

WRPX is presently operating its translator pursuant to BLFT-20180801ABO, granted September 12, 2018.

The March 30, 2020 Decision with which Stewards now takes issue deals with the October 31, 2018 Complaint and its associated filings. The first sentence of the Decision makes that abundantly clear. Stewards' present complaint is with the Decision's analysis of the "method of listening" and the "attempts of private resolution".

The listener complaints submitted by Stewards consisted primarily of pre-printed forms supplied by WWIB using the terms "on 103.7" or "at 103.7". The Division correctly noted that these phrases do not necessarily mean that the listener was listening to the station over the air on that frequency. Indeed, even a WWIB listener receiving the signal by way of one of the WWIB translators might also state in response to an inquiry about a favorite station that he or she listens to 103.7 since that is the primary frequency of the station, is the first (or possibly only) frequency mentioned in the station identification announcements and in other promotional announcements, and is the frequency prominently displayed on the station's website. Thus, the Division's decision on this matter is correct.

With respect to attempts at private resolution, Stewards notes that "there was more than ample opportunity for WRPX to engage in dialog in light of the pleadings that had been filed". The FCC letter requesting the supplement asked for efforts made by the Complaining Station to effect a resolution. The correct answer is "None"

Stewards includes in its Petition a portion of an email from WRPX's technical consultant, who has also done consulting work for Stewards. Exhibit 2 hereto is the rest of that email string. Note that these emails are all in May 2017, well before the FCC

adjudication of the first Stewards complaint.³ The reference to “conditions as existed prior to April 2016” clearly refers to the world prior to the expansion of the allowable use of FM translators. That email string demonstrates that there was no attempt by Stewards’ ownership or management to communicate with WRPX’s ownership or management. The communication was between the WRPX consultant and the WWIB Chief Engineer.

Thus, the Division’s conclusion that there was no effort made by the Complaining Station is correct.

Stewards complains that it has not been given a date for completion of construction of the new antenna pattern as authorized on January 16, 2020. Mid-January is the height of a Wisconsin winter, in which the weather is not conducive to tower work. Additionally, shortly after that date, when the weather may have improved, much of the nation, including Wisconsin, has been basically shut down because of the Covid-19 virus and that remains the case.

Shortly after Stewards filed its October 21, 2019 Complaint, WRPX’s Technical Consultant reached out to WWIB’s Chief Engineer to communicate information which casts doubt upon Stewards’ affirmation of the location of the WWIB 45 dBu contour. While the station may be operating in accordance with the terms of its license, the station’s actual coverage is not the circular pattern shown, for example, on the station’s online public file coverage map. Exhibit 3 hereto is an email dated October 25, 2019 in which Mr. Mueller expresses doubt that the WWIB 45 dBu contour toward the translator is as shown in the Complaint.

³ It is worth noting that Mr. Wahl acknowledges that WWIB cannot expect regular listening westward beyond Baldwin, which is well within the alleged 45 dBu contour.

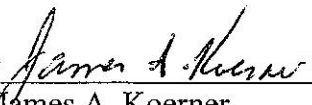
Mr. Mueller's email also refers to studies done more than 30 years ago, at the request of Stewards. Those studies show that the efficiency of the 11 bay antenna is only 75%. That same antenna is still in use today according to the current WWIB license (BLH-20000207ABP, issued May 8, 2000). Exhibit 4 hereto is a copy of a letter from Terry Steward to his then consulting engineer providing those studies and the pattern to which the letter refers as well as the consulting engineer's reaction to the studies.

While the WWIB license authorization may specify the antenna type as non-directional, the reality is that the antenna pattern is not, and has not been for decades, anything close to circular.

Stewards' complaints about the Division's Decision should be denied, and the Decision should be affirmed. Any future complaints by Stewards should recognize the inaccuracy of its alleged 45 dBu contour.

Respectfully submitted,

WRPX, INC.

By 
James A. Koerner
Its Attorney

Koerner & Olender, P.C.
7020 Richard Drive
Bethesda, MD 20817
(301)468-3336

May 12, 2020

EXHIBIT 1

KOERNER & OLENDER, P.C.

