

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

In re the Matter of)
)
Marble City Media, LLC)
)
Interference Caused by FM Translator)
Station W252BE,)
Tarrant, Alabama)
)

Facility ID No. 141124

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JUL -6 2018

Federal Communications Commission
Office of the Secretary

TO: The Secretary, FCC
ATTN: Chief, Audio Division, Media Bureau

**REVIVAL OF COMPLAINT AND PETITION FOR CANCELLATION OF W252BE
LICENSE**

Marble City Media, LLC ("Marble City"), licensee of Station WFXO(FM), Stewartville, Alabama, by its counsel, hereby respectfully renews and revives its *Interference Complaint as to W252BE* which, on June 8, 2017, it requested be held in abeyance, and further requests cancellation of the license of W252BE in light of its automatic expiration pursuant to Section 312(g) of the Communications Act of 1934, as amended.

As established below, W252BE has not operated in accordance with its license or any other authorization from the Commission for at least the past 19 months since November 16, 2016, when its last Commission authorization to operate at variance from its licensed parameters expired. *Section 312(g)* of the Communications Act of 1934, as amended, specifies that the license of a station that is silent or engages in operation other than as authorized for a period of 12 consecutive months automatically expires at the end of that period. As is well established, unauthorized operation does not serve to stop the running of that 12 month period, nor can it be considered to

be resumption of operation. *A-0 Broadcasting Corporation*, 23 FCC Rcd 603 (2008). *Tango Radio, LLC*, 30 FCC Rcd 10564, 10567-68 (2015) (temporarily constructed facilities do not form the basis for filing a license application). *Letter as to K256DB, Globe, AZ*, June 20, 2018 (reference 1800B3-IB/DB) (The resumption of operations from the unauthorized facilities did not stop expiration of the translator's license Section 312(g) of the Act); and *Letter Order as to WZNN(FM), Maplesville, AL (reference 1800B3-VM)* dated November 15, 2017, which provided in part, "Well established Commission precedent dictates that licensees cannot avoid the statutory deadline set forth in Section 312(g) through the use of unauthorized facilities." The Commission cancelled the WZNN(FM) license, deleted the call sign, and as a further measure required Valleydale Broadcasting, LLC ("Valleydale"), and its various principals to submit a copy of the *Letter Order* with every facilities application filed for a period of five years.¹ The named principals include those associated with Shelby Broadcast Associates, LLC ("Shelby"), the current licensee of W252BE. Due to its direct relevance as express notice to Shelby that prolonged unauthorized operations result in license cancellation, a copy of the Commission's *Letter Order* concerning Valleydale and through shared principals, Shelby, is attached. See, *Exhibit 1*.

BACKGROUND

On June 8, 2017, Marble City requested that its Interference Complaint and Opposition to W252BE Modification Application be held in abeyance because Valleydale, then the licensee of W252BE, with the concurrence of its proposed assignee, Shelby, had filed an amendment to the then-pending W252BE modification application (*FCC File No. BPFT-20170511AAL*). The

¹ A pleading in December 2017, with respect to Valleydale's actions as to WZNN(FM), also demonstrated that DWTID(FM), Thomaston, AL, had not operated with authorized facilities. DWTID(FM) was licensed to Great South Wireless, LLC, owned by Valleydale's principals. Great South voluntarily relinquished the DWTID(FM) license on February 6, 2018.

purpose of this amendment was to specify a custom/measured directional antenna using manufacturers and technical details agreed upon between the parties in an effort to see if the antenna after evaluation in operation might help protect Station WFXO(FM) from continued interference from operation of W252BE.

Due to the agreed-upon facilities modifications, and in a spirit of coöperation, Marble City sought the abeyance at that time, as Marble City stated therein that it felt that:

... a detailed directional antenna approach would at least have a chance of success of allowing the parties to resolve the pending issues without further Commission involvement. Of course, the proof is in actual operation, so conclusions as to interference are difficult to determine. With that understanding and in a good faith attempt to resolve the serious problem of interference to WFXO(FM), Marble City Media believes it is appropriate to have its pending Complaint as to W252BE's operation to be held in abeyance until the proposed W252BE directional antenna modification noted above can be granted, constructed, and operated by Valleydale Broadcasting/Shelby Broadcasting, with such operation thereafter evaluated over[]time by Marble City Media.

Accordingly, for the foregoing reasons, Marble City Media respectfully requests that the Commission hold the Interference Complaint, FCC Letter of Inquiry and Opposition to W252BE Modification Application in abeyance until the modified modification application is granted, constructed and operated as set forth herein.

Marble City "Request Relating to Interference Complaint, FCC Letter of Inquiry and Opposition to W252BE Modification Application," filed June 8, 2017, at 2.

The W252BE modification application, BPFT-20170511AAL, was then granted on June 21, 2017, and a construction permit issued; however, over the past year, Shelby has failed to build and operate the modified facility. Instead, during all of that time, it has continued to operate W252BE in a manner causing interference to reception of listeners of WFXO(FM). Rather than demonstrating any sense of urgency or making concerted efforts to implement the modified directional antenna facilities which the parties had agreed might have some hope of resolving the

ongoing interference issues, Shelby has seemed more intent on finding obstacles that would allow the unacceptable current situation to continue without change.

INSPECTION OF W252BE FACILITIES IN MAY AND JUNE 2018

In the last few months, having observed Shelby fail over many months' time to ever actually move forward with construction of the directional antenna modification approved June 21, 2107, and having come to believe, based on the continuing interference, that W252BE likely was operating outside of its Commission authorization, perhaps with excess transmitter power and/or at an incorrect antenna height, Marble City undertook to investigate the situation. At its own expense, Marble City retained two well recognized technical consultants to inspect the transmission facilities of W252BE located on a tall tower on Red Mountain in Birmingham, Alabama. After learning of the initial findings of the first engineer, Frank L. Giardina, Marble City also engaged a second engineer, Larry Wilkins, to ensure an accurate review of the facilities. Mr. Giardina inspected the Station's facilities on May 26, 2018, and inspected the facilities again on June 18, 2018, but this time accompanied by the second engineer, Mr. Wilkins.

The two chosen engineers are particularly qualified to inspect W252BE as both have decades of experience with broadcast stations, are respected in the broadcast community, and are well known to the Commission, as set forth in their attached statements.

Reports of the two engineers are set forth in their respective statements, *See, Statement of Frank L. Giardina Exhibit 2* and *Statement of Larry Wilkins, Exhibit 3*, attached hereto along with photographs of the W252BE transmitter and its antenna as well as a copy of a tower "Structural Analysis" report, *Stainless Report 201013*, dated April 20, 2018, from Stainless which

is included in the Statement of Frank L. Giardina.² Based on in-person observation of the antennas on the tower and the transmitter equipment in the transmitter building, and on review of the Commission's records, and the Stainless Report, Mr. Giardina and Mr. Wilkins collectively found:

- (a) W252BE(FX) is not operating in accordance with its licensed transmitter power output of .365 kW, but is operating with excess transmitter power output of .707 kW. As is obvious, .707 kW is roughly twice authorized power. Photo #3 of Transmitter attached to the Statement of engineer Frank L. Giardina is a photograph of the transmitter.
- (b) W252BE(FX) is not operating with a properly oriented directional antenna at its licensed 850 feet. Instead, it is operating with an antenna at a lower height of approximately 750 feet and its antenna is not oriented so as to achieve its licensed authorized directional pattern.

Further, Engineer Frank L. Giardina in his *paragraphs 2(b) and (e)* concluded the antenna was a one-bay Shively 6810 antenna, and he provided a photograph of the antenna. See, Photo #1 of Shively 6810 antenna. Marble City's principal, Frank Lee Perryman, in his statement attached, supplies a telephoto photograph of the antenna referenced by Mr. Giardina which provides better clarity from a close-up view. See, Statement of Frank Lee Perryman and Telephoto Photograph of Antenna, attached hereto as Exhibit 4.

- (c) The engineers found no authorization in the Commission's database files for W252BE(FX) to operate any antenna at the approximately 750 feet location.
- (d) Similarly, they found no authorization in the Commission's files permitting W252BE(FX) to operate with a transmitter power output of .707 kW, which was the transmitter power observed during their inspection on June 18, 2018.
- (e) Lastly, to no surprise, they found W252BE(FX) had not constructed its outstanding Construction Permit, BPFT-20170511AAL, which allows installation of a new directional antenna at a height of 446 feet with a major lobe direction of 10 degrees. They did not observe any antenna at that location on the tower. See, Photo #2 of the vacant 446 feet location on Tower attached to the Statement of Frank L. Giardina is a photograph of that location.

