
HAAT: 99.99 m
Channel: 231
Frequency: 94.1 MHz
RCAMSL Height: 275.0 m
Site Elevation: 187.0 m

UNIFORM CLASS 16.2 KM 70 DBU

PROPOSED 70 DBU

WORTHINGTON BOUNDARIES



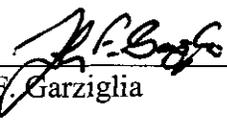
(C) 2007 CHARLES M. ANDERSON ASSOCIATES

CERTIFICATE OF SERVICE

I, John F. Garziglia, do hereby certify that true copies of the foregoing "Counterproposal" were sent this 20th day of August, 2007 by U.S. first class mail, postage prepaid, to the following:

Bruce Quinn
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John F. Garziglia