

FCC Form 314
Exhibit 15

Request for Waiver of Section 73.865 of the FCC Rules

Section 73.865 of the Commission's Rules provides that:

(a) An LPFM authorization may not be transferred or assigned except for a transfer or assignment that involves:

- (1) Less than a substantial change in ownership and control; or
- (2) An involuntary assignment of license or transfer of control.

The parties believe that a waiver of Section 73.865 is warranted in the present circumstances. As set forth in the attached Declaration of Lori A. Weyers, Chief Executive Officer and President of Northcentral Technical College District ("NTC"), permittee of WNRB-LP. NTC is a non-profit organization dedicated to facilitating learning of high value for individuals, businesses, industries, and organizations, which builds a competitive workforce in a changing global society.

Disposition of the license to a qualified assignee would serve the public interest for the reasons that follow. Over the past two academic years, NTC experienced an enrollment decline. Under the new college President, resources have been reallocated to increase enrollment. Due to tight financial resources, NTC can no longer afford to operate WNRB-LP. On August 31, WNRB-LP went silent. In an effort to preserve the LPFM station for the community, NTC filed an STA to remain silent on October 2, 2006. The STA was granted on October 5, 2006.

In order to avoid the financial jeopardy that would affect NTC's educational activities, NTC seeks Commission consent to assign the WNRB-LP authorization to the Wausau Area Hmong Mutual Association, Inc. ("WAHMA"), a nonprofit educational corporation dedicated to assisting community integration and economic and social advancement of Southeast Asian refugees in Marathon County, Wisconsin.

Assignment of the WNRB-LP license, and waiver of Section 73.865 of the Commission's Rules, would be appropriate for the following reasons.

- (1) Section 73.865 currently permits involuntary assignments of LPFM licenses. Although NTC has not declared bankruptcy, the purpose of the proposed assignment is in the nature of an involuntary assignment. NTC cannot afford to keep the station on the air and must seek Commission consent to assign the WNRB-LP authorization to maintain financial stability. Grant of the assignment will relieve NTC of the financial burden of running the station, and will permit NTC to focus funds on increasing enrollment to sustain the college's existence. Other than being relieved of the financial burdens, NTC will not derive any profit from the assignment. The assignment will take place in a Deed of Gift, in which NTC receives no consideration

and will only be reimbursed for the transaction's legal fees. The Deed of Gift is an attachment to this application.

- (2) In *Creation of a Low Power Service, Further Notice of Proposed Rulemaking*, (2005), the Commission stated that:

Based on former testimony, ex parte presentations and requests for waiver of Section 73.865 filed with the Media Bureau's Audio Division, the Commission now believes that the rule prohibiting transfer or assignment of LPFM construction permits or licenses may be unduly restrictive and may hinder, rather than promote, LPFM service.

Grant of this application and waiver of Section 73.865 will promote LPFM service by preserving an existing LPFM station, without encouraging speculation in LPFM licenses. The principal beneficiary of the proposed assignment is the Community of Wausau. By contrast, denial of the proposed assignment would deprive Wausau of a valuable noncommercial service, and jeopardize the future of NTC.

In the same *Rulemaking*, the Commission also delegated the authority to grant a waiver of Section 73.865 to the Media Bureau:

Accordingly, we delegate to the Media Bureau authority to consider, on a case-by-case basis, requests for waivers of Section 73.865 of our rules. The Media Bureau may grant a waiver upon determination that such waiver will maximize spectrum use for low power FM operations. For example, waiver may be appropriate, assuming the public interest would be served, in certain circumstances: ...[including] transfer to a local entity upon the inability of the current licensee to continue operations.

NTC is financially not able to continue the operations of WNRB-LP and is seeking a waiver of Section 73.865 to transfer the station to another local entity. This is an appropriate circumstance for the Media Bureau to consider and grant a waiver request.

- (3) WAHMA is qualified to be an LPFM licensee and will serve the public interest as the assignee of WNRB-LP.