² Marble City was provided a copy of the Stainless report by Shelby, which had previously represented to Marble City that such a report was required by the tower owner before it would allow the authorized antenna modifications to the W252BE facility to be implemented.

As apparent, the engineers' conclusions were that W252BE(FX) is not operating in accordance with its licensed facilities, or in accordance with any other permanent or temporary Commission authorization. It appears that this unauthorized operation has been continuing for some time, likely since, according to its own statement, the W252BE licensee relocated the station's transmitting antenna and slightly increased power (*see*, BSTA-20151116ASH) pursuant to special temporary authority, although the current facilities do not match those temporarily authorized at that time in the STA, which expired November 19, 2016.³ Moreover, it is not just one operational parameter that is unauthorized, but several of the most basic ones; the antenna height, power level, and antenna orientation are all different from the parameters authorized.

CONCLUSION

Taking all of these factors disclosed in the attached technical statements into account, the referenced Commission records, and Commission rulings referenced above, it is abundantly clear that the W252BE license has expired and is invalid. Therefore, Shelby has no underlying license to modify as authorized in W252BE's outstanding but not implemented construction permit, nor, in fact, does it have any authorization to operate the station at all.

For the foregoing reasons, Marble City requests that the Commission cancel the W252BE license and construction permit and delete the Station's call sign.

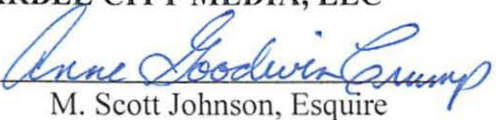
³ The Commission's records reflect that W252BE previously obtained Special Temporary Authority (File No. BSTA-20151116ASH) to operate with an antenna center of radiation of 216 meters (approximately 708.48 feet) and effective radiated power of 112 Watts, which are totally different facilities from current operations noted above. That STA was extended once (File No. BESTA-20160518ACE), but it expired on November 19, 2016, over 19 months ago, having not been further extended. The Commission may determine by appropriate inquiry whether W252BE may have been improperly operating during the 2015-2016 STA timeframe without authorization with the present current facilities detailed above by Messrs. Giardina and Wilkins.

Respectfully submitted,

MARBLE CITY MEDIA, LLC

Date: July 6, 2018

By:



M. Scott Johnson, Esquire

Anne Goodwin. Crump, Esquire

Fletcher, Heald & Hildreth, PLC

1300 17th Street North, 11th Floor

Arlington, Virginia 22209

(703) 812-0400

Its Counsel

Exhibit 1



Federal Communications Commission
Washington, D.C. 20554

NOV 15 2017

In reply refer to: 1800B3-VM

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Mr. Paul H. Reynolds
Valleydale Broadcasting, LLC
2711 Pelham Parkway
Pelham, AL 35124

In re: WZNN(FM), Maplesville, AL
Facility ID No. 183374
Notice of license expiration

Dear Mr. Reynolds:

We have before us a request for Special Temporary Authority (STA) for Station WZNN(FM), Maplesville, Alabama (Station), licensed to Valleydale Broadcasting, LLC (VB) requesting authority to operate using a temporary site and facility.¹ Upon review of the record before us, we find that the Station's license expired as a matter of law under Section 312(g) of the Communications Act of 1934, as amended (Act).² Accordingly, we cancel the Station's license, delete the Station's call sign and dismiss the STA request as moot.

Background. On February 16, 2016, VB filed an STA to remain silent, stating that the Station went silent on November 25, 2015 because it had been "forced to dismantle its transmitter location due to a disagreement with the property owner."³ VB requested an extension of STA on August 29, 2016, again noting its lost transmitter site as its reason for silence.⁴ On November 22, 2016, VB filed a notice of Resumption of Operations, stating that the Station had resumed operation using its "licensed facility."

On June 27, 2017, VB filed an application for construction permit, proposing a minor change of facilities.⁵ Frontdoor Broadcasting, LLC (Frontdoor) opposed this application, alleging that the Station had not been operating for over a year.⁶ Frontdoor includes a letter from the Station's tower site owner stating that VB removed its tower in November 2015, and stopped paying rent for the site at that time. The site owner also stated that the electric meter at the site indicated that electrical service had been stopped in 2015 and had not resumed. Finally, the site owner indicated that she had observed a nearby site being used to operate a radio station.⁷

¹ See File No. BSTA-20171025ABA.

² 47 U.S.C. § 312(g) (Section 312(g)); *Eagle Broad. Group, Ltd. v. FCC*, 563 F.3d 543 (D.C. Cir. 2009); *A-O Broad. Corp.*, Memorandum Opinion and Order, 23 FCC Rcd 603 (2008).

³ File No. BLSTA-20160216ABI, granted on March 2, 2016, with a notice that the period of silence from December 25, 2015 to February 16, 2016, was unauthorized.

⁴ File No. BLESTA-20160829ABK, granted on September 15, 2016.

⁵ File No. BPH-20170627ABF (dismissed on Oct. 26, 2017).

⁶ See Comments in Opposition to File No. BPH-20170627ABF (dismissed on Oct. 26, 2017).

⁷ See Comments in Opposition, File No. BPH-20170627ABF at p.3 and Ex. 2.

On October 25, 2017, VB filed a technical STA request which states that after being silent for almost 12 months, the Station resumed operation from an alternate site on November 22, 2016, and has operated from that site since that date.⁸ VB does not explain why its resumption notice stated that the Station was using its licensed facility. Frontdoor again opposes this application.⁹

Discussion. Section 312(g) of the Act provides that “if a broadcasting station fails to transmit broadcast signals for any consecutive 12-month period, then the station license granted for the operation of that broadcast station expires at the end of that period, notwithstanding any provision, term, or condition of the license to the contrary...”¹⁰ Well-established Commission precedent dictates that licensees cannot avoid the statutory deadline set forth in Section 312(g) through the use of unauthorized facilities.¹¹ Thus, a station is subject to Section 312(g)'s license expiration provision if: (a) the station fails to operate for twelve consecutive months or longer; (b) the station operates with unauthorized facilities for such a period; or (c) a combination of the prior two situations occurs for such a period.¹²

Based on our records, and VB's admissions in its October 25, 2017, STA request, we conclude that the Station was silent (or failed to operate with authorized facilities) for over one year, and that the Station's license expired at 12:01 a.m., November 26, 2016.

Having determined that the Station's license expired, we decline to exercise our discretion to reinstate under §312(g). Although the Commission retains discretion under Section 312(g) to extend or reinstate such license “to promote equity and fairness,”¹³ our discretion under that provision of Section 312(g) is severely limited.¹⁴ The Commission has exercised its authority to reinstate an expired license to “promote equity and fairness” only where the station failed to provide service for 12 consecutive months due to compelling reasons beyond the licensee's control.¹⁵ Conversely, the Commission has declined to reinstate licenses where, as here, the failure to transmit a broadcast signal was due to the licensee's own actions, finances, and/or business judgments.¹⁶ In particular, we note that VB has never explained why it did not apply for

⁸ See File No. BSTA-20171025ABA.

⁹ See Informal Objection to File No. BSTA-20171025ABA.

¹⁰ See *Implementation of Section 403(l) of the Telecommunications Act of 1996*, 11 FCC Rcd 16499 (1996); see also 47 CFR § 73.1740(c).

¹¹ See *Eagle Broad. Group*, 563 F.3d at 553 (“Under the statute, unauthorized and unlicensed transmissions are no better than silence”); see also *James McCluskey, Ph.D.*, Letter Order, 27 FCC Rcd 6252, 6254-55 (MB 2012) (“an unauthorized transmission counts for nothing”).

¹² *Id.*

¹³ 47 U.S.C. § 312(g).

¹⁴ See *A-O Broad.*, 23 FCC Rcd at 617, para. 27 (“This limited, discretionary provision is phrased as an exception to the general rule that most affected licenses will be forfeited”).

¹⁵ See, e.g., *V.I. Stereo Commc'ns Corp.*, Memorandum Opinion and Order, 21 FCC Rcd 14259 (2006) (reinstatement warranted where station's silence resulted from hurricane destruction); *Community Bible Church*, Letter, 23 FCC Rcd 15012, 15014 (MB 2008) (reinstatement warranted where licensee took all steps needed to return to air, but remained off air to promote air safety after discovering and reporting that FCC and FAA records contained incorrect tower information); *Mark Chapman, Court-Appointed Agent*, Letter, 22 FCC Rcd 6578 (MB 2007) (reinstatement warranted where extended silence resulted from licensee's compliance with a court order).

