Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of Section 73.606(b),	)	MM Docket No. 93-142
Table of Allotments, TV	)	RM-8208
Broadcast Stations	)	
(Willits, California)	)	

To: Allocations Branch

COMMENTS IN SUPPORT OF NOTICE OF PROPOSED RULE MAKING

Granite Broadcasting Corporation ("Granite") and KNTV, Inc., by their attorneys and pursuant to Sections 1.415 and 1.420 of the Commission's Rules, 47 C.F.R. §§ 1.415, 1.420 (1992), hereby submit their comments in support of the Notice of Proposed Rule Making adopted by the Commission on May 7, 1993 (DA 93-534, released May 27, 1993) in the above-referenced proceeding ("Notice"). Granite and KNTV, Inc. originally petitioned the Commission on February 18, 1993, to institute a rule making proceeding to amend Section 73.606(b) of the Rules of the Federal Communications Commission ("FCC" or "Commission"), 47 C.F.R. § 73.606(b) (1992) to delete the vacant Channel 11 allotment at Willits, California, or in the alternative substitute a UHF channel therefor. In its Notice, the Commission provisionally proposed to delete VHF Channel 11 at Willits. Notice at ¶ 5.

I. Background

KNTV, Inc., which is a wholly owned subsidiary of Granite, is the licensee of Station KNTV(TV) (the "Station" or

"KNTV"), San Jose, California. As Granite and KNTV, Inc., explained in their Petition for Rulemaking ("Petition"), KNTV's transmitter is located on Loma Prieta Peak, which is situated almost directly on the active Sargent Fault system and very close to the San Andreas Fault, which is part of the world's most seismically active zone. KNTV's transmitting tower and antenna were severely damaged in the Loma Prieta earthquake in October 1989 and, because the Loma Prieta Peak is located in a seismically active region, KNTV wishes to relocate its transmitter to a less hazardous site. As Granite and KNTV, Inc., explained in their Petition, the move to an area which is less vulnerable to severe seismic activity is important to KNTV not only to avoid the potentially substantial cost of future earthquake damage, but also to enable KNTV to be able to avoid interruptions of service subsequent to earthquakes and provide continuous information to the public during future emergencies.1/

Loma Prieta Peak is located to the south of San Jose. As explained more fully below, it is not feasible to move KNTV's transmitter further south due to unacceptable terrain shielding toward San Jose. KNTV has determined that the only sites from which it could provide coverage to its service area which would

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1/ As noted in its Petition, KNTV is a vital source of news for San Jose and the surrounding area, producing seventeen hours of long-form newscasts each week. However, during the 1989 Loma Prieta earthquake, the damage to KNTV's transmitter caused the station to go off the air for five hours.

be comparable to its current coverage are located to the north, that is, closer to the vacant Willits allotment.

As noted above, the Commission's Notice provisionally proposed to delete VHF Channel 11 at Willits. In response to Granite's and KNTV, Inc.'s alternative request for the substitution of a UHF channel at Willits, the Commission explained that it could not accommodate such a request in its Notice because the consideration of a new UHF allotment at Willits may be made only after an allotment plan for ATV use in the San Francisco area is determined. Notice at ¶ 6. In addition to seeking comments on the proposed deletion of Channel 11 at Willits, the Commission in its Notice requested Granite and KNTV, Inc., to address certain factual questions. These questions are as follows: (1) whether KNTV's proposal could be accommodated by further site restricting Channel 11 at Willits; (2) whether KNTV could operate in a manner designed to avoid interference to the Willits allotment; (3) whether, assuming Channel 11 could be further site restricted at Willits, KNTV could provide reasonable assurance of the availability of a site conforming to the restriction; (4) whether there are any transmitter sites available for KNTV that would not be short-spaced to Channel 11 at Willits and why those locations would not be suitable for KNTV's transmitter; and (5) why the site KNTV has chosen for relocation is less susceptible to earthquakes than other sites in the area. Notice at ¶ 5. Granite and KNTV, Inc., address these questions as set forth below.

