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REDACTED

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

RECEIVED
2014 MAY 21 A 7:20
AUDIO SERVICES DIVISION

In the Matter of)
)
Volunteer Broadcasting, LLC) NAL/Acct. No.: MB-201441410008
) FRN: 0013766621
For Renewal of License for) File No. BR-20120829AFF
Station WBRY(AM)) Facility Id. No. 15530
Woodbury, Tennessee)

Accepted/Filed

To: Secretary
For delivery to: Peter Doyle, Chief, Audio Division, Media Bureau

MAY 19 2014

FCC Office of the Secretary

REQUEST FOR CANCELLATION OR REDUCTION OF FORFEITURE

1. Volunteer Broadcasting, LLC (“Volunteer”), by its attorneys, responds to the Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture (DA 14-457), released April 3, 2014 (the “NAL”) regarding the above-captioned station license renewal application.¹ Volunteer respectfully requests reconsideration of certain findings in the NAL and and cancellation or reduction of the proposed forfeitures.

2. ***Request for Confidential Treatment.*** Pursuant to Section 0.459 of the Commission’s Rules, Volunteer requests that the financial information submitted herein, comprised of copies of the licensee’s income tax returns, be withheld from public disclosure should disclosure ever be requested by an outside party. This information, which is not made available to the public or third parties by Volunteer, is entitled to protection pursuant to 47 C.F.R. § 0.459(b)(3-7) of the Commission’s Rules, as it relates to the financial performance of

¹ This Petition is timely filed pursuant to a Request for Extension of Time to Respond filed with the Commission and delivered to Peter Doyle, Chief, Audio Division, Media Bureau, on April 30, 2014.

Volunteer's business operation and would cause the licensee economic harm if it were available to competitors.

3. *Response to Alleged Rule Violations.* Volunteer disputes the Audio Division's finding that it failed to timely file the license renewal application for Station WBRY(AM) as required by Section 73.3539(a) of the Commission's Rules. In fact, an application for renewal of the WBRY license was filed on March 29, 2012, three days prior to the filing deadline. See File No. BR-20120329AKU, attached hereto at Exhibit A.

4. While the application was in fact timely filed, the filing fee payment was prevented from being applied to the associated application filing fee because of an improperly imposed red-light. Beginning almost immediately after the renewal application was filed, Volunteer principal and Station WBRY manager, Douglas Combs, communicated with FCC staff in efforts to resolve the matter. Upon investigation by Volunteer's consulting engineer James Turvaville, it became clear that the FRN of a prior owner of Volunteer's FM translator station, W244CJ (Facility Id. 139937), was inadvertently associated with WBRY in the Commission's electronic databases. That FRN, for WAY-FM Media Group, Inc., in turn was inadvertently associated with FM translator stations rebroadcasting stations WTNK and WAXO. These stations were at some point "red-lighted", resulting in a daisy chain effect — due to the incorrectly associated FRNs — that culminated in "red-lights" on the accounts of both Volunteer and WAY-FM Media Group.

5. The filing fee payment was made with a paper check and submitted to the FCC lockbox with the appropriate Form 159 immediately after the electronic application filing. That check was cashed. Despite the fact that the past-due fees causing the "red light" were not the responsibility of Volunteer, in the interest of resolving the matter Mr. Combs sent yet another

check to the government lockbox, per instructions from FCC staff, on April 27, 2012. That check was also cashed. Volunteer's FRN returned to "green light" status and Mr. Combs believed funds already submitted (with the appropriate Form 159 specifying the renewal application) were properly applied. Surely equity and justice demand the Commission not further punish a licensee who *literally* paid his, and others', dues – by accepting Mr. Combs' check but failing to apply the funds appropriately, the government in effect froze Volunteer's funds without granting the licensee notice or opportunity to cure.

