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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

VIA HAND DELIVERY

Ms. Donna R. Searcy  
Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

Re: MM Docket No. 92-81, RM-7875  
Farmington and Gallup, New Mexico

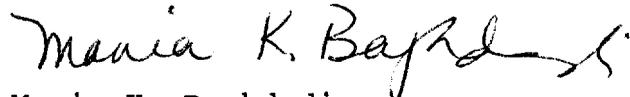
Dear Ms. Searcy:

Transmitted herewith, on behalf of KOB-TV, Inc., are an original and four (4) copies of its "Comments and/or Counterproposal" in response to the Commission's Notice of Proposed Rule Making in MM Docket No. 92-81, 7 FCC Rcd 2382, (1992).

If there are any questions, please communicate with this office.

Very truly yours,

FLETCHER, HEALD & HILDRETH



Mania K. Baghdadi  
Counsel for KOB-TV, Inc.

MKB/cla  
Enclosures

cc (with enclosure):  
Mr. Michael C. Ruger (by hand)  
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BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

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JUN - 8 1992

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	MM Docket No. 92-81
	)	
Amendment of Section 73.606(h)	)	RM-7875
Table of Allotments	)	
Television Broadcast Stations	)	
Farmington and Gallup, New Mexico	)	

Directed to: Acting Chief, Allocations Branch

COMMENTS AND/OR COUNTERPROPOSAL

KOB-TV, Inc. ("KOB"), licensee of Stations KOB-TV, Albuquerque, New Mexico, and KOB(TV), Farmington, New Mexico, by its counsel, hereby files its "Comments and/or Counterproposal" in response to the Commission's Notice of Proposed Rule Making ("Notice") in the above-captioned proceeding, 7 FCC Rcd 2382 (1992). KOB urges the Commission not to reallocate Channel 3 from Gallup to Farmington, but rather to allot an alternate channel at Farmington and modify KOAV-TV's authorization in accord with that allotment. In support whereof, it is respectfully stated as follows:

Preliminary Statement

The FCC's Notice seeks comments on the proposal to reallocate Channel 3 from Gallup to Farmington, New Mexico, as Farmington's second local commercial VHF television service, and to modify the permit of the petitioner, Pulitzer Broadcasting Company ("Pulitzer"), for Station KOAV-TV, Channel 3, Gallup, New Mexico, to specify Farmington as its community of license.

KOB provides service to Gallup and the nearby Navajo Indian nation. Translator station K06IS rebroadcasts the programming of KOB(TV) whose signal is made available to the translator by microwave in order to assure a high quality signal. KOB also has two employees located in its Gallup office: one news person and one sales person. News and other programming information from Gallup are incorporated within KOB's programming.

By filing its petition, Pulitzer has shown that it does not desire to construct a television station on Channel 3 at Gallup. On the other hand, KOB stands ready, willing and qualified to construct such a station. Accordingly, KOB urges the FCC to leave Channel 3 at Gallup, allot a new UHF channel to Farmington, and modify Pulitzer's permit for KOAV-TV to specify operation on the new UHF channel in Farmington.<sup>1</sup> Should the FCC leave Channel 3 in Gallup and modify Pulitzer's permit to specify a UHF channel in Farmington, KOB hereby states its intent to apply for a new television station on Channel 3 in Gallup and, if authorized, to build and operate the station promptly.<sup>2</sup>

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<sup>1</sup> KOB recognizes that Section 1.420(i) of the FCC's Rules requires that the new channel allotted to Farmington at Pulitzer's request be mutually exclusive with Channel 3 at Gallup. However, that rule section does not preclude the FCC from modifying KOAV's permit, where it would serve the public interest, in order to accommodate KOB's counterproposal.

<sup>2</sup> KOB's consulting engineer did a frequency search to find a VHF channel for Farmington that would permit Pulitzer to operate on a VHF channel at Farmington while allowing Channel 3 to remain at Gallup. This effort was unsuccessful. While Channel 10 is allocated to Gallup, as will be shown herein, KOB's use of Channel 10 would be significantly more disruptive to existing translators.

