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June 1, 1993

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

Re: Amendment of Table of FM Allotments
New Port Richey, Sarasota, and
Sebring, Florida
(MM Docket No. 93-65, RM-6869)

Dear Ms. Searcy:

Submitted herewith for filing, on behalf of our client, Roper Broadcasting, Inc., licensee of Radio Station WCAC(FM), Sebring, Florida, are an original and five (5) copies of its Comments and Counterproposal in connection with the above-referenced rulemaking proceeding.

Please direct any inquiries concerning this submission to



BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

)
Amendment of Section 73.202(b))
of the Commission's Rules,)
Table of Allotments,)
FM Broadcast Stations)
(New Port Richey, Sarasota and)
Sebring, Florida))

MM Docket No. 93-65
RM-6869

To: Chief, Allocations Branch.



It is Roper's understanding that WGUL-FM, Inc., licensee of Radio Station WGUL(FM), will be filing its own Comments and Counterproposal in this proceeding, requesting that either Channel 288C1 or, alternatively, Channel 288C2, be allotted to New Port Richey, Florida, in lieu of Channel 288C3, but that, in any event, if neither Channel 288C1 nor Channel 288C2 is allotted to New Port Richey, nonetheless, Channel 288C3 should be allotted to the community and that WGUL(FM)'s license should be modified accordingly. In order to accomplish the proposed allotment of Channel 288C1 or Channel 288C2 to New Port Richey, in accordance with the requirements of Section 73.207 of the Commission's Rules, WGUL-FM, Inc., will be proposing to substitute Channel 289A in lieu of Channel 288A at Sebring, Florida, and the modification of license of Radio Station WCAC(FM), Sebring, Florida, to specify operation on Channel 289A in lieu of Channel 288A in Sebring.

Roper respectfully advises the Commission that it supports the channel substitution (i.e., Channel 289 for Channel 288) proposed for WCAC(FM) in WGUL-FM, Inc.'s Comments and Counterproposal; however, Roper hereby proposes that Channel 289C3 be allotted to Sebring instead of Channel 289A, and that WCAC(FM)'s license be modified to specify operations on Channel 289C3 in Sebring, in lieu of Channel 288A.

Annexed hereto as Exhibit 1 is the Technical Statement of David E. Dickmann, of the firm of du Treil, Lundin & Rackley, Inc., Roper's consulting engineers. That Technical Statement demonstrates that allotment of Channel 289C3 in Sebring, Florida, in lieu of Channel 289A, can be accomplished in accordance with the Commission's Rules and will meet applicable separation requirements of Section 73.207 of the Commission's Rules with respect to all other stations and allotments.

In this regard, as noted by WGUL-FM, Inc., in its Petition For Rulemaking herein, in order to assure compliance with all required mileage separations, relocation of WCAC(FM) to Channel 289A, or to Channel 289C3, would necessitate modification of the license of Radio Station WWOJ(FM) in Avon Park, Florida, so that the latter radio station would no longer operate on Channel 292A in Avon Park.

As noted in the technical portion of WGUL's Petition For Rulemaking in this proceeding, the Commission proposed in MM Docket No. 87-455 that the WWOJ(FM) channel assignment in Avon Park, Florida, be changed from Channel 292A to Channel 256A. As a consequence of the foregoing, it was unnecessary for WGUL to specifically propose, in its rulemaking petition, that the license of Radio Station WWOJ(FM), Avon Park, Florida, be modified so as to specify operations on Channel 256A in Avon Park, in lieu of Channel 292A in that community, since the

Commission had already specifically proposed such a change in MM
Docket No. 87-455. Hence, since it was unnecessary to request
allotment of Channel 256A to Avon Park and modification of the
license of WOT (TV) to modification of that channel.

