



COPY

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

Received & Inspected

MAY 14 2009

FCC Mail Room

In re
Application for Construction Permit

TALKING INFORMATION CENTER, INCORPORATED) FCC File No. BNPED-20071022BVV
NEW(NCE-FM), Channel 203A) FCC Facility ID No. 177016
Middleborough Center, Massachusetts)

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

PETITION FOR RECONSIDERATION

Talking Information Center, Incorporated (*TIC*), the applicant for a Construction Permit for a new Noncommercial Educational FM Station to serve the community of Middleborough Center, Massachusetts on Channel 203A, hereby petitions the Commission's staff to reconsider the staff's May 8, 2009 dismissal of its subject application (the *Application*).

I. BACKGROUND

1. By Public Notice of April 4, 2007, DA 07-1631, the Media Bureau announced a filing window for applications for Construction Permits for new Noncommercial Educational FM (*NCE-FM*) stations, and for applications for Construction Permits to make major modifications to the licensed facilities of existing NCE-FM stations. The window was to open on October 12, 2007 and to close one week later. By Public Notice of August 9, 2007, DA 07-3521, the Media Bureau announced filing procedures for parties who wanted to file applications during the

upcoming window. By Public Notice of October 19, 2007, DA 07-4355, the Media Bureau extended the filing window until 2 P.M. EDT on October 22, 2007.

2. Approximately 3,600 parties filed applications for Construction Permits during the filing window. Among them were TIC and Home Improvement Ministries (*HIM*). *HIM* applied for a Construction Permit for a new NCE-FM facility to serve the community of “Middleboro, Massachusetts,” on Channel 203A. See FCC File No. BNPED-20071015AGL, FCC Facility ID No. 174732. *HIM*’s and *TIC*’s applications were mutually exclusive by virtue of extensive, prohibited contour overlap. By Public Notice of June 18, 2008, DA 08-1437, the Media Bureau identified a number of window applications as comprising groups of mutually exclusive (MX) proposals. According to that Public Notice, *HIM*’s application and *TIC*’s application were both part of MX Group 363, along with eleven (11) other applications.

3. By Memorandum Opinion And Order of March 31, 2009, DA 09-735 (the MO&O), the Audio Division analyzed a number of MX Groups under § 307(b) selection factors. MX Group 363, which included *TIC*’s and *HIM*’s applications, as well as eleven (11) other filings, was among them. MO&O at paras. 21-22. The Division tentatively selected the application of the University of Massachusetts (*UMass*) for a new NCE-FM station to serve Milford, New Hampshire, File No. BNPED-20071019AUV, on § 307(b) grounds.

4. On May 4, 2009, Wellspring House, Inc. (*WHI*), the applicant for a Construction Permit for a new NCE-FM facility to serve the community of Rockport, Massachusetts, on Channel 203A, and one of the members of MX Group 363, unilaterally withdrew its application.

5. On May 8, 2009, *TIC* filed a Petition for Severance and Grant (the *Severance Petition*). Therein, *TIC* requested the staff to sever the applications of *TIC* and *HIM* from MX

Group 363, to analyze the two applications under the Points System, and to award a Construction Permit to TIC. Exhibit 1 hereto is a true and correct copy of the Severance Petition, bearing the Commission's date stamp.

6. The factual predicate for the Severance Petition was that WHI's unilateral withdrawal of its application meant that TIC's and HIM's applications were no longer part of MX Group 363. Attachment A to the Severance Petition, the Engineering Statement of David Doherty, TIC's technical consultant, conclusively demonstrated this.

7. The same day that TIC filed its Severance Petition, the staff granted UMass's application, dismissed HIM's and WHI's applications, and dismissed the Application. No decision letter issued. See Exhibit 2.

II. ARGUMENT

8. Section 1.106(b)(1) of the Commission's rules allows a party aggrieved by a staff action to seek reconsideration thereof. TIC is obviously an aggrieved party as the result of the dismissal of its Application. Apparently, in dismissing TIC's Application, the staff was unaware that TIC had the same day filed its Severance Petition. TIC understands how such things can happen. That said, TIC's Severance Petition was a timely filed pleading. It was — and remains — entitled to consideration on its merits.

9. Section 1.106(d)(1) of the Rules requires a petitioner to state with particularity the respects in which petitioner believes the action taken by the Commission or the designated authority should be changed, and to state specifically the form of relief sought. To fulfill that requirement, by means of this Petition for Reconsideration, TIC asks the staff to reinstate the

Application, and to grant it. Because the Severance Petition requested grant of TIC's Application, and the dismissal of HIM's application, under the Points System, and because the dismissal of HIM's application was, in any event, inevitable, TIC does not seek reconsideration of the dismissal of HIM's application.

10. Section 1.106(d)(2) of the Rules requires a petitioner to cite, where appropriate, the findings of fact or conclusions of law (or both) which the petitioner believes to be erroneous, and shall state with particularity the respects in which the petitioner believes the delegated authority should change such findings and conclusions. The staff dismissed TIC's Application without issuing a decision document and without making any findings of fact or conclusions of law. The staff had previously, in the MO&O, analyzed MX Group 363, and had tentatively selected the UMass's application on § 307(b) grounds. TIC took no issue with the selection of UMass's application in and of itself, because the two were not directly mutually exclusive. TIC did not seek reconsideration thereof, because such a petition for reconsideration would have been an interlocutory pleading, which the Commission's rules of practice and procedure prohibit. See §§ 1.207(c), 1.106(a). In light of the withdrawal of WHI's application, TIC requests that the staff find that TIC's Application and UMass's application are no longer mutually exclusive. TIC further asks the staff to find that the grant of TIC's Application will serve the public interest, convenience, and necessity. The legal arguments proving that reconsideration is warranted are the same as those which the Severance Petition marshalled in favor of the grant of TIC's Application. In consideration of the staff's time and attention, TIC will not repeat them in detail here. Rather, TIC simply incorporates by this reference the contents of the Severance Petition.

11. Section 1.106(f) of the Rules requires a petitioner to seek reconsideration within 30 days from the date of public notice of the final Commission action, as § 1.4(b) of the Rules defines that date, and to serve a copy of the petition upon parties to the proceeding. As Exhibit 2 hereto indicates, public notice of the dismissal of the Application is scheduled to occur on May 13. This pleading is therefore timely filed. With respect to service, because TIC does not seek reconsideration of the grant of UMass's application, or of the dismissal of any member or former member of MX Group 363 other than TIC itself, TIC's undersigned counsel does not believe that the rules require service on other members of the MX Group. This is particularly true because, in light of WHI's withdrawal of its application, TIC's Application was no longer mutually exclusive with UMass's application or the application of any other member of the group. The only remaining mutual exclusivity was with former member HIM.