II. Site Restriction of the Channel 11 Allotment at Willits

The relocation of KNTV's transmitter cannot be accommodated by further site restrictions to the Willits Channel 11 allotment. The FCC-specified reference point for Channel 11 at Willits is 18.6 kilometers to the north of the center of Willits. This reference point is located almost as close to KNTV's present transmitter site at San Jose and the present transmitter site authorized for Channel 11 at Reno, Nevada, as the Commission's minimum distance separation requirements allow. As more fully explained in the Engineering Statement of Richard L. Biby attached hereto as Exhibit E, while theoretically there are other sites from which service could be provided to Willits on Channel 11 that would both meet the spacing requirements of Channel 11 at Reno and allow KNTV to move its transmitter to a non-short-spaced site away from Loma Prieta, line-of-sight coverage of Willits cannot be achieved from any of these sites.

The town of Willits is located in a valley, at the foot of hills that are 200 to 300 feet higher than the populated portion of the city. For this reason, even the current site restriction for Willits does not provide for unobstructed coverage of the town of Willits. Further site restrictions, however, will only worsen this problem. Thus, as shown in Exhibits E-1 through E-5, the terrain obstructions from the few identifiable points from which an increased site restriction might be hypothesized appear to be very significant. It would be impossible to satisfy the provisions of Section 73.685(b) of the Commission's Rules, 47

C.F.R. § 73.685(b) (1992), and provide line-of-sight or unobstructed coverage of Willits from any such further site restricted point. In sum, further site restrictions of the Channel 11 allotment at Willits, which even at its present location suffers extreme path obstructions, would result in further path obstructions into Willits and would not be a valid method of accommodating KNTV's transmitter site relocation.

III. Avoiding Interference With the Willits Allotment

The Commission suggested in its Notice that KNTV might be able to operate in a manner that would avoid interference with the Willits allotment. Notice at ¶ 5. However, KNTV's engineering studies show that, if it were to reduce its operating power or operate with a directionalized antenna to protect the Willits allotment, from either its present site or any other site, significant degradation of its service to the 1.4 million residents of its city of license and the estimated 6.6 million residents within its Grade B contour would result. See Exhibit E. Thus, neither a reduction in power nor the use of a directionalized antenna provides a viable solution to the potential problem of interference with a station at Willits.

Moreover, attempting to provide interference protection to the Willits allotment from a new, more stable site would place unreasonable burdens on KNTV because the Station would not know in advance of installing its new transmitter exactly what it should be trying to protect. In other words, because the allotment is vacant, KNTV has no information regarding the

operations of the station, if any, that will eventually be built there.2/ Thus, KNTV might make significant expenditures for equipment designed in a particular way to avoid interference with the Willits allotment, and might suffer significant degradation of its signal as a result, only to find out much later that the interference protection it provided was either inappropriate for the station actually built at Willits or unnecessary because no station was built at all.

IV. Availability of Non-Short-Spaced Sites for KNTV

Because of the topography of the region, there are no sites to which KNTV could move its transmitter which would not be short-spaced to the Willits allotment. As noted above, it is not feasible for KNTV to move its transmitter toward the south or southwest. Such a move would involve transmitting from the far side of the Santa Cruz Ridge, which would eliminate line-of-sight paths into the Station's city of license, San Jose, and cause a degradation of its coverage of the city. See Exhibit E-8. If KNTV moved its transmitter toward the east, this would also involve moving farther down the Santa Cruz Ridge, and the resulting reduction in height would worsen the Station's coverage

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2/ Given that the Channel 11 allotment at Willits is currently subject to the Commission's freeze on applications for construction permits for vacant television allotments pending the completion of the FCC's ATV proceeding, and that the Channel 11 allotment at Willits is a likely candidate for deletion in connection with this proceeding because of its proximity to San Francisco, it is in fact highly unlikely that a station will ever be built to broadcast on Channel 11 at Willits. See Granite's and KNTV's Petition for Rulemaking at 10-11.

of San Jose and cities to the south such as Monterey, Seaside, and Salinas. Thus, the only sites which would provide KNTV with the capability of providing either comparable or improved service to San Jose are located to the north of its current transmitter site.