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**STAMP & RETURN
COPY**

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June 28, 2018

Accepted / Filed

*not admitted in MD

Marlene H. Dortch, Secretary
Federal Communications Commission
The Portals, TW-A325
445 Twelfth Street, S.W.
Washington, DC 20554

JUN 28 2018

Federal Communications Commission
Office of the Secretary

Re: Station W279DD
FID 141819
Hudson, WI

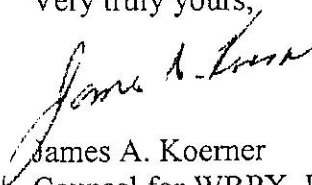
Dear Ms. Dortch:

On behalf of WRPX, Inc., licensee of FM Translator Station W279DD, Hudson, Wisconsin, there is attached a Declaration of Gregory O. Borgen concerning compliance with the terms of the June 11, 2018 letter regarding this station.

It should be noted that the reduction in power was a good faith belief that this would resolve the question of interference to the WWIB listeners who had previously complained, and that it was a remedial measure permissible under Section 74.1203(b) of the Rules which allows translators to operate briefly to determine the efficacy of remedial measures.

Should additional information in connection with this matter, please communicate with this office.

Very truly yours,


James A. Koerner
Counsel for WRPX, Inc.

DECLARATION

Gregory O. Borgen hereby declares as follows:

I am President and 100% owner of WRPX, Inc., licensee of Radio Station WDGY(AM), Hudson, Wisconsin and FM Translator Station W279DD, Hudson, Wisconsin, which rebroadcasts Daytime-Only Station WDGY.

At the time the FCC letter dated June 11, 2018 was received, I was out of the country, and had very limited contact. I returned home on June 21, 2018.

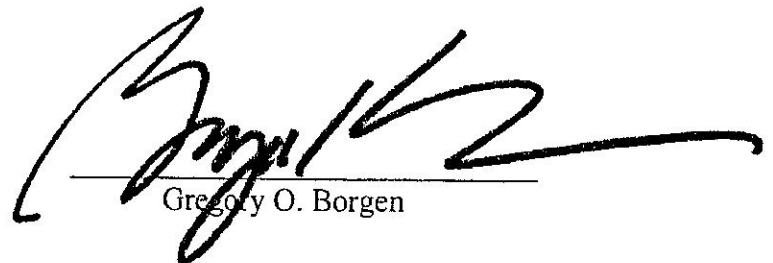
When my Consulting Engineer learned of the June 11 FCC letter he had the power of the translator reduced from the licensed 250 watts to 100 watts, believing that this would eliminate the interference claims made in the WWIB complaint against the translator.

After my review of the matter, and consultation with legal counsel, the translator was turned off, and remains so today.

A request for Special Temporary Authority to operate with reduced power has been filed. An application for modification to operate with a directional antenna will be filed shortly.

Date:

6-27-2018



Gregory O. Borgen

EXHIBIT 2

Mark A. Mueller

From: Pat Wahl <pwahl@wwib.com>
Sent: Thursday, May 25, 2017 4:40 PM
To: mark@muellerbroadcastdesign.com; Terry Steward; Greg Steward; Peter Tannenwald
Subject: Re: follow up on 103.7 translator in Hudson

Hi Mark,

Thanks for helping me understand where you guys are coming from. I was not sure (although I wondered) that you had few frequency options being so close to the Cities. And, I feel like the phone call we had a while back was a nice first step toward a creative engineering solution. Engineers are good at coming up with win-win solutions. Certainly this good is better than the alternative.

I agree with you that westward beyond Baldwin there isn't much reason to expect regular listening to wwib. Our listener response over the last 45 years bears this out, with a few exceptions. As I said before, we have an obligation to our long-time listeners around Boyceville, Glenwood City, Wilson and so forth. They have been a loyal part of our family for many years and we are in the right to look after them here. A farmer two miles northwest of Boyceville get's regular interference at his home, 43.5 miles from our transmitter site. I took a phone call last Tuesday from a guy just outside of Glenwood City (49 miles from our antenna site) who wanted me to know that he's waiting to see if anything can be done to get wwib back. Many are in the low to mid 50 mile range from us. Others are close to 60 miles out and have been listening to us for most of our history as a station. Surely, a 100,000 watt radio station should expect to serve its listeners within this range. These people are used to a solid, fairly clear signal that has been completely wiped out by another station. I grew up around here, so I know the area and how well our station is received.

As you mentioned on the phone, Mark, it seems reasonable to me that a directional antenna coverage pattern solution for the WDGY translator would provide meaningful (and certainly abundant population) coverage without blanket interference for our listeners in Baldwin and eastward. Would you be able to explore this a bit and let me know what kind of "real world" results we might be able to expect? I look forward to working this through with you for our mutual benefit.