¹⁶ See, e.g., *A-O Broad.*, 23 FCC Rcd at 617, para. 27 (reinstatement not warranted when site loss was a

an STA to operate the Station from an alternate site in 2016, but instead claimed that the Station had resumed operation from its licensed site. We find that exercise of discretion to reinstate an expired license is especially unwarranted when VB violated Section 301 of the Act by operating the Station from an alternate facility, without FCC approval, falsely claimed in November of 2016 that the Station returned to the air “with its licensed facility,” and only notified the Commission of the Station’s unauthorized operation after opposing comments were filed notifying us of the situation.¹⁷ The “unclean hands” doctrine – which “closes the doors of a court of equity to one tainted with inequity or bad faith relative to the matter in which he seeks relief”¹⁸ – can be applied in appropriate circumstances in administrative proceedings,¹⁹ and VB’s conduct in this proceeding mitigates against any “equity and fairness” finding in its favor.²⁰

Conclusion/Actions. For the reasons set forth above, we find that the license of WZNN(FM), Maplesville, Alabama (Facility ID No. 183374), EXPIRED by operation of 47 U.S.C. § 312(g) on or about 12:01 a.m. November 26, 2016. In addition, File No. BSTA-20171025ABA IS DISMISSED. Accordingly, the Commission’s public and internal databases will be modified to reflect that expiration, and we HEREBY DELETE the Station’s call sign, WZNN(FM). All authority to operate this facility IS TERMINATED and any operation of the facility must cease immediately. Valleydale Broadcasting, LLC (and its principals, R3 Partners, LLC, Paul H. Reynolds, Joan K. Reynolds, Lee S. Reynolds, and Lyle S. Reynolds, as well as any entity in which any of them holds an interest that is within the scope of the ownership and control disclosure standard set forth in 47 CFR § 1.2112) SHALL SUBMIT a copy of this *Letter Order* with every facilities application—FCC Form 301, 302 (any version), 349, or 350—it files with the Commission for a period of five years from the date of this *Letter Order*.

result of the licensee’s rule violations and continued silence was a result of licensee’s failure to complete construction at an alternate site); *ETC Communications, Inc.*, Letter, 25 FCC Rcd 10686 (MB 2010) (reinstatement not warranted where the licensee chose not to operate financially struggling station while offering it for sale); *Kirby Young*, Letter, 23 FCC Rcd 35 (MB 2008) (reinstatement not warranted where the licensee was not financially able to restore operations after transmitter failed). *See also Kingdom of God*, Letter, 29 FCC Rcd 11589 (MB 2014) (Bureau rejects KOG’s request for reinstatement of its permit for LPTV Station WKGK-LP, Kokomo, Indiana, expired pursuant to Section 312(g), under the “equity and fairness” language, finding that “the ultimate reason for the station’s silence was due to KOG’s business decision not to promptly find a permanent and suitable transmitter site,” and concluding that KOG’s silence was not the result of compelling reasons beyond the licensee’s control, but, rather, “due to the licensee’s own actions, finances and/or business judgments.”).

¹⁷ *See Eagle Broad. Group*, 563 F.3d at 554 (discretion not warranted because “it does not require legal counsel or any level of sophistication to avoid making false statements on simple matters of fact”); *cf.*, *John L. White*, Notice of Apparent Liability for Forfeiture and Order, 24 FCC Rcd 12541, 12543 (MB 2009) (312(g) discretion appropriate when, among other factors, licensee did not misrepresent regarding its operation).

¹⁸ *Precision Instrument Manufacturing Co. v. Automotive Maintenance Machinery Co.*, 324 U.S. 806, 815 (1945).

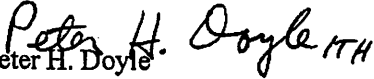
¹⁹ *See, e.g., Daniel A. Edelman, Esq.*, 19 FCC Rcd 12741, 12742-3, para. 5 (2004); *see also WKAT, Inc. v. FCC*, 296 F.2d 375, 383 (D.C. Cir. 1961) (*WKAT*).

²⁰ *See, e.g., FCC v. WOKO, Inc.*, 329 U.S. 323, 329 (1946), cited in *WKAT*, 296 F.2d at 383 (counterbalancing considerations of public interest in the service involved might justify award despite misbehavior).

It is imperative to the safety of air navigation that any prescribed painting and illumination of the Station's tower shall be maintained.²¹

If you have any questions concerning the content of this letter, please contact Victoria McCauley, Attorney, by phone (202-418-2136), or e-mail (Victoria.McCauley@fcc.gov).

Sincerely,


Peter H. Doyle
Chief, Audio Division
Media Bureau

cc: M. Scott Johnson, Esq.

²¹ See 47 CFR Sections 17.6 and 73.1740(a)(4).

Exhibit 2

Frank Giardina

AM/FM Technical Service
3301 Cahaba River Estates
Hoover, AL 35244

Statement of Frank L. Giardina

I am a broadcast technical consultant, and my career includes work with Rockwell-Collins and with several Birmingham radio stations. I am a member of the Society of Broadcast Engineers, hold a Certified Professional Broadcast Engineer (CPBE) certification, and have been awarded the grade of Fellow. I am an instructor in the Alabama Broadcasters Association's Engineering Academy.

I was engaged to consult with Marble City Media LLC regarding ongoing interference to its WFXO(FM), Stewartville, Ala., by W252BE(FX), Tarrant, Ala., and a possibility that W252BE(FX) has been operating at higher than authorized power levels and with an antenna at an unauthorized tower height.

In undertaking an analysis for Marble City, the steps I have taken to review the available files of the Federal Communications Commission, inspection of the W252BE(FX) facilities, and my conclusions are as follows:

1. Review of FCC On-line Publicly Available Records concerning W252BE(FX):

- (a) In reviewing the FCC's files, I confirmed that the W252BE antenna is located on a tower (ASR 1037278) owned by Nexstar Broadcasting Inc. located at 2075 Godwin Crest Dr., Birmingham, Ala.;
- (b) The current license for W252BE(FX) (copy attached) authorizes a transmitter power output of .365 Kw with the antenna radiation center at 850 feet above ground and specifies a directional Shively 6812B antenna with major lobe directions at 20 and 165 degrees;
- (c) The most recent FCC Form 350 filed for this facility (BMLFT20140520ALM) includes the following information as Exhibit 13: "A DIRECTIONAL ANTENNA MADE BY SHIVELY LABS, MODEL 6810-DA, REMAINS INSTALLED AT AN ORIENTATION OF 60 DEGREES TRUE WHICH PRODUCES THE MAJOR LOBES AT 20 AND 165 DEGREES AS SPECIFIED IN THE CURRENT LICENSE FOR THE FACILITY."
- (d) FCC Form 345 related to the assignment of license from Valleydale Broadcasting LLC to Shelby Broadcast Associates LLC (BALFT-20170406ABE) confirmed a "Shively 6810 Single Bay Antenna (as is)" as a listed asset in Exhibit 1 of the Asset Purchase Agreement.

2. May 26, 2018 Inspection of the W252BE Facilities on the tower (ASR 1037278) in an effort to confirm W252BE(FX)'s operation at the licensed location:

- (a) For my reference in undertaking my analysis, Marble City Media provided a Stainless Structural Analysis Report #201013 dated April 20, 2018 (copy attached), which Marble City indicated prepared by Stainless for the tower owner's consideration of wind load and structural data regarding Shelby Broadcast Associates LLC's proposed directional antenna for W252BE(FX) at 446 feet on the tower pursuant to a Construction Permit (BPFT-20170511AAL, copy attached) granted on June 21, 2017.
- (b) I observed a one-bay antenna on the tower which, based on the guy wire locations shown in the Stainless diagram, is located at approximately 750 feet, which is my estimate as it is just above the fourth guy wire level from the top listed at 733.8 feet. Based upon my experience and references to Shively catalogs, that antenna is a one-bay Shively 6810. See attached photo #1.
- (c) The only other visible FM antenna on the tower is a multi-translator (combiner) Shively 6014 1/3 panel antenna at approximately 850 feet. See attached photo #2. This combiner antenna is a non-directional antenna thus could not be used for W252BE(FX) which, as evident from the FCC's files, requires a directional antenna, so it does not include, and is not the W252BE(FX) antenna.
- (d) The Stainless Structural Analysis Report shows the W252BE(FX) antenna at a 420 feet level, noting that it was "moved from 850" (see Stainless Report, page 3), but as I could see no antenna at that location, it can only be a prospective reference to possible future location of the proposed W252BE(FX) directional antenna proposed in its unbuilt outstanding construction permit (file no. BPFT-20170511AAL) for a directional antenna at 446 feet, which would be consistent with an analysis as to suitability for placement on the structure. I visually confirmed that no antenna is currently located at 420 feet, nor is there one at 446 feet. The Stainless report correctly indicates the combiner Shively 6014 1/3 panel antenna at 825-850 feet (also on the Stainless report, page 3).
- (e) Since I could only find one other FM antenna (the multi-translator combiner Shively 6014 1/3 antenna) on the tower, I concluded that the Shively 6810 antenna at the approximately 750 feet level is the antenna currently being used by W252BE(FX).
- (f) My observation was that this Shively 6810 antenna, based on the Stainless diagram for the tower, is mounted off a southeast leg oriented to the south. While difficult to determine the precise orientation from a visual inspection, I concluded it is not oriented at 60 degrees as specified in the FCC Form 350 license application (para. 1c above) and as is required to produce the authorized directional pattern. The directional signal for W252BE(FX) operating in that manner would be not comply with the license.