KNTV has made an extensive search for a suitable new transmitter location which would not be short-spaced to the Willits allotment. The results of its search indicate, however,

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prone to earthquake activity than Loma Prieta.3/ See Exhibits E-8, E-9, E-10, and E-11. These sites, which offer both adequate elevation and the necessary accessibility, are marked with the designations A through E. Some of these sites are already being used for communications purposes and thus have other advantages, such as available power. Thus, within the identified area, there is more than one suitable site which Granite may consider for the relocation of KNTV's transmitter.

As explained more fully in the Declaration of Richard E. Hammond, Esq. attached hereto as Exhibit 1, the seismic evidence indicates that the area in which the five identified sites are located is likely to be more stable than KNTV's current transmitter site at Loma Prieta Peak. Loma Prieta Peak is situated approximately two miles from the San Andreas Fault, which is part of the most seismically active zone in the world. In addition, Loma Prieta Peak sits nearly on top of the Sargent Fault, which is considered an active fault and is part of the Sargent-Berrocal fault system, estimated to have an earthquake potential of 7.4 Richter. The Loma Prieta earthquake of 1989 measured 7.1 Richter. See Exhibit 1 at 5-6.

The five alternative sites KNTV has identified as possible transmitter locations are situated farther away from both the San Andreas and the Sargent faults than Loma Prieta Peak. Moreover, in contrast to Loma Prieta, none of the

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3/ Consistent with the Commission's request, these Comments do not address the safety of sites which are more short-spaced to the Channel 11 allotment at Willits.

alternative sites is located on any seismically active fault. Thus, the seismic evidence indicates that the risk of severely destructive seismic activity is less at any of the alternative sites than at KNTV's current transmitter site.

V. Conclusion

As demonstrated above, the relocation of KNTV's transmitter to a safer site cannot be accomplished without the deletion of the Channel 11 allotment at Willits, California. Further site restrictions of the Willits allotment would only result in greater obstructions to coverage of Willits. As noted above, the Channel 11 allotment at Willits does not have the potential to provide good coverage to its service area due to terrain shadowing, either from the current reference point or points with further site restrictions.

KNTV could not operate from its present site or any other site in a manner which would protect the Willits allotment without significant degradation of its own service. There are no sites that are not short-spaced to Willits from which KNTV could provide coverage to its service area that would be comparable to its current coverage. KNTV has identified five possible sites for the relocation of its transmitter that are the least short-spaced sites that would enable the Station to maintain at least its current level of service. The available evidence indicates that these sites are likely to be seismically more stable in the future than KNTV's current Loma Prieta site.

For all these reasons, Granite and KNTV, Inc., submit that the deletion of the Channel 11 allotment at Willits is in the public interest.

Respectfully Submitted,

GRANITE BROADCASTING CORPORATION
KNTV, INC.

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Dated: July 19, 1993

EXHIBIT 1
Declaration of Richard E. Hammond

DECLARATION OF RICHARD E. HAMMOND

I, RICHARD E. HAMMOND, declare the following:

1. I am an attorney licensed to practice in the State of California and am a partner in the law firm of Heller, Ehrman, White and McAuliffe in San Francisco, California. I have no formal academic training or field experience as a geologist, a seismologist, or a seismic engineer. Therefore, I am not, nor by executing this Declaration do I purport to be, an expert in the subjects of geology, seismology, or seismic engineering. Nevertheless, as described below, my professional experience includes seven years during which I worked extensively on facility siting issues that centrally involved considerations of hazard, facility reliability, and public safety, among other concerns.