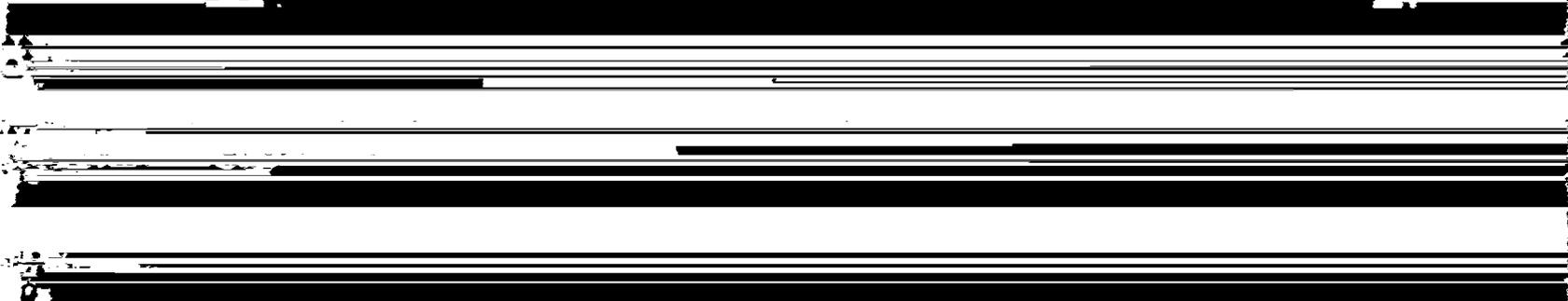
Unfortunately, the Commission's plan to change WWOJ's channel from Channel 292A to Channel 256A has not yet been implemented. On March 29, 1993, the commission released its Report and Order in MM Docket No. 92-195, 8 FCC Rcd 2197 (Mass Media Bureau 1993), involving FM channel allotments in Beverly Hills, Chiefland, Holiday, Micanopy and Sarasota, Florida. In Paragraph 10 of that Report and Order in the Beverly Hills proceeding, the Mass Media Bureau appeared to suggest that, in light of the grant of channel upgrades in the Beverly Hills proceeding, a number of appeals or reconsideration requests

More importantly, on April 19, 1993, Highlands Media Company, Inc., licensee of WWOJ(FM), Avon Park, Florida, filed supplementary Comments in MM Docket No. 87-455. Highlands Media Company, Inc., therein made clear that, notwithstanding the Bureau's actions in the Beverly Hills, Florida proceeding, it still desired the substitution of Channel 256A in lieu of Channel 292A in Avon Park and the modification of WWOJ(FM)'s license to specify operations on Channel 256A. Highlands Media Company, Inc., demonstrated in its Comments that the Avon Park channel substitution has substantial independent public interest value and deserves consideration on its own merits. Importantly, Highlands Media Company, Inc., emphasized in its April 19, 1993 Comments, as follows:

"Highlands understands that, given the Commission action in Docket 92-195 [i.e., the Beverly Hills proceeding] the Avon Park channel substitution is no longer a pre-condition for the Holiday upgrade. Highlands therefore agrees not to invoke the Commission's processes under Circleville, Ohio, 8 FCC 2d 159 (1967), to seek reimbursement of its expenses for changing to Channel 256A."

Comments of Highlands Media Company, Inc., at 3 n.4.

In light of the April 19, 1993 Comments of Highlands Media Company, Inc., in MM Docket No. 87-455, that rulemaking



to waive invocation of the Commission's reimbursement policy, under Circleville, Ohio, supra, it is manifest that WGUL was not required, and is not required, to specifically propose substitution of Channel 256A for Channel 292A in Avon Park, nor is WGUL required (nor was it required) to propose to reimburse the licensee of WWOJ(FM) for its reasonable costs incurred in connection with such a channel change.

For similar reasons, Roper respectfully submits that, in light of the April 19, 1993 Comments of Highlands Media Company, Inc. in MM Docket No. 87-455, to the effect that it is willing to waive invocation of the Commission's reimbursement policy under Circleville, Ohio, Roper is not required to specifically propose substitution of Channel 256A for Channel 292A in Avon Park, nor is Roper required to propose to reimburse the licensee of WWOJ(FM) for its reasonable costs incurred in connection with

channel change from Channel 292A to Channel 256A in Avon Park, then, in such events, Roper would agree to reimburse the licensee of WWOJ(FM) for the reasonable expenses incurred by that licensee in effectuating the aforementioned channel change for WWOJ(FM) from Channel 292A to Channel 256A in Avon Park, consistent with the standards articulated by the Commission in Circleville, Ohio, 8 FCC 2d 159 (1967).

Should the Commission ultimately modify the Table of FM Allotments as proposed hereby by Roper, Roper intends to expeditiously file an application for a construction permit to modify the facilities of WCAC(FM) to specify operations on Channel 289C3 in Sebring, Florida; if such application is granted, Roper intends to expeditiously construct and operationalize the upgraded WCAC(FM) facilities.

