

TECHNICAL STATEMENT AND WAIVER REQUEST  
W248BI JONESTOWN, PENNSYLVANIA  
MITCHELL A. BERANEK  
FCC FORM 349  
APRIL 2010

This Technical Statement and Waiver Request is in support of a minor change application, FCC form 349, being filed on behalf of Mitchell A. Beranek (“MAB”) in regards to its recently acquired FM translator, W248BI Jonestown, Pennsylvania, facility ID 157218.

After some technical research conducted by MAB, it was determined that it will be nearly impossible to eliminate the interference being caused to without limiting the operation of W248BI to the point it would no longer cover any meaningful population. A channel study was conducted on the three adjacent, and I.F. spaced channels. None of these channels would be available for use by W248BI without a severe reduction in power and or added directivity.

It was determined that non-adjacent channel 296D could be utilized at the current W248BI transmitter site and not cause any interference to any licensed or authorized stations, with the exception of the licensed operation of WFYY Bloomsburg, Pennsylvania, on third adjacent channel 293B, facility 39605. However, it will be shown that no actual interference will occur to WFYY, there are no persons residing inside of the potential area of interference. Thus, it was determined that channel 296D could be utilized by W248BI Jonestown.

### **REQUEST FOR WAIVER OF 74.1233(a)(1)**

MAB, the licensee of Station W248BI Jonestown, Pennsylvania, hereby requests that the Commission waive the provisions of the Section 74.1233(a)(1) of the Commission's Rules that would otherwise consider a relocation to a channel, other than a first, second, or third adjacent channel or an IF channel, to be a "major change" which would require the opening of a window before an application could be filed. In support of the waiver request, MAB makes the following showing:

- 1) MAB has sought to file a modification application that is in accord with the Commission's minor change rules. However, MAB has been unable to do so without significant power reduction or added directivity and is, therefore, seeking the instant waiver.
- 2) As evidenced in the showing contained in this Technical Statement, there are simply no available channels that would allow MAB to comply with the applicable provisions of Section 74.1233. Each of the adjacent channels and the I.F. channels are precluded because of interference that would occur to other stations on those channels without severe power reduction or added directivity. The best available channel is Channel 296D and that channel has been selected for this application.
- 3) Station W248BI can longer operate on channel 248. As evidenced in Figure 4, interference is being caused to WPEN-FM Burlington, New Jersey, facility ID 47427 (formerly WNUW), on co-channel 248B. Therefore, unless W248BI can transition to another channel, the impact of the service provided by WPEN-FM would be to likely ultimately cause the permanent termination

of the operations of W248BI. In that W248BI provides a valuable program service to the community of Jonestown, by retransmitting the signal of WLKA Tafton, Pennsylvania, listeners in Jonestown should not lose the service and only a waiver of Section 74.1233(a)(1) will permit W248BI's broadcast service to remain in operation.

- 4) A waiver of the rules to allow W248BI to migrate to Channel 296, will enable W248BI to continue to operate and is in the best interest of the Station and its listeners. Accordingly, the public interest would be well served by treating the requested channel change as a minor change, given the unique circumstances attendant to this request, involving a displaced translator station and otherwise unavailable channels to migrate to. On the basis of the unique circumstances presented and that the public interest is well-served by a waiver of the major change rule in order to permit Station W248BI to continue to serve the public, MAB urges that it has overcome the high hurdle for waiver requests and is entitled to the waiver it is seeking. *See WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969), *cert denied*, 409 U.S. 1027(1972).

#### **TECHNICAL STUDY FOR OPERATION ON CHANNEL 296D**

MAB is proposing to remain at its existing site located at N. 41°-07'-35", W. 76°-15'-59", NAD 27, with an Effective Radiated Power of 10 Watts and use the same Nicom BKG 77, one bay, circular polarized antenna as is currently used. The antenna will be re-mounted at the 38 meter level on the existing 40 meter overall tower, with a

Center of Radiation at 538 Meters Above Mean Sea Level. It also seeks to change channels from 248D to 296D.

Figure 1 shows a channel interference study conducted from the current site for W248BI. It shows that the proposed operation of W248BI on channel 296D, will not cause any prohibited outgoing interference to any licensed or proposed FM services, with the exception of WFYY Bloomsburg, Pennsylvania operating on channel 293B, facility ID 39605 . The proposed operation of W248BI on 296D is located within the protected 60 dB $\mu$  contour of 3rd adjacent station WFYY. Figure 2 shows the predicted F(50-50) field strength of WFYY at the proposed W248BI transmitter site is 76.6 dB $\mu$ . Therefore, the respective predicted interfering contour F(50-10) generated by the proposed W248BI on channel 296D is an additional 40 dB $\mu$  or 116.6 dB $\mu$ .

Figure 3 shows that there is no population in the area of interference. Plus, this proposed interference contour (116.6dB $\mu$ ) will only extend 32.7 meters from the antenna, thus it will not reach the ground with a center of radiation 38 meters above the ground. The applicant, Mitchell A. Beranek, respectfully requests a waiver of C.F.R. 74.1204(d) of the Commission's rules based on the fact that there is no population within the area of predicted interference. There are no homes nearby the proposed existing tower site, which is a privately owned 2 acre square wooded area, with private access. The transmitter building is uninhabited and does not have indoor plumbing.

Figure 5 is a tabulation of the pertinent distances to contours for the proposed operation of W248BI on channel 296D.

It was concluded that the new proposed operation of W248BI Jonestown, Pennsylvania on channel 296D will not cause any harmful interference to any existing stations, and will be in full compliance with the commission's rules.

