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WILLIAM J. SMITH
Attorney At Law

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ALL CORRESPONDENCE TO: POST OFFICE BOX 6655 - SANTA ROSA, CALIFORNIA 95406
OFFICES LOCATED AT: 6400 REDWOOD DRIVE, ROHNERT PARK, CALIFORNIA
TELEPHONE (707) 584-7550 TELEFAX (707) 586-9566

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FILE

May 29, 1991

Federal Communications Commission
Office of the Secretary, FM Branch
1919 M Street
Washington, D.C. 20554

Re: Petition to Deny Applications Of
Deas Communications, Inc., File No. 910208MB
Linda D. Beckwith, File No. 910211MI
Dragonfly Communications, Inc., File No. 910211MA
For FM Chanel 240A, Healdsburg, California

Gentlemen:

Enclosed for filing are the original and six copies of a Petition to Deny the above three applications for FM construction permits for new FM Channel 240A, Healdsburg, California.

Please return a file-stamped copy to me in the enclosed, self-addressed, stamped envelope.

If you have any questions, please advise.

Very truly yours,

William J. Smith

WILLIAM J. SMITH

WJS/dmt
Enclosures

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MAY 31 1991

FM EXAMINERS

1 Before the
2 FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

3 In Re Applications of

4 DEAS COMMUNICATIONS, INC.

File No. 910208MB

5 LINDA D. BECKWITH

File No. 910211MI

6 DRAGONFLY COMMUNICATIONS, INC.

File No. 910211MA

7 Application For FM
8 Construction Permit for New
FM Channel 240A, 95.9 mHz
Healdsburg, California

9 To: Secretary,
FM Branch

10 PETITION TO DENY

11 I, WILLIAM J. SMITH, respectively petition the Commission to
12 deny the above-referenced applications.

13 INTRODUCTION

14 1. I reside at 1401 Big Ridge Road, Healdsburg, California.
15 Deas Communications, Inc. (hereafter "Deas") has filed an FCC Form
16 301, Application for a New FM Broadcasting Station, Ch. 240A, at
17 Healdsburg, California. My property is adjacent to the property
18 proposed by Deas as the site for its transmitting antenna in its
19 application, and is in view of the proposed tower site.

20 2. Linda D. Beckwith (hereafter "Beckwith") has filed an FCC
21 Form 301 for the same station, proposing a transmitting antenna
22 site on property on the next ridge to the south of and in view of
23

1 my property.

2 3. Dragonfly Communications, Inc. (hereafter "Dragonfly")
3 has filed a FCC Form 301 for the same station, proposing a
4 transmitting antenna on a site which is in view of an access road
5 serving my property and is probably in direct view of my property
6 because the proposed tower is approximately 400' high with flashing
7 lights.

8 4. These three applications should be denied for the reason
9 that there is no reasonable assurance that any of these
10 applications will obtain permission from the County of Sonoma for
11 the construction of the proposed transmitting antenna, and related
12 facilities.

13 5. The site for the proposed transmitting antenna of Deas
14 is located at the highest point on Big Ridge in Sonoma County,
15 California, overlooking the scenic Dry Creek Valley, which is one
16 of the world's premier grape-growing areas. Big Ridge is a virtual
17 wilderness area, with no commercial development of any kind. The
18 Deas antenna would be erected in a lovely grove of redwoods.

19 6. The Beckwith antenna site is directly across Wallace
20 Creek from Big Ridge, in similarly unspoiled terrain.

21 7. The Dragonfly tower, at some 400' height, would be one
22 of the tallest, if not the tallest, structures in Sonoma County,
23 looming over the Dry Creek Valley.

24

1 8. Surrounding these three sites are some of California's
2 loveliest rolling hills, studded with oaks and madrone, redwoods
3 and firs. The properties surrounding the sites are used only for
4 livestock grazing, some agriculture and open space. There are few
5 homes, and they are widely spaced. The entire area is an important
6 wildlife habitat. This area is one of the most beautiful and
7 pristine places that anyone is likely to visit in a lifetime. Of
8 these facts there is, and can be, no dispute.

9 9. Recognizing the unique scenic and aesthetic value of Big
10 Ridge, Wallace Creek and the areas encompassing Dry Creek Valley,
11 the County of Sonoma, which is the local authority having
12 jurisdiction over the proposed antennas, has designated the
13 proposed antenna sites and all surrounding property as Resources
14 and Rural Development in the Sonoma County General Plan, adopted
15 in 1989.

16 10. Pursuant to the mandate of California law (Government
17 Code Section 65860), the Sonoma County Zoning Ordinance, effective
18 August 9, 1990, has designated the subject antenna sites and all
19 surrounding properties as Resources and Rural Development (RRD),
20 consistent with the General Plan.

21 11. This petition to deny will demonstrate that there is no
22 reasonable assurance that any of these applicants will obtain
23 required Sonoma County permission for their proposed antennas.

24

1 The Antennas Are Inconsistent With The General Plan.

2 12. Commercial uses, such as the proposed transmitting
3 antennas, are inconsistent with the Sonoma County General Plan.
4 Attached hereto as Exhibit "A" and made a part hereof is a true
5 copy of Section 2.8.1 of the Sonoma County General Plan entitled
6 Policy for Resources and Rural Development Areas. A commercial
7 radio transmitting tower is clearly inconsistent with said policy.
8 Because California State law (Government Code Section 65860)
9 requires zoning decisions to be consistent with the General Plan,
10 none of the proposed antennas could be legally approved at the
11 sites designated in the respective FCC Forms 301.

