# FEDERAL COMMUNICATIONS COMMISSION

445 12th Street SW
WASHINGTON DC 20554

MEDIA BUREAU
AUDIO DIVISION
TECHNICAL PROCESSING GROUP
APPLICATION STATUS: (202) 418-2730
HOME PAGE: www.fcc.gov/mb/audio/

PROCESSING ENGINEER: Dale Bickel
TELEPHONE: (202) 418-2700
FACSIMILE: (202) 418-1411
MAIL STOP: 2-B450
INTERNET ADDRESS: dbickel@fcc.gov

September 19, 2006

Sebago Broadcasting Company, L.L.C.
6139 Franklin Park Road
McLean, VA 22101

In re: WCTG (FM), Chincoteague, VA
Sebago Broadcasting Company, L.L.C.
Facility ID 88405
Application BPH-20060818AEQ

Gentlemen:

This letter is in reference to the above-captioned "one step" application to modify WCTG, Chincoteague, VA from Class A to Class B1. The application proposes contour protection with respect to cochannel station WKLR, Fort Lee, VA.

As filed, the application is unacceptable for filing. A one-step upgrade application requires that a fully spaced allotment reference site be specified that would provide 70 dBu coverage over the community of license, assuming reference facilities for the station's class. However, the coordinates specified for the allotment reference site in *this* application abjectly fail to meet the minimum separation requirements of Section 73.207. Specifically, the allotment reference site is spaced only 38.8 km from third-adjacent channel station WOSC, Bethany Beach, DE, whereas Section 73.207 requires a minimum separation of 50.0 km. Similarly, the allotment reference site is spaced 33.9 km from the licensed site of third-adjacent channel station WQJZ, Ocean Pines, MD, and only 33.3 km from WQJZ's construction permit BPH-20041116ACQ: Section 73.207 requires a minimum separation of 48 km. These third-adjacent channel spacings are not shown in the applicant's spacing exhibit for the proposed allotment reference site. Consequently, we find the allotment reference coordinates violate Section 73.207.

There is another, independent reason for finding the application unacceptable for filing. We plot the allotment reference coordinates just offshore to the east from Assateague Island, in the Atlantic Ocean. But even assuming for the sake of argument that the allotment coordinates were moved westward slightly to put them on shore, still the coordinates would fall within the confines of Assateague Island National Seashore. Review of past cases shows that the Commission has occasionally permitted allotment reference coordinates on offshore islands, but only upon a showing that the site is available and suitable for broadcasting. In *Table of Allotments, Atlantic City, NJ*, 57 RR 2d 1436 (1985), an allotment had been created where the reference coordinates were located a mile offshore to meet the spacing requirements of Section 73.207. The petitioner in that proceeding was requested to furnish data concerning the federal, state, and local requirements applicable to such a location; the petitioner provided "extensive information" to show that there were no unusual problems involved.[1] In *Table of Allotments, Oak Beach and Bay Shore, NY,* 57 RR 2d 1275 (1985) an allotment in the Fire Island National Seashore was created only because the petitioner was able to secure a lease agreement to use the only available non-short-spaced

[1] The Atlantic City allotment was deleted after the proponent failed to file a construction permit application for the new allotment, and no other party filed an application for a fully spaced transmitter site.

transmitter site (a lighthouse). In *Table of Allotments, Clewiston, Fort Myers Villas, Indiantown, Jupiter, Key Colony Beach, Key Largo, Marathon and Naples, Florida*, 10 FCC Rcd 6548 (1995) the Allocations Branch refused to create an allotment reference site on Sanibel Island due to its "environmentally sensitive" nature which made the location impossible to use.

Here, the applicant has not provided any information to show that the proposed allotment site is suitable for broadcast operation. Nothing is provided to document the feasibility of broadcast use of Assateague Island, in particular the significant technical, environmental, and governmental hurdles that would need to be overcome. Nor has the applicant provided any information that might demonstrate that it could prevail were it to pursue this site. As the Allocations Branch stated in *Crestview and Westbay, Florida*, 7 FCC Rcd 3059 (1992):

> The underlying requirement for an allotment is the reasonable expectation that a useable site is available in compliance with the minimum spacing requirements. We will not allot a channel where a properly spaced site is technically infeasible. Although the Commission generally presumes in rule making proceedings that a technically feasible site is available, that presumption is rebuttable. *See San Clemente, California,* 3 FCC Rcd 6728 (1988), *appeal denied sub nom. Mount Wilson FM Broadcasters, Inc. v. FCC,* 884 F.2d 1462 (D.C. Cir. 1989).

Given the information before us, we cannot conclude that an Assateague Island location is suitable for broadcast operation, and consequently it cannot be used as an allotment reference site for WCTG's proposed Class B1 operation.[2] Nor does it appear that there is any other location that would satisfy the allotment requirements for a Class B1 allotment on Channel 243 for WCTG.

Consequently, application BPH-20060818AEQ IS DISMISSED.

Sincerely,

Dale E. Bickel
Senior Engineer
Audio Division
Media Bureau

cc: Gammon and Grange
: Communications Technologies, Inc.

[2] Because the site has not been found suitable for tower construction, we need not consider the issue of whether the site could be made available for broadcast use.