12. Because:

- this Petition for Reconsideration is a presentation, within the meaning of § 1.1202(a) of the Rules, on the merits of TIC's Application; and
- TIC's Application remained mutually exclusive with that of HIM, even after WHI's unilateral withdrawal of WHI's application; and
- a matter involving mutually exclusive applications is a restricted proceeding; and
- Section 1.1208 prohibits any ex-parte presentation in a restricted proceeding, until such proceeding is no longer subject to administrative reconsideration; and
- TIC is seeking administrative reconsideration within the allotted period,

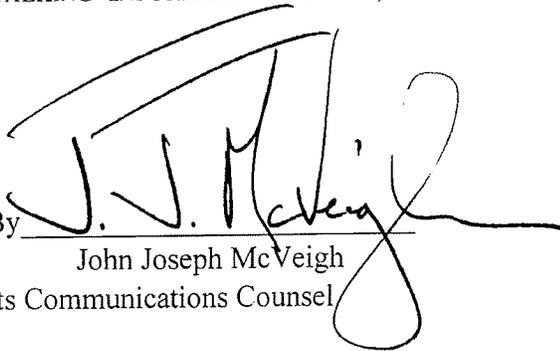
the undersigned counsel is serving a copy of this Petition for Reconsideration upon HIM.

III. CONCLUSION

13. For the reasons set forth above, and in Exhibit 1 hereto, the staff should promptly reconsider its dismissal of TIC's Application, reinstate that Application, and grant it.

Respectfully submitted,

TALKING INFORMATION CENTER, INCORPORATED

By 
John Joseph McVeigh
Its Communications Counsel

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DATE: MAY 13, 2009

EXHIBIT 1

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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2009 MAY 11 P 3: 19

MAY - 8 2009

In re
Applications for Construction Permit

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TALKING INFORMATION CENTER, INCORPORATED)	FCC File No. BNPED-20071022BVV
NEW(NCE-FM), Channel 203A)	FCC Facility ID No. 177016
Middleborough Center, Massachusetts)	
)	
and)	
)	
HOME IMPROVEMENT MINISTRIES)	FCC File No. BNPED-20071015AGL
NEW(NCE-FM), Channel 203A)	FCC Facility ID No. 174732
Middleboro, Massachusetts)	

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

PETITION FOR SEVERANCE AND GRANT

Talking Information Center, Incorporated (*TIC*), the applicant for a Construction Permit for a new Noncommercial Educational FM Station to serve the community of Middleborough Center, Massachusetts on Channel 203A, hereby petitions the Commission's staff to sever from MX Group 363 both its application and that of Home Improvement Ministries (*HIM*). *TIC* further requests that the Commission's staff process the two applications as a two-application MX group, and to award a Construction Permit to *TIC* under a Points-System analysis.

I. BACKGROUND

1. By Public Notice of April 4, 2007, DA 07-1631, the Media Bureau announced a filing window for applications for Construction Permits for new Noncommercial Educational FM (*NCE-FM*) stations, and for applications for Construction Permits to make major modifications to the

licensed facilities of existing NCE-FM stations. The window was to open on October 12, 2007 and to close one week later. By Public Notice of August 9, 2007, DA 07-3521, the Media Bureau announced filing procedures for parties who wanted to file applications during the upcoming window. By Public Notice of October 19, 2007, DA 07-4355, the Media Bureau extended the filing window until 2 P.M. EDT on October 22, 2007.

2. Approximately 3,600 parties filed applications for Construction Permits during the filing window. Among them were HIM and TIC.¹ By Public Notice of June 18, 2008, DA 08-1437, the Media Bureau identified a number of window applications as comprising groups of mutually exclusive (MX) proposals. According to that Public Notice, HIM's application and TIC's application were both part of MX Group 363, along with eleven (11) other applications.

3. By Memorandum Opinion And Order of March 31, 2009, DA 09-735 (the MO&O), the Audio Division analyzed a number of MX Groups under § 307(b) selection factors. MX Group 363 was among them. MO&O at paras. 21-22. The Division tentatively selected the application of the University of Massachusetts (*UMass*) for a new NCE-FM station to serve Milford, New Hampshire, File No. BNPED-20071019AUV, on § 307(b) grounds.

4. Attachment A to this Petition is the Engineering Statement of David Doherty, TIC's technical consultant. As Mr. Doherty indicates therein, HIM's application and TIC's application are mutually exclusive with each other. HIM's application and TIC's application were also each mutually exclusive with the application of Wellspring House, Inc. (*WHI*) for a Construction Permit for a new NCE-FM Station to serve Rockport, Massachusetts on Channel 203A, File No. BNPED-

¹HIM filed its FCC Form 340 application for a Construction Permit for new NCE-FM FM station to serve the community of "Middleboro," Massachusetts on October 15, 2007. TIC filed its own FCC Form 340 application for a Construction Permit for new NCE-FM station to serve the community of Middleborough Center, Massachusetts on October 22, 2007

20071022BLB. As Mr. Doherty further indicates in Attachment A, neither HIM's application nor TIC's application is mutually exclusive with any other member of that MX Group, including UMass's application.

5. On May 4, 2009, WHI unilaterally requested dismissal of its application. See Attachment B.

II. ARGUMENT

A. THE STAFF MUST EVALUATE HIM'S AND TIC'S APPLICATIONS.

6. WHI's unilateral withdrawal of its application is a material change in circumstances that fundamentally alters the posture of of HIM's and TIC's applications. As a result of the withdrawal, HIM's application and TIC's application are no longer part of MX Group 363. Therefore, the staff must sever the two from the larger MX Group and consider them separately.

7. TIC is aware that, in the Memorandum Opinion and Order in MM Docket 95-31, Reexamination of the Comparative Standards for Noncommercial Educational Applicants, 16 FCC Rcd 5074 (2001) (the NCE Recon Order), at para. 90, the Commission stated its intent to dismiss all **remaining** applicants not selected from a mutually exclusive group if the tentative selectee wins *on points*. Specifically, the Commission said:

We will process applications in a manner that will be most administratively efficient and that will be most likely to result in selection of the best qualified applicants as judged by the point system adopted in this proceeding. . . . Specifically, after the best qualified applicant is selected, it is possible that remaining applicants that are not mutually exclusive with this primary selectee and thus potentially secondary selectees, may also be significantly inferior to other applicants that are eliminated because they are mutually exclusive with the primary selectee. Rather than issue authorizations to applicants whose potential selection stems primarily from their position in the mutually exclusive chain, we believe it is appropriate to dismiss all of the remaining applicants and permit them to file again in the next window.