6. In fact, Volunteer also received no notice, neither through its interactions with FCC staff in resolving the FRN matter nor through official correspondence, that its license renewal application was not accepted for filing or that the WBRY license was in jeopardy. The first and only notice received by Volunteer came by way of the license expiration letter dated August 27, 2013. As noted in the NAL, the very next day, Volunteer immediately ceased operation, then sought (and was later granted) special temporary authority to return to air. Volunteer then filed a replacement renewal application the following day. The swiftness of Volunteer's actions in response to the "death sentence" letter demonstrates Volunteer's commitment to compliance with the Communications Act and the regulations of the FCC. Certainly Volunteer would have reacted with such urgency at an earlier date had it been aware of the issues with the crediting of the renewal application filing fee payment.

7. ***Support for Cancellation or Reduction of Proposed Forfeiture.*** Volunteer requests immediate cancellation of the proposed forfeiture of \$3,000 for the alleged failure to file a required form. As demonstrated above, the required form was in fact timely filed. This forfeiture therefore must be cancelled. Moreover, Volunteer should not be penalized for operations that, unbeknownst to it, were unauthorized due to no fault of the licensee's. The

\$4,000 proposed forfeiture for alleged unauthorized operations therefore should also be cancelled.

8. However, in the event that the Audio Division declines to cancel the proposed forfeitures, Volunteer nonetheless posits that the total forfeiture amount must be reduced in light of the licensee's inability to pay, history of compliance, and relief for small business.

a. Inability to Pay. Volunteer seeks relief based on inability to pay. Attached hereto at Exhibit B are copies of the first section of Volunteer's tax returns for 2011, 2012, and 2013 (confidentiality requested in paragraph 2 above). Consistent with Media Bureau precedent, Volunteer requests reduction of the total proposed forfeiture amount to not more than 7.6% of gross revenues. *See, e.g., Hoosier Broadcasting Corporation*, Forfeiture Order, 15 FCC Rcd 8640 (2002) (forfeiture not deemed excessive where it represented approximately 7.6 percent of the violator's gross revenues).

b. History of Overall Compliance. Volunteer has not previously received any Notices of Violation or Notices of Apparent Liability. In keeping with established Commission precedent, the total forfeiture should be further reduced by 20% for a good prior record. *See, e.g., Indiana Wesleyan University*, 28 FCC Rcd. 6208 (2013).

c. Relief for Small Business. The full Commission recently explicitly recognized that it must take into account the "relatively small size and limited operations" of a business enterprise in establishing a forfeiture amount.² As can be deduced from the attached tax returns, Volunteer is a very small business. It is therefore appropriate for the Audio Division to consider

² *See TV Max, Inc. and Broadband Ventures Six, LLC d/b/a Wavevision, Thomas M. Balun, Eric Meltzer, and Richard Gomez, et al.*, FCC 13-86, at ¶ 18 (rel. June 25, 2013). Section 257(a) of the Communications Act also requires the Commission not to allow its regulations to burden small businesses to the point of creating entry barriers.

the size of Volunteer's operation and limited resources as a small business in a rural area of Tennessee in establishing the forfeiture amount, if any, in the instant case.


9. **Conclusion.** In light of the foregoing, and in accordance with the statutory instruction that the Commission must take into consideration "the nature, circumstances, extent and gravity of the violation, and, with respect to the violator, the degree of culpability, any history of prior offenses..., and such other matters as justice may require," 47 U.S.C. § 503(b)(2)(D), the Commission must cancel the proposed forfeiture for failure file a required report, and it must substantially reduce the remaining proposed forfeiture amount.