(g) I also note that the W252BE(FX) license specifies a Shively 6812B antenna (see license in para. 1c above) while a Shively 6810 is in use. In the FCC's publicly available database, I can find no Form 349 or any other filing to change the antenna.

3. June 18, 2018, Joint Inspection of tower and transmitter building with engineer Larry Wilkins:

- (a) On June 18, 2018, I, accompanied by Larry Wilkins, a well-known and experienced engineer, in a visit to the W252BE(FX)'s tower site and co-located transmitter building at its base which is a shared transmitter building used by multiple stations including W252BE(FX).
- (b) We visually confirmed in the transmitter room that W252BE(FX) is operating using a Nautel VS-1 transmitter (see attached photo #3) and observed that its front panel LCD display showed transmitter power output set to 707 watts. We also observed that the coax connected to the W252BE(FX) transmitter is of the 7/8" type, matching what is specified in the Stainless report for the listed Shively 6810 antenna.
- (c) We observed no remote control connection or any connection to the RJ45 network port at the rear of the transmitter, meaning there is no remote control access or ability to turn the transmitter's RF power on or off from locations away from that room.

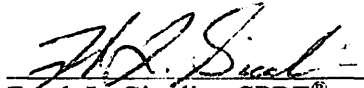
4. Based on observation of the antennas on the tower and the transmitter equipment in the transmitter building, and FCC records as noted above in this statement, I concluded as follows:

- (a) W252BE(FX) is operating with excess transmitter power output of .707 Kw – not the lower licensed .365 Kw;
- (b) W252BE(FX) is operating with an antenna at a lower height of approximately 750 feet rather than its licensed 850 feet, and its antenna is not oriented antenna to achieve its licensed authorized directional pattern.
- (c) In my review of the FCC's online files, I found no evidence that W252BE(FX) has been authorized for any approximately 750 feet location for any antenna; and
- (d) My above conclusion of operation with improper transmitter power output was confirmed by the review of the FCC's online files, as I found no evidence that W252BE(FX) has been authorized for a transmitter power output of .707 Kw.
- (e) Finally, as noted above, the FCC's records show that W252BE(FX) has an outstanding Construction Permit, BPFT-20170511AAL, which allows installation of a new directional antenna at a height of 446 feet, which would be slightly above a four-foot platform located at 435 feet, and with a major lobe direction of 10 degrees. I did not observe any antenna at that location on the tower.

In summary, based upon my observations and review of records as reflected above, W252BE(FX) is not operating in accordance with its licensed facilities, or in accordance with any other permanent or temporary FCC authorizations.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on June 27, 2018.

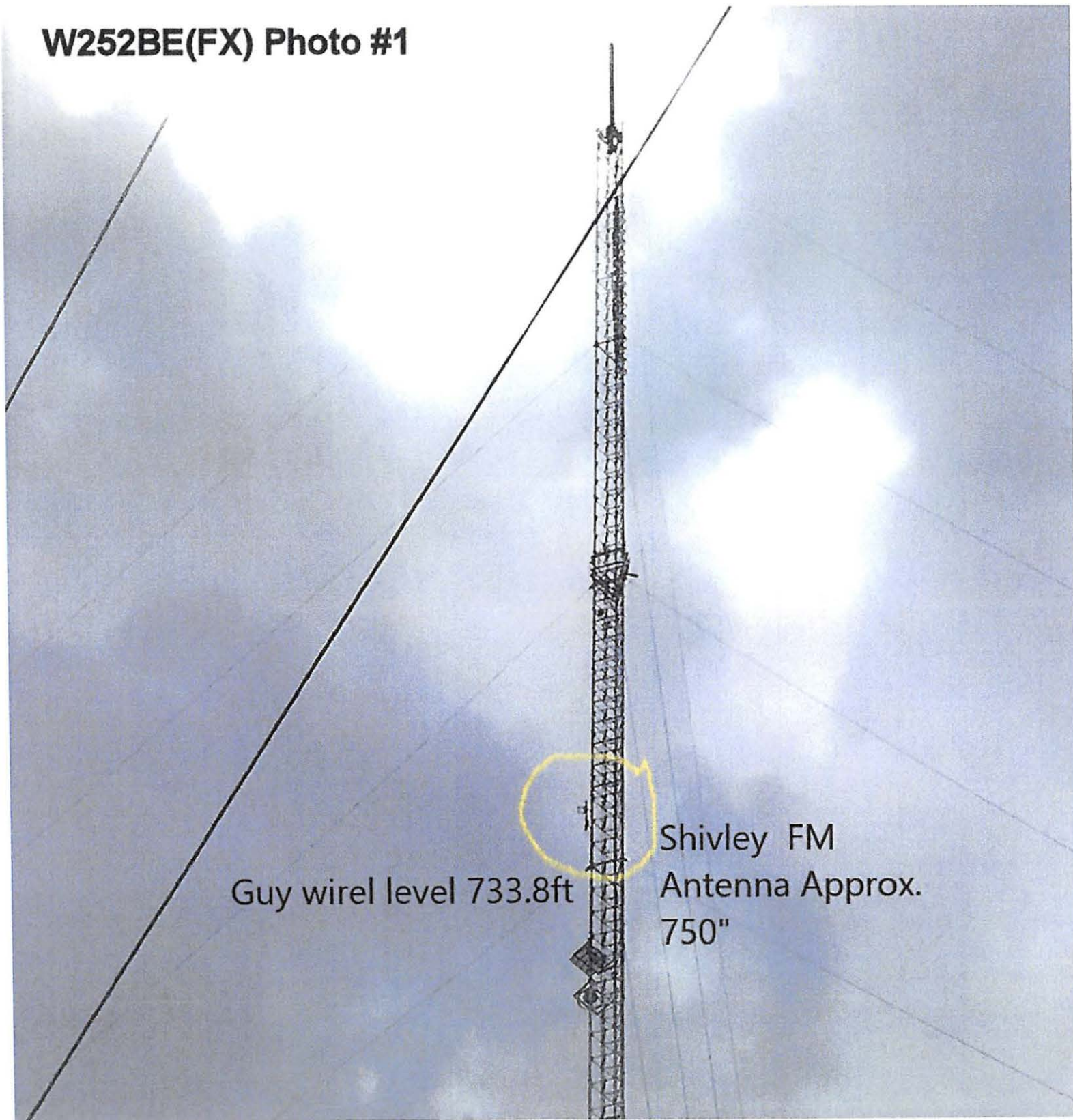
A handwritten signature in dark ink, appearing to read "Frank L. Giardina", is written over a horizontal line.