8. TIC is also aware that, at para. 98, the Commission stated:

Two types of settlement agreements will be acceptable: universal settlements and technical settlements, each of which allows immediate grant of an authorization. Universal settlements resolve the claims of all applications within a mutually exclusive group. Technical settlements make it possible, by means of minor engineering changes, for one applicant to remove itself from the group on the four corners of its own application without affecting the viability of any other applicants. Thus, through a technical settlement, the Commission can authorize one applicant immediately, while also considering later which of all of the other applicants should build a second NCE station. An example is a unilateral action or agreement between applicants at the end of a chain, making it possible to grant one of those applicants, while not affecting the rights of the others to compete. We will not accept partial settlement agreements such as those in which applicants withdraw from one proceeding in return for the promise of a competing applicant to withdraw from another proceeding, but fail to achieve any grantable application or to settle with the remaining applicants in each group. Such settlements potentially prejudice the remaining non-settling applicants. Partial settlements also encourage applicants to eliminate the best competing proposals without any resulting public benefit such as faster initiation of service. Considering proceedings with partial settlements would not take any less time, and could actually take longer because the settlement creates a two step process for the Commission (acting on the settlement and comparing the remaining group or groups of applicants) instead of the one-step process of comparing all of the applicants.

TIC respectfully submits that these passages neither mandate nor justify denial of TIC's request, and that the public interest mandates the grant of this request. This is true for nine separate and distinct reasons.

9. First and foremost, with the withdrawal of WHI's application, neither TIC's application nor HIM's application *remains* part of MX Group 363. TIC's application never has been directly mutually exclusive with that of UMass; nor has HIM's. And with the withdrawal of WHI's application, TIC's and HIM's applications are no longer even indirectly mutually exclusive with UMass's application.

10. Second, the Division did not tentatively select UMass's application as qualitatively superior, on the basis of points, either to TIC's or to HIM's application. Rather, the Division tentatively selected UMass's application based on § 307(b) grounds.

11. Third, no partial settlement agreement is before the Commission. Rather, WHI has unilaterally withdrawn its application. As part of its withdrawal, WHI has submitted a Declaration attesting to the fact that no one has promised or given any consideration to WHI in return for the dismissal of its application. TIC provides, as Attachment C hereto, its own Declaration, attesting to the fact that TIC has neither promised nor given to WHI or any third party, nor will TIC give to WHI or any third party, any consideration in return for WHI's withdrawal of WHI's application.

12. Fourth, as TIC will show below, WHI's withdrawal of its application does, "... achieve [a] grantable application" ... specifically, TIC's application.

13. Fifth, comparative consideration of TIC's and HIM's applications prejudices neither UMass nor any other remaining member of MX Group 363; neither does it prejudice HIM. HIM's application receives full and proper consideration on its merits. Also, even in the absence of both WHI's withdrawal and the filing of this Petition, the staff would have inevitably dismissed HIM's application. So, the fate of HIM's application would be the same, in either event.

14. Sixth, because, as shown below, TIC's application is, on its face, clearly superior to HIM's application, the extra staff effort that the grant of TIC's application requires is minimal.

15. Seventh, grant of the requested relief will clearly serve the public interest. TIC is a non-profit reading service that provides readings of newspaper and magazine articles, books, and special consumer information, 24 hours a day, 7 days a week. See www.ticnetwork.com. TIC's primary goal is to provide the contents of printed matter to visually-impaired and print-impaired people.² More than 23,000 citizens of Massachusetts currently rely on TIC programming, which they receive via FM Subcarrier. TIC's programming includes:

²The latter include those suffering from AIDS, Cerebral Palsy, Multiple Sclerosis, stroke, paralysis, or other physical illness that makes holding a publication, or turning pages, impossible.

- Text from daily and weekly national and regional newspapers and magazines;
- Specific subject areas such as Obituaries, Medical Updates, Job Listings, Stock Market Updates, Sports, Voting Guides, and Community Newspapers;
- Book readings every evening, as well as cultural programming including old-time radio drama, theater, music and poetry; and
- Local and national news.

By turning print into sound, TIC makes a profound difference in the lives of its listeners, many of whom are isolated from the wealth of information that most of us take for granted.

16. TIC will air this same programming on its Channel 203A facility. Listeners in the proposed service area will be able to receive such programming with greater dynamic range than would be possible via Subcarrier, and without the need for special Subcarrier decoding equipment.

17. Eighth, grant of the requested relief is consistent with the FCC's treatment of the application of North Fork Valley Public Radio, Inc. (*North Fork*), FCC File No. BPED-19990329I, for a Construction Permit to modify the facilities of station KVMT(NCE-FM), Montrose, Colorado. In the Memorandum Opinion and Order, Comparative Consideration of 76 Groups of Mutually Exclusive Applications for Permits to Construct New or Modified Noncommercial Educational FM Stations, 22 FCC Rcd 6101 (2007) (the Omnibus Order), the Commission dealt with, among other MX Groups, a three-application group, MX Group 990306, comprising proposals filed by San Juan College (*SJC*), FCC File No. BPED-19990318MG, KUTE, Inc. (*KUTE*), FCC File No. BPED-19990505MA, and North Fork. *SJC* and *KUTE* proposed to construct new stations to serve the community of Durango, Colorado. As noted above, North Fork proposed to modify the facilities of NCE-FM Station KVMT.

18. SJC's application was mutually exclusive with both that of KUTE and that of North Fork. North Fork's application was mutually exclusive with that of SJC, but not that of KUTE. In other words, the KUTE/SJC/North Fork MX group was an A/B/C (linear) daisy chain, where A was KUTE, B was SJC, and C was North Fork. At paras. 26 and 181-182 of the Omnibus Order, the FCC eliminated SJC from further consideration, because SJC had certified that SJC did not qualify for a § 307(b) preference. The FCC then found that § 307(b) factors were not dispositive, tentatively selected KUTE on points, and told the staff to dismiss North Fork's application. Id.

19. North Fork filed a Petition for Partial Reconsideration. North Fork asserted that, because its application was not mutually exclusive with that of KUTE, rather than dismissing North Fork's application, the staff should have granted it. The staff accepted North Fork's argument, reinstated, and granted the application. See Attachment D.