May 19, 2014

Fletcher, Heald & Hildreth, PLC
1300 North 17th Street, 11th Floor
Arlington, VA 22209
703-812-0400
jazzo@fhhlaw.com
sashkin@fhhlaw.com

VOLUNTEER BROADCASTING, LLC

By: _____

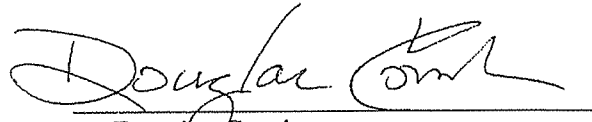

Frank R. Jazzo
Davina S. Sashkin
Its Attorneys

DECLARATION OF DOUGLAS COMBS

I, DOUGLAS COMBS, do hereby declare under penalty of perjury, that:

1. I am Managing Partner of Volunteer Broadcasting, LLC ("Volunteer").
2. I have reviewed the attached Request for Cancellation or Reduction of Forfeiture.
3. The facts stated therein, and in the attachments thereto, are true and accurate to the best of my knowledge and belief.

Executed on this 19th day of May, 2014.



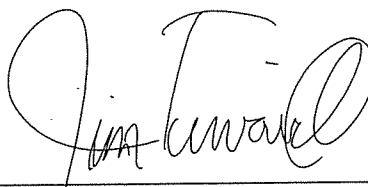
Douglas Combs

DECLARATION OF JAMES TURVAVILLE

I, James Turvaville, do hereby declare under penalty of perjury, that:

1. I am Director of Engineering and I.T. for Way Media.
2. I am also a consultant to Volunteer Broadcasting, LLC ("Volunteer"). In that capacity, I advise Volunteer on FCC compliance and assist in the preparation and filing of various FCC applications and reports.
3. I assisted Volunteer in preparing and made the actual filing of the original license renewal application on behalf of Volunteer on March 29, 2012.
4. I have reviewed the attached Request for Cancellation or Reduction of Forfeiture.
5. The facts stated therein, and in the attachments thereto, are true and accurate to the best of my knowledge and belief.

Executed on this 19th day of May, 2014.

A handwritten signature in black ink, appearing to read "Jim Turvaville", written over a horizontal line.

James Turvaville

EXHIBIT A

FCC MB - CDBS Electronic Filing
Application Reference Number: 20120329AKU
Successfully filed at Mar 29 2012 5:54PM

A Fee Payment is Required for this application. The Total Fee is \$235.

You can use the FCC's Electronic Form 159 System to pay electronically and/or to print out an appropriate Form 159. Press the button below now or return to this screen later by pressing the "Pay Fee" button on the CDBS Main Menu/ Informal Menu. See the [CDBS User's Guide](#) for more information about fee payment.

[Electronic Form 159](#)[Return to Main Menu](#)[Logout](#)

You or an entity sharing the same Taxpayer Identification Number are delinquent on debts owed to the FCC. Until this matter is resolved no positive action will be taken on applications and other requests for agency authorizations.

Payment must be received by US Bank within 14 (calendar) days of the date that the application is officially received by the Media Bureau's electronic filing system (indicated by the reference number above). This deadline applies to any payment submission method (electronic or via a paper check). If payment is not received in time, the filed application will be considered to be **not paid** and will therefore not be processed by the MB.

Federal Communications Commission Washington, D.C. 20554 FCC 303-S	Approved by OMB 3060-0110 (March 2011)	FOR FCC USE ONLY
APPLICATION FOR RENEWAL OF BROADCAST STATION LICENSE Read INSTRUCTIONS Before Filling Out Form		FOR COMMISSION USE ONLY FILE NO. - 20120329AKU