As set forth in the declaration of Peter Yang, and the attached portion of FCC Form 318, WAHMA is a nonprofit corporation qualified to hold an LPFM license. It is physically headquartered in Wausau and 100% of its board members reside within ten miles of the transmitter site of WNRB-LP. WAHMA complies with Commission ownership rules and policies with respect to LPFM stations. No adverse judicial or administrative findings have been made or adverse actions taken with respect to WAHMA or its members. WAHMA certifies its compliance with the Anti-Drug Abuse Act of 1988.

WAHMA will broadcast a program service of value to Wausau. That service will consist of programming dedicated to assisting community integration and economic and social advancement of Southeastern Asian refugees in Marathon County, featuring local, state, national and international news, community announcements, community education, music and song dedications.

- (4) The FCC Media Bureau's *Letter re Hoyt Sherman Place Foundation, Application to Assign Construction Permit* (September 27, 2006), stated that the ground that one "cannot afford to build and operate the [LPRFM] station" is sufficient to justify a waiver of Section 73.865.

As set forth in the Declaration of Lori A. Weyers, NTC is suffering from financial hardships, and will not be able to allocate the appropriate funds to operate WNRB-LP. This financial hardship is sufficient enough to justify the waiver of Section 73.865.

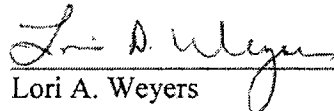
- (5) Also in the FCC Media Bureau's *Letter re Hoyt Sherman Place Foundation, Application to Assign Construction Permit* (September 27, 2006), an assignment application for a construction permit for no consideration from one local entity with financial hardships to another local entity qualified to hold an LPRFM license was granted.

As set forth above, NTC is an entity with financial hardships seeking to assign a construction permit to WAHMA, a local entity that is qualified to hold an LPRFM license. Therefore, the waiver of Section 73.865 and the assignment application must be granted.

DECLARATION OF LORI A. WEYERS

Under penalty of perjury, I hereby declare as follows:

1. I am Chief Executive Officer and President of Northcentral Technical College District ("NTC").
2. NTC is a non-profit, governmental entity under Wisconsin law, created for the purpose of facilitating learning of high value for individuals, businesses, industries, and organizations, which builds a competitive workforce in a changing global society.
3. In November 2003, NTC applied for a construction permit for WNRB-LP, Wausau, Wisconsin. NTC began to broadcast in May 2005. However, due to financial difficulties, the station went dark August 31, 2006.
4. NTC is suffering from financial difficulties, and the cost to operate the station would drain financial resources necessary to sustain NTC's core responsibilities as an educational institution. Over the past two years academic years NTC experiences an enrollment decline. Under the new college President, resources have been reallocated to increase enrollment.
5. NTC will not derive any profit from the assignment of the LPFM license. As noted, the assignment will take place in a Deed of Gift, in which NTC receives no consideration and will only be reimbursed for the transaction's legal fees.


Lori A. Weyers

DECLARATION OF PETER YANG

I, Peter Yang, under penalty of perjury, hereby declare as follows:

1. I am Executive Director of the Wausau Area Hmong Mutual Association ("WAHMA").
2. WAHMA is a nonprofit corporation organized under the laws of Wisconsin, and is recognized as a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code.
3. As indicated in the attached legal portion of FCC Form 318, WAHMA satisfies FCC requirements for becoming an LPFM licensee.
4. WAHMA will broadcast a noncommercial program service dedicated to assisting community integration and economic and social advancement of Southeastern Asian refugees in Marathon County, featuring local, state, national and international news, community announcements, community education, music and song dedications.


Peter Yang

NOTE: The failure to include an explanatory exhibit providing full particulars in connection with a "No" response may result in dismissal of the application. See General Instructions, Paragraph I for additional information regarding the completion of explanatory exhibits.

Section II - Legal

New LPFM station applicants must complete all questions in Section II. Major and minor change applicants must complete only questions 1, 4, 6, 7 and 9.

