The CALL 91.9

POSTED (stamp)

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

61087 (handwritten, circled)

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NOV 0 7 2007
FCC-MAILROOM

October 31, 2007

RE: **BMPED-20070521AIL**

Supplement to Petition for Reconsideration

Dear Secretary:

WMKL submitted a request for Petition for Reconsideration on October 9, 2007 during the recent NCE-FM filing window freeze (the window and freeze closed on October 22, 2007). WMKL now submits specific information in support of its Petition for Reconsideration of its modification of construction permit application **BMPED-20070521AIL** for WMKL.

The Commission recently dismissed the modification of construction permit application because of a "Section 73.215(e) violation" **which essentially amounts to 23 meters short-spacing** (before rounding, depending the level of precision chosen). WMKL disagrees with the Commission's initial decision for the following reasons:

1) When using the Commission's online distance calculator (per 73.208) and the exact application proposed coordinates with the WAFZ-FM licensed coordinates, the calculated 73.208 distance, before rounding, is 88.491 (9 meters short of rounding up). (See Exhibit A)

2) When using the Commission's distance calculator and the exact application coordinates along with the WAFZ-FM tower Antenna Structure Registration coordinates, converted from NAD 83 to NAD 27, the calculated 73.208 distance, before rounding, is only 88.496 (4 meters short of rounding up to 89 km). (See Exhibit B)

3) The survey certification letter for FAA airspace study 98-ASO-5330-OE (corresponds to FCC ASR# 1056908) clearly specifies that the horizontal position of the estimated coordinates is only accurate to within ± 50 feet of the surveyed position. **The calculated distances that may be 13 to 29.5 feet short of rounding to 89 km, are much less than the larger margin of error in the tower coordinates** (See Exhibit C). Furthermore, the distance calculation out to three decimal places (1 meter precision) exceeds the survey precision level and is therefore not justified because the tower coordinate survey precision of ± 50 feet (15 meters) requires that <u>less than</u> two decimal places are significant digits produced by the distance calculation. It is therefore mathematically valid to round the final distance calculation to one decimal place (88.5 km which rounds up to the required 89 km per 73.208).

4) The dimensions of the proposed tower structure and fenced compound exceed the calculated distances that may be 13 to 29.5 feet short of rounding to 89 km (the width of the base of the tower structure and length of the compound exceeds the 13 to 29.5 feet at issue) (See Exhibit D)

5) When the "Great Circle" (shortest distance between two points) distance calculation method is used (accounting for the curvature of the earth instead of assuming a straight line path) the "real world" separation between the proposed facility and WAFZ-FM is 88.680 km which is significantly greater than the approximate method of 73.208, a distance that would clearly round up to 89 km. (See Exhibit E)

Therefore, WMKL requests that the Commission reconsider its decision to dismiss this application since the decision essentially comes down to "splitting the smallest of hairs" in the distance calculation between the proposed facility and WAFZ-FM. Any distance short of 89.5 km (13 to 29.5 feet) is well within the level of 50-foot accuracy used to survey the tower and is insignificant relative to the width of the tower structure and the fenced compound.

It should be noted that WMKL has not, nor does it believe that a waiver of 73.215(e) is necessary for the Commission to grant this application. However, it should also be noted that WMKL is significantly restricted in its choice of a tower site and is making the best effort to make use of the appropriate existing tower. The surrounding protected Everglades wetlands restrict WMKL's options.

Therefore WMKL respectfully requests that the Commission reconsider and grant WMKL's modification of construction permit application.

Sincerely,

Robert J. Robbins, Ph.D.
President

Cc: Rodolfo Bonacci

Exhibit A

Distance calculation between proposed facility coordinates and the licensed coordinates
of WAFZ-FM according to Section 73.208 using the Commission's distance calculator
located at: http://www.fcc.gov/mb/audio/bickel/distance.html

FCC Federal Communications Commission

Audio Division

(202)-418-2700

Distance, Bearing Between Two Sets of Coordinates

FCC > MB > Audio Division > Distance Computations and Find Terminal Coordinates

Find Distance and Azimuths Between 2 Sets of Coordinates -- Results

Distance between

N Latitude 25 45 41.63, W Longitude 80 49 10.77 (Point 1)

and N Latitude 26 26 54.00, W Longitude 81 16 17.00 (Point 2)

88.491 kilometers; 54.986 miles

Azimuth from point 1 to point 2 = 329.53°
Azimuth from point 2 to point 1 = 149.33°

Another Distance Computation?

Use Sprong to find the terminal or end coordinates, given a bearing and a distance.

This program is located at http://www.fcc.gov/fcc-bin/audio/distance.html

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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).

Federal Communications Commission
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Washington, DC 20554
More FCC Contact Information...

Phone: 1-888-CALL-FCC (1-888-225-5322)
TTY: 1-888-TELL-FCC (1-888-835-5322)
Fax: 1-866-418-0232
E-mail: fccinfo@fcc.gov

- Privacy Policy
- Website Policies & Notices
- Required Browser Plug-ins
- Freedom of Information Act

Exhibit B

Distance calculation between proposed facility coordinates and the WAFZ-FM tower
Antenna Structure Registration coordinates, converted from NAD 83 to NAD 27,
according to Section 73.208 using the Commission's distance calculator located at:
http://www.fcc.gov/mb/audio/bickel/distance.html

Exhibit C

The survey certification letter for FAA airspace study 98-ASO-5330-OE (corresponds to FCC ASR# 1056908) clearly specifies that the horizontal position of the estimated coordinates is only accurate to within ± 50 feet of the surveyed position (much greater than the 13 to 29.5 feet at issue)

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Find Distance and Azimuths Between 2 Sets of Coordinates -- Results

Distance between

N Latitude 25 45 41.63, W Longitude 80 49 10.77 (Point 1)

and N Latitude 26 26 54.12, W Longitude 81 16 17.13 (Point 2)

88.496 kilometers; 54.989 miles

Azimuth from point 1 to point 2 = 329.53°
Azimuth from point 2 to point 1 = 149.33°

Another Distance Computation?