Pat

P.S. Just as I was writing this email I received a call from Jerry who lives in Baldwin (in town). He said he has been listening since the mid 1980s to wwib. He has been missing us over these last months as he cannot receive us either "in the house or in the car in the driveway" now. I know the timing of that is kinda weird, but seriously, it just happened.

On Tue, May 23, 2017 at 5:25 PM, Mark A. Mueller <mark@muellerbroadcastdesign.com> wrote:

Pat,

The only way to "completely" eliminate the interference is to shut off the translator, which is not reasonably going to happen. There are no other frequencies available. Many of these areas are outside even the 100 uV/m (40 dBu) Longley-Rice contour and while you may have enjoyed sporadic service there before those days are rapidly coming to an end regardless of what happens with this translator. If this were an LPFM there would be no recourse whatsoever, and while I understand that you are trying to protect existing service no

matter how weak, the lack of complaints over the first 11 months of operation weighs heavily against a claim of "regularly used".

Borgen Broadcasting Corp. is willing to work with you to mitigate this but it is unreasonable for WWIB to expect the same conditions as existed prior to April 2016. Even if the translator is turned off, another will surely take its place. You would be better served to encourage those who are experiencing issues to switch to alternative program delivery, such as online via your webstream.

In any event, there are processes for this and it starts with identifying individual complainants at specific locations who will need to go on record as well as cooperate in the resolution of said complaints. That cooperation may include installation of a directional receive antenna for their radio.

- Mark

From: Pat Wahl [mailto:pwahl@wwib.com]
Sent: Tuesday, May 23, 2017 3:53 PM
To: mark@muellerbroadcastdesign.com; Terry Steward <tsteward@wwib.com>
Subject: Re: follow up on 103.7 translator in Hudson

Hi Mark,

I am passing your reply on to Terry Steward. I will clarify for you that each listener location I listed is an actual listener residence and refers to someone receiving interference AT their home. The mention of other listeners "out driving" in this area was only to potentially aid you in identifying the interference area as a means to resolving this problem. We continue to receive reports of interference in this area and wish to resolve this as soon as possible. Do you no longer wish to work on this together as we discussed on the phone?

Pat

On Tue, May 23, 2017 at 2:54 PM, Mark A. Mueller <mark@muellerbroadcastdesign.com> wrote:

Pat,

At this point you are going to have to follow the FCC procedures for this, which includes sworn statements from the complainants with specific names and addresses with contact information. A large problem here is that the time from the translator signing on to the first complaint is so long that the FCC requirement at §74.1203(a)(3) that it be a “regularly used signal” is not met. You’ve also got “people who notice interference when out driving yet have good signal at their homes”, which indicates that this is more of a radio issue than a signal issue.

- Mark

From: Pat Wahl [mailto:pwahl@wwib.com]
Sent: Tuesday, May 23, 2017 2:33 PM
To: mark@muellerbroadcastdesign.com
Subject: follow up on 103.7 translator in Hudson

Hi Mark,

Terry told me he called your office late last week and left a message for you. He wonders if you are on the road, since he hasn't heard back. He was calling to follow up on my email to you May 2nd. You can reach Terry at [715-559-6080](tel:715-559-6080).

Thanks!

Pat Wahl

WWIB/WOGO

[715-559-6577](tel:715-559-6577)

EXHIBIT 3

Mark A. Mueller

From: Mark A. Mueller <mark@muellerbroadcastdesign.com>
Sent: Friday, October 25, 2019 1:38 AM
To: 'Pat Wahl'; tannenwald@fhhlaw.com
Cc: 'Greg Borgen'; jkoerner.law@comcast.net
Subject: WWIB Interference Complaint
Attachments: W279DD - WWIB Map.pdf