2. For three years (1977-1980), I served as Deputy Secretary for Resources in the State of California Resources Agency ("the Resources Agency"), a cabinet-level agency roughly analogous to the U.S. Department of Interior in the federal government. The Resources Agency then included within its line organization (and today continues to include) the California Department of Conservation ("DOC"), which in turn encompasses, among other divisions, the California Division of Mines and Geology ("CDMG"). The CDMG includes within its organization among its other divisions and programs, the state Geologic Hazards Assessment Program, the Earthquake Engineering Program, the Geologic Information and Support Program, and the State Geologist. During my years as Deputy Secretary of Resources, I

was directly involved in numerous facility siting issues involving the public safety, including the seismic hazard and seismic safety, of proposed and existing nuclear power plants, very large dams, liquefied natural gas facilities, oil and gas pipelines, onshore and offshore oil tanker terminals, and onshore and offshore oil facilities. With respect to issues of seismic hazard and seismic safety, I worked closely with personnel of the CDMG, including the State Geologist and his staff geologists who were working on geologic hazard assessment issues. Often the work involved consideration of the relative seismic hazards that would be associated with alternative site locations for a given facility or type of facility. In the course of such work, I reviewed maps and read treatises, reports, and other memoranda on seismic hazard issues prepared by geologists. Frequently I communicated on such issues with engineers at the California Seismic Safety Commission, with geologists at the U.S. Geological Survey ("USGS") in Menlo Park working on seismic hazard evaluation, and with private-sector geologists representing corporations and non-governmental organizations.

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facility siting issues similar to those discussed above. In these capacities, I was also involved with the DOC, the CDMG, the USGS, and geologists representing other organizations, and I worked regularly with maps, treatises, reports, and memoranda about seismic hazard and seismic safety issues, prepared by geologists.

4. In late 1992 I was retained by Granite Broadcasting Corporation ("Granite") to undertake a review of existing and available literature and maps that provide information on the vulnerability of the Loma Prieta Peak transmitter tower site of Station KWTV, San Jose, California, to

KNTV can provide comparable or better coverage for its community of license and service area. These sites are identified as Sites A through E in the Engineering Statement of Richard L. Biby and the attachments thereto (the "Alternative Sites").

5. My findings in connection with this undertaking are based directly on available literature and maps, which are available in official publications of the State of California. Based on these findings, which are set forth in detail below, I conclude that transmitter tower facilities that might be situated at the Alternative Sites appear to be less likely to be exposed to severe future seismic activity than the facilities at the KNTV tower site on Loma Prieta Peak.

6. According to a publication of the California Division of Mines and Geology, "relative geologic stability under seismic conditions at a particular site is dependent on a number of factors, including...1) magnitude of the earthquake; 2) distance of site from the earthquake epicenter; 3) duration of ground shaking; 4) type of material and water content of the material underlying the site; 5) slope of the site and general topography of the surrounding area; 6) presence of an active fault on the site (possibility of ground rupture).[1/] From

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1/ Environmental Geological Analysis of the South County Study Area, Santa Clara County, California, by John W. Williams and Charles F. Armstrong, Earl W. Hart, and Thomas H. Rogers. Prepared in cooperation with the Santa Clara County Planning Department, 1973. Preliminary Report 18. California Division of Mines and Geology, Sacramento, California. At page 5.

these factors, one may conclude, among other things, that one

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or show no evidence of recent fault displacement, Loma Prieta Peak is located approximately two miles from the San Andreas Fault. The San Andreas Fault is part of the world's most seismically active zone. It is depicted on the CDMG Faulting Map as a line highlighted in red, denoting, according to the map's legend, a fault on which displacement has occurred in historic time. Loma Prieta Peak is located approximately 6 miles (approximately 10 kilometers) north-northeast of the epicenter of the 1989 Loma Prieta Earthquake. That earthquake registered 7.1 on the Richter scale. Loma Prieta Peak also is nearly astride the Sargent fault, which is a part of the Sargent-Berrocal fault system. Scientists report that the Sargent-Berrocal fault system "should be viewed as active."[3/] The CDMG Faulting Map depicts the Sargent fault as a line highlighted in orange, indicating that there is geomorphic evidence that the fault has experienced displacement during Holocene time (i.e. rupture within the past 200 to 11,000 years).[4/] A magnitude 5.0 earthquake on the Sargent fault in 1964 was reported by McEvilly (1966), and "probable" and "possible" earthquakes in the magnitude 3.6 to 4.5