1. **Certification.** Applicant certifies that it has answered each question in this application based on its review of the application instructions and worksheets. Applicant further certifies that where it has made an affirmative certification below, this certification constitutes its representation that the application satisfies each of the pertinent standards and criteria set forth in the application, instructions, and worksheets. ☒ Yes ☐ No
2. **Eligibility.** Each applicant must answer "Yes" to one and "No" to two of the three following certifications. An applicant should not submit an explanatory exhibit in connection with these Question 2 "No" responses.

The applicant certifies that:

- a. it is a nonprofit educational institution; or ☐ Yes ☒ No
- b. it is a nonprofit educational organization; or ☒ Yes ☐ No
- c. it proposes a noncommercial public safety radio service to protect the safety of life, health or property. ☐ Yes ☒ No

Note: Applicants that answer "Yes" to 2a. or 2b. must include an exhibit that describes the applicant's educational program and how its proposed station will be used to advance its educational program. The exhibit should include the state and date of applicant's incorporation.

Exhibit No.
A

3. Parties to the Application.

- a. List separately each party to the application including, as applicable, the applicant, its officers, directors, five percent or greater stockholders, non-insulated partners, members, and all other persons and entities with attributable interests. If a corporation or partnership holds an attributable interest in the applicant, list separately, as applicable, its officers, directors, five percent or greater stockholders, non-insulated partners, and board members. Create a separate row for each individual or entity. Attach additional pages if necessary.

- (1) Name and address of party.
- (2) Citizenship.

- (3) Positional Interest: Officer, director, general partner, limited partner, LLC member, or investor/creditor attributable under the Commission's equity/debt plus standard.
- (4) Percentage of votes.
- (5) Percentage of total assets (equity plus debt).

(1)	(2)	(3)	(4)	(5)

PLEASE RE-ENTER

b. Applicant certifies that equity and financial interests not set forth above are non-attributable. ☐ Yes ☐ No See Explanation in Exhibit No.

☒ N/A

4. **Community-Based Criteria.** The applicant certifies that:

a. it is a nonprofit educational institution or organization that is physically headquartered or has a campus within 16.1 kilometers (10 miles) of the proposed transmitting antenna site set forth in this application; ☒ Yes ☐ No

b. it is a nonprofit educational institution or organization that has 75 percent of its board members residing within 16.1 kilometers (10 miles) of the proposed transmitting antenna site set forth in this application; or ☒ Yes ☐ No

c. it proposes a public safety radio service and has jurisdiction within the service area of the proposed LPFM station. ☐ Yes ☐ No

Note: An applicant should not submit an explanatory exhibit in connection with these Question 4 "No" responses.

5. **Ownership.** The applicant certifies, based on its completion of Worksheet 1 and its review of the instructions to this application, that:

a. no party to this application has an attributable interest in any other low power FM broadcast station; ☒ Yes ☐ No

b. no party to this application has an attributable interest in any non-LPFM broadcast station, including any full power AM or FM station, FM translator station, full or low power television station, or any other media subject to the Commission's broadcast ownership restrictions; ☒ Yes ☐ No See Explanation in Exhibit No.

c. the applicant is in compliance with the Commission's policies relating to media interests of immediate family members; and ☒ Yes ☐ No

d. the applicant is in compliance with the Commission's policies relating to investor insulation and the non-participation of non-party investors and creditors. ☒ Yes ☐ No

6. **Character Issues.** The applicant certifies that neither the applicant nor any party to the application has or has had any interest in, or connection with: ☒ Yes ☐ No See Explanation in Exhibit No.

a. any broadcast application in any proceeding where character issues were left unresolved or were resolved adversely against the applicant or party to the application; or

b. any pending broadcast application in which character issues have been raised.