Pat,

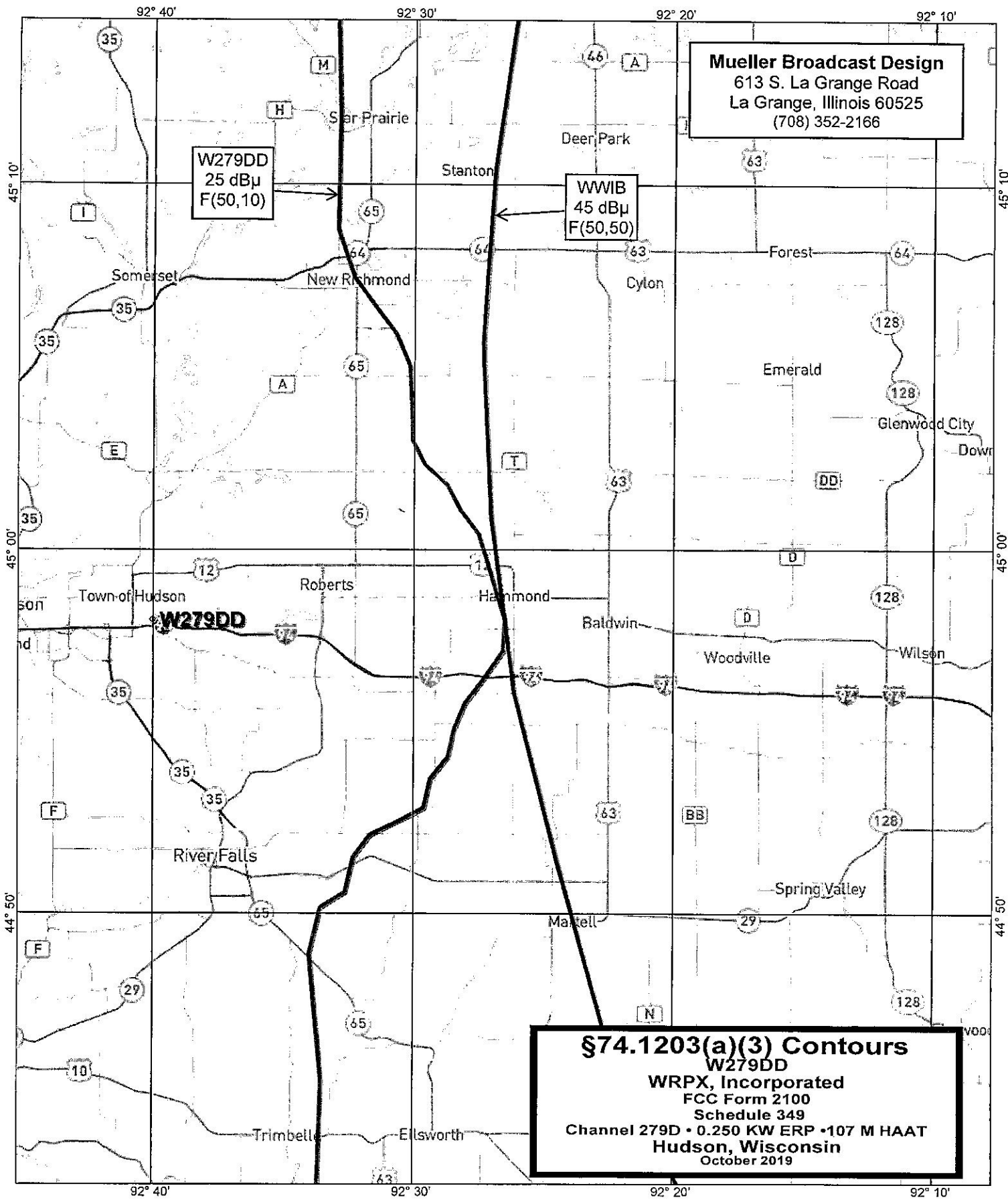
I am writing with the permission of WRPX, Inc. to inform you that it has responded to your October 21, 2019 WWIB interference complaint via LMS. An application to modify the W279DD antenna has been filed (file # 0000087322) which eliminates the W279DD 25 dBu overlap with the WWIB 45 dBu contour. This invalidates all of the WWIB allegations of interference per §74.1203(a)(3). A brief official response citing this minor modification application will be filed if the FCC notifies WRPX, Inc. of your latest complaint, requesting that it be dismissed as moot. I have attached the contour map filed with that application for your reference. I would appreciate it if you would sign off on this and accept it as the satisfactory resolution to these alleged complaints so we all can put this to bed and get on with life.

I thought you should know that in the process of investigating your latest filing I noted that some of your listeners made comments which cast doubt upon the performance of the WWIB antenna, mentioning difficulty receiving the station far closer to the transmitter site than W279DD could possibly cause interference. In fact, I am increasingly convinced that most of the complaints you have received are primarily due to WWIB not delivering the expected field intensities to the west since the W279DD field intensity (based on Longley-Rice) in those areas is quite low. While the FCC's 1950's-era allocation paradigm requires 20 dB co-channel contour protection modern FM radios operate quite well at half that or less. This in itself suggests that WWIB's facility may require an evaluation to determine if it is indeed operating according to the terms of its license.