FIGURE 1, CHANNEL INTERFERENCE STUDY  
W248BI JONESTOWN, PA, CHANNEL 296D  
Average Protected F(50-50)= 9.43 km  
Omni-directional

REFERENCE  
41 07 35.0 N.  
76 15 59.0 W.

CH# 296D - 107.1 MHz, Pwr= 0.01 kW, HAAT= 260.1 M, COR= 538 M

DISPLAY DATES  
DATA 04-17-10  
SEARCH 04-18-10

CH CITY	CALL	TYPE STATE	ANT STATE	AZI <--	DIST FILE #	LAT LNG	PWR (kW) HAAT (M)	INT (km) COR (M)	PRO (km) LICENSEE	*IN* (Overlap in km)	*OUT* (Overlap in km)
293B Bloomsburg	WFYY	LIC PA	_C_	212.9 32.8	24.9 BLH20000113AAR	40 56 18.0 76 25 38.0	10.500 313	5.5 591	69.7 Mmp License Llc	9.0	-45.3*<
295A Scranton	WEZX	LIC PA	NCX	64.2 244.6	57.2 BMLH20040610ABD	41 20 52.0 75 39 03.0	1.450 188	57.0 625	37.9 The Scranton Times, L.p.	-7.5<	6.8
297A Northumberland	WEGH	LIC PA	ZCN	223.8 43.6	52.4 BLH19940805KC	40 47 10.0 76 41 49.0	0.900 257	41.8 499	27.9 Sunbury Broadcasting Corpo	0.7	10.3
297L1 Plymouth	WHMN-LP	LIC PA	---	62.0 242.2	26.8 BLL20061219ACN	41 14 20.0 75 59 02.0	0.010 95	12.7 423	8.9 Abundant Life Ministry	5.2	6.6
296A Belvidere	WWYY	LIC NJ	_C_	101.7 282.4	95.1 BMLH20010716AAK	40 56 53.0 75 09 38.0	1.200 219	79.9 426	28.4 Nassau Broadcasting Ii, Ll	5.6	35.4
297D Hazleton	W297AV	LIC PA	DC_	130.4 310.6	32.6 BLFT20050830AAI	40 56 09.0 75 58 16.0	0.017	10.8 548	7.9 The Scranton Times, L.p.	11.9	11.2
299A Dallas	WCIG	LIC PA	ZCX	56.3 236.6	38.0 BLED20100407AAJ	41 18 54.0 75 53 19.0	2.350 162	2.4 491	26.0 Family Life Ministries, In	26.0	11.8
297D Hazleton	W297AV	CP PA	DC_	127.8 308.0	31.1 BPFT20080402ACK	40 57 17.0 75 58 26.0	0.028	6.3 509	4.3 The Scranton Times, L.p.	15.3	13.0
299D Catawissa	W299AF	LIC PA	_CN	212.6 32.5	24.7 BLFT19941122TD	40 56 22.0 76 25 29.0	0.001 280	0.1 573	5.3 Salt And Light Media Minis	14.2	19.1
296D Williamsport	W296AP	LIC PA	DHN	280.2 99.7	58.9 BLFT19870901TA	41 13 04.0 76 57 27.0	0.005 327	28.7 584	9.0 Salt And Light Media Minis	20.2	17.4
296A Mifflintown	WQJU	LIC PA	_C_	240.0 59.2	121.9 BLED20010612ABA	40 34 20.0 77 30 51.0	0.370 397	85.1 665	31.7 Central Pennsylvania Chris	27.5	63.0
297D New Albany	W297AY	LIC PA	DV_	345.9 165.8	46.6 BLFT20081201DOC	41 31 59.0 76 24 10.0	0.225	9.6 528	6.7 Geos Communications	27.9	27.6
296A Whitneyville	WLIH	LIC PA	_CN	312.9 132.2	106.0 BMLH19910606KA	41 46 13.0 77 12 08.0	3.300 91	70.9 575	24.3 Good Christian Radio Broad	28.3	51.7
297D Scranton	W297AF	LIC PA	_C_	57.7 238.1	59.3 BLFT20020715ABC	41 24 34.0 75 40 01.0	0.250 -70	21.3 322	14.1 The Scranton Times, L.p.	29.1	31.9
298B Boyertown	WBYN-FM	LIC PA	ZCX	147.0 327.4	95.5 BLH20041116ABG	40 24 15.0 75 39 09.0	30.000 186	5.1 358	57.9 Wdac Radio Company	80.1	37.2
294B Hershey	WMHX	LIC PA	_CN	194.8 14.6	109.7 BLH19891127KA	40 10 16.0 76 35 50.0	14.000 283	5.4 425	64.3 Citadel Broadcasting Compa	93.8	45.0
298A Liberty	1356626	APP PA	ZCX	297.5 116.9	80.8 BNPED20100225ABC	41 27 30.0 77 07 30.0	2.380 161	2.8 644	33.2 Calvary Chapel Of Russell	68.6	47.4
296D Reading	636271	APP PA	_C_	158.8 339.1	89.5 BNPFT20030317EXF	40 22 29.0 75 53 05.0	0.010	27.5 337	8.5 Hope Christian Church Of M	51.8	47.5
296D Reading	633308	APP PA	_C_	158.8 339.1	89.5 BNPFT20030314ATF	40 22 29.0 75 53 05.0	0.010	27.4 335	8.4 Creative Ministries, Inc	51.9	47.5
296D Reading	644151	APP PA	_C_	160.0 340.3	91.2 BNPFT20030317AIX	40 21 15.0 75 53 55.0	0.010	30.4 360	9.2 Northeastern Pennsylvania	50.6	48.5
298A Liberty	1361920	APP PA	NCX	297.5 116.9	80.8 BNPED20100226ADL	41 27 30.0 77 07 30.0	2.200 154	2.7 635	31.9 Harvest Family Fellowship	68.7	48.7
298A Liberty	1358514	APP PA	NCX	297.5 116.9	80.8 BNPED20100226AJC	41 27 30.0 77 07 30.0	1.850 165	2.6 642	31.1 Cedar Cove Broadcasting, I	68.9	49.5
298A Liberty	1358154	APP PA	NCX	298.2 117.6	84.3 BNPED20100226AIO	41 28 48.6 77 09 23.3	1.600 199	2.4 699	32.8 The Williamsport Guardian,	72.5	51.3
298A Liberty	1358492	APP PA	NCX	298.6 118.0	84.7 BNPED20100226AJJ	41 29 14.2 77 09 28.7	1.600 197	2.4 697	31.5 Northeastern Pennsylvania	73.0	53.1
296A Hancock	WBZX	LIC NY	NCX	41.4 222.0	124.5 BLH20090522AFP	41 57 43.4 75 16 16.9	2.100 34	59.3 505	25.8 The Scranton Times, L.p.	60.4	74.5

