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In Reply Refer to:

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In re: **WJSJ(FM), Fernandina Beach, FL**
Facility ID No. 40483
Scott Savage, Receiver

Request for Approval of Main Studio
Relocation

Dear Mr. Prak:

This letter concerns the August 25, 2011, request, filed on behalf of Scott Savage, Receiver (“Savage”), licensee of Station WJSJ(FM), Fernandina Beach, Florida (the “Station”), for approval of the relocation of the Station’s main studio to 9090 Hogan Road in Jacksonville, Florida (the “Request”). For the reasons set forth below, we *sua sponte* waive Section 73.1125 of the Commission’s Rules to permit the temporary relocation of the Station’s main studio.

Background. The Commission’s main studio rule requires that each broadcast station operate a main studio within the station’s community of license; at any location within the principal community contour of any station, of any service, licensed to its community of license; or within 25 miles of the reference coordinates of the center of its community of license, whichever it chooses.¹ Written authority is required if a licensee locates a main studio outside the described boundaries.²

In the Request, Savage indicates that he is the court-appointed receiver for the Station and Station WFJO(FM), Jacksonville, Florida, both of which are located in the Jacksonville, Florida, Arbitron radio market. Savage indicates that he desires to collocate the main studios of the two stations “to achieve much-needed economies due to the financial constraints on these distressed assets” and his fiduciary obligation to act in the best interests of the Station. He states that the Hogan Road studio location is 25.6 miles from the reference coordinates of Fernandina Beach³ and is not within the principal community contour of any station licensed to Fernandina Beach as calculated using the standard contour prediction methodology set forth in Section 73.313 of the Rules.⁴

¹ 47 C.F.R. § 73.1125(a).

² 47 C.F.R. § 73.1125(d)(2).

³ Savage claims that the .6 mile (approximately 1 kilometer) deviation from the geographic requirements of Section 73.1125 is *de minimis*. Request at 2.

⁴ 47 C.F.R. § 73.313.

However, Savage submits a technical exhibit purporting to show that, as measured by the Longley-Rice alternative contour-prediction methodology, the Hogan Road Location falls within the Station's principal community contour. Savage therefore requests that the Media Bureau authorize the relocation of the Station's main studio to the Hogan Road location.

Discussion. We referred the Request to the Technical Analysis Branch of the Commission's Office of Engineering and Technology (the "Branch") for evaluation. The Branch, incorporating an appropriate "clutter factor," concluded that the Station's principal community contour would not encompass the Hogan Road studio site. We therefore will deny the Request.

Nevertheless, we find good cause to temporarily waive, *sua sponte*, Section 73.1125 of the Rules on the facts presented here.⁵ The provisions of Section 73.1125 are intended to be a means of assuring that the needs and interests of residents of a broadcast station's community of license are met and that the station serves as an outlet for local self-expression. The policy of requiring a readily accessible main studio has long been seen to be an integral means by which the Commission facilitates service to a community of license.⁶ We believe that the purpose of the Rule will not be undercut by permitting the Station's studio to be collocated with that of co-owned Station WFJO(FM) during the receiver's temporary stewardship of the Station and where the deviation from the geographic parameters set forth in the rule, as the receiver avers, can be classified as *de minimis*.⁷ Moreover, it will enable Savage to conserve station resources for the benefit of creditors pending sale of the Station to a qualified third-party purchaser.

Accordingly, IT IS ORDERED, that Section 73.1125 of the Commission's Rules IS WAIVED to permit Scott Savage, Receiver, to temporarily relocate the main studio of Station WJSJ(FM), Fernandina Beach, Florida, at 9090 Hogan Road in Jacksonville, Florida. IT IS FURTHER ORDERED, that this waiver SHALL EXPIRE upon the assignment of the license of WJSJ(FM). IT IS FURTHER ORDERED, that the August 25, 2011, Request for Approval of Main Studio Relocation filed on behalf of Scott Savage, Receiver, IS DENIED in all other respects.

Sincerely,

Peter H. Doyle
Chief, Audio Division
Media Bureau

cc: Scott Savage, Receiver

⁵ A waiver is appropriate only if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest. *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1157-59 (D.C. Cir. 1969)).

⁶ See *FM-TV Main Studio Moves*, Report and Order, 27 FCC 2d 851, 852 (1971).

⁷ We emphasize that the waiver granted here attaches only to Savage, the court-appointed receiver of the Station. The ultimate purchaser of the Station will be required to operate the Station with a rule-compliant main studio.