7. **Adverse Findings.** The applicant certifies that no adverse finding has been made and no adverse final action has been taken by any court or administrative body as to the applicant, any party to this application, or any non-party equity owner in the applicant, in a civil or criminal proceeding brought under the provisions of any law related to the following: any felony; mass media related antitrust or unfair competition; fraudulent statements to another governmental unit; or discrimination? ☒ Yes ☐ No

If the answer is "No," attach as an Exhibit a full disclosure concerning the persons and matters involved, including an identification of the court or administrative body and the proceeding (by dates and file numbers), and a description of the disposition of the matter. Where the requisite information has been earlier disclosed in connection with another application or as required by 47 C.F.R. Section 1.65, the applicant need only provide: (i) an identification of that previous submission by reference to the file number in the case of an application, the call letters of the station regarding which the application or Section 1.65 information was filed, and the date of filing; and (ii) the disposition of the previously reported matter.

Exhibit No.

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8. **Unlicensed Operation.**

- a. The applicant certifies, under penalty of perjury, that neither the applicant nor any party to the application has engaged in any manner, individually or with other persons, groups, organizations, or other entities, in the unlicensed operation of any station in violation of Section 301 of the Communications Act of 1934, as amended, 47 U.S.C. Section 301. ☒ Yes ☐ No
- b. For applicants responding "No" to Question 8a. only, the applicant certifies, under penalty of perjury, that to the extent the applicant or any party to the application has engaged in any manner, individually or with other persons, groups, organizations or other entities, in the unlicensed operation of a station in violation of Section 301 of the Communications Act, as amended, 47 U.S.C. Section 301, all such engagement:
- i. ceased voluntarily no later than February 26, 1999, without direction from the Commission to do so; or ☐ Yes ☐ No
- ii. ceased within 24 hours of being directed by the Commission to terminate unlicensed operation of any station. ☐ Yes ☐ No

9. **Anti-Drug Abuse Act Certification.** Applicant certifies that neither the applicant nor any party to the application is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862. ☒ Yes ☐ No

Section III - Point System Factors

New station and major change applicants must complete the following questions.

Point system factors are used only for selection among mutually exclusive applications for new LPFM stations and major modifications of authorized LPFM stations. Mutually exclusive applicants will be awarded one point for each of the following:

1. **Established community presence.**

- a. **Educational Institutions and Organizations.** The applicant certifies that, for a period of at least two years prior to the date of this application, it has existed as an educational institution or organization and has been physically headquartered, has had a campus, or has had seventy-five percent of its board members residing within 10 miles of the coordinates of the proposed transmitting antenna. ☐ Yes ☐ No

An applicant claiming a point under factor 1a. must submit an exhibit documenting its established community presence. See instructions.

Exhibit No:

- b. **Public Safety Radio Service.** The applicant certifies that, for a period of at least two years prior to the date of this application, it has had jurisdiction within the service area of the proposed public safety radio service LPFM station. ☐ Yes ☐ No

2. **Proposed operating hours.** The applicant pledges to operate the proposed station for at least 12 hours per day. ☐ Yes ☐ No
3. **Local program origination.** The applicant pledges to originate locally at least eight hours of programming per day. ☐ Yes ☐ No

Note: For purposes of this factor, local origination is the production of programming within 10 miles of the coordinates of the proposed transmitting antenna.



Wausau Area Hmong Mutual Association
FCC FORM 318
EXHIBIT A

WAUSAU AREA HMONG MUTUAL ASSOCIATION (ASSIGNEE) IS A NON-STOCK NON-PROFIT CORPORATION ORGANIZED UNDER THE LAWS OF THE STATE OF WISCONSIN, AND RECOGNIZED AS TAX EXEMPT UNDER SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE.

ASSIGNEE IS ORGANIZED EXCLUSIVELY FOR CHARITABLE AND EDUCATIONAL PURPOSES, INCLUDING THE PROMOTION OF CULTURAL, SOCIAL, AND EDUCATIONAL ACTIVITIES AND THE CONDUCTING OF COMMUNITY PROJECTS.