### Argument

The FCC stated, in the Notice, that a grant of Pulitzer's proposal must be predicated on a finding that the reallocation would result in a preferential arrangement of allotments. Notice, par. 6. However, the preferential allotment of Channel 3 would be to leave that channel in Gallup and to allot a new UHF channel to Farmington for KOAV-TV.

As is shown in the Technical Statement of W. Jeffrey Reynolds, of the engineering firm of du Treil, Lundin & Rackley, Inc., attached hereto as Exhibit 1, the reallocation of Channel 3 from Gallup to Farmington would result in a loss of predicted first Grade B service to (and creating a "white area" consisting of) an estimated 58,715 persons (1990 Census) within an area of 8,801 square kilometers from Station KOAV-TV, as currently authorized.<sup>3</sup>

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<sup>3</sup> By contrast, as the FCC stated in the Notice, Pulitzer claims that only 11,232 persons would receive a first Grade B service from the proposed Farmington Channel 3 station. Notice, par. 8. Pulitzer also claims a second service to 90,462 persons in 13,095 square kilometers. However, the second service figures are apparently based on factoring in terrain obstructions between Durango, Colorado, and Farmington, Bloomfield and Aztec, New Mexico, as applied to the predicted coverage of Station KREZ-TV, Durango, and Pulitzer fails to apply this factor across the board, as the FCC noted in requesting that Pulitzer provide a modified contour for Station KOAV at Farmington which accounts for signal shielding in the direction of Durango. Notice, par. 7. Further, Pulitzer's claims are based on assumed facilities of 100 kilowatts at 150 meters HAAT. Pulitzer has not demonstrated that it can achieve those facilities, and the consequent claimed service benefits. Finally, the FCC has noted that TV field strength measurements, by themselves, are subject to too much variation in results, errors in conversion and other problems to allow them to be routinely accepted to establish contour locations. Notice of Proposed Rule Making in MM Docket No. 89-68, 4 FCC Rcd 2515, 2516 (Chief, Allocations Branch 1989).

Under Section 307(b) of the Communications Act and the Commission's television allocation priorities, provision of at least one television service to all parts of the United States is the highest priority. See Sixth Report and Order on Television Allocations, 41 FCC 148, 167 (1952). There are no countervailing benefits flowing from the proposal to reallocate Channel 3 from Gallup to Farmington that could compensate for the loss of the white area service that could be provided by the only station for which a construction permit is outstanding at Gallup.

The FCC has a long-standing policy of declining to reallocate a channel where there has been an interest expressed in the channel at its existing location absent compelling reasons for the reallocation. See Report and Order in MM Docket No. 87-309 (Montrose and Scranton, Pennsylvania), 3 FCC Rcd 1061, 1062 (Chief, Allocations Branch, 1988), recon. denied, 4 FCC Rcd 7799, 7799 (Chief, Policy and Rules Division, 1989), review denied, 5 FCC Rcd 6305, 6306 (1990). See also Report and Order in MM Docket No. 88-595 (Casper and Sheridan, Wyoming), 6 FCC Rcd 2880, 2881 (Chief, Allocations Branch 1991); Report and Order in MM Docket No. 89-91 (Billings and Lewistown, Montana), 6 FCC Rcd 3632 (Chief, Allocations Branch, 1991); Report and Order in BC Docket No. 82-351 (La Salle and Pontiac, Illinois), 53 R.R.2d 392, 393 (Chief, Policy and Rules Division 1983); Report and Order in Docket No. 19937 (Red Oak, Iowa), 46 F.C.C.2d 344 (1974); Report and Order in BC Docket No. 81-411 (Martin & Salyersville, Kentucky), 50 R.R.2d 502, 503 (Acting Chief, Policy and Rules Division 1981).