Section I - General Information- TO BE COMPLETED BY ALL APPLICANTS

1.	Legal Name of the Licensee VOLUNTEER BROADCASTING, LLC				
	Mailing Address P. O. BOX 7				
	<table border="1"> <tr> <td>City WOODBURY</td> <td>State or Country (if foreign address) TN</td> <td>ZIP Code 37190 -</td> </tr> </table>	City WOODBURY	State or Country (if foreign address) TN	ZIP Code 37190 -	
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	<table border="1"> <tr> <td>Telephone Number (include area code) 6155632313</td> <td>E-Mail Address (if available) DCOMBS@WBRY.COM</td> </tr> </table>	Telephone Number (include area code) 6155632313	E-Mail Address (if available) DCOMBS@WBRY.COM		
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	<table border="1"> <tr> <td>FCC Registration Number: 0013766621</td> <td>Facility ID Number 15530</td> <td>Call Sign WBRY</td> </tr> </table>	FCC Registration Number: 0013766621	Facility ID Number 15530	Call Sign WBRY	
FCC Registration Number: 0013766621	Facility ID Number 15530	Call Sign WBRY			
2.	<table border="1"> <tr> <td>Contact Representative DOUGLAS COMBS</td> <td>Firm or Company Name VOLUNTEER BROADCASTING, LLC</td> </tr> </table>	Contact Representative DOUGLAS COMBS	Firm or Company Name VOLUNTEER BROADCASTING, LLC		
Contact Representative DOUGLAS COMBS	Firm or Company Name VOLUNTEER BROADCASTING, LLC				
	Mailing Address P.O. BOX 7				
	<table border="1"> <tr> <td>City WOODBURY</td> <td>State or Country (if foreign address) TN</td> <td>Zip Code 37190 -</td> </tr> </table>	City WOODBURY	State or Country (if foreign address) TN	Zip Code 37190 -	
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Telephone Number (include area code) 6155632313	E-Mail Address (if available) DCOMBS@WBRY.COM				
3.	If this application has been submitted without a fee, indicate reason for fee exemption (see 47 C.F.R. Section 1.1114): <input type="radio"/> Governmental Entity <input type="radio"/> Noncommercial Educational Licensee <input type="radio"/> Other <input checked="" type="radio"/> N/A (Fee Required)				
4.	Purpose of Application <input checked="" type="radio"/> Renewal of license <input type="radio"/> Amendment to pending renewal application If an amendment, submit as an exhibit a listing by Section and Item Number the portions of the [Exhibit 1] pending application that are being revised.				
5.	Facility Information: <input checked="" type="radio"/> Commercial <input type="radio"/> Noncommercial Educational				
6.	Service and Community of License a. <input checked="" type="radio"/> AM <input type="radio"/> FM <input type="radio"/> FM Translator <input type="radio"/> LPFM <input type="radio"/> TV <input type="radio"/> TV Translator <input type="radio"/> Low Power TV <input type="radio"/> Class A TV <input type="radio"/> Digital TV <input type="radio"/> Digital Translator or Digital LPTV <input type="radio"/> Digital Class A TV <table border="1"> <tr> <td colspan="2">Community of License /Area to be Served</td> </tr> <tr> <td>City: WOODBURY</td> <td>State : TN</td> </tr> </table> b. Does this application include one or more FM translator station(s), or TV translator station(s), LPTV station(s), in addition to the station listed in Section I question 1? (The callsign(s) of any associated FM translators, TV translators or LPTV stations will be requested in Section V). <input checked="" type="radio"/> Yes <input type="radio"/> No	Community of License /Area to be Served		City: WOODBURY	State : TN
Community of License /Area to be Served					
City: WOODBURY	State : TN				

7.	Other Authorizations. List call signs, facility identifiers and location(s) of any FM booster or TV booster station(s) for which renewal of license is also requested.	[Exhibit 2]	<input checked="" type="checkbox"/> N/A
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NOTE: In addition to the information called for in Sections II, III, IV and V, an explanatory exhibit providing full particulars must be submitted for each item for which a "No" response is provided.