Frank L. Giardina CPBE®
Engineering Consultant

W252BE(FX) Photo #1

Guy wire level 733.8ft

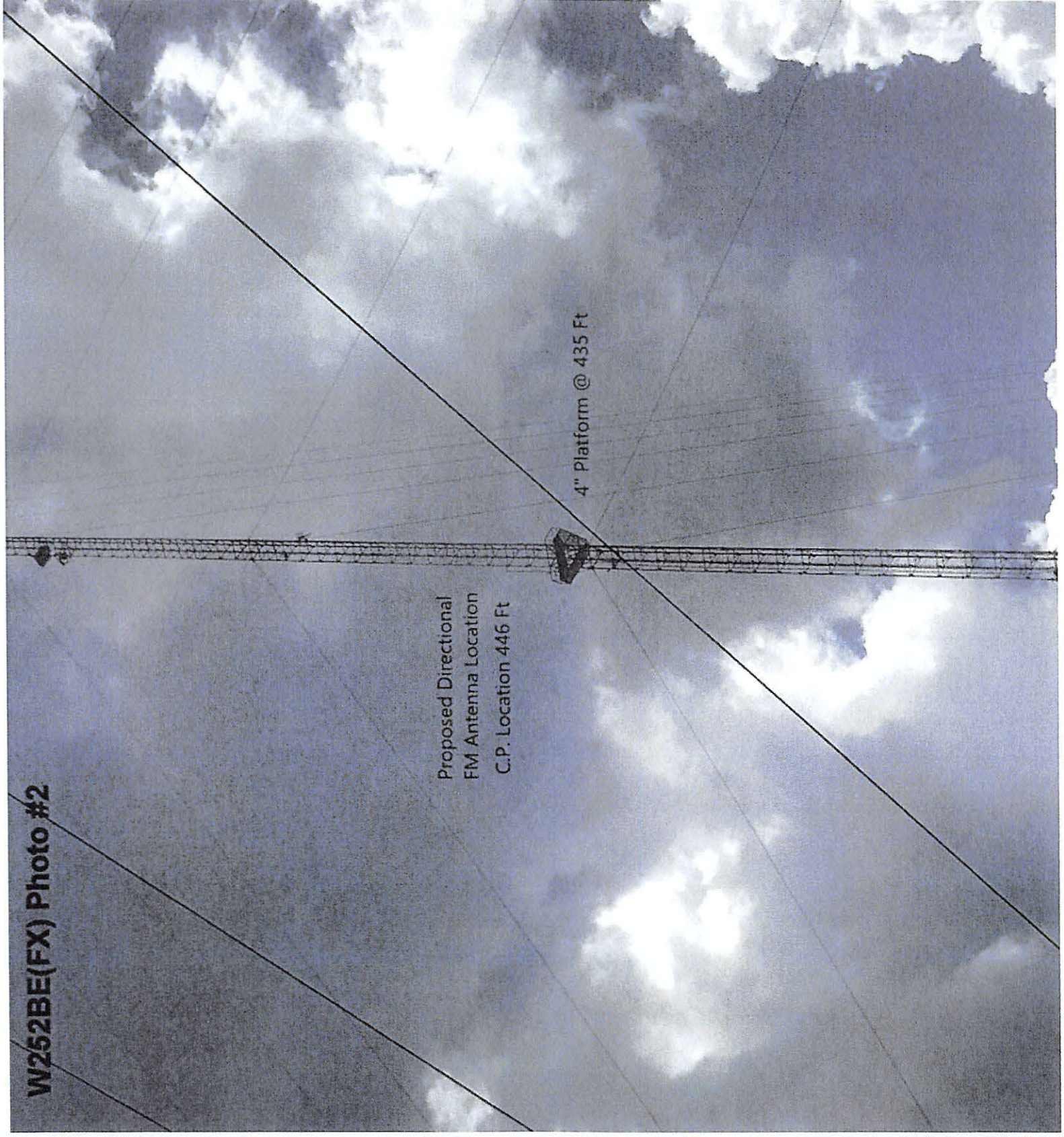
Shivley FM
Antenna Approx.
750"

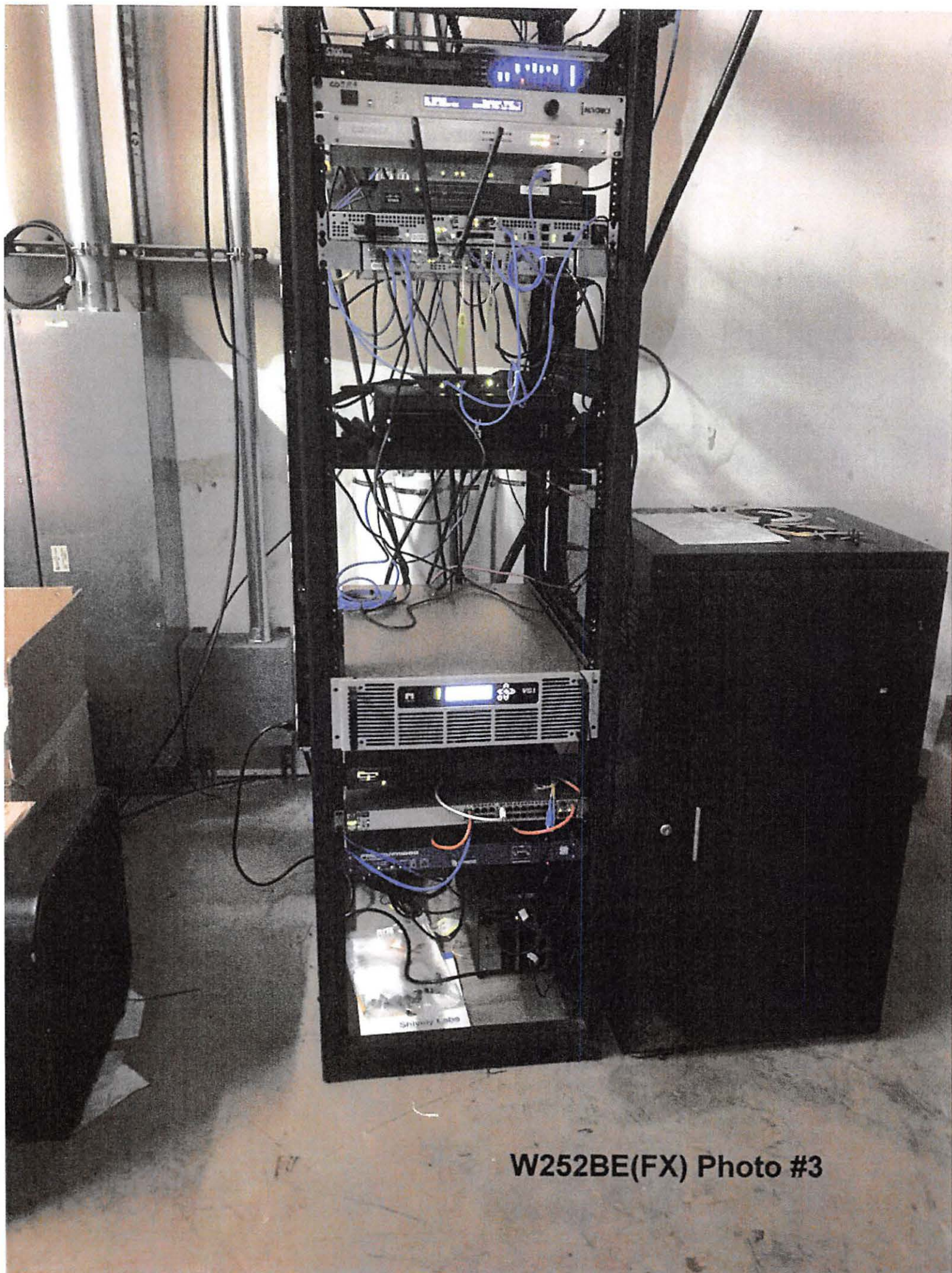


W252BE(FX) Photo #2

Proposed Directional
FM Antenna Location
C.P. Location 446 Ft

4" Platform @ 435 Ft





W252BE(FX) Photo #3



United States of America
FEDERAL COMMUNICATIONS COMMISSION
FM BROADCAST TRANSLATOR/BOOSTER
STATION LICENSE

Authorizing Official:

Official Mailing Address:

SHELBY BROADCAST ASSOCIATES, LLC
5256 VALLEYBROOK TRACE
BIRMINGHAM AL 35244

Penelope A. Dade
Supervisory Analyst
Audio Division
Media Bureau

Facility Id: 141124

Call Sign: W252BE

License File Number: BMLFT-20140520ALM

Grant Date: June 23, 2014

This license expires 3:00 a.m.
local time, April 01, 2020.

This license modifies license no.: BLFT-20140411AAT

Subject to the provisions of the Communications Act of 1934, subsequent acts and treaties, and all regulations heretofore or hereafter made by this Commission, and further subject to the conditions set forth in this license, the licensee is hereby authorized to use and operate the radio transmitting apparatus herein described.

This license is issued on the licensee's representation that the statements contained in licensee's application are true and that the undertakings therein contained so far as they are consistent herewith, will be carried out in good faith. The licensee shall, during the term of this license, render such broadcasting service as will serve the public interest, convenience, or necessity to the full extent of the privileges herein conferred.