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W.L.FISH & COMPANY Inc.
SURVEYORS & MAPPERS

July 10, 1998

Re: **Nextel Site FL-1859-C, Tamiami Trail West**
Located in the Southwest 1/4 of Section 15, Township 54 South, Range 35 East, Miami-Dade County, Florida.

I certify that the latitude of **25° 45' 43.37" North** and the longitude of **80° 49' 09.81" West** are accurate to within +/- 50 feet horizontally; and that the site elevation of **11.5' AMSL** is accurate to within +/-20 feet vertically. The horizontal datum (coordinates) are in terms of the North American Datum of 1983 (NAD 83) and are expressed as degrees, minutes and seconds to the nearest hundredth of a second. The vertical datum (heights) are in terms of the National Geodetic Vertical Datum of 1929 and are determined to the nearest foot.

NAD 27

Latitude: **25° 45' 42.01" North**

Longitude: **80° 49' 10.57" West**

Ground Elevation: **11.5 AMSL**

98- ASO - S 330 - OE

Proposed Tower Height: **Height to be determined by Nextel**

W.L. Fish & Company, Inc.

Wayne Larry Fish
Professional Surveyor & Mapper
Florida State Registration No. 3238

2/29/20

F:\1998Pro\98-11\fin\98-1112C.wpd

105 S. NARCISSUS AVENUE, SUITE 412, WEST PALM BEACH, FLORIDA 33401
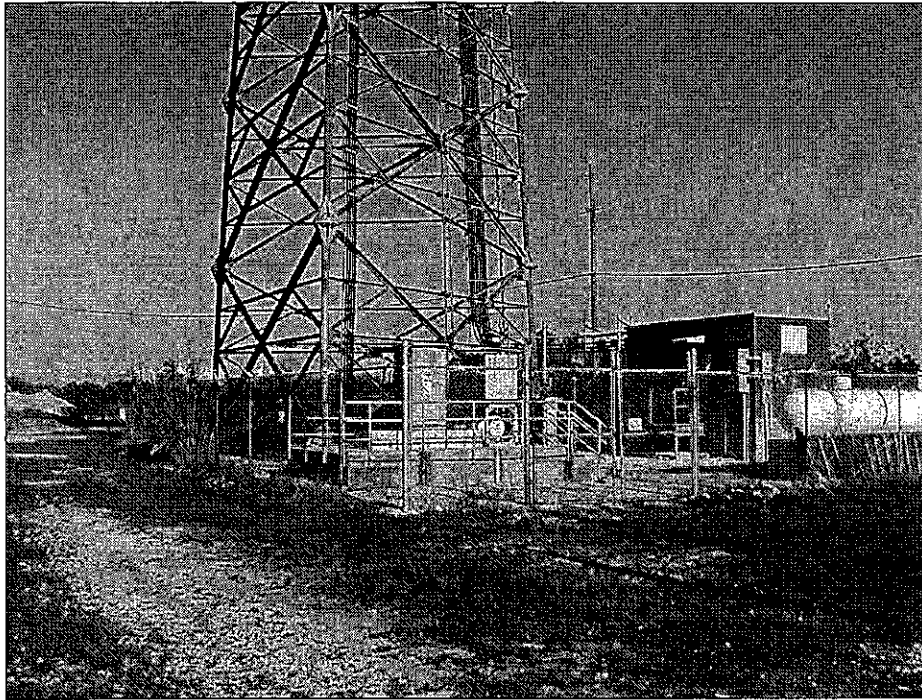(561)833-5001 FAX: (561)659-6745

Exhibit D

Photos of the proposed tower and fenced tower site compound

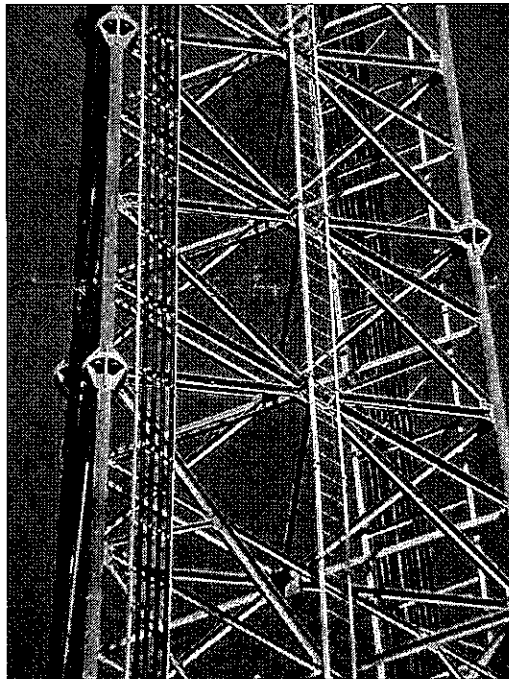Tower base and fenced compound area well in excess of 10 meters dimension.

Exhibit E

Distance calculation between proposed facility coordinates and the licensed coordinates
of WAFZ-FM measured using the Great Circle method using the Commission's distance
calculator located at: http://www.fcc.gov/mb/audio/bickel/distance.html

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Distance, Bearing Between Two Sets of Coordinates

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