CH CITY	CALL	TYPE STATE	ANT	AZI <--	DIST FILE #	LAT LNG	PWR (kW) HAAT (M)	INT (km) COR (M)	PRO (km) LICENSEE	*IN* (Overlap in km)	*OUT*
296D Athens	W296BL	LIC PA	_V_	347.8 167.6	97.3 BLFT20070827AAW	41 58 56.0 76 30 57.0	0.250	23.8 251	7.1 Fitzgerald And	64.3 Hawras, Par	60.7
298A Liberty	VA0819	VAC PA	_N_	297.6 117.0	88.5	41 29 28.0 77 12 22.0	6.000 100	3.2 603	27.4	76.0	60.9
295A Renovo	WQKK	LIC PA	_CX	276.2 95.2	125.1 BLH20050118ADD	41 14 15.0 77 45 02.0	0.800 267	50.0 733	33.9 Magnum Broadcasting, Inc.	66.5	77.5
296D Johnson City	W296BS	LIC NY	DC_	14.4 194.6	107.4 BLFT20070625ABN	42 03 45.0 75 56 37.0	0.026	11.6 574	4.3 Equinox Broadcasting Corp	86.5	72.8
295B Camden	WKDN	LIC NJ	_CN	143.5 324.3	167.5 BMLED19980417KA	39 54 33.0 75 06 00.0	38.000 168	76.0 185	64.1 Family Stations, Inc.	81.1	81.7
294A Port Dickinson	WRRQ	APP NY	_CX	14.4 194.6	106.7 BPH20091221AIT	42 03 22.0 75 56 39.0	1.200 221	2.0 617	22.9 Equinox Broadcasting Corp	95.7	83.6
298A Endwell	WBBI	LIC NY	_CX	11.1 191.2	114.5 BMLH20070328ACJ	42 08 17.0 75 59 59.0	2.200 166	2.5 534	28.5 Cc Licenses, Llc	102.7	85.8
294A Windsor	WRRQ	LIC NY	NCX	24.3 204.7	113.1 BLH20061016AAC	42 03 10.0 75 42 07.0	0.680 196	1.7 606	26.9 Equinox Broadcasting Corp	102.8	86.0
299B Gettysburg	WGTY	LIC PA	DEN	202.5 22.0	152.4 BLH19890117KA	39 51 23.0 76 56 57.0	16.000 259	5.7 439	65.7 Times And News Publishing	136.3	86.3
294A Port Dickinson	WRRQ	RSV NY	___	15.2 195.5	116.5	42 08 14.0 75 53 41.0	6.000 100	3.1 483	25.5 Equinox Broadcasting Corp	104.6	90.8
293D Easton	650473	APP PA	_C_	119.1 299.8	102.4 BNPFT20030317KIG	40 40 27.0 75 12 28.0	0.080	0.6 153	5.3 Four Rivers Community Broa	91.7	96.8
293D Quakertown	633110	APP PA	_C_	133.6 314.2	107.2 BNPFT20030317EHH	40 27 28.0 75 20 59.0	0.055	0.5 207	4.8 Hope Christian Church Of M	97.0	102.2
295D Elmira	640985	APP NY	_C_	337.9 157.6	119.3 BNPFT20030317DGQ	42 07 12.0 76 48 35.0	0.018	5.2 291	3.6 Pembrook Pines Elmira, Lim	105.2	103.6
299D Elmira	WECW	LIC NY	_CN	337.2 156.8	117.1 BLED19931105KA	42 05 48.0 76 49 00.0	0.009 -103	0.2 282	3.1 Elmira College	108.4	113.8
295D Renovo	WQKK-FM1	LIC PA	_C_	280.7 99.7	126.2 BLFTB20050606AAW	41 19 34.0 77 44 52.0	0.020	5.3 224	3.7 Magnum Broadcasting, Inc.	110.9	108.9
295D Renovo	WQKK-FM1	CP PA	_C_	280.6 99.6	126.9 BPFTB20090930ABK	41 19 36.0 77 45 22.0	0.020	5.3 224	3.7 Magnum Broadcasting, Inc.	111.6	109.6
297B Du Bois	WCOH-FM	LIC PA	_CX	272.8 91.2	203.6 BMLED20071128ACD	41 11 28.0 78 41 27.0	50.000 152	83.8 669	70.7 Family Life Ministries, In	109.7	112.4
296A Briarcliff Manor	WXPB	LIC NY	ZCN	90.6 272.2	206.6 BLH19980521KA	41 04 49.0 73 48 26.0	1.900 180	86.8 264	31.5 6 Johnson Road Licenses, I	110.4	144.1
297B Du Bois	WCOH-FM	CP PA	NCX	273.6 92.0	203.3 BPED20090423AAB	41 12 53.0 78 41 08.0	23.000 206	81.3 726	69.2 Family Life Ministries, In	111.9	113.6
296A Long Branch	WWZY	LIC NJ	_CX	114.7 296.2	213.2 BLH20060711ACK	40 18 17.0 73 59 08.0	5.000 110	85.1 123	28.3 Press Communications, Llc	118.1	152.8
294B New York	WLTW	LIC NY	_CN	101.6 283.1	196.6 BLH19940203KA	40 44 54.0 73 59 10.0	6.000 415	4.5 429	65.7 Amfm Radio Licenses, L.l.c	182.5	130.4
298B New York	WBLS	LIC NY	_CN	101.6 283.1	196.6 BLH19940204KN	40 44 54.0 73 59 10.0	4.200 415	3.9 429	62.1 Urban Radio I, L.l.c.	183.1	134.1
293B Baltimore	WMMX	LIC MD	_CX	189.4 9.2	201.4 BLH20030502AAI	39 20 10.0 76 38 59.0	8.300 347	4.8 428	62.0 Cbs Radio Stations Inc.	186.6	139.0
295B Myersville	WVEG	LIC MD	_CX	212.7 31.8	213.8 BLH20070518AAX	39 29 57.0 77 36 42.0	15.500 260	57.4 476	51.2 Nassau Broadcasting Iii, L	146.1	140.8
295B Myersville	AL4424	RSV MD	___	212.7 31.8	213.8 RM11133	39 29 57.0 77 36 42.0	50.000 150	45.3 362	61.1	158.1	144.6
299D Lawrenceville	WRRC	LIC NJ	_CN	125.7 306.7	159.9 BLED19921202KF	40 16 44.0 74 44 15.0	0.020 11	0.3 50	3.7 Board Of Trustees Of Rider	149.6	155.9
297B Utica	WRCK	LIC NY	_CX	21.5 202.2	241.6 BMLED20070817AAG	43 08 40.0 75 10 32.0	50.000 152	81.2 402	70.7 Educational Media Foundati	151.1	154.1
295B1 Solvay	WPHR-FM	LIC NY	ZCX	1.5 181.5	208.5 BLH20090825BEP	43 00 10.0 76 11 58.0	9.000 124	26.1 352	44.0 Cc Licenses, Llc	173.2	152.2