This license shall not vest in the licensee any right to operate the station nor any right in the use of the frequency designated in the license beyond the term hereof, nor in any other manner than authorized herein. Neither the license nor the right granted hereunder shall be assigned or otherwise transferred in violation of the Communications Act of 1934. This license is subject to the right of use or control by the Government of the United States conferred by Section 606 of the Communications Act of 1934.

Callsign: W252BE

License No.: BMLFT-20140520ALM

Name of Licensee: SHELBY BROADCAST ASSOCIATES, LLC

Principal community to be served: AL-TARRANT

Primary Station: WAYE (AM) , Frequency 1220 kHz, BIRMINGHAM, AL

Via: Direct - off-air

Frequency (MHz): 98.3

Channel: 252

Hours of Operation: Unlimited

Antenna Coordinates: North Latitude: 33 deg 29 min 02 sec

West Longitude: 86 deg 48 min 21 sec

Transmitter: Type Accepted. See Sections 73.1660, 74.1250 of the Commission's Rules.

Transmitter output power: 0.365 kW

Antenna type: (directional or non-directional): Directional

Description: SHI 6812B

Major lobe directions 20 165
(degrees true):

	Horizontally Polarized Antenna:	Vertically Polarized Antenna:
Effective radiated power in the Horizontal Plane (kw):	0.09	0.09
Height of radiation center above ground (Meters):	259	259
Height of radiation center above mean sea level (Meters):	538	538

Antenna structure registration number: 1037278

Overall height of antenna structure above ground (including obstruction lighting if any) see the registration for this antenna structure.

Special operating conditions or restrictions:

- 1 The permittee/licensee in coordination with other users of the site must reduce power or cease operation as necessary to protect persons having access to the site, tower or antenna from radiofrequency electromagnetic fields in excess of FCC guidelines.

*** END OF AUTHORIZATION ***



United States of America
FEDERAL COMMUNICATIONS COMMISSION
FM BROADCAST TRANSLATOR/BOOSTER STATION
CONSTRUCTION PERMIT

Authorizing Official:

Official Mailing Address:

SHELBY BROADCAST ASSOCIATES, LLC
5256 VALLEYBROOK TRACE
BIRMINGHAM AL 35244

James D. Bradshaw
Deputy Chief
Audio Division
Media Bureau

Facility Id: 141124

Call Sign: W252BE

Permit File Number: BPFT-20170511AAL

Grant Date: June 21, 2017

This permit expires 3:00 a.m.
local time, 36 months after the
grant date specified above.

Commission rules which became effective on February 16, 1999, have a bearing on this construction permit. See Report & Order, Streamlining of Mass Media Applications, MM Docket No. 98-43, 13 FCC RCD 23056, Para. 77-90 (November 25, 1998); 63 Fed. Reg. 70039 (December 18, 1998). Pursuant to these rules, this construction permit will be subject to automatic forfeiture unless construction is complete and an application for license to cover is filed prior to expiration. See Section 73.3598.

Name of Permittee: SHELBY BROADCAST ASSOCIATES, LLC

Principal community to be served: AL-TARRANT

Primary Station: WAYE (AM) , Frequency 1220 kHz, BIRMINGHAM, AL

Via: Other

Frequency (MHz): 98.3

Channel: 252

Hours of Operation: Unlimited

Antenna Coordinates: North Latitude: 33 deg 29 min 02 sec
 West Longitude: 86 deg 48 min 21 sec

Transmitter: Type Accepted. See Sections 73.1660, 74.1250 of the Commission's Rules

Antenna type: (directional or non-directional): Directional

Major lobe directions 10
 (degrees true):

	Horizontally Polarized Antenna:	Vertically Polarized Antenna:
Effective radiated power in the Horizontal Plane (kw):	0.25	0.25
Height of radiation center above ground (Meters):	136	136
Height of radiation center above mean sea level (Meters):	415	415

Antenna structure registration number: 1037278

Overall height of antenna structure above ground (including obstruction lighting if any) see the registration for this antenna structure.

Special operating conditions or restrictions:

- 1 The permittee/licensee in coordination with other users of the site must reduce power or cease operation as necessary to protect persons having access to the site, tower or antenna from radiofrequency electromagnetic fields in excess of FCC guidelines.
- 2 Prior to commencing program test operations, FM Translator or FM Booster permittee must have on file at the Commission, FCC Form 350, Application for an FM Translator or FM Booster Station License, pursuant to 47 C.F.R. Section 74.14.

*** END OF AUTHORIZATION ***



REPORT 201013

DATE: 4/20/2018

STRUCTURAL ANALYSIS

FOR A 1078' G-7 GUYED TOWER

BIRMINGHAM, AL

PREPARED BY: AP APPROVED: _____
CHECKED BY: TM

Date	Pages	Remarks
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Rev.	Date	Description
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<u>SECTION</u>	<u>PAGE</u>
A. AUTHORIZATION/PURPOSE	1
B. TOWER HISTORY	1
C. CONDITIONS INVESTIGATED	2
D. LOADS AND STRESSES	3
E. METHOD OF ANALYSIS	4
F. RESULTS	4
G. CONCLUSIONS AND RECOMMENDATIONS	5
H. PROVISIONS OF ANALYSIS	5
 <u>APPENDIX</u>	
GENERAL ARRANGEMENT	A-1
LINEAR APPURTENANCES	A-2

Rev.	Date	Description
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A. AUTHORIZATION/PURPOSE

As authorized by Lee Reynolds of Shelby Broadcast Associates, LLC, a structural analysis was performed to investigate the adequacy of a 1078' Stainless G-7 guyed tower in Birmingham, Alabama to support specified equipment.

B. TOWER HISTORY

The tower was originally designed and furnished in 1968 by Stainless, Inc. It was designed in accordance with EIA Standard RS 222-A for a wind load rating of 50 psf with no ice while supporting the following equipment:

1. One (1) RCA TFU-30J Channel 42 antenna, top-mounted at the 848' level, fed by one (1) 6-1/8" rigid coax.
2. Three (3) BFC-8 FM antennas at the 600' level, fed by one (1) 3-1/8" rigid coax to each.
3. Twelve (12) whip-type communication antennas at the 435' level, fed by one (1) 7/8" line to each.
4. Two (2) 4' wide wrap-around platforms at the 435' and 135' levels.
5. Four (4) 6' diameter standard MW dishes at the 135' level, fed by one (1) 1-5/8" line to each.
6. One (1) inside climbing ladder for the full height of the tower.
7. One (1) 1-1/4" rigid deicer conduit for the full height of the tower.
8. One (1) 1-1/4" rigid lighting conduit for the full height of the tower.

In addition, the tower was designed for a future height extension of 240' (for a steel height of 1088') and the replacement of the top TV antenna with one (1) future RCA TFU-25G Channel 21 antenna fed by one (1) 6-1/8" rigid coax.

❖ In October 1972, the tower was modified by Stainless Inc. per Report 201002. The modifications were as follows:

- ♦ Replaced existing diagonal braces with new, higher capacity members at the following bay:

Location	No of bays
450.4' – 442.1'	1

Rev.	Date	Description
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- ❖ In April 1983, the tower was modified by Stainless Inc. per Report 201003. The modifications were as follows:

- ♦ Replaced Level 2 guy strands with new, higher capacity strands
- ♦ Installed additional horizontal subbracing at the midpoints of the following bays:

Location	No of bays
783.8' – 758.8'	3
650.4' – 608.8'	5
592.1' – 567.1'	3

- ♦ Extended the tower height by an additional 230.6'.
- ❖ In February 1996, the tower was modified by Stainless Inc. per Report 201006. The modifications were as follows:

- ♦ Replaced Levels 5 and 6 guy strands with new, higher capacity strands.
- ♦ Adjusted initial tensions in all guy levels.
- ♦ Replaced existing diagonal braces with new, higher capacity members at the following bays:

Location	No of bays
275.4' – 258.8'	2

- ♦ Installed additional horizontal subbracing at the midpoints of the following bays:

Location	No of bays
842.1' – 783.8'	7

Stainless does not have records of any other modifications to the tower or its foundations.

C. CONDITIONS INVESTIGATED

The analysis was performed for the tower supporting equipment based upon the following sources:

- Stainless Proposal P17_2010_002 dated 11/8/2017.
- Stainless LLC Report 201012 dated 2/21/2013.
- Email from Lee Reynolds dated 10/30/2017 with details of proposed tower loading
- Email from Scott Sarkisian WIAT-TV dated 3/1/2018 confirming no change in tower loading from the last Stainless LLC Report 201012 dated 2/2/2013.