Section II - Legal - TO BE COMPLETED BY ALL APPLICANTS

1.	Certification. Licensee certifies that it has answered each question in this application based on its review of the application instructions and worksheets. Licensee 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.	<input checked="" type="radio"/> Yes <input type="radio"/> No
2.	Character Issues. Licensee certifies that the neither the licensee nor any party to the application has or has had any interest in, or connection with:	
	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	<input checked="" type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 3]
	b. any pending broadcast application in which character issues have been raised.	<input checked="" type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 4]
3.	Adverse Findings. Licensee certifies that, with respect to the licensee and each party to the application, no adverse finding has been made, nor has an adverse final action been taken by any court or administrative body in a civil or criminal proceeding brought under the provisions of any laws related to the following: any felony; mass media-related antitrust or unfair competition; fraudulent statements to another governmental unit; or discrimination.	<input checked="" type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 5]
4.	FCC Violations during the Preceding License Term. Licensee certifies that, with respect to the station(s) for which renewal is requested, there have been no violations by the licensee of the Communications Act of 1934, as amended, or the rules or regulations of the Commission during the preceding license term. If No, the licensee must submit an explanatory exhibit providing complete descriptions of all violations.	<input checked="" type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 6]
5.	Alien Ownership and Control. Licensee certifies that it complies with the provisions of Section 310 of the Communications Act of 1934, as amended, relating to interests of aliens and foreign governments.	<input checked="" type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 7]
6.	Anti-Drug Abuse Act Certification. Licensee certifies that neither licensee 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.	<input checked="" type="radio"/> Yes <input type="radio"/> No
7.	Non-Discriminatory Advertising Sales Agreements. Commercial licensee certifies that its advertising sales agreements do not discriminate on the basis of race or ethnicity and that all such agreements held by the licensee contain nondiscrimination clauses. Noncommercial licensees should select "not applicable."	<input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A See Explanation in [Exhibit 8]

I certify that the statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith. I acknowledge that all certifications and attached Exhibits are considered material representations. I hereby waive any claim to the use of any particular frequency as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and request an authorization in accordance with this application. (See Section 304 of the Communications Act of 1934, as amended.)

Typed or Printed Name of Person Signing M. DOUGLAS COMBS	Typed or Printed Title of Person Signing CHIEF MANAGER
Signature	Date 3/28/2012

WILLFUL FALSE STATEMENTS ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. CODE, TITLE 47, SECTION 312(a)(1)), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).

Section III - TO BE COMPLETED BY AM and FM LICENSEES ONLY

1.	Biennial Ownership Report: Licensee certifies that the station's Biennial Ownership Report (FCC Form 323 or 323-E) has been filed with the Commission as required by 47 C.F.R. Section 73.3615.	<input checked="" type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 9]
2.	EEO Program: Licensee certifies that:	
	a. The station's Broadcast EEO Program Report (FCC Form 396) has been filed with the Commission, as required by 47 C.F.R. Section 73.2080(f)(1). Specify FCC Form 396 File Number : B396 - 20120329AKS	<input checked="" type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 10]
	b. The station has posted its most recent Broadcast EEO Public File Report on the station's website, as required by 47 C.F.R. Section 73.2080(c)(6).	<input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A See Explanation in [Exhibit 11]
3.	Local Public File. Licensee certifies that the documentation, required by 47 C.F.R. Section 73.3526 or 73.3527, as applicable, has been placed in the station's public inspection file at the appropriate times.	<input checked="" type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 12]
4.	Adherence to Minimum Operating Schedule. Licensee certifies that, during the preceding license term, the station has not been silent (or operating for less than its prescribed minimum operating hours) for any period of more than 30 days. If No, submit an Exhibit specifying the exact dates in the preceding license term on which the station was silent or operating for less than its prescribed minimum hours.	<input checked="" type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 13]
5.	Discontinued Operations. Licensee certifies that during the preceding license term, the station has not been silent for any consecutive 12-month period.	<input checked="" type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 14]
6.	Silent Station Licensee certifies that the station is currently on the air broadcasting programming intended to be received by the public.	<input checked="" type="radio"/> Yes <input type="radio"/> No
7.	Environmental Effects. Licensee certifies that the specified facility complies with the maximum permissible radio frequency electromagnetic exposure limits for controlled and uncontrolled environments. By checking "Yes" above, the licensee also certifies that it, in coordination with other users of the site, will reduce power or cease operation as necessary to protect persons having access to the site, tower, or antenna from radio frequency electromagnetic exposure in excess of FCC guidelines.	<input checked="" type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 15]
8.	Radio/Newspaper Cross-Ownership. Licensee certifies that neither the applicant nor any party to this application has an attributable interest in a newspaper which: (1) is published four or more days per week, (2) is in the dominant language in the market, and (3) is published in a	