12 13. An additional indication of the basic incompatibility of
13 commercial transmitting antennas with the General Plan is found in
14 Section 3.3 on the Healdsburg and Environs planning area, which
15 recognizes "The unique agricultural, resource, scenic, and
16 recreational value of this planning area", which, again, is
17 inconsistent with transmitting antennas.

18 The General Plan Interim Criteria

19 14. Further, the Sonoma County General Plan contemplates the
20 formation of specific guidelines for the establishment of
21 communication and transmission towers. Attached hereto as Exhibit
22 "B" is a true copy of Policy PF-2u from the Sonoma County General
23 Plan. The Zoning Ordinance (Section 26-256(u)) allows radio
24

1 transmission towers "subject, at a minimum, to the criteria of
2 general plan policy PF-2u", so there must be a showing by the
3 applicant that the applications would:

- 4 a) serve a demonstrated public need;
- 5 b) include a statement explaining why use of
existing tower facilities is infeasible;
- 6 c) minimize, to the extent feasible, impacts
on biotic and scenic resources;
- 7 d) include an analysis of alternative sites,
explaining why the proposed site results in
fewer or less severe environmental effects
than feasible alternative sites.

8 15. Obviously, none of the applicants has yet made a showing
9 before the local authorities that these criteria have been met.
10 Nor can such a showing be made. The crux of the matter is that
11 there are several feasible, alternative sites that are already
12 developed for such transmission and communication towers, so that
13 the applications must necessarily be denied under the General Plan.
14 These alternative, developed sites include Mt. St. Helena and
15 Geyser Peak. In fact, one of the other applicants for this very
16 station, Healdsburg Broadcasting Co., purposes its tower on Mt.
17 Jackson, in an existing, developed communications area. Clearly,
18 if Mt. Jackson is a feasible site, the three applications at issue
19 would have to be denied by the local authorities. The application
20 of Healdsburg Broadcasting Co. is the only application before the
21 Commission which could be lawfully approved under the General Plan.

22 / / /

23 / / /

24

1 A Similar Application Was Recently Denied By Local
2 Authorities, Thus Establishing Precedent To Deny These
3 Three Applications.

4 16. Commission policy is that a site availability
5 determination will not be based solely on lack of prior approval
6 by the local governmental authorities, unless, as here, there is
7 a "reasonable showing" made by the petition to deny that approval
8 is "improbable". Salinas Broadcasting Limited Partnership 5 FCC
9 Red. 1613. (1990).

10 17. Not only does the foregoing analysis of local and state
11 law make a reasonable showing that approval is "improbable", there
12 is little need for speculation because there is a recent Sonoma
13 County precedent demonstrating that approval is, indeed,
14 "improbable".

15 18. Only last year, an application by Fuller Jeffrey
16 Broadcasting for a radio transmitter tower for FM Station KHTT at
17 2300 Big Ridge Road, Healdsburg, in close proximity to the proposed
18 Deas site, was unanimously denied (5-0) by the Sonoma County Board
19 of Zoning Adjustments for the reasons set forth above in this
20 petition. Attached hereto as Exhibit "C" is a copy of the Sonoma
21 County Planning Staff Report for the January 25, 1990 Board of
22 Zoning Adjustments meeting, outlining the issues and the staff's
23 recommendation of denial. Attached hereto as Exhibit "D" is a copy
24 of a news article from the Santa Rosa Press Democrat reporting the

1 strong public opposition to the Fuller Jeffrey proposal. There is
2 no reason to suppose that public opposition to the instant
3 applications will be any less this year than last. Therefore, as
4 in Teton Broadcasting Limited Partnership 1 FCC Red 518, 519
5 (1986), the foregoing constitutes a reasonable showing that none
6 of these three applicants will be able to obtain approval of their
7 plans from the local authorities.

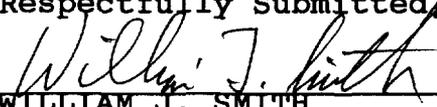
8 Conclusion

9 19. These three applications each fly in the face of local
10 land use policies which are binding under state law. Because there
11 are alternative sites for transmitting antennas which are already
12 developed with communications facilities (Mt. Jackson, for
13 example), these three applications should be denied.

14 I certify that the statements in this Petition to Deny are
15 true and correct to the best of my knowledge and belief, and are
16 made in good faith.

17 DATED: May 29, 1991

Respectfully Submitted

18 
19 WILLIAM J. SMITH
Attorney At Law
In Propria Persona
20 P. O. Box 6655
Santa Rosa, CA 95406

2.8.1 POLICY FOR RESOURCES AND RURAL DEVELOPMENT AREAS

Purposes and Definition: This category allows very low density residential development and also is intended to:

1. protect lands needed for commercial timber production under the California Timberland Productivity Act.
2. protect lands within the Known Geothermal Resource Area (KGRA).
3. protect lands for aggregate resource production as identified in the Aggregate Resources Management Plan.
4. protect natural resource lands including, but not limited to watershed, fish and wildlife habitat and biotic areas.
5. protect against intensive development of lands constrained by geologic hazards, steep slopes, poor soils or water, fire and flood prone areas, biotic and scenic areas, and other constraints.
6. protect lands needed for agricultural production activities that are not subject to all of the policies of the Agricultural Resource Element.
7. protection of County residents from proliferation of growth in areas in which there are inadequate public services and infrastructure.

It is further the intent of this category that public services and facilities not be extensively provided in these areas and that development have the minimum adverse impact on the environment.