Rev.	Date	Description
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APPURTENANCE	ELEV, ft.	FEED LINES
TFU-32E/V-R Omni Channel 42	Tower top	DTW1350 has been removed
Transfer platform	1059	-
SHPX-16AC-HW-SP FM	1007	3"
Shively 6014 1/3 panel FM	825 - 850	1-5/8"
Nurad 23-0R2Q	700	1-5/8" & 1/2" control cable
BEXT TFC-2K	525	1/2"
Hybrid antenna (proposed)	450	7/8" (proposed)
4' wide wraparound platform	435	-
1-bay Shively 6810 FM	420 (moved from 850)	7/8" (reuse existing line)
Scala PR-950	330	7/8"
6' diameter dish/radome	210	EW63
4' wide wraparound platform	135	-
Support conduit	To 990	1-1/4" conduit
Conduit	To 30	1/2" conduit
FAA lighting system	To top of tower	1-1/4" & 3/4" lighting conduit
Ladder	To top of tower	-

The analysis is based upon the tower cross section as shown on Stainless LLC Report 201012 dated 2/21/2013. The locations of all transmission lines are shown on Page A-2 of this report. Deviating from this cross section may invalidate the results of this analysis.

D. LOADS AND STRESSES

The analysis was performed using the original design wind load of 50 psf with no ice. This load was calculated and applied in accordance with the provisions of EIA Standard RS-222-C, Structural Standards for Steel Antenna Towers and Antenna Supporting Structures, dated March 1976.

Allowable unit stresses and minimum safety factors used to evaluate the adequacy of the structure were also in accordance with this EIA Standard.

The tower is located in a jurisdiction where the current applicable standard is Revision G of the ANSI/TIA 222 tower design code but nevertheless Customer has requested that the engineering analysis be performed using Revision C of ANSI/TIA 222. Stainless shall have no liability whatsoever to Customer or to others in the event of non-complying analysis and/or modification design with respect to the current applicable code, or overall or component failure of the tower as a result of non-compliance to the current applicable code.

Rev.	Date	Description
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E. METHOD OF ANALYSIS

The analysis was performed using Stainless LLC's Beam-Column Analysis Program, a computer operation which idealizes the tower as a continuous beam-column on non-linear, elastic supports (guys) subject to simultaneous transverse (wind) and axial (dead and vertical components of guy tensions) loads.

F. RESULTS

The results of the analysis show the following ratings:

COMPONENT	SPAN	RATING %
Tower top	-	49
Leg compression	8	78
	7	96
	6	95
	5	90
	4	75
	3	86
	2	89
	1	79
Leg tension	8	-
	7	-
	6	-
	5	-
	4	-
	3	-
	2	-
	1	-
Diagonals	8	75
	7	55
	6	71
	5	71
	4	88
	3	71
	2	84
	1	63
Horizontals	8	55
	7	39
	6	52
	5	61
	4	51
	3	62
	2	78
	1	50

	Rev.	Date	Description
Guys	8		92
	7		89
	6		87
	5		85
	4		80
	3		74
	2		70
	1		60
Foundations	Base		86
	Inner anchor arms		67
	Outer anchor arms		92
	Comb. inner & outer anchors		104

The rating is defined as the percentage of the component design capacity that is used up in supporting itself and the loading from the antennas and transmission lines under the design wind and ice loading conditions. Ratings of up to 105% are considered acceptable due to tolerances in calculating the applied loads on the tower as well as member design capacities.

G. CONCLUSIONS AND RECOMMENDATIONS

Based on the preceding results, the following conclusions may be drawn:

1. The tower supporting equipment as specified in Section C above is adequate to retain the design wind load rating of 50 psf with no ice in accordance with EIA Standard RS-222-C.
2. The tower is located on the top of a 2-D ridge. Therefore there is the potential for wind speed-up to occur as the wind travels over the escarpment. However when the tower was first designed in 1968, assessment of such speed-up effects was not a requirement of the governing design codes during that period. This analysis has also not considered the speed-up effect in order to maintain consistency with past analyses. Stainless recommends that this effect be taken into consideration when the tower is analyzed in future to the latest revision of the ANSI/TIA Standard.

H. PROVISIONS OF ANALYSIS

The analysis performed and the conclusions contained herein are based on the assumption that the tower has been properly installed and maintained, including, but not limited to the following:

1. Proper alignment and plumbness.
2. Correct bolt tightness.
3. Correct guy tensions.
4. No significant deterioration or damage to any component.

Rev.	Date	Description
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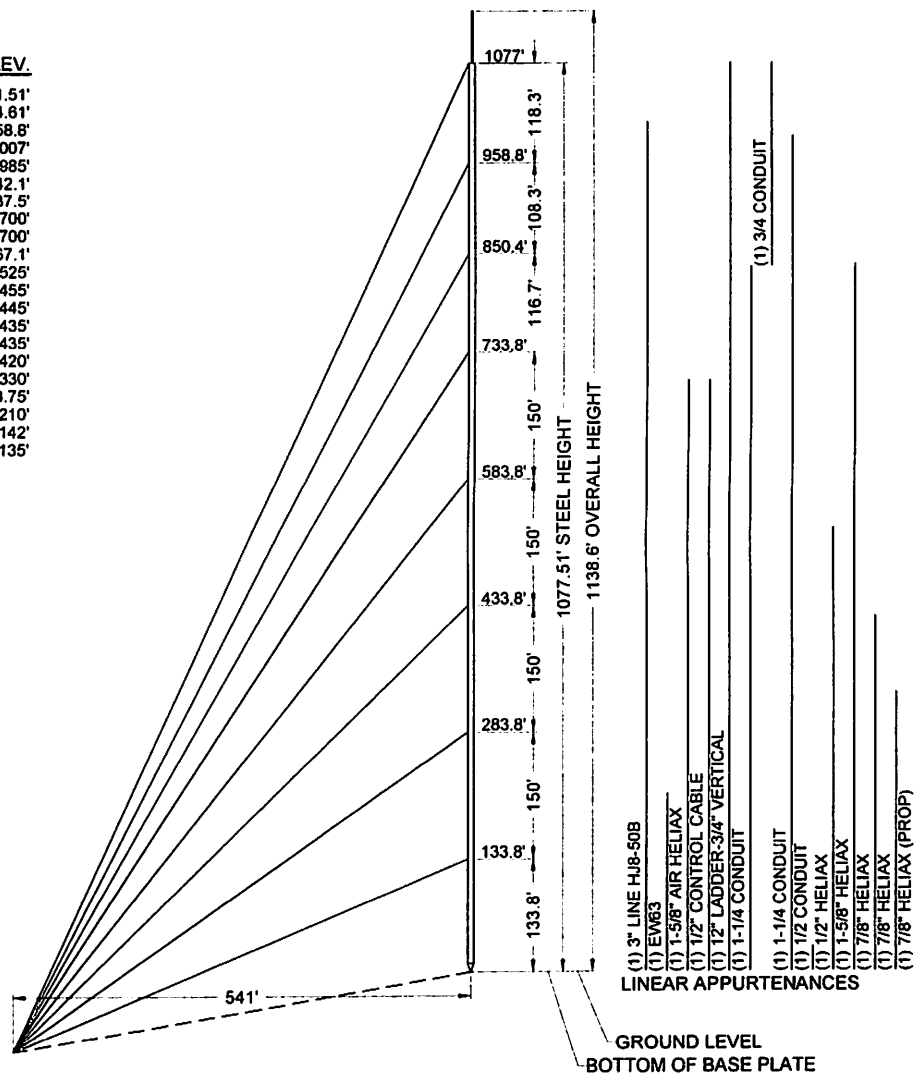
Furthermore, the information and conclusions contained in this Report were determined by application of the current "state-of-the-arts" engineering and analysis procedures and formulae, and Stainless assumes no obligations to revise any of the information or conclusions contained in this Report in the event that such engineering and analysis procedures and formulae are hereafter modified or revised. In addition, under no circumstances will Stainless have any obligation or responsibility whatsoever for or on account of consequential or incidental damages sustained by any person, firm or organization as a result of any information or conclusions contained in the Report, and the maximum liability of Stainless, if any, pursuant to this Report shall be limited to the total funds actually received by Stainless for preparation of this Report.

