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8920-DEB/LEF

Radio Station WHSR-FM  
Winchester, MA School Department  
80 Skillings Road  
Winchester, Massachusetts 01890

Ms. Patricia Monteith  
General Manager, WUMB-FM  
University of Massachusetts at Boston  
Harbor Campus  
Boston, Massachusetts 02125-3393

In re: WUMB-FM, Boston, MA  
University of Massachusetts  
BMPED-860425ID

Dear Ladies and Gentlemen:

This letter is in reference to the above-captioned application filed by WUMB-FM to relocate the transmitter site of that station. The change in transmitter site is necessary due to loss of the lease at the presently licensed site. The proposed site is located 2.7 km north-northwest of the site covered by license BLED-820921AN.

The proposed move causes WUMB-FM to receive new interference from co-channel Class D station WHSR-FM, Winchester, MA. The 60 dBu protected contour of WUMB-FM is shifted northward, causing it to slightly overlap the 40 dBu interfering contour of WHSR-FM. Pursuant to 47 CFR § 73.512 and the Second Report and Order, Docket 20735, 43 Fed. Reg. 39704 (1978), Class D stations causing interference are required to cease operation or to specify a commercial or educational channel provided that no interference, as set forth in 47 CFR § 73.509, would be caused. However, review of this matter reveals that no alternative commercial or educational channel exists on which WHSR-FM would not cause interference.<sup>1</sup> Therefore, WHSR-FM would

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<sup>1</sup> WUMB-FM has indicated in its application that WHSR-FM has an application pending to move its operations to Channel 207-D. However, the application in question (BPED-801128AM) was dismissed March 14, 1986, for failure to respond to official Commission correspondence regarding compliance with 47 CFR § 73.525. A Commission review indicates that were WHSR-FM to move to Channel 207-D at the present time, it would cause interference to and receive interference from WERS and WGBH, both licensed to Boston, MA. Consequently, WHSR-FM is precluded from a move to Channel 207-D.

normally be required to cease operations upon commencement of program tests by WUMB-FM, pursuant to 47 CFR § 73.512(d). However, WUMB-FM has requested that the prohibited overlap provisions of 47 CFR §73.509 be waived to allow WUMB-FM to receive a small amount of overlap, rather than requiring WHSR-FM to cease operations.

WUMB-FM indicates that the overlap of the corresponding contours totals 1.7 square miles of area, or 0.8 percent of its proposed 60 dBu service area. Grant of this waiver would preserve the WHSR-FM service to Winchester, MA, that being the community's only local radio service. This waiver, however, would not preclude WUMB-FM from requiring the termination of operations by WHSR-FM at some future date, upon providing at least 30 days notice to WHSR-FM and to the Commission. Accordingly, we find that waivers of 47 CFR § 73.509 and 47 C.F.R. § 73.512(d) to permit the continued operation of WHSR-FM are in the public interest.

The licensed WUMB-FM facility currently causes interference to second-adjacent channel station WMLN, Milton, MA.<sup>2</sup> WUMB-FM has provided a showing which demonstrates that the existing 2.16 square miles of overlap of the WMLN 60 dBu protected contour and the WUMB-FM 80 dBu interfering contour will remain unchanged in size. However, the location of this area will be shifted northward, relieving some more southerly areas from existing overlap while creating new overlap in other northern areas. This "trading" of overlap area, although not presently defined as acceptable by the rules for the FM service, is routinely approved in the AM service. See 47 C.F.R. § 73.37, Note 2. We do not see any public interest reason to distinguish between the AM service and non-commercial FM service in this regard. Accordingly, we will extend this policy to the FM application at hand, and grant the appropriate waiver of 47 CFR § 73.509 to permit the shifted overlap area.

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2 WUMB-FM also receives interference from WMLN. The 80 dBu interfering contour of WMLN lies entirely within the 60 dBu contour of WUMB-FM. As the size and location of the overlap area remains unchanged, no waiver of 47 CFR § 73.509 is required for this overlap.

The site presently licensed to WUMB-FM under license BLED-820921AN is also short-spaced to FM commercial stations WLYT, Haverhill, MA and WPRO-FM, Providence, RI. These short-spacings, waiver of which was granted in WUMB-FM's original construction permit application BPED-2125, have resulted in the presently licensed facility being 60.7 km from second-adjacent channel station WPRO-FM, and 60.2 km from third-adjacent channel station WLYT, less than the 64.4 km required.<sup>3</sup>

The new proposal, if implemented, would decrease the separation to third-adjacent channel station WLYT by 2.7 km (to 57.5 km, out of a required separation of 64.4 km). However, the proposal also increases the separation by 1.6 km to second-adjacent channel station WPRO-FM. WUMB-FM has indicated, as noted above, that it has lost its licensed site, and has provided a copy of an eviction letter directed toward its operations. Five alternate sites were evaluated, but it was found that none could be used, with the exception of the proposed site. Finally, because WUMB-FM lies between WLYT and WPRO-FM, virtually any change in the WUMB-FM transmitter site will result in improving the spacing to one of these stations while worsening it to the other. Under these circumstances, we believe that a waiver of § 73.207 to allow WUMB-FM to increase the spacing deficiency to WLYT is warranted.

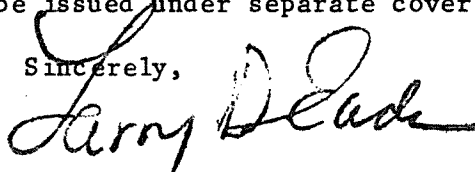
Upon review, we find that WUMB-FM's proposal is in the public interest. Waiver of 47 C.F.R. § 73.207(a) is granted to permit the 2.7 km of increased short-spacing to WLYT. Also, waiver of 47 C.F.R. § 73.509 is granted to permit the shifting of interference areas relative to WMLN. Finally, waivers of 47 C.F.R. § 73.512 and 47 C.F.R. § 73.509 are granted to permit

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3 Under 47 C.F.R. § 73.207(a), both WPRO-FM and WLYT are required to be separated from WUMB-FM by 69 km. However, we note that these spacings were adopted by the Commission in its Memorandum Opinion and Order, Docket 80-90, 97 FCC 2d 279 (1984), long after the 1978 grant of BPED-2125. Paragraph 19 of the MO&O specifies that for "stations that do not meet the increased second and third-adjacent channel spacings [40 mi. = 64.4 km increased to 69 km]... our policy will be to waive the second and third-adjacent channel spacings to the "old" required spacings... for the duration of the 3 year period [ending March 2, 1987]." Id. at 287. As this application was filed prior to the close of the specified 3 year period, we will consider the spacings in WUMB-FM's proposal as referenced to the old spacings of 40 miles = 64.4 km. However, we note that any future applications filed by WUMB-FM will be referenced to the current 69 km spacings under 47 CFR § 73.207(a), since the three-year period cited in the docket will have expired.

WUMB-FM to receive a slight amount of interference from Class D station  
WHSR-FM, while permitting WHSR-FM to continue operations. There being no  
other difficulties with this proposal, application BMPED-860425ID is  
GRANTED. The authorization will be issued under separate cover.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry D. Eads". The signature is written in a cursive style with a large initial "L".

Larry D. Eads  
Chief, Audio Services Division  
Mass Media Bureau

DBrown/lef:MMB/asd-fm  
crump/wumb 1/13/88