Provision of a second local commercial VHF service and the other benefits claimed by Pulitzer are not compelling reasons for the reallocation especially given the substantial loss of first service resulting from the proposal. Cf. Memorandum Opinion and Order in MM Docket No. 87-309, 5 FCC Rcd 6305, 6306 (1990) (provision of a first local service is not a sufficiently compelling reason to override the FCC's policy not to reallocate a channel for which an interest has been expressed).

Further, reallocation of Channel 3 to Farmington would not be preferential to leaving the channel at Gallup because thirty-two UHF channels are available for allocation to Farmington, including Channels 24-25, 28, 31, 36, 38-39, 42-46, 49 and 51-69. See Exhibit 1 hereto.<sup>4</sup> Were the FCC to allocate one of these channels to Farmington, modify Pulitzer's permit for KOAV-TV to specify operation on the new UHF Channel at Farmington, and leave Channel 3 vacant at Gallup, thus permitting KOB to apply for a new station on Channel 3 at Gallup, the FCC could achieve a major benefit claimed by Pulitzer for its proposal--provision of first local competitive service to Farmington--without depriving those in KOAV-TV's Grade B service contour of potential service.

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<sup>4</sup> KOB understands that Pulitzer may prefer a VHF channel at Farmington. However, Pulitzer's preference for a VHF channel does not override the FCC's allocation priorities. Further, the FCC has stated its view that, although stations operating in the VHF and UHF bands are marked by distinguishing factors, they together constitute an integrated single television service. Sixth Report and Order, 41 FCC 148, 207-208 (1952). Thus, UHF and VHF channels should be considered essentially equivalent, since either would permit new television service to Farmington, despite their different propagation characteristics.

Retention of Channel 3 at Gallup is also preferable to its reallocation to Farmington because it would cause less disruption to existing translator service in the Farmington and Gallup areas. Use of Channel 3 at Farmington could interfere with the operation of 25 licensed TV translator stations; whereas, were KOB to apply for and use Channel 10 at Gallup instead of Channel 3, it could interfere with 32 licensed TV translator stations, a total of 57 translators potentially affected. By contrast, the use of Channel 3 at Gallup potentially affects only 13 translators. See Exhibit 1. While translators are secondary and the FCC does not normally take them into account in making changes in the TV Table of Allotments under Section 74.702(b) of the rules, due to the nature of the areas served by the translators that would be subject to interference in this case and the unavailability of other over-the-air or cable services, there is strong reason not to disrupt the service of those existing translators when allotments can be made which will afford Pulitzer a channel in Farmington while avoiding undue disruption. Cf. Report and Order in BC Docket No. 82-8 (Seattle and Tacoma, Washington), 52 R.R.2d 211, 213 (Chief, Policy and Rules Division 1982).

Accordingly, for the foregoing reasons, KOB-TV, Inc. respectfully urges the FCC not to reallocate Channel 3 from Gallup, to allot a UHF channel to Farmington, and to modify Pulitzer's

construction permit for KOAV-TV to specify operation on the new UHF channel at Farmington.

Respectfully submitted,

KOB-TV, INC.

By:   
Marvin Rosenberg  
Mania K. Baghdadi

Its Attorneys

FLETCHER, HEALD & HILDRETH  
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Washington, D.C. 20036  
(202)828-5700

June 8, 1992

EXHIBIT 1

TECHNICAL STATEMENT  
IN SUPPORT OF THE COMMENTS OF  
KOB-TV INC.  
FARMINGTON AND GALLUP, NEW MEXICO

This technical statement and associated exhibits have been prepared on behalf of KOB-TV Inc. (KOB-TV) in support of comments in the Federal Communications Commission's Notice of Proposed Rule Making in MM Docket No. 92-81 (Docket). KOB-TV is the licensee of TV stations KOB-TV, channel 4, Albuquerque, New Mexico and KOB-F, channel 12, Farmington, New Mexico.