As you know, Bob Jones abandoned his WWIB file at my office when he moved out, and it contains some 24 range and computer studies done by Electronics Research of the WWIB antenna as well as a dialog between him and Warren Steward more than 30 years ago discussing how to optimize coverage in certain directions. Besides revealing that the WWIB antenna radiation pattern is highly distorted it also shows that the RMS efficiency of the antenna is on the order of 75% what it should be. That means WWIB has been operating at closer to 56 KW ERP than 100 KW since it was installed 40+ years ago. There is also a mention of replacing it or changing the mounting arrangements to improve the situation, but I have no idea if that was ever done and I had planned to measure the WWIB radiation pattern in response to your latest complaint but as noted above I came up with a different, less complicated solution. I still might do that next time I am driving through the area just to satisfy my curiosity since according to the propagation prediction tools we now have much of the alleged interference should not be happening where your respondents claimed it is.

- Mark

Mueller Broadcast Design
613 S. La Grange Rd.
La Grange, IL 60525
(708) 352-2166



Mueller Broadcast Design
 613 S. La Grange Road
 La Grange, Illinois 60525
 (708) 352-2166

W279DD
 25 dBμ
 F(50,10)

WWIB
 45 dBμ
 F(50,50)

W279DD

§74.1203(a)(3) Contours
W279DD
 WRPX, Incorporated
 FCC Form 2100
 Schedule 349
 Channel 279D • 0.250 KW ERP • 107 M HAAT
 Hudson, Wisconsin
 October 2019



Scale: 1 : 250000.

EXHIBIT 4

wwib 103.7 FM

100,000 Watts Stereo
Broadcasting In Three States

Cornell, Wisconsin 54732
Telephone (715) 723-5131 or 239-6138

24 Hours

April 8, 1983

Mr. Bob Jones
Consulting Engineer
613 South LaGrange Road
LaGrange, Illinois 60525

Dear Bob:

Enclosed are several coverage graphs researched by Electronics Industries. The first twelve graphs concern our present antenna FMCP. Graphs 13-24 concern the new rototiller antenna FMH. The last two #25 and #26 concern the old antenna with new stainless steel brackets.

The study was conducted on the top section of a Rhone 80 tower similar to ours with the lighting conduit positioned on the middle of the tower on the east side. In the study a single bay antenna was used. It was located specifically as noted on each of the graphs.

Figure 1 and 2 show our present antenna orientation. Talking with Electronics Industries, they said that since we had an 11-bay antenna we needed to combine figures 1 and 2 to give us an average of our signal pattern.

We have enclosed transparencies and a coverage map. By centering the transparencies over the map, it gives you an idea where the signal is going. Another way we have used them is to project the overlays over a Wisconsin map. Then by enlarging the pattern on the overhead, we expand our signal to touch the translators. From that we can tell where our signal is going from Cornell. For example, we discovered that Marshfield, Stevens Point and Wisconsin Rapids are receiving primarily a vertical signal. They have been our weakest translators. Now we can tell them to change their antennas to a vertical position for better reception.

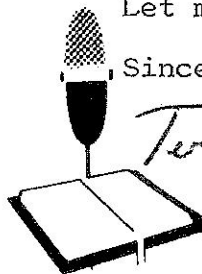
From the study we've concluded that the old antenna will give us better coverage for our purposes than a new antenna. We are also looking at figure #10 which would require us to move the antenna to the southeast leg. By moving it we would have to purchase stainless steel brackets costing \$2000.00. Would it be worth it? Would it hurt our current coverage? Or would it improve it?