Customer has requested Stainless to prepare and submit to Customer an engineering analysis with respect to the Subject Tower and has further requested Stainless to make appropriate recommendations regarding suggested structural modifications and changes to the Subject Tower. In making such request of Stainless, Customer has informed Stainless that Customer will make a determination as to whether or not to implement any of the changes or modifications which may be suggested by Stainless and that Customer will have any such changes or modifications made by riggers, erectors and other subcontractors of Customer's choice.

Customer hereby agrees and acknowledges that Stainless shall have no liability whatsoever to Customer or to others for any work or services performed by any persons other than Stainless in connection with the implementation of any structural changes or modifications recommended by Stainless including but not limited to any services rendered for Customer or for others by riggers, erectors or other subcontractors. Customer acknowledges and agrees that any riggers, erectors or subcontractors retained or employed by Customer shall be solely responsible to Customer and to others for the quality of work performed by them and that Stainless shall have no liability or responsibility whatsoever as a result of any negligence or breach of contract by any such rigger, erector or subcontractor.

1. 1 TOP BEACON
2. 1 TFLU-32EVR-R TOP ANT
3. 1 TRANSFER PLATFORM
4. 1 SHPX-16AC-HW SP
5. 3 OBSTR LIGHTS
6. 1 BEACON
7. 1 SHIVELY 6014 1/3
8. 1 NURAD 230R2Q
9. 3 OBSTR LIGHTS
10. 1 BEACON
11. 1 BEXT TFC-2K
12. 1 HYBRID ANT TOP (PROP)
13. 1 HYBRID ANT BTM (PROP)
14. 1 4' WIDE PLATFORM
15. 3 OBSTR LIGHTS
16. 1 SHIVELY 1-BAY 6810 FM
17. 1 SCALA PR-950
18. 1 BEACON
19. 1 (1)6' DIA. DISH-RADOME
20. 3 OBSTR LIGHTS
21. 1 4' WIDE PLATFORM

1131.51'
1104.61'
1058.8'
1007'
985'
842.1'
837.5'
700'
700'
567.1'
525'
455'
445'
435'
435'
420'
330'
283.75'
210'
142'
135'



TOWER TYPE: G-70
STD: EIA(RS-222-C) pressure
LOAD CASE(S)
50 PSF, NO ICE

[illegible]

Exhibit 3

Larry J. Wilkins
108 Woodley Ave.
Prattville, AL 36066
334-303-2525

Statement of Larry J. Wilkins

This statement is provided as an independent technical consultant for Marble City Media LLC which has asked my inspection of the facilities of FM translator W252BE(FX) in connection with Marble City Media's concerns as to the possible operation of W252BE(FX) at higher than licensed or authorized transmitter power levels and with an antenna at an unauthorized tower height. Marble City Media is experiencing ongoing interference of the translator to listeners of its WFXO(FM), Stewartville, Ala.

My qualifications as a broadcast engineer are well known to broadcasters and to the Federal Communications Commission. I have been a broadcast engineer since 1960 and most recently retired in 2007 after 10 years as Assistant Director of Engineering for Cumulus Media. I have built numerous radio/television studio and transmitter facilities. I served on the Board of Directors of the Society of Broadcast Engineers and hold Certified Professional Broadcast Engineer (CPBE), AM Directional (AMD), and Certified Broadcast Network Technology (CBNT) certifications. I was honored by SBE as Engineer of the Year in 2005 and awarded the grade of Fellow in 2013. I was named the Alabama Broadcasters Association's Broadcaster of the Year in 2015. I chair the Alabama EAS Committee and involvement in its liaison with the FCC and serve on the state's Amber Alert task force. In 2006, I began conducting inspections of stations under the Alternative Broadcast Inspection Program ("ABIP") in Alabama and South Carolina as a part of the FCC's nationwide ABIP program in cooperation with state broadcast associations. I provide technical advice as a consultant to the Alabama Broadcasters Association and I am the Executive Director and an instructor of the association's Engineering Academy which provides broadcast engineering educational courses for individuals interested in becoming a broadcast engineer or improving their skills.

My report and conclusions are as follows:

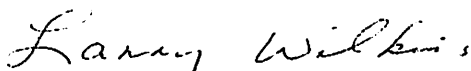
1. On June 18, 2018, I accompanied Frank Giardina, an experienced local broadcast engineer who is an engineering consultant to Marble City Media, in an inspection of the transmitter and tower site for W252BE(FX) which is on a tower owned by Nexstar Broadcasting Inc., located at 2075 Godwin Crest Dr., Birmingham, Ala. (ASR 1037278). The transmitter building is shared by transmitters and equipment of several stations.
2. As of the date and time of this visit, we observed the transmitter for W252BE(FX) in the transmitter building to be a Nautel VS-1, and its front-panel LCD display indicated a transmitter power output of 707 watts.
3. We found the antenna for W252BE(FX) used for operation of the station is a one-bay antenna located at approximately 750 feet above ground, just above the 4th guy wire connection to the tower shown on a Stainless Structural Analysis report as to the tower given to us by Marble City Media and fed by a 7/8" coaxial line.

4. The transmitter was rebroadcasting audio from WAYE-AM, licensed to Birmingham, Ala.
5. We also found no remote control equipment or other provisions connected to the transmitter. So far as I could determine, the licensee can control the transmitter only by coming to the transmitter building.
6. Apart from any review made by Frank Giardina, I personally reviewed W252BE(FX)'s authorizations in the FCC's publicly available database. I found that: (a) the current license authorizes transmitter power output of .365 Kw to produce .090 Kw effective radiated power with an antenna at 850 feet AGL; (b) an STA to operate with .112 Kw ERP at 708 feet granted by the FCC in 2016, due to transmission line problems (BESTA-20160518ACE), expired on Nov. 19, 2016; and (c) W252BE(FX) has a construction permit (BPFT-20170511AAL), granted June 21, 2017), to operate with a directional antenna at 446 feet with an ERP of .250 Kw.
7. Based upon my in-person observation of the antenna and transmitter, and my review of FCC authorizations mentioned above, I concluded as follows:
 - (a) W252BE(FX) is operating with a transmitter power output of .707 Kw, not its licensed .365 Kw TPO.
 - (b) W252BE(FX) is not operating on the tower with its licensed antenna height of 850 feet but instead is operating at a lower height of approximately 750 feet.
 - (c) My personal review of the FCC's online files disclosed no authorization for W252BE(FX) to operate with any antenna location on the tower other than at 850 feet; and I found no evidence that W252BE(FX) is authorized for a transmitter power output of .707 Kw.
 - (d) W252BE(FX) has not constructed its outstanding Construction Permit, BPFT-20170511AAL, which allows installation of a new directional antenna at a height of 446 feet on the tower.

In summary, based upon my inspection and review of records as I outlined above, W252BE(FX) is not operating in accordance with its licensed facilities, or with any other permanent or temporary FCC authorizations.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on June 27, 2018.



Larry J. Wilkins CPBE[®]
Engineering Consultant

Exhibit 4

Statement of Frank Lee Perryman

I am the Trustee of the Sole Member of the Frank Lee Perryman Trust Dated June 17, 2010, owner of Marble City Media LLC, licensee of WFXO-FM, Stewartville, Ala., which has been subject to interference from translator W252BE(FX), Tarrant, Ala., as set forth in a complaint regarding co-channel interference filed with the Federal Communications Commission on Feb. 10, 2017.

To assist in evaluation of the W252BE(FX) facilities, on June 30, 2018, I arranged for a telephoto photograph to be taken of the antenna noted in Frank Giardina's June 27, 2018, statement in paragraph 2(b) [his Photo #1] as the one currently being used by W252BE(FX) on a tower registered as ASR 1037278 at 2075 Godwin Crest Dr., Birmingham, Ala.

The close-up telephoto photograph is attached to this statement.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on July 3, 2018.



Frank Lee Perryman



CERTIFICATE OF SERVICE

I, Deborah N. Lunt, a Legal Assistant with the office of Fletcher, Heald & Hildreth PLC, hereby certify that a true and correct copy of the foregoing "Revival of Complaint and Petition for Cancellation of W252BE License" was sent on this 6th day of July, 2018, via First-Class United States mail, postage pre-paid, or as otherwise specified, to the following:

James Bradshaw (by e-mail)
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Robert Gates (by e-mail)
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

John C. Trent, Esq. (by email and mail)
Howard M. Weiss, Esq.
Law Office of Putbrese Hunsaker & Trent, P.C.
200 South Church Street
Woodstock, VA 22664
*Counsel to Shelby Broadcast Associates, LLC and
Valleydale Broadcasting, LLC*



Deborah N. Lunt