CH CITY	CALL	TYPE STATE	ANT	AZI <--	DIST FILE #	LAT LNG	PWR (kW) HAAT (M)	INT (km) COR (M)	PRO (km) LICENSEE	*IN* (Overlap	*OUT* in km)
297L1 Perryville	WMVK-LP	LIC MD	---	174.5 354.6	171.4 BLL20030709ABH	39 35 22.0 76 04 25.0	0.008 102	5.4 155	5.8 State Of Maryland, Mdot, M	156.3	153.1
297A South Bristol Towns	WHTK-FM	LIC NY	_CX	332.3 151.6	204.0 BLH20020117AAL	42 44 47.0 77 25 35.0	0.650 303	42.2 691	29.9 Citicasters Licenses, Inc.	153.3	162.5
297A Highland	WRWD-FM	LIC NY	_C_	70.6 252.1	199.7 BMLH20060802ALN	41 41 58.0 74 00 11.0	0.330 295	34.7 411	23.3 Amfm Radio Licenses, L.l.c	155.5	163.9
297B Washington	WRQX	LIC DC	_CX	196.2 15.7	251.4 BLH20040421AFF	38 57 01.0 77 04 47.0	19.500 246	74.3 320	63.6 Radio License Holding Vii,	166.4	165.6
299B Wethersfield Twnshp	WLKK	LIC NY	DC_	315.5 134.2	236.2 BLH20011203AMK	42 37 23.0 78 17 16.0	19.500 244	5.7 759	63.7 Entercom Buffalo License,	221.5	172.1
296A Federalsburg	WTDK	LIC MD	_CN	170.2 350.6	265.7 BMLH19891229KA	38 46 02.0 75 44 46.0	3.900 124	83.7 138	28.1 Mts Broadcasting, L.c.	172.1	205.4