The Docket was issued in response to a request from Pulitzer Broadcasting Company (Pulitzer), permittee of TV station KOAV, channel 3, Gallup, New Mexico, and proposes the reallocation of channel 3 from Gallup to Farmington and the modification of the construction permit (FCC File No. BPCT-891010KG) of KOAV to specify Farmington as its community of license.

Summary of Supplemental Comments

1. Adoption of the Pulitzer reallocation proposal will create TV "white" (0 service) within the loss area.
2. At least 32 UHF TV channels are available for allocation to Farmington.
3. Adoption of the Pulitzer reallocation proposal has the potential to adversely affect 57 licensed TV translator stations, whereas use of channel 3 at Gallup has the potential to adversely affect 13 licensed TV translator stations.

TV "White" Area Within the Loss Area

Figure 1, attached hereto, is a portion of a World Aeronautical Chart having a scale of 1:1,000,000 which shows the Grade B (47 dBu) contour for KOAV based on its authorized facilities of an effective radiated power of 24 kilowatts and an antenna height above average terrain of 31 meters (102 feet). It has been determined that the KOAV Grade B contour contains an estimated 1990 U.S. Census population of 58,715 persons within an area of 8,801 square kilometers (3398 square miles). This represents the area that will lose service as a result of adoption of the Pulitzer reallocation proposal.

Figure 1 also depicts the TV Grade B contours for other existing, authorized and proposed stations which provide service to the KOAV Grade B contour, or "loss" area. As shown, there are no other Grade B services available within the KOAV Grade B contour. Therefore, adoption of the Pulitzer reallocation proposal will result in a loss area consisting entirely of TV "white" (0 service) area containing a population of 58,715 persons within an area of 8,801 square kilometers.

The population within the KOAV Grade B contour was calculated using a computer program that utilizes the 1990 U.S. Census database of "population centroids." The program adds the population of those U.S. Census designated areas whose centroids lie within the Grade B contour. The area was calculated using a root mean square algorithm. The distances to the Grade B contours depicted on Figure 1 were calculated in accordance with the Commission's Rules assuming uniform terrain.

Available Farmington UHF Allotments

A UHF channel search was conducted from the Farmington reference point contained in the Index to the National Atlas.<sup>1</sup> The search utilized the minimum distance separations contained 47 CFR 73.610. The results indicate that 32 UHF channels are fully-spaced and available for allotment to Farmington. Those channels are 24-25, 28, 31, 36, 38-39, 42-46, 49 and 51-69.

Translator Service Disruption

Adoption of the Pulitzer reallocation proposal has the potential to affect 57 licensed TV translator stations. Specifically, the activation of channel 3 at Farmington could adversely affect 25 licensed TV translator stations and the activation of the vacant channel 10 allotment at Gallup as a replacement for channel 3 could adversely affect 32 licensed TV translator stations. Conversely, the use of channel 3 at Gallup has the potential to affect 13 licensed TV translator stations. The criteria contained in paragraph 26 of the Report and Order in BC Docket No. 78-253 (An Inquiry into the Future Role of Low Power Television Broadcasting and Television Translators in the National Telecommunications System) were used to determine potentially affected stations. Based on those criteria, potentially affected co-channel and adjacent channel stations were located within 338 kilometers (210 miles) and 145 kilometers (90 miles), respectively, of

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<sup>1</sup>The geographic coordinates listed in the Index to the National Atlas for Farmington are Latitude 36° 44' 00", Longitude 108° 12' 12".

*du Treil, Lundin & Rackley, Inc.*

A Subsidiary of A. D. Ring, P. C.

Page 4

Farmington and Gallup, New Mexico

each allotment. Potential adverse effects to the licensed translator stations include required facility modifications such as channel changes. The actual adverse effects depend on facilities used for channel 3 and 10. Figure 2 tabulates the potentially affected TV translator stations.

