

FEDERAL COMMUNICATIONS COMMISSION

**445 12th Street, SW
Washington, DC 20554**

**MEDIA BUREAU
OFFICE OF BROADCAST LICENSE POLICY
AUDIO DIVISION
APPLICATION STATUS: (202) 418-2730
HOME PAGE: WWW.FCC.GOV/MB/AUDIO/**

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DEC - 2 2003

Cary S. Tepper, Esq.
Booth, Freret, Imlay & Tepper, P.C.
7900 Wisconsin Ave., Suite 304
Bethesda, MD 20814-3628

In re: New FM Translator, Akron, OH
Creative Educational Media Corp., Inc.
BNPFT-20030821AFN
Facility ID: 141395

Dear Mr. Tepper:

This refers to the above-captioned application for a new translator at Akron, OH.

Prohibited Overlap. Our study reveals that the application violates 47 C.F.R. § 74.1204(a) with respect to the authorized second adjacent channel, Class B, facility of WDOK, Cleveland, OH, (BMLH-20020611AAI). Section 74.1204(a) of the Commission's rules states that an application for an FM translator station will not be accepted if the proposed operation would involve prohibited overlap of predicted field strength contours with any other authorized station. The predicted 94 dBu interference contour overlaps WDOK's 54 dBu protected contour. Section 74.1204(d) provides an exception to Section 74.1204(a), assuming no interference can be demonstrated. Applicant requests a waiver under Section 74.1204(d), utilizing an undesired-to-desired ratio wherein the area of predicted interference does exceed 95.8 dBu on the ground. However, applicant has not provided a topo map of the area, which would demonstrate the absence of population; and our study reveals that the proposal is located in an urban area where tall buildings or houses containing population can be located. Accordingly, the application fails to demonstrate compliance with Section 74.1204(d) and will be dismissed.

Application Dismissed. In light of the above, Application BNPFT-20030821AFN is unacceptable for filing pursuant to 47 C.F.R. § 73.3566 and IS HEREBY DISMISSED. This action is taken pursuant to 47 C.F.R. § 0.283.

Sincerely,



James D. Bradshaw
Associate Chief
Audio Division
Media Bureau

cc: Creative Educational Media Corp., Inc.
Clarence M. Beverage, Broadcast Engineering Consultant