In sum, the public interest, convenience and necessity would best be served by upgrade of WCAC(FM)'s facilities to Class C3 status on Channel 289C3, thereby allowing WCAC(FM) to provide a wider area service to serve greater areas and populations. In light of the foregoing, Roper respectfully requests that the Commission amend its Table of FM Allotments (Section 73.202(b) of the Commission's Rules) to effectuate the upgrade of WCAC(FM)

to specify operations on Channel 289C3 in Sebring, Florida, as specified hereinabove.

Respectfully submitted,

ROPER BROADCASTING, INC.

By: 
Irving Gastfreund

Kaye, Scholer, Fierman, Hays & Handler

The McPherson Building

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(202) 682-3526

Its Attorneys

June 1, 1993

Exhibit 1

TECHNICAL STATEMENT
IN SUPPORT OF
COMMENTS AND A COUNTERPROPOSAL
MM DOCKET NO. 93-65
ROPER BROADCASTING, INC.
SEBRING, FLORIDA

This technical statement and associated exhibits have been prepared on behalf of Roper Broadcasting, Inc. (herein "Roper"), in support of Comments and a Counterproposal in MM Docket No. 93-65. Roper is the licensee of station WCAC, channel 288A, Sebring, Florida. Roper also holds a construction permit (BPH-920903JZ) authorizing an increase in antenna height for WCAC.

By a Notice of Proposed Rule Making in MM Docket No. 93-65 (herein "the Notice", Released April 8, 1993), the Commission has proposed the substitution of channel 288C3 for channel 288A at New Port Richey, Florida and the modification of the license of station WGUL-FM accordingly. WGUL-FM, Inc. (herein "WGUL-FM") is filing comments and a counterproposal in this proceeding requesting that channel 288C2 or channel 288C1 be allotted to New Port Richey instead of channel 288C3 as proposed in the Notice. In order to accomplish this proposed change in accordance with the requirements of 47 CFR 73.207, WGUL-FM is proposing to substitute channel 289A for channel 288A at Sebring and the modification of the license of station WCAC accordingly. Roper wishes to support this channel substitution proposed in WGUL-FM'S comments and herein proposes that channel 289C3 be allotted to Sebring instead of channel 289A. A channel 289A allotment, as proposed in the Notice, would allow WCAC to go to full class A facilities of 6 kW effective

radiated power (ERP) at 100 meters antenna height above average terrain (HAAT), thus resulting in increased service over the authorized WCAC facility. A channel 289C3 allotment at Sebring would allow WCAC to provide a wider area service than on channel 289A, as is being proposed in WGUL-FM's comments.

Proposed Allotment of Channel 289C3 to Sebring

Roper proposes, that channel 289C3 be allotted to Sebring instead of channel 289A, as is being proposed in WGUL-FM's comments in this proceeding. This can be done in accordance with the Commission's Rules and meet the separation requirements of 47 CFR 73.207 with respect to all other stations and allotments.¹

It is also understood that Wodlinger Broadcasting of Naples, Inc., licensee of WIXI (channel 288A and permittee of WIXI (channel 288C3), is filing comments in this proceeding requesting the upgrade of its construction permit from channel 288C3 to channel 288C2.² This proposed upgrade will not interfere with upgrade of WCAC to channel 289C3, as proposed herein.

¹The substitution of channel 256A for channel 292A at Avon Park, Florida has been proposed in MM Dockets Nos. 87-455 and 89-455. This WWOJ channel substitution was also referenced in WGUL-FM's original petition and WWOJ has also notified the Commission of its consent to the channel change. Since this would allow WCAC to migrate to channel 289A or channel 289C3, thus increasing its coverage, Roper supports the substitution of channel 256A for channel 292A at Avon Park as proposed in the above referenced Dockets.

²The licensed and authorized WIXI site has been assumed, which is: 26 19'00" North, 81 47'13" West.

Attached as Figure 1 is an allocation study for channel 289C3, and attached as Figure 2 is a map showing the area to locate channel 289C3 at Sebring.³ As can be seen from the allocation study, the minimum distance separations are met to all stations and allotments. As the reference distance to the city-grade (3.16 mV/m) contour for a class C3 station is approximately 23.2 kilometers, it can be seen from the map that the requisite city coverage (47 CFR 73.315) can easily be met. The city limits of Sebring, shown in the map, were taken from a map contained in the 1990 U.S. Census.