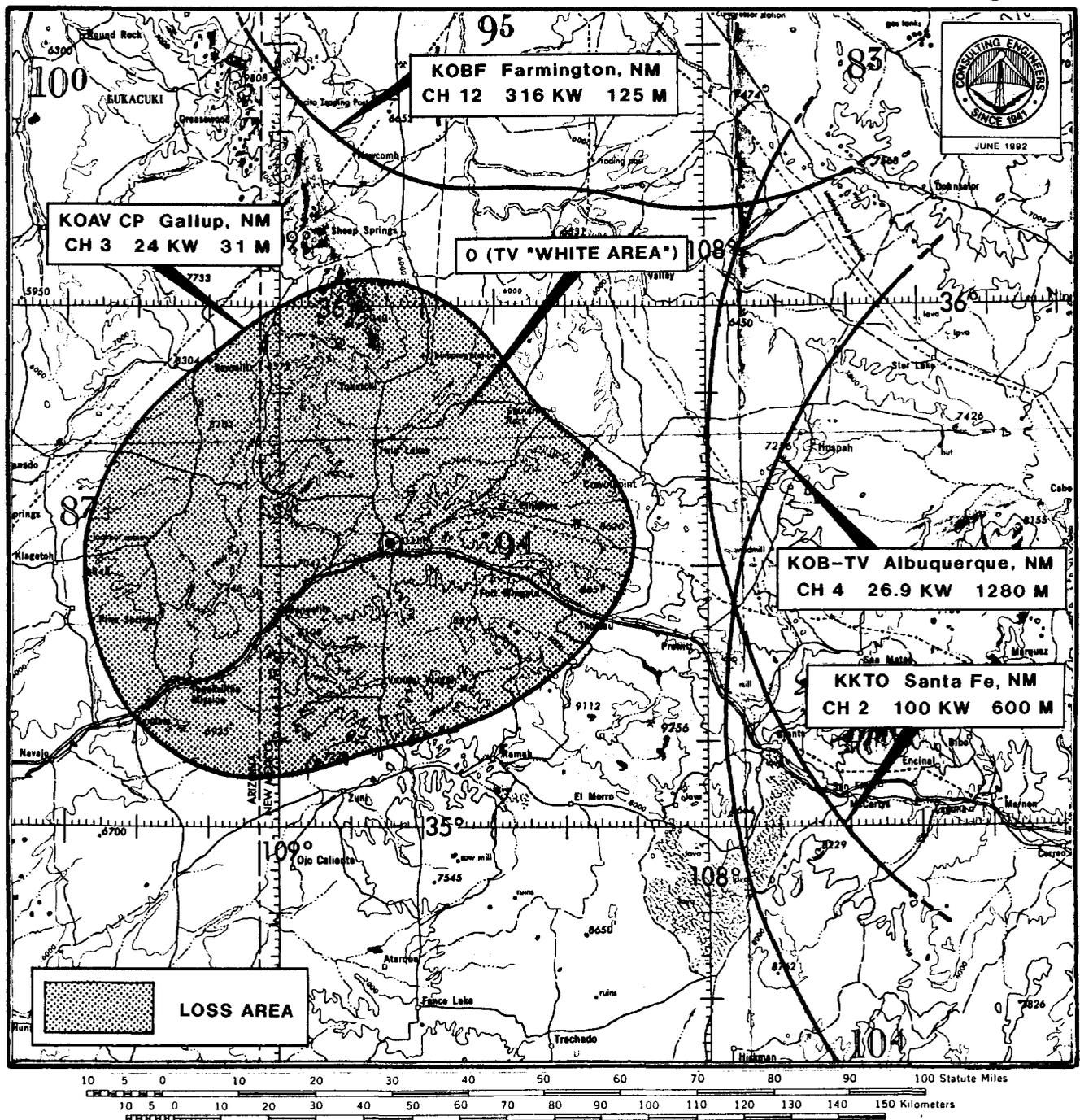


W. Jeffrey Reynolds

du Treil, Lundin & Rackley, Inc.  
1019 19th Street, N.W., Suite 300  
Washington, D.C. 20036  
(202) 223-6700

June 3, 1992

Figure 1



## TV GRADE B SERVICES WITHIN LOSS AREA

duTreil, Lundin & Rackley, Inc. Washington, D.C.

