

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

In the Matter of )  
Application of )  
 )  
**PORT BROADCASTING, LLC** ) **File No. BPFT-20120719AAN**  
 )  
 ) **Facility ID Number: 148888**  
For Major Change to )  
FM Translator W272CG, Sanford, ME )

To: The Office of Secretary  
Attn: Chief, Audio Division, Media Bureau

**INFORMAL OBJECTION**

Saga Communications of New England, LLC (“Saga”), licensee of commercial FM station WPOR(FM), Channel 270B, Portland, Maine, by its attorney, and pursuant to Title 47 C.F.R. §73.3587, hereby files this Informal Objection to the above-captioned application (File No. **BPFT-20120719AAN**), filed by Port Broadcasting, LLC (“Port”)<sup>1</sup> for W272CG, Sanford, Maine.<sup>2</sup> Port seeks a waiver of two processing rules: First, Port requests the Audio Division to waive the major change rule (47 CFR §74.1233(a)(1)) because W272CG operating at the proposed new site at North Latitude 43° 25’ 11”, West Longitude 70° 48’ 11” would not continue to provide 1 mV/m service to some portion of its previously authorized 1 mV/m service area. Second, Port seeks a waiver of 47 CFR § 74.1204(d) because the proposed transmitter is short-spaced to the site of Saga’s WPOR.

---

<sup>1</sup> W272CG is licensed to Light Of Life Ministries, Inc., which has agreed to assign the license of W272CG to Port (See FCC File No. BALFT-20120719AAS). Attachment 1 to the captioned application is a copy of the consent of Light of Light Ministries, LLC, for Port to file this “contingent” application. Port wants to use W272CG with its AM station, WWSF, Sanford, ME (1220 kHz, 1 kW-Day, 234 Watts-Night).

<sup>2</sup> By Public Notice (Report No. 27786), released July 24, 2012, the Commission accepted the above-referenced application for filing. Pursuant to Section 73.3587 of the Rules, an informal objection may be filed any time prior to Commission action on the application. Thus, this Informal Objection is timely filed.

The application should be dismissed or denied, *inter alia*, because it does not meet the criteria for waiver of 47 CFR §74.1204(b). There is evidence of the existence of residential buildings within the 98.6 dB $\mu$  F(50,10) interfering contour of the translator, which precludes a waiver of the rule. In support of this Informal Objection, Saga shows the following:

### **Standing**

As a precautionary matter, Saga states that it has standing as an interested party to file this Informal Objection because of the potential for electrical interference to the operations of WPOR, which is licensed to operate on Channel 270B, the second adjacent channel to Channel 272D. See *National Broadcasting Co., Inc., v. FCC*, 132 F. 2d 545 (1942), and Title 47 U. S. C. §402.

### **Port's Application Does Not Qualify for Waiver of 74.1204(d)**

Attached hereto is an Engineering Statement prepared by Saga's Engineering Consultants. Port bases its request for waiver of Section 74.1204(d) on a claim that the interference contour is 98.6 dB $\mu$  F (50:10) in relation to the worst case WPOR 58.6 dB $\mu$  F(50:50) protected contour. Port states that the distance to the interference contour is a uniform 714 meters. The Engineering Statement does not dispute either the calculated 98.6 dB $\mu$  F(50:10) interference contour or its calculated distance of 714 meters. However, Port's claim that there are no residences lying within 714 meters of the proposed site is incorrect.

The *Technical Statement* in the captioned application states in part:

---

...The Commission has generally considered overlap from a proposed translator interfering contour to be acceptable where the ratio of undesired to desired signal (U/D) does not exceed 40 dB i.e. where in the instant case the proposed translator F(50,10) interfering signal does not exceed 98.6 dBu. The 98.6 dBu F(50,10) interfering contour from the proposed facility will extend 714 meters from the antenna. Other than the host farm, the applicant has determined that no other residences lie within 714 meters of the proposed site. The applicant therefore believes its application meets the requirements of Section 74.1204(d) with respect to “other factors” insuring no actual interference to either WPOR or WBLM....

The Engineering Statement notes that no USGS Topographical Map or other photographic documentation is submitted in the captioned application to support Port’s the claim that no other residences, other than the host farm, lie within 714 meters of the proposed site. On the contrary, the Engineering Statement shows that there are numerous residences within the contour. Pursuant to *Living Way Ministries, Inc.*, 17 FCC Rcd 17054 (2002) (herein, “*Living Way*”), copies of supplemental USGS Aerial Photography and USGS Topographic Mapping are attached to the Engineering Statement. In *Living Way*, the Commission indicated that USGS Topographic maps may be used to presumptively establish the presence or absence of population in an interference area where no conflicting data (such as information about recently developed structures) is presented. Additionally, *Living Way* states that the applicant also bears the burden of rebutting evidence that indicates the presence of population not indicated on the topographic map.