Permitted Uses: Single family dwellings, resource management and enhancement activities including but not limited to the management of timber, geothermal and aggregate resources, fish and wildlife habitat, and watershed. Livestock farming, crop production, firewood harvesting and public and private schools and churches are included. Lodging, campgrounds, and similar recreational and visitor serving uses provided that they shall not be inconsistent with the purpose and intent of this category. The extent of recreational and visitor serving uses may be further established in planning area policies.

The category also allows resource related employee housing, processing facilities related to resource production as well as incidental equipment and materials storage, provided that the use is consistent with any applicable resource management plans. Geothermal uses are limited to the primary KGRA. Aggregate resource uses are limited to those consistent with the Aggregate Resources Management Plan.

Permitted Residential Densities and Development Criteria: Residential density ranges from 20 to 320 acres per unit as shown on the land use maps. In general the higher densities are applied in areas with relatively less constraints, better access, closer proximity to some services, and existing parcels in that range. Lower densities are generally applied in areas with more severe constraints, high sensitivity to impacts, poor access, greater distance to services and/or high resource development potential. Minimum parcel size for

new parcels is 20 acres, except that clustered development may be approved with a protective easement or other restriction on the remaining large parcel which indicates that density has been transferred to the clustered area from the remaining large parcel. Standards and densities for resource related employee housing shall be established in the zoning ordinance.

Public schools must meet the minimum criteria set forth in policy LU-6e on page 47. Private schools and churches must meet the minimum criteria set forth in LU-6f on page 48.

Designation Criteria: Amendments to add this designation must meet one or more of the following, in addition to any applicable planning area policies:

1. lands with severe constraints such as steep slopes, areas with faults or landslides, "high" or "very high" fire hazard, marginal or unproven water availability, or limited septic capability.
2. lands with natural resources.
3. lands with vulnerability to environmental impact.
4. to add lands for geothermal power generation facilities, the following criteria must be met;
 - a) agricultural lands or other land uses will not be adversely affected.
 - b) the natural resources of the area will be protected.
 - c) adequate public services, including roads, will be available.

~~3.0 PLANNING AREA POLICIES~~

3.1 SONOMA COAST / GUALALA BASIN

The Sonoma Coast/Gualala Basin planning area runs the 40 mile length of the Pacific Coast margin from the Gualala River to the Estero Americano. In addition to several coastal communities, it extends inland to include Annapolis, Cazadero, Duncans Mills, Bodega, Freestone, Camp Meeker, and Occidental. Roughly paralleling the San Andreas Fault Zone, the rugged Sonoma Coast is a scenic area of regional, state, and national significance, with nearly vertical sea cliffs and sea stacks along the shoreline, dunes, marine terraces, coastal uplands, and headlands. In the north, the Gualala River South Fork extends inland into the coniferous forests of the western Mendocino Highlands.

This planning area is also the most sparsely populated of the nine planning regions due to its relative remoteness and inaccessibility. In 1980 the 5,400 residents mostly lived in the various small villages. Outside of these communities, rural settlement is very sparse. The region's economy is primarily oriented to recreation and tourism, commercial fishing, timber production, and sheep ranching. Residences, originally planned as second homes, including Sea Ranch and Bodega Harbor, are not increasingly occupied by permanent residents.

~~PF-2s: Public utility facilities other than transmission line corridors may be designated as "Public/Quasi-Public" on the land use map. Allow consideration of minor facilities in any land use category where they are compatible with neighborhood character and preservation of natural and scenic resources.~~

~~PF-2t: Review proposals for new transmission lines or acquisition of easements for new transmission lines for consistency with general plan policies. Request wherever feasible that such facilities not be located within areas designated as community separators or biotic resource areas. Give priority to use of existing utility corridors over new corridors.~~

PF-2u: Review proposals for new radio, telephone or other communication and transmission towers for consistency with general plan policies. Prepare siting and design guidelines for such facilities. Until these guidelines are adopted, require that proposals for new tower sites:

- a) serve a demonstrated public need,
- b) include a statement explaining why use of existing tower facilities is infeasible,
- c) minimize, to the extent feasible, impacts on biotic and scenic resources, and
- d) include an analysis of alternative sites, explaining why the proposed site results in fewer or less severe environmental effects than feasible alternative sites.

~~PF-2v: Consider requiring the undergrounding of new electrical transmission and distribution lines where appropriate in designated open space areas and in selected urban areas. Where feasible and under the Public Utility Commission (PUC) rules, convert existing overhead lines to underground facilities in urban areas.~~

PF-2w: Encourage consolidation of multiple utility lines into common utility corridors wherever practicable.

~~PF-2x: Utilize development fees to require that new development pay for its share of needed infrastructure as identified in existing and future Capital Improvement Plans prepared by the county.~~

STAFF REPORT – BZA



SONOMA COUNTY DEPARTMENT OF PLANNING

575 Administration Dr., Room 105A, Santa Rosa, California 95401

(707) 527-2412

FILE: UP 89-785

DATE: January 25, 1990

TIME: 3:40 p.m.

Appeal Period: 12 calendar days

STAFF: Sigrid Swedenborg

SUMMARY

Applicant/Owner: Fuller Jeffrey Broadcasting

Location: 2300 Big Ridge Road, Healdsburg
APN 090-090-25 & 111-130-14 : Supervisorial Dist. No. 4

Subject: Use Permit

PROPOSAL: Erection of a 407 foot high radio transmitter tower.

Env. Document: Negative Declaration

General Plan: Resource & Rural Development, 120 acre density

Zoning: A1 (Primary Agriculture), BS (Slope Density), Table 40

Ord. Reference: Section 26 - 28 (z)

RECOMMENDATION: Exempt the project from CEQA for the purpose of denial and deny the request.