TECHNICAL STATEMENT  
IN SUPPORT OF THE COMMENTS OF  
KOB-TV INC.  
FARMINGTON AND GALLUP, NEW MEXICO

TV Translator Stations Potentially Affected  
by Adoption of the Pulitzer Reallocation Proposal

I. Licensed TV Translator Stations Potentially Affected  
by Channel 3 Activation at Farmington

<u>Call/Location</u>	<u>Facilities</u>	<u>Distance/1</u>
K02HM, Allison-Arboles, CO	CH 2, 0.007 kW DA	77.4
K04NK, Dolores, CO	CH 4, 0.005 kW DA	91.8
K02EH, Ute Park, NM	CH 2, 0.137 kW DA	92.4
K02ET, Vallecito, CO	CH 2, 0.038 kW DA	94.4
K02MF, Cahone, CO	CH 2, 0.225 kW DA	112.7
K04DV, Navajo, NM	CH 4, 0.007 kW DA	116.7
K02IL, Pagosa Springs, CO	CH 2, 0.06 kW DA	118.7
K04NS, Pagosa Springs, CO	CH 4, 0.002 kW DA	118.7
K02HX, Upper Piedra, CO	CH 2, 0.002 kW DA	121.7
K02EA, Chromo, CO	CH 2, 0.003 kW DA	124.0
K02IR, Coyote, NM	CH 2, 0.014 kW DA	143.5
K03FX, Placerville, CO	CH 3, 0.02 kW DA	147.0
K03AY, Ridgway, CO	CH 3, 0.022 kW DA	169.1
K03FQ, Uravan, CO	CH 3, 0.007 kW DA	195.0
K03CO, Alamosa, CO	CH 3, 0.136 kW DA	223.1
K03EY, Doyleville, CO	CH 3, 0.003 kW DA	240.8
K03CZ, Red River, NM	CH 3, 0.033 kW DA	250.7
K03FR, La Veta, CO	CH 3, 0.006 kW DA	295.6
K03DW, Aspen, CO	CH 3, 0.012 kW DA	304.6
K03AJ, Lower Fryingpan, CO	CH 3, 0.012 kW DA	319.4
K03FB, Snowflake, AZ	CH 3, 0.027 kW DA	319.4
K03FS, New Castle, CO	CH 3, 0.011 kW DA	322.9
K03EQ, Douglas Creek, CO	CH 3, 0.082 kW DA	326.8
K03CD, Leadville, CO	CH 3, 0.011 kW DA	334.5
K03DO, Hoehne, CO	CH 3, 0.004 kW DA	336.3