Proposed Change in FM Table of Allotments

The proposed changes in the FM Table of Allotments (47 CFR 73.202(b)) are as follows:

<u>City</u>	<u>Present</u>	<u>Proposed</u>
Sebring, FL	288A	289A or 289C3

Population and Area

The population and land area within the predicted WCAC 1 mV/m coverage contours for channel 289A (assumed 6 kW ERP at 100 m HAAT) and channel 289C3 (assumed 25 kW ERP at 100 m HAAT) facilities at the

³A hypothetical site is assumed for channel 289C3, having coordinates: 27°20'30" North, 81°28'05" West. It is noted that WCAC has consented to the channel change and site restriction for channel 289A contained in the WGUL-FM upgrade proposal. The channel 289A assumed reference site is 27°26'25" North, 81°27'00" West.

assumed reference sites would be greater than for the authorized channel 288A (CP, 3 kW ERP at 100 m HAAT) facility. The following table compares the predicted 1 mV/m coverage areas and populations within these areas for each of the facilities.

<u>Facility</u>	<u>1 mV/m Coverage</u>	
	<u>Area (sq km)</u>	<u>Population</u>
288A (CP, 3 kW, 100 m)	1,840	65,040
289A (6 kW, 100 m)	2,510	69,400
289C3 (25 kW, 100 m)	4,800	79,100

Thus it can be seen that substitution of either channel 289A or channel 289C3 at Sebring will result in an increase in service for WCAC.

Conclusion

Channel 289A or channel 289C3 can be substituted for channel 288A at Sebring, Florida in compliance with all applicable Commission rules as detailed above.

TECHNICAL STATEMENT
IN SUPPORT OF
COMMENTS AND A COUNTERPROPOSAL
MM DOCKET NO. 93-65
ROPER BROADCASTING, INC.
SEBRING, FLORIDA

Allocation Study

Job Title :WCAC(FM) SEBRING, FL.

Separation Buffer 32 km

Channel 289C3 (105.7 MHz)

FCC DB Date : 04/27/93

Coordinates : 27-20-30 81-28-05

Call	City	Channel	ERP(kW)	Latitude	Bearing	Dist.	Req.
Status	State	FCC File No.	Freq.	Longitude	deg-Tru	(km)	(km)

Job Title :WCAC(FM) SEBRING, FL.

Separation Buffer 32 km

FCC DB Date : 04/27/93

Channel 289C3 (105.7 MHz)

Coordinates : 27-20-30 81-28-05

Call Status	City State	FCC File No.	Channel Freq.	ERP(kW) HAAT(m)	Latitude Longitude	Bearing deg-Tru	Dist. (km)	Req. (km)
NEW APPG	Englewood FL	BPH8709100G	290A 105.9	3.00 100.0	26-57-52 82-19-16	243.8	94.33	89 CLOSE
WOCL LIC	Deland FL	BLH870721KC	290C 105.9	100. 482.0	28-55-16 81-19-09	4.7	175.65	176 CLOSE
WAXYFM LIC	Fort Lauderdale FL	BLH890814KI	290C 105.9	100. 311.0	DA 25-59-34 80-10-27	139.1	197.30	176 CLEAR
WWOJ CP	Avon Park FL	BPH901224IF	292A 106.3	4.6 113.0	DA 27-33-37 81-29-36	354.1 SS	24.36 ¹	42 SHORT
WWOJ LIC	Avon Park FL	BLH870113KB	292A 106.3	2.35 113.0	27-33-37 81-29-36	354.1	24.36 ¹	42 SHORT

** End of separation study for channel 289C3 **

Study based on assumed reference site.

¹ It is proposed to change WWOJ's frequency from channel 292A to 256A (99.1 MHz). (See MM Docket 87-455, 89-455 and the instant proceeding). Therefore, no short spacing results.