ANALYSIS

Project Description:

The applicant is requesting a use permit to install a 407 foot high radio transmitter tower. A 20 X 20 foot equipment building is also part of the request. No structures for human occupancy are proposed. The site would be visited once a week by one employee, and may need to be serviced by a fuel truck for the proposed generator.

The proposed tower is a 3 sided metal structure, each side is 24 inches in width. The actual transmitting antennae projects 6 to 8 feet outward from the top 30 feet of the tower.

The Federal Aviation Administration (FAA) requires that the tower be lit with aircraft warning lights.

The applicants currently have a transmitter tower located on Geyser Peak.

Site Analysis:

The 39 acre parcel is located on Big Ridge Road, south of West Dry Creek Road in the Healdsburg area. The site is very steep ranging from about 680 feet above sea level to 1,320 feet above sea level. The proposed location of the tower is at 1,200 feet above sea level.

EXHIBIT "C"

The property has been logged and is transected with old logging roads. It is heavily vegetated with fir trees and brush.

Surrounding Land Use and Zoning:

Land use in the project vicinity is very rural. Parcel sizes range from 40 to 467 acres. Most of the parcels are completely undeveloped. Zoning is A1 (Primary Agriculture), BS, slope density restrictions.

DISCUSSION OF ISSUES

Issue #1: Visual Impact

The main environmental impact that results from this project is visual. The ridge on which the tower is proposed to be located is the highest in this area. Staff has done an analysis and determined that the tower could be visible from Dry Creek Road. The tower is located 2 1/2 miles "as the crow flies" from the closest point on Dry Creek Road. The structure is physically closer to West Dry Creek Road, but that road is too close to the hills to be able to see above them.

At 24 inches wide, it is questionable if the tower could actually be seen 2 1/2 miles away. The tower will be lit which increases its potential visual impact.

The nearest house to the site is over 1/2 mile away. Some of the residences located below the site, between Dry Creek Valley and the ridgetop will be able to see the tower but there are very few residences that would be impacted. It is highly unlikely residences on the other side of the ridge, gaining access off of Mill Creek Road and Wallace Road, would see the tower due to that mountainous terrain.

Issue #2: General Plan Consistency

The Sonoma County General Plan, adopted in March of 1989, has specific policies that relate to the proposal (PF-2U). The Plan suggests that siting and design guidelines be established for communication and transmission towers. These guidelines have not been developed yet. Such guidelines might include a maximum height limit and policies which identify appropriate areas for clustering of towers in the County. The Plan does state that until guidelines are adopted, four (4) criteria should be used for analyzing towers. These criteria with the applicants response follows:

Proposals for new tower sites must;

- 1) Serve a demonstrated public need.

Applicant's response: This radio tower will be used to transmit FM signals for Station KHTT to the greater Santa Rosa area. In addition to providing listening entertainment, the station provides emergency information to the public in circumstances of earthquakes, floods and wild fires.

Staff Analysis: Although this may be true, numerous other radio stations provide similar services.

- 2) Include a statement explaining why use of existing tower facilities is infeasible.

Applicant's response: The existing tower on Geyser Peak is not situated so as to provide the broadcast range opportunity which will be afforded by the site proposed in this application.

Staff Analysis: Applicants have not indicated why Geyser Peak is not well situated nor indicated the new broadcast range to be generated by the proposed tower.

- 3) Minimize, to the extent feasible, impacts on biotic and scenic resources.

Applicant's response: The 39 + acre parcel is zoned to permit a variety of uses involving human habitation. The radio tower will require no residential use and negligible site preparation. The tower and a proposed 400 square foot equipment building will be the only facilities to be constructed. This is far less intense than what would be required to prepare the site for a dwelling, driveways, septic system, etc., thus minimizing the potential impacts on biotic and scenic resources.

Staff Analysis: It is likely that a single family dwelling would have more impacts on biotic resources than the proposed tower. It is unlikely, however, that a 16 - 35 foot high residence would have more impacts on scenic resources than a 407 foot high lit tower.

- 4) Include an analysis of alternative sites, explaining why the proposed site results in fewer or less severe environmental effects than feasible alternative sites.

Applicant's response: There could be numerous other sites with some of the characteristics which the proposed tower site possesses. These include elevation, orientation, accessibility, availability, remoteness, and a low population density in the vicinity. The site selected for this proposal presents the greatest number of positive characteristics of several ranked highest in suitability, which resulted in the decision to submit the application on this site.

Staff Analysis: Any alternative site analysis completed by the applicant has not been submitted to the Planning Department. No alternative sites have been specifically identified.

Issue #3: Interference

The Dry Creek Valley Association has responded to the referral with a concern about the tower's transmissions interfering with radio and TV signals.

The applicant has responded to their concerns with a letter and copies of FCC rules (attached). They state that with proper operation, there is little or no interference with other FM stations. They must remedy any problems. Apparently the area primarily susceptible to interference is a 1.35 mile radius around the tower. There is one home within that radius.

They also state that interference with TV receivers is extremely rare, again, they are responsible by FCC rules to assume full financial responsibility for remedying complaints of interference.

Issue #4: Tower Lighting

Marking and lighting of the tower is controlled by the Federal Aviation Administration (FAA). Towers over 200 feet high are required to be lit.

The applicant states that they have two (2) options. 1) Painting the tower in alternate orange and white bands with flashing beacons at the top and mid point levels with obstruction lighting in between the beacons or 2) White strobe obstruction lights at the top and mid point levels. No painting of the tower is necessary if the white strobe lights are used. These would be lit day and night.