In this instance, conflicting data is being submitted in the form of both USGS *TNM\_Digital\_Raster\_Graphics* 1:24,000 (7.5 minute) Topographic Mapping and USGS

*TNM\_Large\_Scale\_Imagery* (1 Foot) Aerial Photography as taken from the U.S. government's own National Map Viewer internet mapping software.<sup>3</sup>

Both Exhibit 1.1 and Exhibit 1.2 show the existence of multiple residences within the contour, which is contrary to statements made within the application. In addition to noted residences, various other uninhabited structures including barns, storage buildings or hill top communication towers/transmitter buildings were also observed.

However, as noted in the Engineering Statement, regardless of these uninhabited structures, the existence of multiple residences within the 98.6 dB $\mu$  F(50:10) Interference Contour establishes the proposed site as an area through which people work, live or travel on a regular basis. Therefore, the relocation of W272CG to the proposed site is predicted to cause destructive interference to documented populations within the WPOR(FM) and WBLM(FM) protected service contours, and, as such, the application does not qualify for a waiver of Section 74.1204(d) of the Rules.

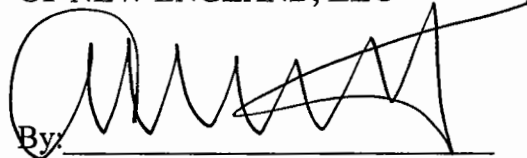
---

<sup>3</sup> *Exhibit 1.1* attached to the Engineering Statement is a copy of the most recent Aerial Photograph issued for the affected Interference Area, while *Exhibit 1.2* is a copy of the most recent Topographic Map issued for the affected Interference Area.

In light of the foregoing, Saga respectfully requests the Commission to dismiss or deny Port's above-captioned application.

Respectfully submitted,

**SAGA COMMUNICATIONS  
OF NEW ENGLAND, LLC**

A handwritten signature in black ink, appearing to read "G. Smithwick", written over a horizontal line. The signature is stylized with several loops and a long, sweeping tail that extends to the right.

By: Gary S. Smithwick  
Its Attorney

Smithwick & Belendiuk, P.C.  
5028 Wisconsin Avenue, NW  
Suite 301  
Washington, DC 20016  
202-363-4560

July 30, 2012

## **Engineering Statement**

# ENGINEERING STATEMENT

Concerning a Violation  
of §74.1204(d)

with regards to

W272CG – Sanford/Biddeford, ME  
(Facility ID 148888)

Construction Permit Application  
BPFT-20120719AAN

July, 2012

## CERTIFICATION OF ENGINEERS

The firm of Munn-Reese, Inc., Broadcast Engineering Consultants, with offices at 385 Airport Drive, Coldwater, Michigan, has been retained for the purpose of preparing the technical data forming this report. The data utilized in this report was taken from the FCC Secondary Database and data on file.

While this information is believed accurate, errors or omissions in the database and file data are possible. This firm may not be held liable for damages as a result of such data errors or omissions.

The report has been prepared by properly trained electronics specialists under the direction of the undersigned whose qualifications are a matter of record before the Federal Communications Commission.

I declare under penalty of the laws of perjury that the contents of this report are true and accurate to the best of my knowledge and belief.

July 25, 2012

385 Airport Drive, PO Box 220  
Coldwater, Michigan 49036

Telephone: 517-278-7339

*MUNN-REESE, INC.*  
By Wayne S. Reese  
Wayne S. Reese, President  
By Justin W. Asher  
Justin W. Asher, Project Engineer

**MUNN-REESE, INC.**  
Broadcast Engineering Consultants  
Coldwater, MI 49036

# Engineering Statement

This firm was retained to prepare this Engineering Statement regarding a violation of §74.1204(d) with regards to W272CG – Sanford/Biddeford, ME (Facility ID 148888) Construction Permit Application BPFT-20120719AAN. The proposed application requests a §74.1204(d) waiver concerning given second adjacent channel interference to WPOR(FM) – CH270B – Portland, ME and third adjacent channel given interference to WBLM(FM) – CH275C0 – Portland, ME. Full protection is not afforded WPOR(FM) or WBLM(FM) as supplemental USGS Aerial Photography and USGS Topographic Mapping indicate significant nearby construction contrary to claims made in the application. Upon inspection of site photograph and topomap showings, the proposed BPFT-20120719AAN operation does not meet the criteria of §74.1204(d) and is thus subject to dismissal.