THE MISSION OF WAUSAU AREA HMONG MUTUAL ASSOCIATION IS TO PROVIDE SERVICES THAT LEAD SOUTHEAST ASIAN FAMILIES TOWARD SOCIAL STABILITY, EDUCATIONAL OPPORTUNITIES, ECONOMIC SELF-SUFFICIENCY, AND COMMUNITY INTEGRATION.

STATION WNRB-LP WILL BE USED TO ADVANCE THE EDUCATIONAL AND CULTURAL PURPOSES FOR WHICH THE WAUSAU AREA HMONG MUTUAL ASSOCIATION WAS FOUNDED.

ALL PROGRAMS WILL BE PROVIDED ON A COMMERCIAL-FREE BASIS, AND WILL BE DESIGNED TO PROVIDE A NONCOMMERCIAL, EDUCATIONAL SERVICE. ASSIGNEE WILL CONTINUE MANY OF THE ENGLISH LANGUAGE PROGRAMS BROADCAST BY ASSIGNOR, ATTACHED IS A LIST OF THE PROGRAMS PREVIOUSLY BROADCAST BY ASSIGNOR. ASSIGNEE WILL SUPPLEMENT THESE PROGRAMS WITH SPANISH LANGUAGE AND HMONG LANGUAGE PROGRAMS. PROGRAMS SPECIFICALLY DESIGNED TO SERVE NON-ENGLISH SPEAKERS WILL INCLUDE HEALTH PROGRAMS, FEATURING BOTH TRADITIONAL AND ALTERNATIVE MEDICINE; FINANCIAL LITERACY AND REAL ESTATE PROGRAMS; PROGRAMS OF A GENERAL EDUCATIONAL NATURE; PROGRAMS DESIGNED TO HELP IMMIGRANT POPULATIONS INTEGRATE INTO AMERICAN CULTURE; AND PROGRAMS THAT FEATURE ETHNIC AND POPULAR MUSIC.

THE STATION WILL BE STAFFED BY VOLUNTEERS UNDER THE
SUPERVISION OF A STATION MANAGER OR OTHER DESIGNATED
STAFF MEMBERS.



WNRB Program Guide

	<u>Sunday</u>	<u>Monday</u>	<u>Tuesday</u>	<u>Wednesday</u>	<u>Thursday</u>	<u>Friday</u>	<u>Saturday</u>
7-8a	Music Programming	Suab Ywjtheej	Suab Ywjtheej	Suab Ywjtheej	Suab Ywjtheej	Suab Ywjtheej	Music Programming
8-9a	Soft Start	Morning Announcements	Morning Announcements	Morning Announcements	Big Gordy's Power Hour	Morning Announcements	
9-10a					Morning Announcements		Echoes of a Century
10-11a	In the Groove	Music of the Master	Music Programming	Earthtones	Music Programming	Music of the Masters	The Mixed Up Mix
11-12p							
12-1p	Farmer's Market	Tact Remembered		Lunch Box full of Rocks	Star Volunteer Hour	Music Programming	Tim Lutz
1-2p			Healing Visions	Wellness Wednesday	Healing Winds from a New Direction		Suab Ywjtheej
2-3p	Latinos Unidos	Indy Media for Central Wisconsin	Classical Connections	Music Program	Timeless Treasures		Suab Ywjtheej
3-4p				RaSpect Radio			Fireside Chat
4-5p	Sunday Night Jukebox						
5-6p				Dr Rent	Talking Finance	Weekend "Live" Update	Music Programming
6-7p		Suab Ywjtheej	Suab Ywjtheej	Suab Ywjtheej	Suab Ywjtheej	Suab Ywjtheej	
7-8p	Golf Buffet	The Locker Room	Humor on WNRB	The Clinic of Boogie and Blues	The Electric Roadhouse	Frank and Hawks Happy Hour	
8-9p	Slap Happy	The Thread	The Stellar Show		Neal at the Wheel		
9-10p				Health to the Company			