20. The situation here is markedly similar. WHI's dismissal of its linking application breaks the mutual exclusivity between UMass's application and that of TIC. TIC's application remains mutually exclusive only with HIM's application. The principle enshrined in Melody Music, Inc. v. FCC, 345 F.2d 730 (DC Cir. 1965), mandates that rather than dismissing TIC's application, the Division staff should process it through to grant.

21. Ninth, the grant of the requested relief will result in the expeditious introduction of a first local NCE-FM service, and a first local nighttime service to Middleborough Center, Massachusetts.³ The grant will result in a more efficient use of the spectrum, all in furtherance of the goals of § 307(b) of the Communications Act of 1934, as amended. In licensing decisions, spectral-efficiency considerations are of "paramount" importance. Endicott, New York, 51 FCC 2d

³Class D AM station WVBF, 1530 kHz, FCC Facility ID No. 63403, provides daytime-only service to the community of Middleborough Center, Massachusetts.

50, 51 (1975). It is precisely to further the goal of spectral efficiency that the FCC has a longstanding practice of, whenever possible, making multiple allotments or assignments, rather than single ones. See, e.g., Coon Valley, Wisconsin et al., 13 FCC Rcd 10240 (M.M. Bur., 1999), recons. den., 15 FCC Rcd 10069 (M.M. Bur., 2000); Portales and Roswell, New Mexico, 21 FCC Rcd 6426 (M. Bur, 2006)

22. For all of these reasons, the staff must grant the requested relief.

B. THE STAFF MUST EVALUATE HIM'S AND TIC'S APPLICATIONS UNDER THE POINTS SYSTEM, GRANT TIC'S APPLICATION, AND DISMISS HIM'S APPLICATION.

23. When the FCC evaluates a group of mutually exclusive applications, it first attempts to pick a tentative selectee based on § 307(b) considerations if the applicants propose to serve different communities of license. Report and Order, Comparative Standards for Noncommercial Educational Applicants, MM Docket No. 95-31, 15 FCC Rcd 7386 (2000), at para. 24, recons., NCE Recon Order, 16 FCC Rcd 5074 (2001). In contexts not resolvable by a § 307(b) analysis, the FCC evaluates the applications using a Points System. Id. at para. 28.

24. Here, TIC specified Middleborough Center as the community of license; HIM specified Middleboro. At para. 21 of the MO&O, the Division correctly interpreted this to mean that both applicants specified the same community.⁴ Attachment E is the Census map of the wedge-shaped

⁴Middleboro is an alternate spelling for Middleborough. According to the U.S. Census Bureau, Middleborough Center is a Census Designated place, and Middleborough is a County Subdivision or town. According to http://en.wikipedia.org/wiki/Middleborough,_Massachusetts, Middleborough is the second-largest township in Massachusetts. The Commission has a long history of considering the population cluster or the Census Designated Place within a large New England township as the actual community of license. See, e.g., Lancaster et al., New Hampshire, 15 FCC Rcd 5620 (M.M. Bur., 2000). This is precisely why TIC, in preparing its pending application, specified Middleborough Center. This is also why the licensee of station WVBF, whom the undersigned counsel has represented for many years, specified Middleborough Center as the community of license in his original application for Construction Permit.

CDP. Attachment F is a Census map showing the (peach-shaded) CDP and the (yellow-shaded) township. The CDP lies wholly within the township.⁵

25. Attachment G is TIC's depiction of its proposed facility's 60-dB $\mu_{f(50,50)}$ contour. The community of license has a yellow shading that stands out against the darker, green background. The shape matches that of the CDP as shown in Attachments E and F. The CDP of North Lakeville (to the South) is also shaded yellow, as is Taunton to the West. Attachment H is HIM's depiction of its proposed facility's 60-dB $\mu_{f(50,50)}$ contour. The community of license has a yellow shading that stands out against the white background. Once again, the shape matches that of the CDP. The CDP of North Lakeville, to the South, is also shaded yellow, but is unmarked.

26. Because both applicants specified the same community, the Division must resolve the conflict between the two applications under the Points System. TIC claimed, and is entitled to: three points for being an Established Local Applicant; and two points for Diversity of Ownership. HIM, by contrast, claimed no points, and is therefore entitled to none.

27. The applicants' service areas and service populations are as follows:

Applicant	60-dBμ Service Area	Difference and Percentage
TIC	273 km ²	9 km ² ; +3.41%
HIM	264 km ²	---

Applicant	60-dBμ Service Population	Difference and Percentage
TIC	47,502 People	---
HIM	54,402 People	6,900 People; +14.53%

⁵The peach shade is actually a blend of lilac (the CDP color) and the township's yellow.

Neither applicant has a larger service area and a larger service population, *both* of which are needed to earn points under the Technical Parameters criterion.

28. TIC is the clear winner on points: 5-0.

III. CONCLUSION

29. For all of the above reasons, the staff should promptly sever TIC's and HIM's applications from MX Group 363, and grant TIC's application.

Respectfully submitted,

TALKING INFORMATION CENTER, INCORPORATED


By _____
John Joseph McVeigh
Its Communications Counsel

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DATE: MAY 7, 2009

ATTACHMENT A

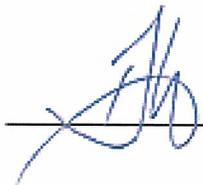
Attachment A

**Technical Statement
In Support of
Talking Information Center
Petition for Severance and Grant**

MX Group 363 from the October 2007 NCE filing window includes a total of thirteen applications. Two of those applications, BNPED-20071022BVV for Talking Information Center ("TIC") and BNPED-20071015AGL for Home Improvement Ministries ("HIM"), are mutually exclusive with each other, and with only one other application, BNPED20071022BLB for Wellspring House ("Wellspring"). Wellspring has requested dismissal of its application.

The following maps demonstrate that the TIC and HIM applications would not interfere with any other member of the MX group, and would receive prohibited interference only from the abandoned Wellspring proposal.

It is therefore submitted that HIM and TIC should be severed from the MX group and analyzed on their own merits.



David J. Doherty
Skywaves Consulting LLC
May 5, 2009

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Map 1 – Outbound Interference from TIC and HIM to the MX Group



This map shows the 40dbu f(50,10) interfering contours of the TIC and HIM applications in red, and the 60dbu f(50,50) protected contours of all other members of the MX group in black.