Inspection of BPFT-20120719AAN yields an implied §74.1204(b) waiver request towards WPOR(FM) and WBLM(FM) as outlined in its *Attachment 12 – Technical Statement*. Within the *Technical Statement*, the applicant calculates the interference contour to be 98.6 dBu F(50:10) in relation to the worst case WPOR(FM) 58.6 dBu F(50:50) protected contour. The applicant has further supplied the distance to the interference contour as a uniform 714 meters. This Engineering Statement does not dispute either the calculated 98.6 dBu F(50:10) interference contour or its calculated distance of 714 meters. However the *Technical Statement* further states in part;

*"...The Commission has generally considered overlap from a proposed translator interfering contour to be acceptable where the ratio of undesired to desired signal (U/D) does not exceed 40 dB i.e. where in the instant case the proposed translator F(50,10) interfering signal does not exceed 98.6 dBu. The 98.6 dBu F(50,10) interfering contour from the proposed facility will extend 714 meters from the antenna. Other than the host farm, the applicant has determined that no other residences lie within 714 meters of the proposed site. The applicant therefore believes its application meets the requirements of Section 74.1204(d) with respect to "other factors" insuring no actual interference to either WPOR or WBLM...."*

No USGS Topographical Map or other photographic documentation was noted in the BPFT-20120719AAN filing supporting the claim that no other residences, other than the host farm, lie within 714 meters of the proposed site.

Therefore, pursuant to *Memorandum Opinion and Order, FCC 02-244, Living Way Ministries, Inc.*, concerning File No. BPFT-19981001TA (adopted September 3, 2002 and released September 9, 2002), supplemental USGS Aerial Photography and USGS Topographic Mapping are being supplied at this time. In the *Living Way Ministries, Inc.* decision, the Commission indicates that USGS Topographic maps may be used to presumptively establish the presence or absence of population in an interference area where no conflicting data (such as information about recently developed structures) is presented. Point 13 further states the applicant also bears the burden of rebutting evidence that indicates the presence of population not indicated on the topographic map.

In this instance, conflicting data is being submitted in the form of both USGS *TNM\_Digital\_Raster\_Graphics* 1:24,000 (7.5 minute) Topographic Mapping and USGS *TNM\_Large\_Scale\_Imagery* (1 Foot) Aerial Photography as taken from the U.S. government's own National Map Viewer internet mapping software. **Exhibit 1.1** is the copy of the most recent Aerial Photograph issued for the affected Interference Area, while **Exhibit 1.2** is the copy of the most recent Topographic Map issued for the affected Interference Area. Both showings document the existence of a multiple residences which is contrary to statements made within the application. In addition to noted residences, various other uninhabited structures including barns, storage buildings or hill top communication towers/transmitter buildings were also observed. However, regardless of these uninhabited structures, the existence of multiple residences within the 98.6 dBu F(50:10) Interference Contour establishes this location as an area where people work, live or travel through on a regular basis.

As documented in this Engineering Statement, the W272CG – Sanford/Biddeford, ME facility as proposed in pending application BPFT-20120719AAN will cause detrimental interference to documented populations within the WPOR(FM) and WBLM(FM) protected service contours. Therefore, as BPFT-20120719AAN fails the criteria for a grant of a §74.1204(d) second or third adjacent channel waiver request, BPFT-20120719AAN is subject to immediate dismissal and/or FCC inquiry regarding justification for unsubstantiated and grossly incorrect statements made within the certified Form 349 filing.