The applicant's radio engineering consultant has stated that the white strobe lights are shielded toward the ground but are highly visible for aircraft and have his recommendation.

Issue #5: Aircraft Safety

The Sonoma County Airport Land Use Commission (ALUC) has reviewed the proposal and adopted resolution #89-41 finding the proposal consistent with the Airport Policy Plan. Their resolution is attached to this report. They found that the tower will not intrude in the airspace of flight operations at Healdsburg Municipal Airport and is away from normal flight paths. They also found that FAA marking, lighting and notification is required and they suggested a condition (which has been applied) to mark the tower support wires.

The California Department of Forestry has responded to the referral with a concern about aircraft safety. They state that their activities with wildfire air attack requires low level flights often below 400 feet above the ground. These flights would be for making airtanker fire retardant drops and to deliver fire crews and water by helicopter. This area is in a high fire hazard zone.

The California Department of Forestry has requested that high intensity strobe lighting be placed on the tower which would be lit during both day and night.

They are concerned about this project.

Issue #6: Utilities

There is no electric power available to the site currently. The applicant has stated that they would use a generator full time until they could get electric service. A generator would be located at the site for service during power loss anyway.

This rural area has a very low ambient noise level and generator's noise could have a significant impact.

A condition has been suggested to be added to any approval of the project to insure that construction of the building housing the generator includes noise attenuation methods.

Issue #7: Precedence:

The proposed tower could set a precedent both in terms of height and continued dispersal of tower locations.

Height:

The proposed tower will be the highest structure in the County.

The applicant has stated that they want to relocate to the site to expand their customer base. The tower is proposed to be located on the north side of the ridge, away from Santa Rosa where the station is based. There is a knoll about 200 feet south of the proposed tower location that is 1,429 feet above sea level. It seems that part of the reason the tower is to be 407 feet high is to project above that knoll. Another location might allow for less height with the same result.

Tower Dispersal:

Requests for new transmission towers have increased significantly over the last few years. Since 1985 the County has processed three requests for cellular phone antennae which generally range in height from 80 to 100 feet. More significantly, the County has also processed requests for seven other radio towers ranging in height from 160 to 250 feet.

Rather than utilizing the existing tower site on Geyser Peak, where several other antennae are located, the applicants propose to open up a whole new area of the County for transmission.

If this area is found to be exceptional for locating transmitter towers, other stations may follow suit.

Analysis:

It is staff's opinion that approval of this tower is premature. The tower is significantly higher than any other, away from an existing clustered location, and opens up a new transmission area. Until the County adopts siting and design guidelines in accordance with Policy PF-2U, only towers of a less precedent - setting nature should be approved.

ALTERNATIVE

Although it is staff's opinion that approval of the proposed tower is premature, the Board of Zoning Adjustments may determine it appropriate to approve the request for the tower. If this is the action to be taken, the Negative Declaration should be adopted and the use permit approved subject to the attached conditions of approval and after making the following findings:

1. Based upon the information contained in the Initial Study included in the project file, it has been determined that there will be no significant environmental effect resulting from this project, provided that mitigation measures are incorporated into the project. The Negative Declaration has been completed in compliance with CEQA, State and County guidelines and the information contained therein has been reviewed and considered.
2. The establishment, maintenance or operation of the use for which application is made will not, under the circumstances of this particular case, be detrimental to the health, safety, peace, comfort and general welfare of persons residing or working in the neighborhood of such use, nor be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the area. The particular circumstances in this case are:
 - a. The width of the tower is so narrow (24 inches) that visual impacts are minimal;
 - b. Lighting of the tower will insure aircraft safety;
 - c. Transmission interference is unlikely and is regulated by the FCC.

STAFF RECOMMENDATION

Staff recommends that the Board of Zoning Adjustments denies the request, exempting the project from CEQA for the purpose of denial after making the following findings:

1. There is no mitigation for the visual impact that the project will have;
2. There are other sites available in the County, including the applicant's existing location, that could have less impact.

3. Until the County adopts siting and design guidelines for transmission towers in accordance with Policy PF-2U, it is premature to approve towers which exceed existing tower heights and continue the trend toward tower dispersal.

LIST OF ATTACHMENTS

- EXHIBIT "A" - BZA Conditions of Approval
- EXHIBIT "B" - Proposal Statement
- EXHIBIT "C" - Letter from Engineering Consultant
- EXHIBIT "D" - ALUC Resolution 89-41
- EXHIBIT "E" - California Dept. of Forestry letter
- EXHIBIT "F" - Letter of Opposition
- EXHIBIT "G" - Draft BZA Resolution for Approval
- EXHIBIT "H" - Draft BZA Resolution for Denial

EXHIBIT "A"
BZA Conditions of Approval
UP 89-785 / Fuller Jeffrey Broadcasting
January 25, 1990

Public Health Department:

1. Noise shall be controlled in accordance with Table NE-2 of the Noise Element of the Sonoma County General Plan.
2. All maintenance visits should be scheduled not to exceed 2 hours and no occupancy of storage building(s) will be permitted at any time.