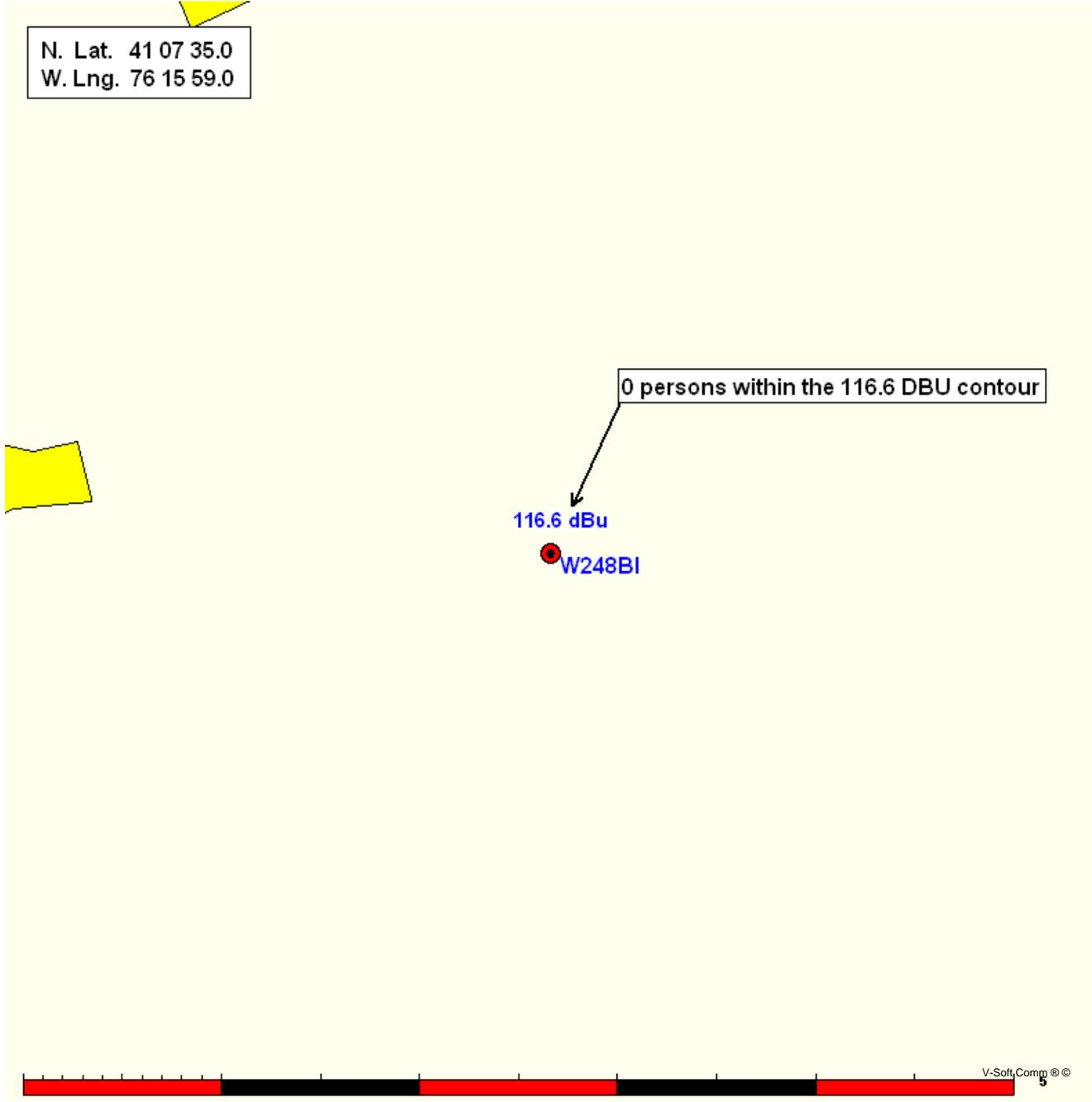
Terrain database is USGS 03 SEC , R= 73.215 qualifying spacings or FCC minimum Spacings in KM, M= Margin in KM  
In & Out distances between contours are shown at closest points. Reference zone = 1, Co to 3rd adjacent.  
Ant Column: (D= DA Standard, Z= DA 73.215, N= Not DA 73.215, \_= Omni), Polarization (C,H,V,E), Beamtlt(Y,N,X)  
"\*"affixed to 'IN' or 'OUT' values = site inside protected contour.



FIGURE 3, PROPOSED 116.6 DBU INTERFERENCE CONTOUR  
W248BI JONESTOWN, PA, CHANNEL 296D

Coverage Study - USGS 03 SEC  
04-18-2010

W248BI CH296 D , 0.01 kW, 260.1M HAAT, 538.0M COR AMSL  
Interference Contour = 116.6 dBu. Population = 0



**FEDERAL COMMUNICATIONS COMMISSION**  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

MEDIA BUREAU  
AUDIO DIVISION  
TECHNICAL PROCESSING GROUP  
APPLICATION STATUS: (202) 418-2730  
HOME PAGE: WWW.FCC.GOV/MB/AUDIO

PROCESSING ENGINEER: ROBERT GATES  
TELEPHONE: (202) 418-0986  
FACSIMILE: (202) 418-1410  
MAIL STOP: 1800B3  
INTERNET ADDRESS: Robert.Gates@fcc.gov

FEB 23 2010

Mitchell A. Beranek  
9151 Aspen Point Lane  
Cheyenne, WY 82009

In re: INTERFERENCE COMPLAINT  
W248BI, Jonestown, PA  
BLFT-20081112AJD  
Facility ID # 157218

Dear Licensee:

This refers to an interference complaints filed by Greater Philadelphia Radio, Inc. ("GPR") filed April 6, 2009. Copies of the interference complaints are attached. The complaints allege that W248BI is interfering with the reception of WNUW(FM), Burlington, New Jersey.

Pursuant to 47 C.F.R. § 74.1203, W248BI is required to eliminate any actual interference it causes. Therefore, it is necessary for W248BI to submit a detailed report on the attached complaint. For the complaint, the report must include: (1) the name and address of the complainant; (2) specific devices receiving the interference (i.e. type of device, manufacturer's name, model number, and serial number); and (3) any assistance provided by W248BI for each device allegedly receiving the interference and whether such interference persists. Each of the complaints must be addressed individually.