There is no overlap between either 40dbu f(50,10) interfering contour and the 60dbu f(50,50) protected contour of any application in the MX group. Some of the other applications are on the first adjacent frequency where the interfering contour would be 54dbu f(50,10), but it is submitted that since the 54dbu contour would fall entirely within the 40 dbu contour, it is sufficient in this case to show only the 40dbu contours.

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Map 2 – Inbound Interference to TIC and HIM from the MX Group



This map plots the 60dbu f(50,50) contours of the TIC and HIM proposals in black, and the appropriate {40dbu or 54dbu f(50,10)} interfering contour from each member of the MX Group in red.

The only prohibited overlap between the TIC and HIM applications and the remainder of the MX Group is the abandoned Wellspring application. Deleting the Wellspring application severs the connection and allows TIC and HIM to be evaluated as a two-station group.

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ATTACHMENT B

2009 MAY -5 P 2: 50

Received & Inspected

MAY - 4 2009

FCC Mail Room

Wellspring House, Inc.
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April 30, 2009

Marlene H. Dortch, Secretary
Office of the Secretary
Federal Communications Commission
445 Twelfth Street, SouthWest
Washington, D.C. 20554

Re: Request for Dismissal of Application
FCC Form 340, BNPED-20071022BLB
FCC Facility ID 176128
NEW(NCE-FM), Channel 203A, Rockport, Massachusetts

Dear Ms. Dortch:

On October 22, 2007, WellSpring House, Inc. (WHI) filed the above-referenced application for a Construction Permit for a new Noncommercial Educational FM Station to serve the community of Rockport, Massachusetts on Channel 203A. WHI filed the application in response to the Commission's Public Notice, DA 07-1613 (released April 4, 2007), announcing a filing window for New and Major-Change NCE-FM Applications.

WHI hereby unilaterally requests the application's dismissal. WHI is supplying, as Exhibit A, a Declaration of No Consideration.

WellSpring House, Inc.

By Kay O'Rourke
Kay O'Rourke
Its Executive Director

Enclosure

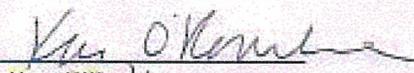
EXHIBIT A

FCC Form 340
FCC File No. BNPED-20071022BLB
FCC Facility ID 176128
NEW(NCE-FM), Channel 203A,
Rockport, Massachusetts

DECLARATION OF WELLSRING HOUSE, INC.

Wellspring House, Inc. (*WHI*), the applicant for a Construction Permit for a new Noncommercial Educational FM Station to serve the community of Rockport, Massachusetts on Channel 203A, is unilaterally seeking dismissal of the above-referenced application. WHI hereby declares, under penalty of perjury, that it has not been promised, nor has it received, nor will it receive, any consideration from any party in return for seeking the dismissal of its application.

WELLSRING HOUSE, INC.

By 
Kay O'Rourke
Its Executive Director

Date: April 30, 2009

ATTACHMENT C

FCC Form 340
FCC File No. BNPED-20071022BVV
FCC Facility ID 177016
NEW(NCE-FM), Channel 203A,
Middleborough Center, Massachusetts

DECLARATION OF TALKING INFORMATION CENTER, INCORPORATED

Talking Information Center, Incorporated (*TIC*), an applicant for a Construction Permit for a new Noncommercial Educational FM Station to serve the community of Middleborough Center, Massachusetts on Channel 203A, offers the following Declaration of facts. TIC has learned that Wellspring House, Inc. (*WHI*), the applicant for a Construction Permit for a new Noncommercial Educational FM Station to serve the community of Rockport, Massachusetts on Channel 203A, has unilaterally dismissed its application, FCC File No. BNPED-20071022BLB, FCC Facility ID 176128. Prior to such dismissal, TIC's and WHI's applications had been mutually exclusive. TIC hereby declares, under penalty of perjury, that TIC has not promised, nor has TIC provided, nor will TIC provide, any consideration to WHI or to any other party in return for WHI's dismissal of WHI's application.

TALKING INFORMATION CENTER, INCORPORATED

By Ron Bersani
Ron Bersani
Its Executive Director

Date: May 5, 2009

ATTACHMENT D



Public Notice Comment

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Public Notice Comment

BPED-19990329IA MOD OF CP TO CHG HAAT & ERP

SUPPLEMENT FILED 7/18/2001.

Petition for Partial Reconsideration and Reinstatement Nunc Pro Tunc filed 5/2/07 by ("North Fork")

Petition for Partial Reconsideration and Reinstatement Nunc Pro Tunc granted 10/2/2007
(no letter sent)