Planning Department:

3. The applicant shall mark and light the tower and support wires, if necessary, meeting the Federal Aviation Administration standards.
4. The applicant shall notify the California Department of Forestry of the methods used to mark and light the tower, and its specific location.
5. If there is a fuel storage tank placed on site, approval must be obtained from the County Fire Marshal.
6. Prior to obtaining a building permit for the use, a noise study shall be submitted to the Planning and Public Health Departments, listing specific mitigations which shall be included in the structural design of the building housing the generator in order to attenuate noise.
7. Conditions were imposed as a part of the environmental document for this project. The Planning Department shall be responsible for monitoring the implementation of these conditions. Other conditions were imposed at the recommendation of other departments or agencies. Each department or agency is responsible for the implementation of those conditions. The County shall ensure implementation of the above conditions by hiring a consultant or causing the applicant to hire a consultant to perform any necessary site inspections. The County may charge a fee for administering these inspections in addition to the cost of the consultant. The County has the power to revoke and may revoke the permit or entitlement if the conditions have not been met.
8. This permit shall be subject to revocation or modification by the Board of Zoning Adjustments if: (a) the Board finds that there has been noncompliance with any of the conditions or (b) the Board finds that the use for which this permit is hereby granted constitutes a nuisance. Any such revocation shall be preceded by a public hearing noticed and heard pursuant to Section 26-207 and 26-207.2 of the Sonoma County Code.

In any case where a zoning permit, use permit or variance permit has not been used within one (1) year after the date of the granting thereof, or for such additional period as may be specified in the permit, such permit shall become automatically void and of no further effect, provided, however, that upon written request by the applicant prior to the expiration of the one year period the permit approval may be extended for not more than one (1) year by the authority which granted the original permit pursuant to Section 26-207.1 of the Sonoma County Code.

N FILE 4F89-785
AP# 090-090-25
111-130-14
FULLER JEFFREY

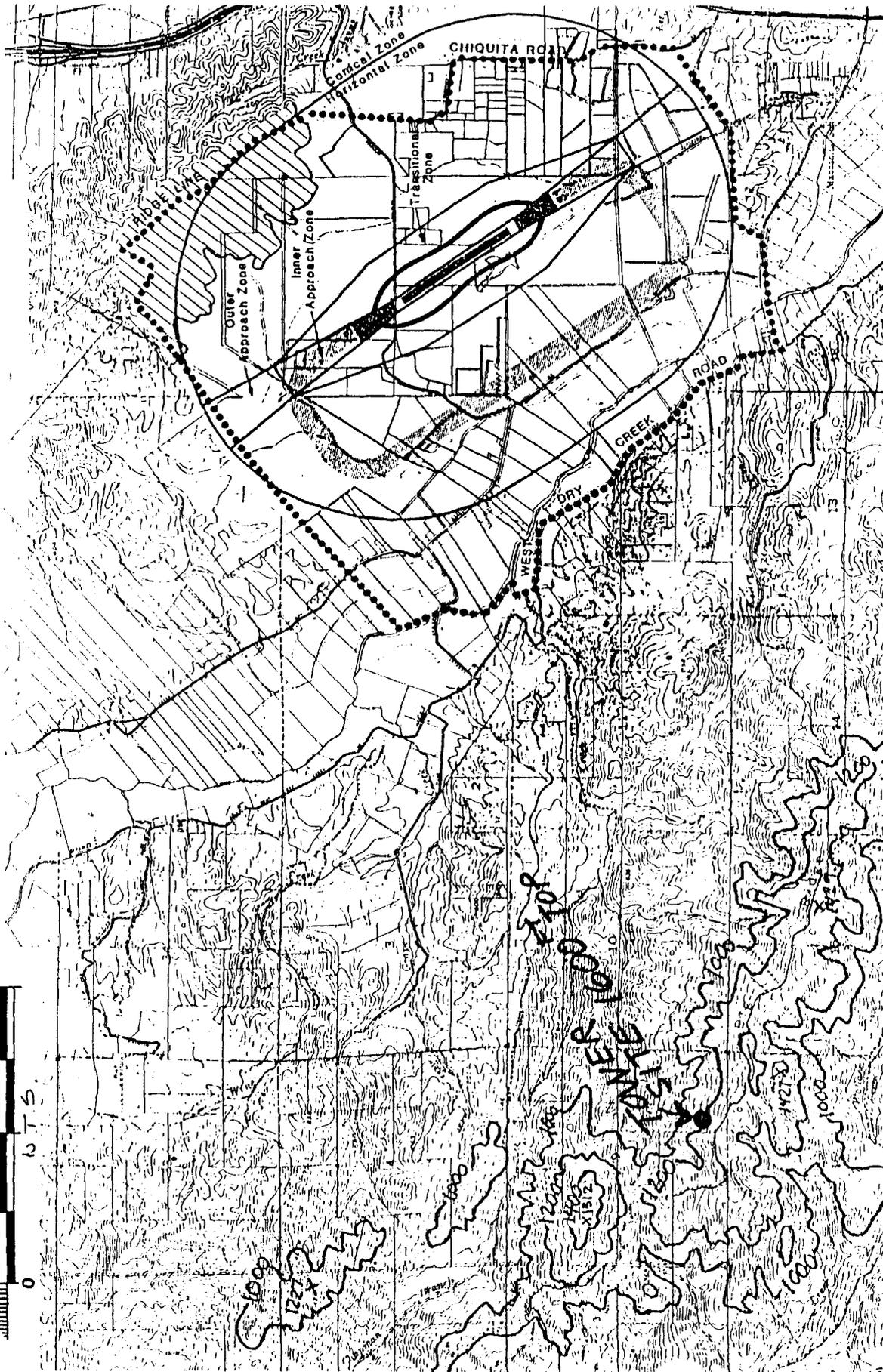
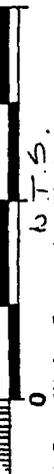


EXHIBIT "C"

Santa Rosa Press Democrat 1/28/90

Radio tower proposal overwhelmed by neighbors' static

KHTT loses Healdsburg site

By ALVARO DELGADO
Staff Writer

Residents of the Dry Creek Valley, ever vigilant over threats to agriculture in their valley, have successfully mobilized against a proposed 407-foot radio tower on Big Ridge Road.