The Commission's Rules regarding FM translators restrict FM translator stations to operate strictly on a secondary basis and limit their service. Section 74.1203(a)(3) states that an FM translator station will not be permitted to continue to operate if it causes any actual radio signal interference to the direct reception by the public of the off-the-air signals of any authorized broadcast station.<sup>1</sup> Actual interference is based on listener complaints indicating that the signal they regularly receive is being impaired by the signal radiated by the FM translator station. Section 74.1203(b) states that if the interference cannot be properly eliminated by the application of suitable techniques, the operation of the offending FM translator station shall be suspended and shall not be resumed until the interference has been eliminated.

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<sup>1</sup> An FM translator station creating actual radio signal interference to any authorized broadcast station is obligated to eliminate the interference, regardless of the location where the impaired signal reception occurs.

Within thirty days of this letter, W248BI must take appropriate actions required by the provisions of 47 C.F.R. § 74.1203 to resolve all complaints of interference to fulfill its obligations. Further action on this complaint will be withheld for a period of thirty days from the date of this letter to provide W248BI an opportunity to respond. Failure to correct all complaints within this time may require W248BI to suspend operation pursuant to 47 C.F.R. §§ 74.1203(e) and 74.1232(h).



for James D. Bradshaw  
Deputy Chief  
Audio Division  
Media Bureau

Attachment

CC: Wray Fitch  
John D. Poutasse

157218 20090406AMQ

ORIGINAL

FIGURE 4, FCC LETTER TO W248BI AND INTEFERENCE COMPLAINTS

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In re Matter of )  
)  
Mitchell A. Beranek )  
)  
FM Translator Station W248BI )  
Channel 248, Jonestown, Pennsylvania )  
(Input Station: WKLA(FM), Tafton, Pennsylvania )

Facility ID No. 157218

To: Secretary, Federal Communications Commission  
Attention: Chief, Audio Division, Media Bureau

RECEIVED  
FILED/ACCEPTED  
APR - 6 2009  
Federal Communications Commission  
Office of the Secretary  
2009 APR 8 10 21

AUDIO SERVICES DIVISION

COMPLAINT

Greater Philadelphia Radio, Inc. ("Greater Philadelphia"), licensee of Station WNUW(FM), Channel 248 (97.5 MHz), Burlington, New Jersey (Facility ID No. 47427), by its attorneys and in accordance with Section 74.1203 of the Commission's Rules, hereby submits this complaint of actual interference. WNUW(FM)'s signal is being impaired by co-channel FM Translator Station W248BI, Channel 248 (97.5 MHz), Jonestown, Pennsylvania (Facility ID No. 157218), licensed to Mitchell A. Beranek. W248BI is a new FM Translator that is rebroadcasting Station WLKA(FM), Tafton, Pennsylvania (Facility ID No. 41202). The W248BI license was granted on December 16, 2008. See FCC File No. BLFT-20081112AJD.

Section 74.1203 of the Commission's Rules provides that:

[a]n authorized FM translator . . . station will not be permitted to continue to operate if it causes any actual interference to . . . [t]he direct reception by the public of the off-the-air signals of any authorized broadcast station . . . . Interference will be considered to occur whenever reception of a regularly used signal is impaired by the signals radiated by the FM translator or booster station, regardless of the quality

of such reception, the strength of the signal so used, or the channel on which the protected signal is transmitted.

FM translator stations “operate strictly on a secondary basis” and “an FM translator will not be permitted to continue to operate if it causes any actual radio signal interference to the direct reception by the public of the off-the-air signals of any authorized broadcast station.”<sup>1</sup>

Evidence of interference to “[t]he direct reception by the public of the off-the-air signals” of WNUW(FM) is attached hereto as Exhibit 1, in the form of complaints from five *bona fide* listeners of WNUW(FM) who cite interference from W248BI.<sup>2</sup> These listeners are not employees or principals of Greater Philadelphia or its affiliates, and, to the knowledge of Greater Philadelphia, have no “legal stake in the outcome of the translator station licensing proceeding.”<sup>3</sup> They thus satisfy the Commission’s requirement of “disinterested” complainants.<sup>4</sup>

Pursuant to Section 74.1203(b) of the Commission’s Rules, “operation of the offending FM translator . . . station shall be suspended and shall not be resumed until after the interference has been eliminated.” The Commission has called this rule an “inflexible obligation to resolve all *bona fide* actual interference complaints.”<sup>5</sup>

Accordingly, Greater Philadelphia requests that the operational authority for W248BI be suspended, pursuant to Section 74.1203(b), unless and until the offensive interference caused by the translator is remedied.

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<sup>1</sup> *In re: Educational Media Foundation*, Petition for Reconsideration, 22 FCC Rcd 5364 (Media Bureau 2007).

<sup>2</sup> “Actual interference is based on listener complaints indicating that the signal that the complainant regularly receives is being impaired by the signal radiated by the FM translator station.” *Id.*

<sup>3</sup> *Applications of the Association for Community Education, Inc.*, 19 FCC Rcd 12682 at n.37 (2004).

<sup>4</sup> *Id.* (explaining that “only a complaint from a *bona fide* listener of the desired station can force a translator station off the air”).

<sup>5</sup> *In the Matter of Creation of a Low Power Radio Service*, 22 FCC Rcd. 21945 (2007).