**Exhibit 1.1 - USGS Aerial Photograph of Proposed §74.1204(d) Interference Area**

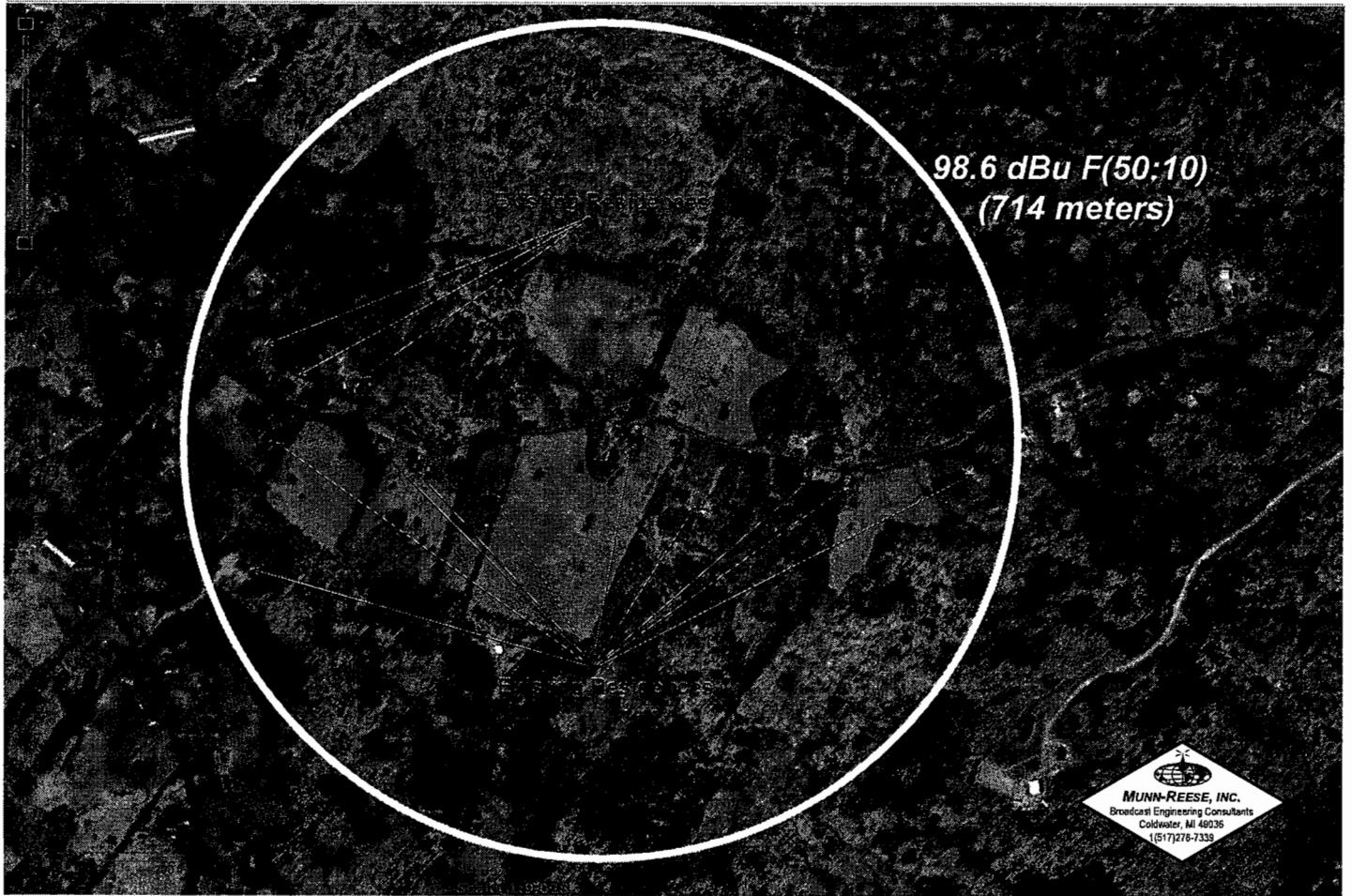
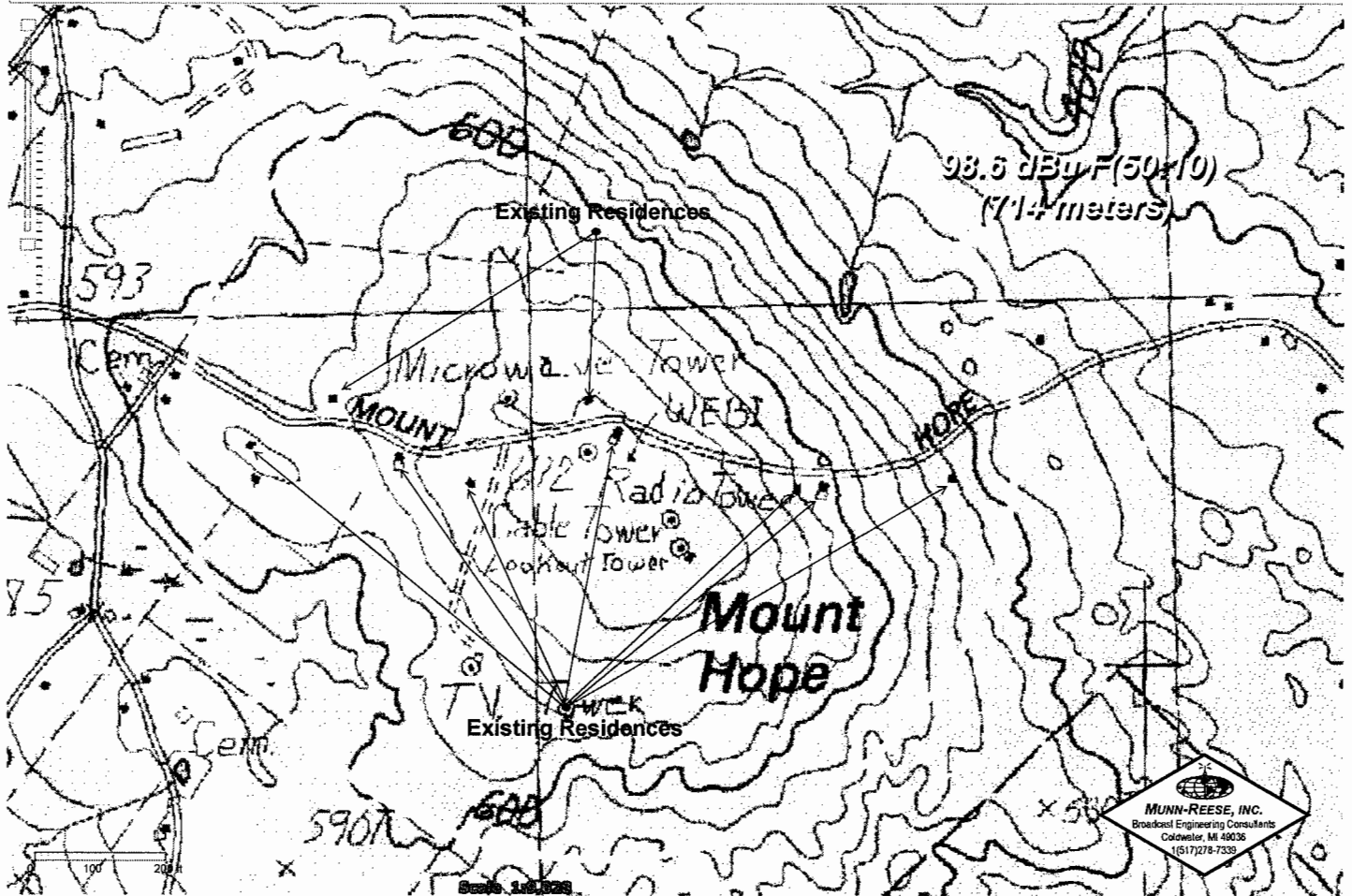