Application granted 10/2/2007

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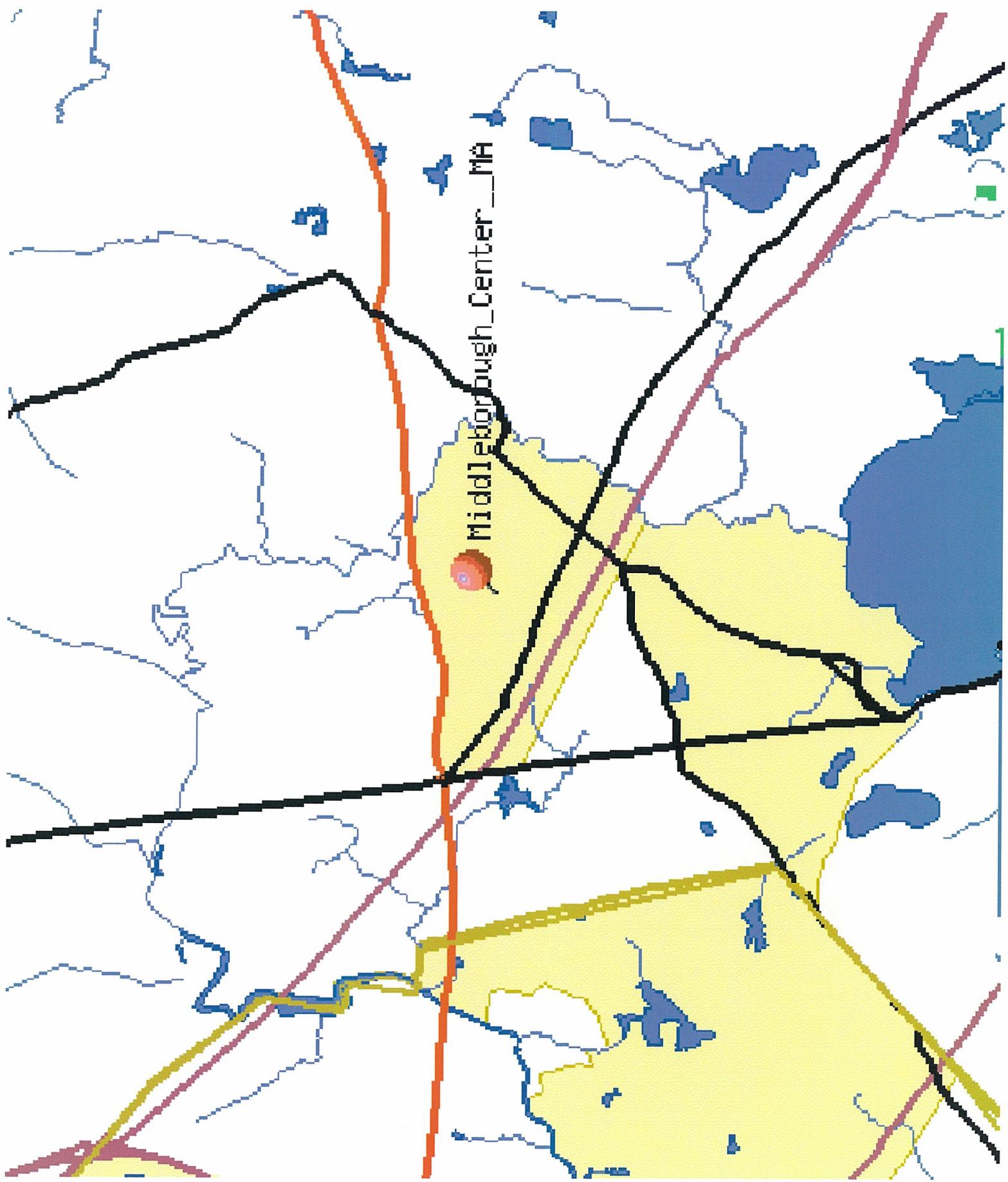
Please send comments via standard mail to the Federal Communications Commission, Consumer and Governmental Affairs Bureau, 445 12th Street, S.W., Washington, D.C., 20554. Questions can also be answered by calling the FCC's National Call Center, toll free, at 1-888-Call FCC (1-888-225-5322).

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E-mail: fccinfo@fcc.gov

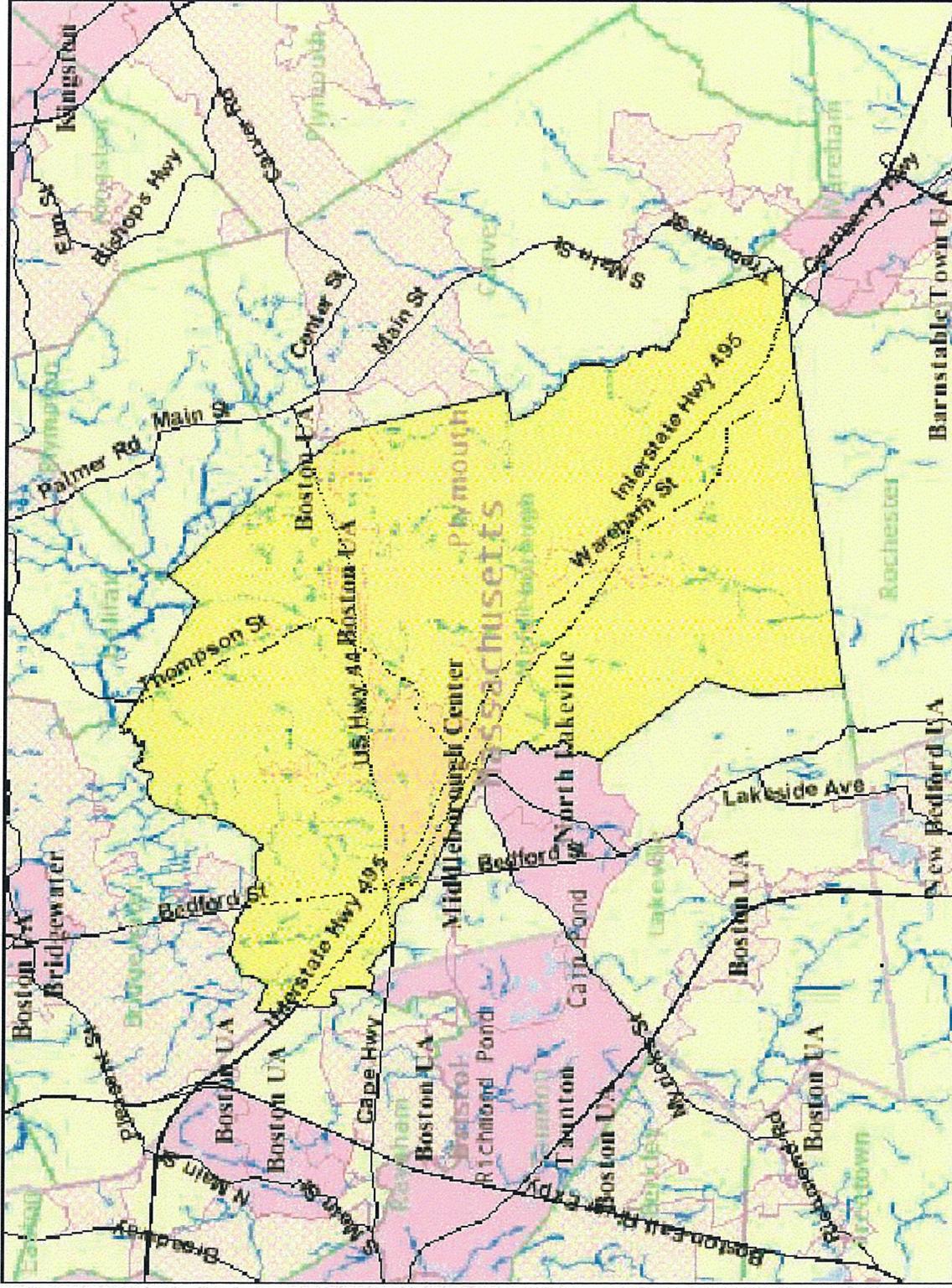
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ATTACHMENT E