Greater Philadelphia notes that it has made a good faith effort to resolve this interference issue without invoking the FCC's processes. Specifically, by letter dated March 16, 2009, Greater Philadelphia notified Mr. Beranek of the complaints of interference and requested that Mr. Beranek cooperate with Greater Philadelphia in the resolution of that interference. A copy of that letter is attached hereto as Exhibit 2. Upon receiving no response to its written request, on April 2, 2009 Greater Philadelphia attempted to contact Mr. Beranek by telephone to discuss the interference to WNUW. As of the date of this Complaint, Mr. Beranek has not responded to the voicemail left for him.

As set forth in Section 74.1203(b), Greater Philadelphia will cooperate with Mr. Beranek in order to ascertain whether there are any remedial techniques available to W248BI that will eliminate the interference to WNUW. If that is not possible, however, Greater Philadelphia will demand that operation of W248BI be suspended permanently.

Respectfully submitted,

GREATER PHILADELPHIA RADIO, INC.

By: 

Sally A. Buckman  
John D. Poutasse

Lerman Senter PLLC  
2000 K Street, NW, Suite 600  
Washington, DC 20006  
(202) 429-8970

April 6, 2009

Its Attorneys

EXHIBIT 1

Copies of Interference Complaints

**Milford Smith**

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**From:** ROBERT SEAMAN [r\_seaman@verizon.net]  
**Sent:** Monday, February 02, 2009 9:58 PM  
**To:** Milford K. Smith  
**Subject:** Interference to WNUW 97.5

Milford K. Smith Jr.  
VP Radio Engineering Greater Media

Mr. Smith,

Recently there has been interference to the WNUW 97.5 signal in the Hazleton area. Apparently a local translator W248BI has come on the air and we can no longer receive WNUW. This translator carries the K-Love radio network.

I live at 1004 E. Ninth Street, Hazleton PA 18201. The WNUW signal previously was quite good with a clean stereo signal. The signal was receivable for many years throughout the area, until the local translator came on the air. Hopefully you can eliminate this interference to the WNUW signal in the Hazleton area. Robert Seaman [r\\_seaman@verizon.net](mailto:r_seaman@verizon.net)

**Milford Smith**

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**From:** mlakish [mlakish@ptd.net]  
**Sent:** Saturday, February 21, 2009 9:19 PM  
**To:** msmith@greatermedia.com  
**Cc:** r\_seaman@verizon.net  
**Subject:** Interference to WNUW 97.5 near Hazleton, PA

Dear Mr. Smith,

We had been able to listen to WNUW 97.5 until the middle of November 2008. We can no longer receive WNUW. We recently found out that the station that is now on 97.5 is a local low power station W248BI. This station carries the K-Love network and there are station identifications for WLKA Tafton, PA. Hopefully you can eliminate this interference to WNUW, so we can receive WNUW again.

We are located at 39 East 37th Street, Hazle Township, PA 18202. Matt and Leann Kishbaugh [mlakish@ptd.net](mailto:mlakish@ptd.net)

## Milford Smith

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**From:** bret&linda [blhutt@ptd.net]  
**Sent:** Friday, March 06, 2009 4:26 PM  
**To:** msmith@greatermedia.com  
**Cc:** r\_seaman@verizon.net  
**Subject:** Interference by Translator W248BI to WNUW

Mr. Smith,

We received WNUW 97.5 until mid November 2008. At that time we could only receive a station which carries the K-Love radio network on 97.5. The station identification is from WLKA 88.3 Tafton, PA. Apparently it is translator W248BI.

We would like to know if there is a way to eliminate the interference from this translator to WNUW. We are located at 110 Coxe St. Hazleton, PA 18201. Brett & Linda Huttenstein. [blhutt@ptd.net](mailto:blhutt@ptd.net)

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**Milford Smith**

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**From:** Eileen Brenner [kydebren@ptd.net]  
**Sent:** Tuesday, March 31, 2009 4:27 PM  
**To:** msmith@greatermedia.com  
**Subject:** Interference to WNUW in Hazleton, PA

Mr. Smith,

I previously listened to WNUW 97.5. After mid-November 2008, I could not receive WNUW. Instead I am getting a station which identifies itself as WLKA 88.3 Tafton, PA and it carries the K-Love Network. Apparently the station on 97.5 is W248BI. I have discovered that this translator should not be causing interference to WNUW. I live at 540 N. Locust St.; Hazleton, PA 18201. Hopefully you can eliminate the interference to WNUW from this translator. Eileen Brenner [kydebren@ptd.net](mailto:kydebren@ptd.net)

**From:** jsew@verizon.net [mailto:jsew@verizon.net]  
**Sent:** Friday, April 03, 2009 5:59 PM  
**To:** msmith@greatermedia.com  
**Cc:** r\_seaman@verizon.net  
**Subject:** Interference to WNUW 97.5 in Hazleton,PA Area

Mr. Smith,

I am writing in regard to interference to WNUW in the Hazleton, PA area. Previously I could receive WNUW very well. Since the middle of November 2008, I can only receive a station which identifies as WLKA 88.3 Tafton, PA on 97.5. This station carries the K-Love network programming. Apparently this interfering station is W248BI. I had been able to receive the signal of WNUW for many years prior to this interference. Hopefully you can eliminate the interference to WNUW. I live at 32 W. Broad St. Apt. 1 West Hazleton, PA 18202. Sincerely, Larry Marchetti  
[jsew@verizon.net](mailto:jsew@verizon.net)

EXHIBIT 2

Letter dated March 16, 2009



## Greater Media, Inc.

P.O. Box 6501  
Lawrenceville, NJ 08648  
609-895-2973  
Fax: 609-219-1886  
msmith@greatermedia.com