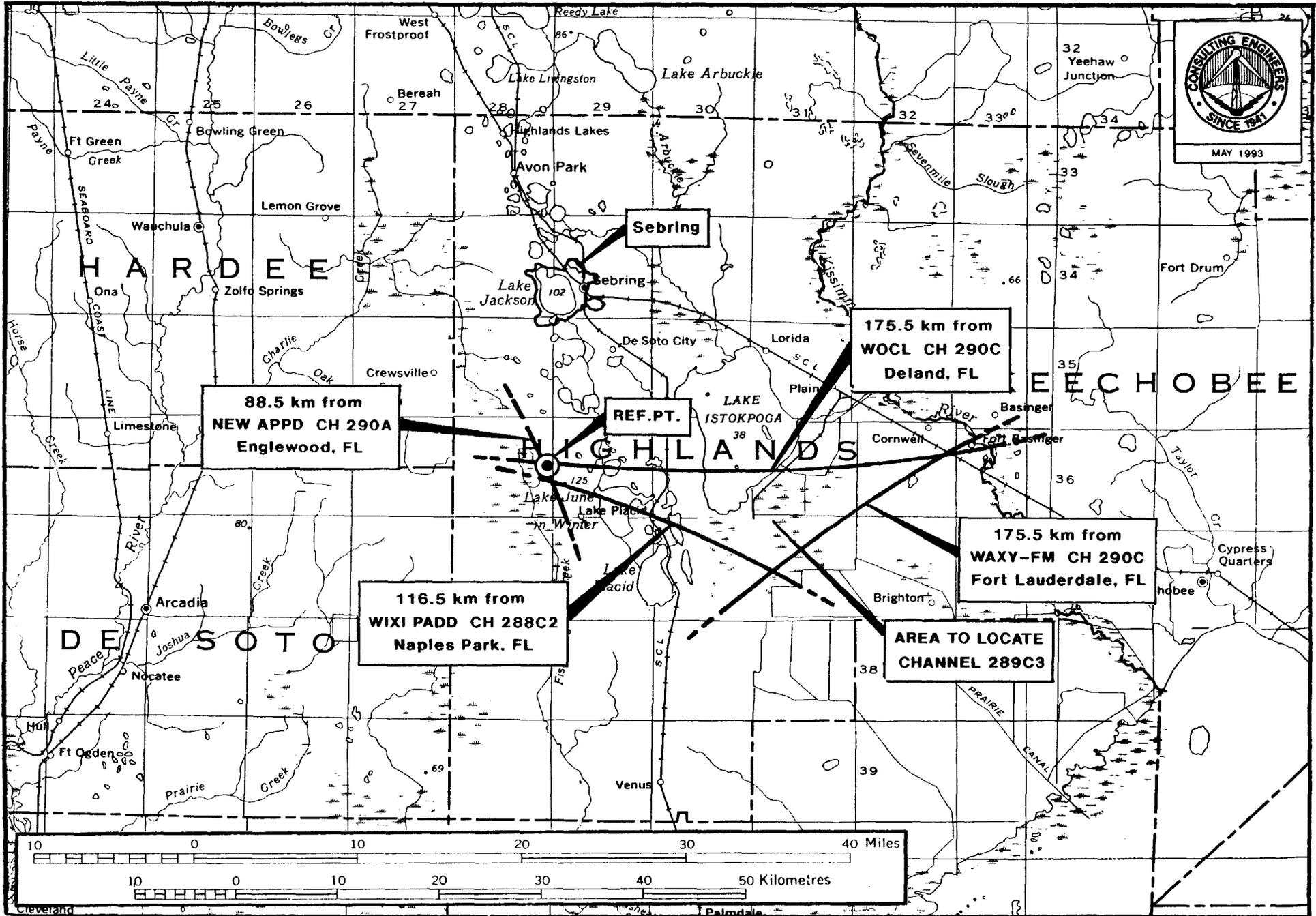


Figure 2

CERTIFICATE OF SERVICE

I, Mary Odder, a secretary in the law firm of Kaye, Scholer, Fierman, Hays & Handler, hereby certify that on this 1st day of June, 1993, have caused a copy of the foregoing "Comments and Counterproposal of Roper Broadcasting, Inc." to be sent via U.S. mail, postage prepaid, or be hand-delivered to the following:

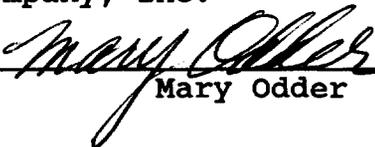
Michael C. Ruger, Esq.*
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Mary Odder

* Via Hand Delivery