ATTACHMENT F

Middleborough town, Plymouth County, Massachusetts



Boundaries

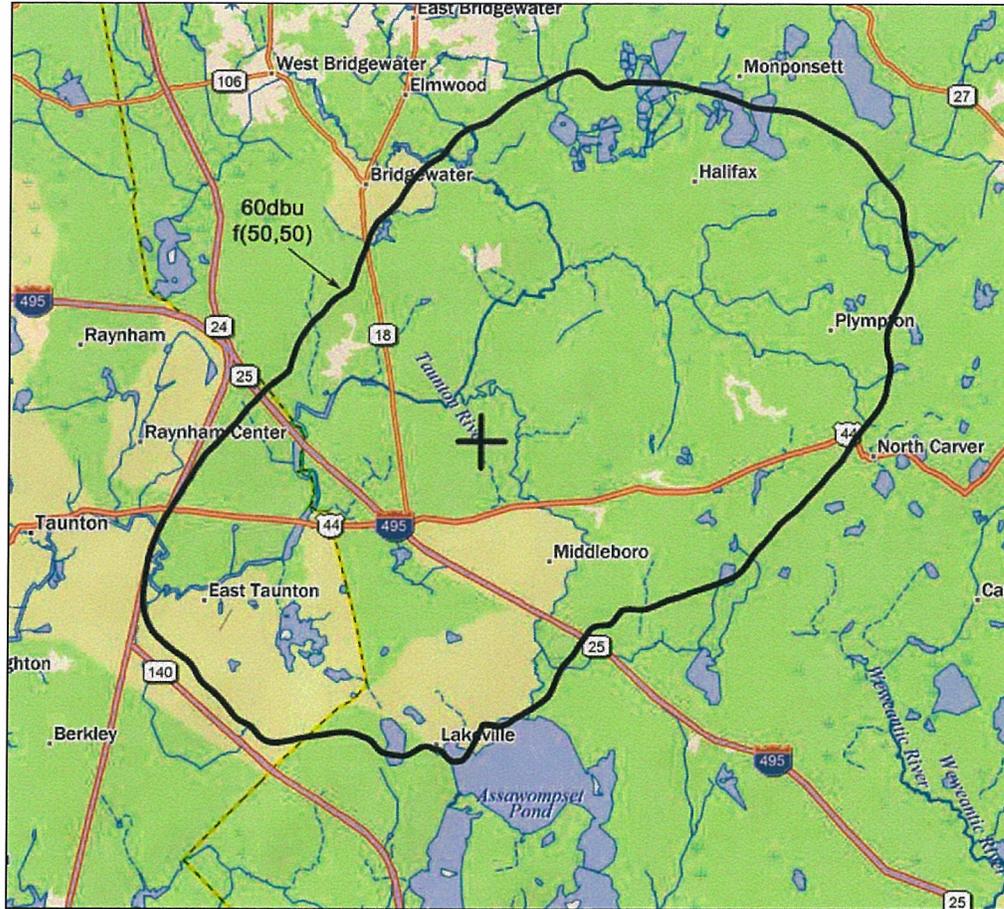
- State
 - '07 County
 - '07 Co Sub
 - '07 Place
 - '07 Place
 - '00 Urban Area
 - '00 Urban Area
- #### Features
- Major Road
 - Stream/Waterbody
 - Stream/Waterbody

20 miles across

Close

ATTACHMENT G

Population and Area Covered



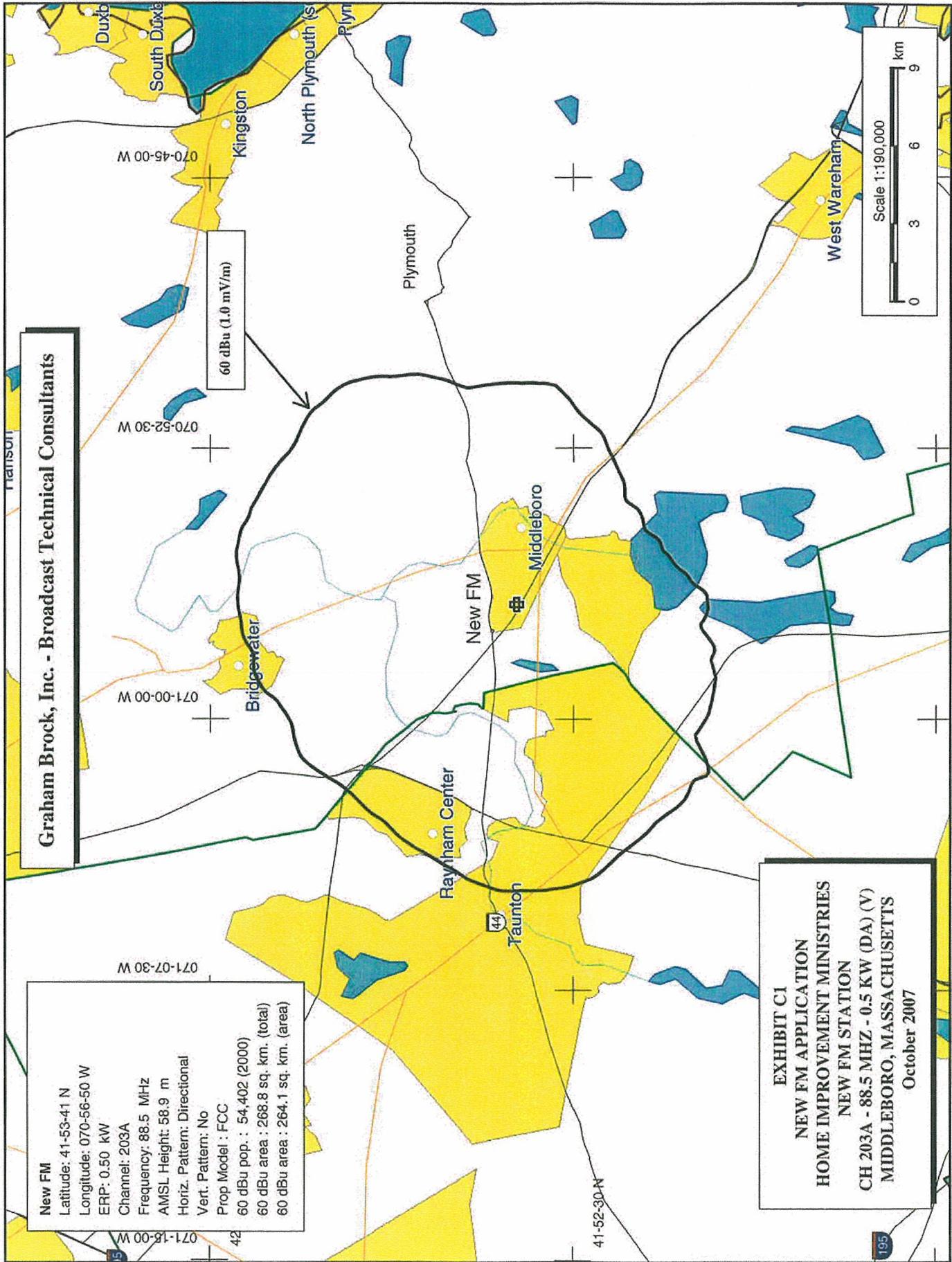
Area 273 km²
Population 47,502

Basis of population count and area:

The distance to the 60dbu f(50,50) signal was calculated for 3600 radials spaced evenly every 0.1 degree, and an intercept program was used to determine the coordinates from the distance and bearing. The 60dbu contour thus consists of a 3600-sided polygon. For each US Census Bureau population centroid in the area, a determination was made as to whether the centroid was located in the contour polygon. The population inside the contour is the sum of the populations of the centroids that fall within the contour.