Milford K. Smith, Jr.  
Vice President / Engineering

March 16, 2009

MITCHELL A. BERANEK  
9151 Aspen Point Lane  
Cheyenne, WY 82009

Reference Translator W248BI, Jonestown, PA

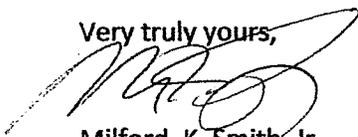
Dear Mr. Beranek:

I am writing to you as the licensee of FM translator W248BI, Jonestown, PA, operating on channel 248, 97.5 MHz. Greater Philadelphia Radio, Inc., a subsidiary of Greater Media, Inc, is the licensee of FM broadcast station WNUW, Burlington, NJ. W248BI operates co channel to WNUW. Over the past several months, WNUW has received several written listener complaints relative to their inability to receive WNUW since the initiation of operation by W248BI. These complaints have identified W248BI (broadcasting the K-Love Radio Network) as the source of the interference and generally originate in the Hazleton, PA area.

To confirm that the interference noted by our listeners is actually the result of the operation of W248BI, we would request that arrangements be made within the next ten days for W248BI to cease transmission for a short period of time so our engineers can make local observations to verify the reported interference. We will be happy to work with you or your designee to establish a mutually convenient time.

Thank you, in advance, for your anticipated cooperation. I look forward to hearing from you.

Very truly yours,



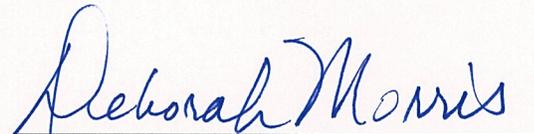
Milford K. Smith, Jr.

**CERTIFICATE OF SERVICE**

I, Deborah Morris, hereby certify that on this 6<sup>th</sup> day of April 2009, I caused a true and correct copy of this Complaint to be served on the following by first class mail, postage prepaid:

A. Wray Fitch III, Esq.  
Gammon & Grange, P.C.  
8280 Greensboro Drive  
7<sup>th</sup> Floor  
McLean, VA 22102-3807  
*Counsel to Mitchell A. Beranek*

\*James D. Bradshaw  
Deputy Chief, Audio Division  
Media Bureau  
Federal Communications Commission  
445 Twelfth St., SW  
Washington, D.C. 20554

  
Deborah Morris

*\*Via Hand Delivery*

Contour.out

N. Lat. = 410735.0 W. Lng. = 761559.0  
 HAAT and Distance to Contour,  
 FCC, FM 2-10 Mi, 51 pts Method - USGS 03 SEC

FIGURE 5, TABULATION OF DISTANCES TO CONTOURS

Azi.	AV EL	HAAT	dBk	60-F5	40-F1	54-F1	116.6-F1
000	323.4	214.6	-20.00	8.54	28.52	12.04	0.03
010	290.6	247.4	-20.00	9.19	30.53	12.88	0.03
020	308.1	229.9	-20.00	8.86	29.49	12.44	0.03
030	297.3	240.7	-20.00	9.06	30.14	12.72	0.03
040	296.3	241.7	-20.00	9.08	30.20	12.74	0.03
050	280.7	257.3	-20.00	9.38	31.12	13.13	0.03
060	298.6	239.4	-20.00	9.04	30.06	12.68	0.03
070	305.8	232.2	-20.00	8.90	29.63	12.50	0.03
080	311.7	226.3	-20.00	8.78	29.26	12.35	0.03
090	287.0	251.0	-20.00	9.26	30.74	12.97	0.03
100	264.6	273.4	-20.00	9.67	32.10	13.54	0.03
110	278.7	259.3	-20.00	9.41	31.24	13.18	0.03
120	239.8	298.2	-20.00	10.10	33.62	14.16	0.03
130	257.7	280.3	-20.00	9.80	32.53	13.72	0.03
140	259.1	278.9	-20.00	9.77	32.44	13.68	0.03
150	222.8	315.2	-20.00	10.36	34.64	14.55	0.03
160	241.4	296.6	-20.00	10.07	33.52	14.12	0.03
170	266.5	271.5	-20.00	9.64	31.98	13.49	0.03
180	250.4	287.6	-20.00	9.92	32.98	13.90	0.03
190	238.1	299.9	-20.00	10.13	33.72	14.20	0.03
200	207.1	330.9	-20.00	10.61	35.58	14.91	0.03
210	218.3	319.7	-20.00	10.43	34.90	14.65	0.03
220	234.1	303.9	-20.00	10.19	33.96	14.29	0.03
230	276.3	261.7	-20.00	9.46	31.38	13.24	0.03
240	346.8	191.2	-20.00	8.03	27.00	11.40	0.03
250	251.3	286.7	-20.00	9.91	32.92	13.88	0.03
260	246.1	291.9	-20.00	9.99	33.24	14.01	0.03
270	239.4	298.6	-20.00	10.10	33.64	14.17	0.03
280	262.5	275.5	-20.00	9.71	32.23	13.60	0.03
290	284.8	253.2	-20.00	9.30	30.87	13.02	0.03
300	292.9	245.1	-20.00	9.15	30.40	12.82	0.03
310	295.3	242.7	-20.00	9.10	30.26	12.76	0.03
320	299.5	238.5	-20.00	9.02	30.01	12.66	0.03
330	316.7	221.3	-20.00	8.68	28.95	12.22	0.03
340	325.3	212.7	-20.00	8.50	28.40	11.98	0.03
350	309.1	228.9	-20.00	8.84	29.43	12.41	0.03

Ave EI = 275.66 M HAAT= 262.34 M AMSL= 538