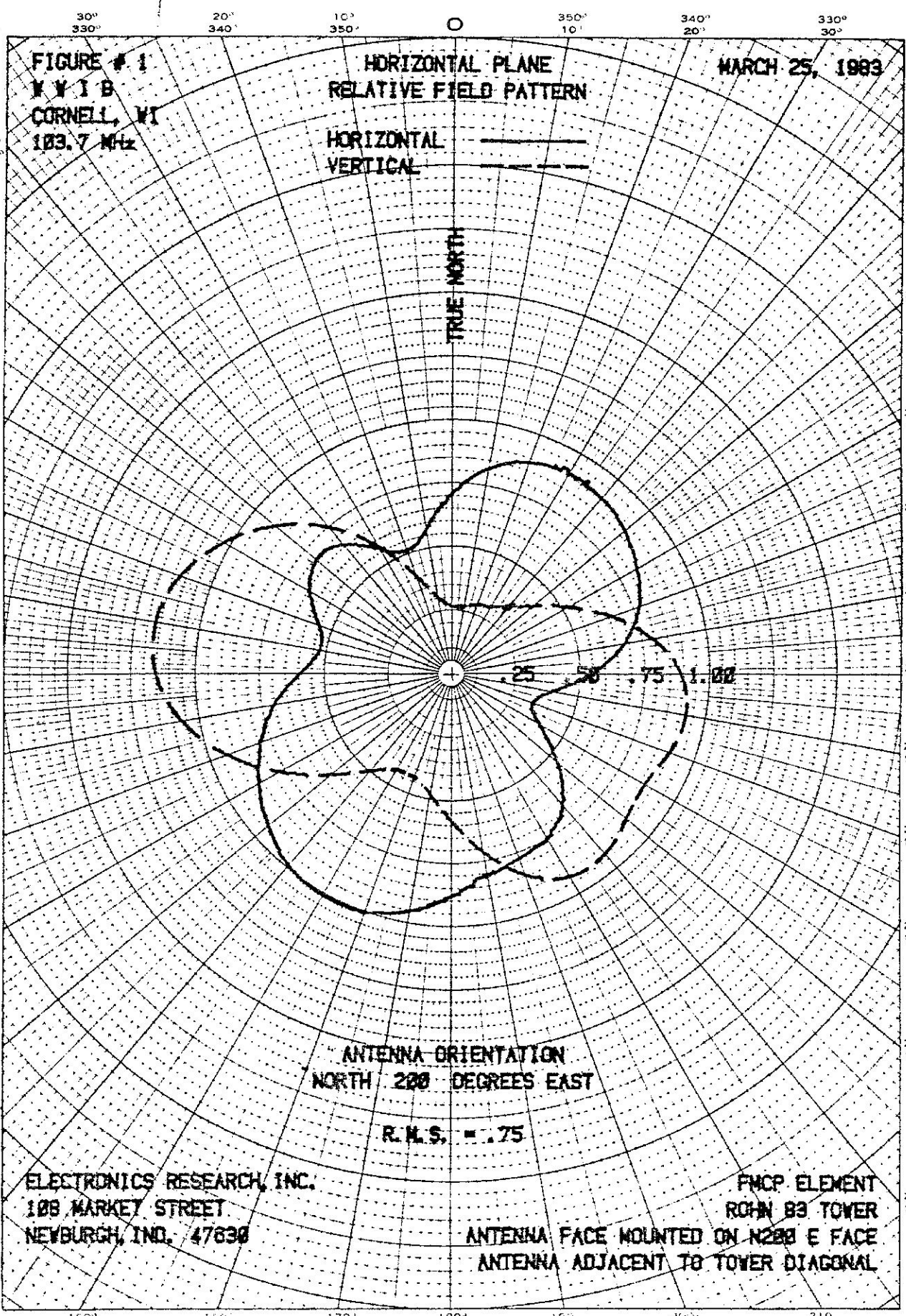
Let me know what insight you have on this study.

Sincerely,



Terry D. Steward
Manager





Ernst

PL-46C (REV. 10-6-71)

MADE IN U.S.A.

April 18, 1983

Mr. Terry D. Steward
WWIB Radio
P.O. Box 44
Cornell, Wisconsin 54732

Dear Terry:

I appreciate the FM patterns. I was a little surprised to see how non-circular the present antenna is.

I agree let's go with Number 10. It is a good compromise. I also agree we should not replace the present antenna. It won't hurt our present coverage.

Sincerely,

Robert A. Jones

RAJ:pk

CERTIFICATE OF SERVICE

I, James A. Koerner, do hereby certify that a copy of the foregoing "Opposition to Petition for Reconsideration" was served this 12th day of May, 2020 by electronic mail to:

Peter Tannenwald, Esq.
tannenwald@fhhlaw.com
Fletcher, Heald & Hildreth, PLC
1300 N. 17th St., 11th Floor
Arlington, VA 22209-0438


James A. Koerner