The total area was calculated as $\pi/3600$ times the sum of the squares of the 3600 radial distances.

ATTACHMENT H

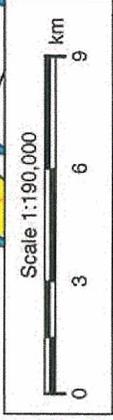


Graham Brock, Inc. - Broadcast Technical Consultants

New FM
 Latitude: 41-53-41 N
 Longitude: 070-56-50 W
 ERP: 0.50 kW
 Channel: 203A
 Frequency: 88.5 MHz
 AMSL Height: 58.9 m
 Horiz. Pattern: Directional
 Vert. Pattern: No
 Prop Model: FCC
 60 dBu pop.: 54,402 (2000)
 60 dBu area: 268.8 sq. km. (total)
 60 dBu area: 264.1 sq. km. (area)

60 dBu (1.0 mV/m)

EXHIBIT C1
NEW FM APPLICATION
HOME IMPROVEMENT MINISTRIES
NEW FM STATION
CH 203A - 88.5 MHz - 0.5 kW (DA) (V)
MIDDLEBORO, MASSACHUSETTS
October 2007



CERTIFICATE OF SERVICE

I hereby certify that I have this 7 th day of May, 2009, sent a copy of the foregoing

PETITION FOR SEVERANCE AND GRANT via first-class, United States Mail, postage prepaid, to:

Home Improvement Ministries
209 Burlington Road, Suite 105
Bedford, Massachusetts 01730

A handwritten signature in black ink, appearing to read "J. J. McVeigh", written over a horizontal line. The signature is stylized with a large loop at the end.

EXHIBIT 2



Application Search Details

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Search returned: 1 matching application

Application Search Results

File Number	Form	Paper/ Elect	Call Sign	Facility Id	Service	Status	Status Date	Details
BNPED 20071022BVV	340	E	NEW	177016	FM	DISMISSED	05/08/2009	Info Application

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Application Search Details

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Application Search Details

File Number: BNPED-20071022BVV
Call Sign: NEW
Facility Id: 177016
FRN: 0008892069
Applicant Name: TALKING INFORMATION CENTER, INCORPORATED
Frequency: 88.5
Channel: 203
Community of License: MIDDLEBOROUGH CENTER, MA
Application Type: ORIGINAL CONSTRUCTION PERMIT
Status: DISMISSED
Status Date: 05/08/2009
Expiration Date:
NCE Supplement Date:
Tolling Code:
Application Service: FM
Disposed Date: 05/08/2009
Accepted Date:
Tendered Date: 01/08/2008
Amendment Received Date: 01/07/2008
Last Public Notice: 05/13/2009
Last Report Number: 46984
Authorization: [Authorization not available](#)
Engineering Data: [View Engineering Data](#)
Legal Actions: [View Legal Actions](#)
PN Comment: [Public Notice Comment](#)
Correspondence Folder: [View Correspondence Folder](#)

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Public Notice Comment

BNPED-20071022BVV

CP New Station.

Dismissed 5/8/2009 per DA 09-735 - no letter sent

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Search returned: 1 matching application

Application Search Results

File Number	Form	Paper/ Elect	Call Sign	Facility Id	Service	Status	Status Date	Details
BNPED 20071015AGL	340	E	NEW	174732	FM	DISMISSED	05/08/2009	Info Application

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Application Search Details

File Number: BNPED-20071015AGL
Call Sign: NEW
Facility Id: 174732
FRN: 0016996506
Applicant Name: HOME IMPROVEMENT MINISTRIES
Frequency: 88.5
Channel: 203
Community of License: MIDDLEBORO, MA
Application Type: ORIGINAL CONSTRUCTION PERMIT
Status: DISMISSED
Status Date: 05/08/2009
Expiration Date:
NCE Supplement Date:
Tolling Code:
Application Service: FM
Disposed Date: 05/08/2009
Accepted Date:
Tendered Date: 11/27/2007
Amendment Received Date: 11/26/2007
Last Public Notice: 05/13/2009
Last Report Number: 46984
Authorization: Authorization not available
Engineering Data: [View Engineering Data](#)
Legal Actions: [View Legal Actions](#)
PN Comment: [Public Notice Comment](#)
Correspondence Folder: [View Correspondence Folder](#)

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Public Notice Comment

BNPED-20071015AGL

CP New Station.
Engineering Amendment filed 11/26/2007

Dismissed 5/8/2009 per DA 09-735 - no letter sent

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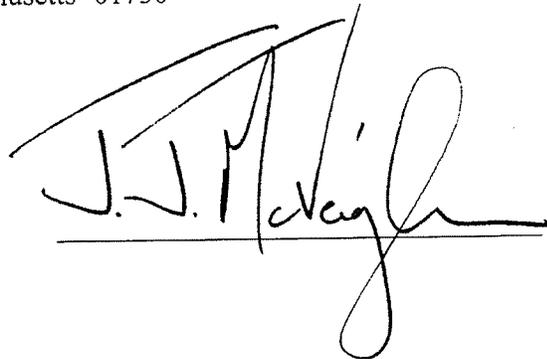
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CERTIFICATE OF SERVICE

I hereby certify that I have this Thirteenth day of May, 2009, sent a copy of the foregoing **PETITION FOR RECONSIDERATION** via first-class, United States Mail, postage prepaid.
to:

Home Improvement Ministries
209 Burlington Road, Suite 105
Bedford, Massachusetts 01730

A handwritten signature in black ink, appearing to read "J. J. McLaughlin", is written over a horizontal line. The signature is stylized and cursive.