

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

In the Matter of)	
)	
NEW RIVER COMMUNITY CHURCH)	File No. BLL-20170807AAT
Low Power FM Broadcast Station)	Facility ID Number 193136
WYPH-LP, Manchester, CT)	

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

SUBMISSION OF ON/OFF INTERFERENCE TEST RESULTS

The New River Community Church (the NRC Church), the licensee of Low Power FM Station WYPH-LP, Manchester, Connecticut, by counsel, hereby submits the results of the on/off testing conducted by SBE-certified engineer Michael Graziano on March 31, 2021 of the claimed interference from WYPH-LP to WDRC-FM, licensed to Red Wolf Broadcasting Corporation (Red Wolf). Mr. Graziano was retained by undersigned counsel on behalf of the NRC Church. This testing was conducted pursuant to the Order of the Chief, Audio Division in the March 21, 2021 *Order on Reconsideration*.¹ Though undersigned counsel repeatedly requested the participation of Red Wolf in this testing process both before and after the release of the *Order on Reconsideration*; and despite the Audio Division's stated support of that

¹ See the Order of the Chief, Audio Division, DA 21-291, 1800B3-KV, released March 11, 2021 (Order on Reconsideration). Therein, at page 9, the Chief, Audio Division stated in relevant part that "IT IS FURTHER ORDERED that within ninety (90) days of the date of this decision, New River Community Church and Red Wolf Broadcasting Corporation will jointly engage a third party engineer to perform on-off testing to determine if WYPH-LP is the source of the interference caused to WDRC-FM and jointly submit the results of such testing to the Bureau for review."

process as a means of resolving the interference complaint once and for all, dating back to October, 2020,² Red Wolf did not agree to participate in the ordered interference tests.³

It is unnecessary to characterize herein the methodology in conducting the on/off testing, or the findings of the independent engineer, as the report speaks for itself. It deserves note, however that Mr. Graziano is, in fact, completely independent of the NRC Church,⁴ having been retained by undersigned counsel, and given the fact that he works as Chief Engineer of Radio Station WJMJ in Hartford, Connecticut, which is licensed to neither the NRC Church nor to Red Wolf, and who has no connection to either entity. The report of Mr. Graziano is attached hereto. It concludes that the ordered on/off tests, conducted at the locations of the claimed interference (and additionally at the WYPH-LP studios, located only 0.27 miles from the

² The Senior Deputy Chief, Audio Division, in an e-mail to both counsel dated Wednesday, October 14, 2020 at 3:31 PM stated “We would be most interested in the results of on/off tests conducted by a third party in conjunction with Red Wolf. I would also note that if Red Wolf is not willing to participate, we would give serious consideration to on/off tests conducted independently.”

³ Immediately following the release of the *Order on Reconsideration*, undersigned counsel for the NRC Church consulted with counsel for Red Wolf by e-mail on Monday, March 15, 2021 at 3:17 PM about the conduct of the testing and proposed a method of proceeding. On Wednesday, March 17, at 12:04 PM, counsel for Red Wolf replied as follows: “We are currently considering our options related to the FCC's decision and should be making a decision late this week or early next week. Once we decide on a path forward, I will get back to you.” That same day, at 1:01 PM, undersigned counsel responded to that, noting that the Church was not in a position to delay the conduct of the testing, and that we wished to proceed, and asked Red Wolf's counsel for any recommendations for a third party testing engineer. Hearing nothing more thereafter, undersigned counsel contacted Red Wolf's counsel by e-mail on March 23, 2021 at 10:43 AM noting that the NRC Church had retained a third party engineer and would be proceeding with the tests on the next day, Wednesday, March 24, subject to Red Wolf's confirmation that it would participate in the tests. The next day, Wednesday, March 24, at 10:11 AM (the proposed date for the testing), counsel for Red Wolf responded by e-mail in relevant part as follows: “We are still reviewing the FCC's letter and considering our options. As you know, the letter gave the parties 90 days to undertake joint testing. I will discuss [The proposed third party engineer] with my client and get back to you in the next few days.” Dissatisfied with the non-response and the failure by Red Wolf to commit to participate in the testing as ordered, undersigned counsel for the Church notified Red Wolf's counsel Wednesday, March 24, at 11:33 AM that it was necessary to proceed with the testing; that it would be done the next week on the only day that the retained third party engineer was available; and that Red Wolf will have to pay half of the fee of the third party engineer, the amount of which was specified. Later that same day, the Senior Deputy Chief, Audio Division reminded both counsel that both parties were expected to cooperate in the testing and that it was to be conducted expeditiously. Nothing further was heard from Red Wolf until March 26, when Red Wolf filed a Petition for Reconsideration and a “Motion to Stay” relative to the Order on Reconsideration and the conducting of the testing. The Motion to Stay was denied by the Chief, Audio Division on April 2, 2021 (See, 1800B3-KV). The testing was undertaken thereafter.

⁴ The same was true of the initial engineering report prepared by consulting engineer Thomas Ray, which the Commission refused to even consider, claiming that because Mr. Ray was retained by the Church, his interference study was, without more, thereby tainted.

WYPH-LP transmitter, far closer thereto than were any of the reported interference locations) revealed that there is no signal degradation whatsoever to WDRC-FM at any of the locations. In short, *there was no interference found at any location.*

Given this, the New River Community Church respectfully requests that WYPH-LP, which has been off the air for a full year now, during the height of the COVID-19 pandemic (when its programming was and is still most urgently needed by the Church congregation and the community of license), be allowed to recommence full licensed operations without restriction *immediately*; that the Red Wolf interference complaint be denied; that the Commission dismiss as moot the remaining pending pleadings filed by Red Wolf; and that this proceeding be terminated.

Respectfully submitted,

NEW RIVER COMMUNITY CHURCH

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April 5, 2021