The Sonoma County Board of Zoning Adjustments unanimously rejected the tower Thursday night after speakers said the tower proposed by radio station KHTT would besmirch the Dry Creek Valley west of Healdsburg.

"We're very happy. It was a visual, scenic intrusion on our whole area. It's a fire hazard," said LaVerne Waddington, who presented a petition with opponents' signatures to the zoning board.

Board member Leslie Perry said he voted against allowing a use permit for the tower because it would have been incompatible with the area's agricultural zoning.

Hank Gonzales of Fuller Jeffrey Broadcasting Co., owner of KHTT, said the radio station wanted to move its tower from Geyser Peak to the Dry Creek Valley to better serve the area.

KHTT is a contemporary music station and was formerly KREO radio station.

"We were just trying to do a better job of covering the market, of covering the area," said Gonzales. "It's a democratic process and it works."

The broadcasting company has 10 days to appeal the decision but has yet to decide whether it will do so, said Gonzales.

Waddington said about 75 people showed up to oppose the tower. She said 75 people from Dry Creek Valley and 250 Healdsburg dwellers signed petitions against the project.

Gonzales said plans called for a 2-foot-wide steel tower at an elevation of 1,200 feet on a 39-acre parcel south of West Dry Creek Road.

Opponents said the tower would have been visible from downtown Healdsburg and would have protruded 150 to 200 feet above the ridge line, presenting a fire hazard.

In the event of fire, said Waddington, California Department of Forestry firefighting helicopters would be prevented from flying low enough to extinguish flames.

She said opponents were concerned also about noise and pollution produced by the tower. A diesel generator, used at the very least as a back-up for power, would

have been installed, she said.

Waddington said the builder would have needed permission from area dwellers to reach the site, since access roads are privately owned.

Gonzales said Fuller Jeffrey Broadcasting searched several areas for possible locations but found the Big Ridge Road site was the only one available.

The broadcasting company owns 12 radio stations across the country, including Chico, Modesto, Iowa, New Hampshire and Maine.

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PROOF OF SERVICE

I am a citizen of the United States and a resident of the County of Sonoma, California. I am over the age of 18 years and am not a party to the within action. On May 29, 1991, I served the attached PETITION TO DENY by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Postal Service Office, Santa Rosa Main Branch, Santa Rosa, California, addressed as follows:

Mario Edgar Deas
126 Mill Street
Healdsburg, CA 95448

Lee W. Shubert, Esq.
Haley, Bader & Potts
Suite 600
2000 M Street, N.W.
Washington D.C. 20036-3374
Attorneys for Deas
Communications, Inc.

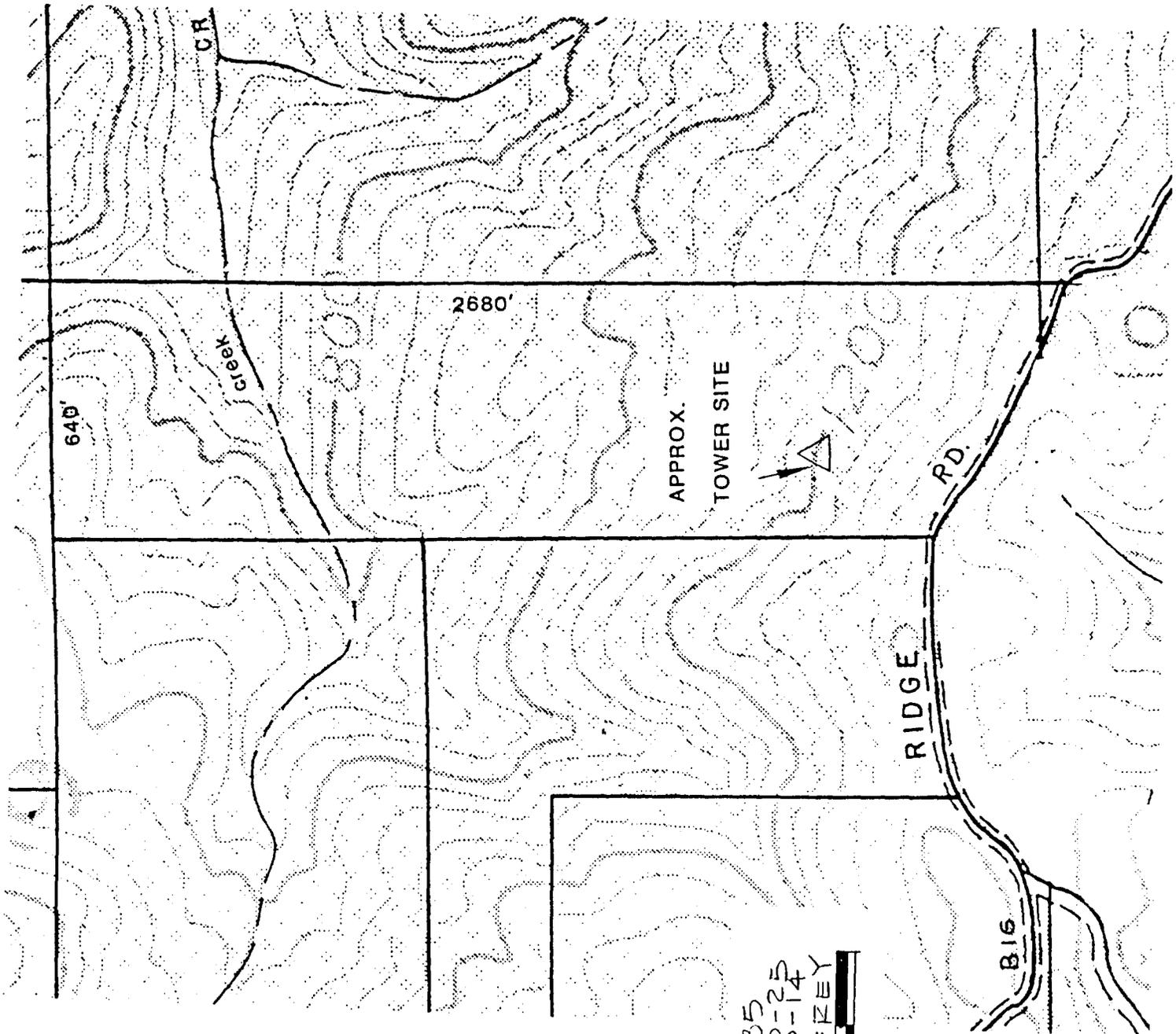
George L. Lyon, Jr., Esq.
Lukas, McGowan, Nace & Guttierrez
1819 H Street N.W.
Suite 700
Washington D.C. 20006
Attorneys for Linda D. Beckwith