Total 25

1 Distance calculations from proposed allotment reference coordinates, Latitude 36°41'48", Longitude 108°10'39".

II. Licensed TV Translator Stations Potentially Affected  
by Channel 10 Activation at Gallup

<u>Call/Location</u>	<u>Facilities</u>	<u>Distance/2</u>
K10IR, Gallup, NM	CH 10, 0.356 kW DA	10.4
K09NA, Sheep Springs, NM	CH 9, 0.104 kW DA	42.6
K09FR, Zuni Pueblo, NM	CH 9, 0.01 kW DA	45.6
K11CD, Zuni Pueblo, NM	CH 11, 0.013 kW DA	45.6
K11JF, Ramah, NM	CH 11, 0.006 kW DA	49.9
K11II, Crownpoint, NM	CH 11, 0.001 kW ND	56.5
K09KB, El Morro, NM	CH 9, 0.006 kW DA	66.2
K09OI, Ganado, AZ	CH 9, 0.281 kW DA	75.9
K11KY, Ganado, AZ	CH 11, 0.009 kW DA	75.9
K10KT, Greasewood, AZ	CH 10, 0.009 kW DA	88.7
K09EP, Grants, NM	CH 9, 0.009 kW DA	88.9
K11EV, Grants, NM	CH 11, 0.001 kW DA	88.9
K10IN, Chinle, AZ	CH 10, 0.1 kW DA	104.2
K09VG, San Mateo	CH 9, 0.130 kW DA	104.5
K09BZ, Shiprock, NM	CH 9, 0.019 kW DA	108.3
K11CF, Shiprock, NM	CH 11, 0.154 kW DA	108.3
K10EO, North Chinle, AZ	CH 10, 0.208 kW DA	108.5
K11CY, St. Johns, AZ	CH 11, 0.201 kW DA	131.4
K09JK, Quemado, NM	CH 9, 0.009 kW DA	131.8
K11JT, Quemado, NM	CH 11, 0.008 kW DA	131.8
K10CG, Aztec & Cedar Hill, NM	CH 10, 0.087 kW DA	152.6
K10MZ, Dolores, CO	CH 10, 0.005 kW DA	216.4
K10MG, Socorro, NM	CH 10, 0.170 kW DA	229.2
K10AD, Vallecito, CO	CH 10, 0.057 kW DA	231.7
K10DO, Chromo, CO	CH 10, 0.003 kW DA	239.5
K10GO, Pagosa Springs, CO	CH 10, 0.008 kW DA	245.5
K10DQ, Monticello, UT	CH 10, 0.015 kW DA	264.8
K10KF, Silver City, NM	CH 10, 0.795 kW DA	298.8
K10EA, Lake City, CO	CH 10, 0.005 kW DA	302.2
K10GY, Uravan, CO	CH 10, 0.007 kW DA	317.3
K10LE, Buena Vista, NM	CH 10, 0.009 kW DA	317.8
K10JL, Amalia, NM	CH 10, 0.002 kW DA	336.4

Total 32

/2 Distance calculations from allotment reference coordinates,  
Latitude 35°31'30", Longitude 108°44'30".

III. Licensed TV Translator Stations Potentially Affected  
by authorized KOAV Channel 3 operation at Gallup

<u>Call/Location</u>	<u>Facilities</u>	<u>Distance/<sup>3</sup></u>
K02EY, Zuni, NM	CH 2, 0.012 kW DA	47.4
K04DV, Navajo, NM	CH 4, 0.007 kW DA	48.5
K02JT, Ramah, NM	CH 2, 0.015 kW DA	51.6
K02EH, Ute Park, NM	CH 4, 0.137 kW DA	120.0
K04HW, Ganado, AZ	CH 4, 0.084 kW DA	131.5
K02GB, Quemado, NM	CH 2, 0.008 kW DA	135.5
K04EH, Woodruff, AZ	CH 4, 0.001 kW DA	142.3
K03FB, Snowflake, AZ	CH 3, 0.027 kW DA	184.4
K03FX, Placerville, CO	CH 3, 0.020 kW DA	281.4
K03AY, Ridgway, CO	CH 3, 0.022 kW DA	305.9
K03FQ, Uravan, CO	CH 3, 0.007 kW DA	316.3
K03CZ, Red River, NM	CH 3, 0.033 kW DA	328.8
K03CO, Alamosa, CO	CH 3, 0.136 kW DA	334.9

Total 13

<sup>3</sup> Distance calculations from authorized KOAV site,  
Latitude 35°32'39", Longitude 108°44'31".

**CERTIFICATE OF SERVICE**

I, Carroll Allman, a secretary in the law firm of Fletcher, Heald & Hildreth, do hereby certify that true copies of the foregoing "Comments and/or Counterproposal" were sent this 8th day of June, 1992, via first-class mail, postage prepaid, to the following:

Michael C. Ruger, Esquire \*  
Federal Communications Commission  
Mass Media Bureau  
2925 N Street, N.W.  
Room 8318  
Washington, D.C. 20554

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