Exhibit 1.2 - USGS 7.5 Minute Topographic Map of Proposed §74.1204(d) Interference Area



## CERTIFICATE OF SERVICE

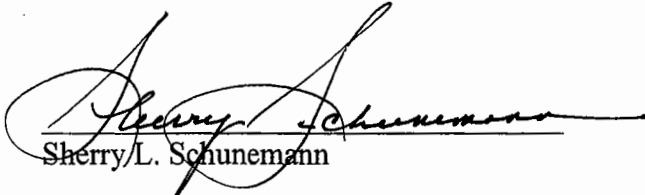
I, Sherry L. Schunemann, a secretary in the law office of Smithwick & Belendiuk, P.C., do hereby certify that a copy of the foregoing "Informal Objection" was mailed this 30th day of July, 2012, by First Class, U.S. Mail, postage prepaid, (or by hand and electronic mail, as so indicated), to the following:

Mr. James D. Bradshaw  
Assistant Chief  
Audio Division  
Media Bureau  
Federal Communications Commission  
Washington, DC 20554 (by hand and electronic mail)

Mr. Robert Gates  
Engineer  
Media Bureau  
Federal Communications Commission  
Washington, DC 20554 (by hand and electronic mail)

Allan G. Moskowitz, Esq.  
Law Offices of Allan G. Moskowitz  
10845 Tuckahoe Way  
Washington, DC 20878  
(Counsel to Port Broadcasting, LLC)

James P. Riley, Esq.  
Fletcher Heald and Hildreth, PLC  
1300 North 17<sup>th</sup> Street  
11<sup>th</sup> Floor  
Arlington, VA 22209-3810  
(Counsel to Light of Life Ministries, Inc.)

  
Sherry L. Schunemann