Michael Couzens, Esq.
385 8th Street, 2nd Floor
San Francisco, CA 94103
Attorney for Dragonfly
Communications, Inc.

I, DONNA M. TILTON certify under penalty of perjury that the foregoing is true and correct.

Executed on May 29, 1991, at Rohnert Park, California.


DONNA M. TILTON



N FILE UP89-785
AP# 090-090-25
FULLER JEFFREY
0 NTS.

EXHIBIT "C"

PROPOSAL STATEMENT

Fuller-Jeffrey Broadcasting

This proposal is for the construction of a 407-foot tower for FM radio signal transmission. A small equipment building, approximately 10' wide, 20' long and 9' high, would be located on the site within 50 feet of the tower. No other structures are proposed for the transmitter operations on the 39+ acre property. No employees are located on site. Site visits by technicians would occur 2-4 times a month. The site is about 5 miles west of Healdsburg. Access roads are dirt and gravel surfaced.

The 39+ acre property is moderately to steeply sloping, with bench areas in the vicinity of Big Ridge Road. The proposed tower base location would be at approximately 1200' elevation MSL, about 100'-150' below the elevation of Big Ridge Road in the area.

The tower site would be approximately 100-200 feet north of Big Ridge Road. The base of the tower would be a concrete block approximately 3' X 3' in size, and 5'-6' in depth. Guy wires will provide stability to the tower. The guy wires will be anchored in small concrete blocks.

A small area of the hillside site, estimated to be no more than 100' X 100', would need to be cleared relatively free of trees and underbrush. Access to the tower site off Big Ridge Road will utilize a small former logging road existing on the property.

The tower consists of a three-sided metal structure, each side being about 24" in width. The transmitting antennae consist of metal arms attached to the top 30 feet of the tower and projecting 6'-8' outward.

FAA regulations will require that the tower be lighted with red aircraft warning lights at night.

EXHIBIT "C"

EXHIBIT "B"

CECIL LYNCH

Radio Engineering Consultant

Phone 523-3955 (Area 209)

2460 Illinois Avenue
MODESTO, CALIFORNIA
95351

December 21, 1989

Mr. Randy Wells
Radio Station KHTT
P. O. Box 1598
Santa Rosa, California 95402

Dear Randy:

In response to your inquiry concerning the potential of interference to other services in the vicinity of the proposed new location of the KHTT transmitter, the following information may serve to answer any questions.

First of all, in our experience with installations of this type, when equipment is properly operated there is apt to be little or no interference to reception of other FM stations except possibly in the area immediately adjacent to the antenna. Should such interference occur, it is easily identifiable and correctable, and under FCC Rules KHTT is obligated to remedy any legitimate complaints within the "blanketing" area (approximately 1.35 miles radius.) A copy of the relevant FCC Rules, contained in paragraphs (b), (c), and (d), is attached.

Ordinarily, interference of the nature specified by the FCC occurs only where several FM stations transmit from the same tower and there is a high density of population within a few blocks of the site.

The tower itself cannot be a source of interference to any other radio service, and interference to TV reception from FM transmitters is extremely rare. In fact, many FM stations have TV receivers on the premises, adjacent to transmitters and antennas, with little or no impairment of reception.

Of further interest are the presently applicable rules of the Federal Aviation Administration, concerning marking and lighting of towers. There are two alternatives, adopted in the FAA Advisory Circular 70/7460-1G. Under one plan, the tower may be painted in the conventional orange and white bands, with flashing beacons at the top and mid-point levels, and obstruction lights at the 1/4 and 3/4 levels. Under the other plan, white obstruction lights may be used at the top and mid-point levels; with this lighting, painting may be omitted. Personally, I prefer the white strobe lights, which are shielded toward the ground but highly visible for aircraft, both day and night. Copies of some the relevant data from the FAA Advisory Circular are attached.

Please let me know should further information be needed.

Sincerely yours,


Cecil Lynch

Incls.

cc: Mr. Hank Gonzales

AM

FM

TV

EXHIBIT "C"

EXHIBIT "C"