community entirely encompassed by:	
a. the 1 mV/m contour of one of the FM station(s)?	<input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
b. the 2 mV/m contour of one of the AM station(s)?	<input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
If No to either Question 8.a or 8.b, has the Commission made a finding pursuant to Section 310 (d) of the Communications Act that the newspaper/broadcast combination is in the public interest?	<input type="radio"/> Yes <input checked="" type="radio"/> No See Explanation in [Exhibit 16]

Section V - TO BE COMPLETED BY FM AND TV TRANSLATOR AND LOW POWER TV LICENSEES ONLY

1. and 2. [Station Info and Status]		
Low Power Applicants: Answer Question 2a only.		
1. Station Information:		
Call Sign	Facility Identifier	Area Licensed to Serve
W244CJ	139937	City: WOODBURY State: TN
2. Operational Status:		
a. Silent Station: Licensee certifies that the station is currently on the air.	<input checked="" type="radio"/> Yes <input type="radio"/> No	
b. Rebroadcast Status: Licensee certifies that the station is currently rebroadcasting the signal of an FM, AM, TV or LPTV station.	<input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A	
If Yes, identify the station being broadcast:		
Call Sign	Facility Identifier	Area Licensed to Serve
WBRY	15530	City: WOODBURY State: TN
c. Rebroadcast Consent: Licensee certifies that it has obtained written authority from the licensee of the primary station identified above for retransmitting primary station's programming.	<input type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> N/A	
Additional Translator Info [Exhibit 32]		
3. For FM Translator Applicants Only:		
a. Licensee certifies that it is in compliance with 47 C.F.R. Section 74.1232(d), which: (1) prohibits the common ownership of a commercial primary FM station and a FM translator station whose coverage contour extends beyond the protected contour of the commercial FM primary station being broadcast, and (2) requires that the FM translator's entire 60 dBu contour is contained within the lesser of: (a) the 2 mV/m daytime contour of the AM primary station being rebroadcast, or (b) a 25-mile radius centered at the AM primary station's transmitter site. (With regard to (1), this restriction also applies to any person or entity having any interest in, or any connection with, the primary FM station.)	<input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> N/A See Explanation in [Exhibit 33]	
b. Licensee certifies that it is in compliance with 47 C.F.R. Section 74.1232(e) which prohibits an FM translator station whose coverage contour extends beyond the protected contour of the commercial primary station being rebroadcast from receiving any support (except for specified technical assistance), before, during or after construction, directly or indirectly, from the primary station or any person or entity having any interest in, or any connection with, the primary station.	<input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> N/A See Explanation in [Exhibit 34]	

4.	For Low Power TV Applicants Only: Licensee certifies that it has filed with the Commission, the station's Broadcast EEO Program Report (FCC Form 396) and has posted the most recent Public File report on the station's website, if required by 47 C.F.R. Section 73.2080(f)(1).	<input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> N/A See Explanation in [Exhibit 35]
5.	Environmental Effects. Licensee certifies that the specified facility complies with the maximum permissible radio frequency electromagnetic exposure limits for controlled and uncontrolled environments. By checking "Yes" above, the licensee also certifies that it, in coordination with other users of the site, will reduce power or cease operation as necessary to protect persons having access to the site, tower or antenna from radio frequency electromagnetic exposure in excess of FCC guidelines.	<input checked="" type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 36]

Exhibits

EXHIBIT B