range have been cited farther north along the Sargent-Berrocal zone (Lee and others, 1972; Wesson and others, 1975).[5/] The CDMG Faulting Map also shows the Sargent fault appearing to connect with the San Andreas fault, approximately six miles to the west and slightly north of Loma Prieta Peak. The Sargent fault is part of the Sargent-Berrocal fault system, which is estimated to have a maximum magnitude earthquake potential of 7.4 Richter - significantly greater than the 7.1 Richter Loma Prieta earthquake of October 17, 1989.[6/] The February 17, 1993 Declaration offers further discussion of the seismicity of the Sargent fault as part of the Sargent-Berrocal fault system, and the relationship believed to exist between seismic activity on the San Andreas fault system and on the Sargent-Berrocal fault system.[7/] See February 17, 1993 Declaration at 5-6.

8. In summary, Loma Prieta Peak (i) is approximately 2 miles from the very active San Andreas fault, which might be expected to produce additional major seismic events in the future; (ii) is located almost directly on the Sargent fault, which is part of the seismically active Sargent-Berrocal fault system believed capable of producing an earthquake of 7.4

5/ Special Report 140, at 48, citing several references fully listed in the bibliography entitled "References Cited", which appears at 48-49.

6/ "Special Report 140, at 48 (Hay, Cotton, and Hall.

7/ Special Report 140, at 41 (Hay, Cotton and Hall).

Richter; and (iii) is located quite near to the point of highest recorded peak acceleration in the zone subjected to the most severe ground shaking during the 1989 Loma Prieta Earthquake on the San Andreas system, and might be expected to suffer such severe ground shaking from seismic events along either the San Andreas or the Sargent fault systems.

9. KNTV's electrical engineering consultants have identified five possible Alternative Sites that they believe represent the least short-spaced sites available where KNTV can provide comparable or better coverage for its community of service. These sites, identified as Sites A through E in the Engineering Statement of Richard L. Biby and the attachments thereto (the "Alternative Sites"), all of which are on peaks clustered within about 3 miles of one another, are located approximately 3.5 to 5.5 miles north and northwest of the Loma Prieta Peak transmission facility. For the reasons set forth below, and based upon the maps and documents published by the State of California and cited herein, the Alternative Sites appear to be subject to a lower level of seismic risk than the Loma Prieta Peak site.

10. According to the CDMG Faulting Map, the Alternative Sites are located approximately 2 to 4 miles to the

are further distant. Applying factors 1 (magnitude of potential earthquake) and 2 (distance from possible epicenter), listed hereinabove in Paragraph 6, as screening parameters, this greater distance from one of the world's most active fault systems appears to provide a relative seismic risk advantage for the Alternative Sites over the present site.

11. According to the CDMG Faulting Map, none of the

Faulting Map, all of which are shown as narrow black lines indicating, according to the legend, a "Fault showing evidence of no displacement during Quaternary time (rupture during the last 2,000,000 years) or faults without Quaternary displacement." The map's legend appears to place activity on these faults at approximately 5,000,000 years before the present.

13. According to the CDMG Faulting Map, the Berrocal Fault is located variously from approximately 1 mile (Alternative Site E) to 3 miles to the east-northeast of the Alternative Sites. The present transmitter site is located approximately two miles from the nearest point on the Berrocal fault. The Berrocal

fault presents a seismic risk that might be factored into the evaluation, there apparently is little relative advantage or disadvantage to any of the existing or Alternative Sites with respect to distance from the Berrocal fault.

14. Based upon my professional experience (as described in paragraphs 1, 2 and 3 above) and upon my review of the technical literature and mapping reviewed and cited above, Loma Prieta Peak, by its location directly on the Sargent fault, its immediate proximity to the San Andreas fault, and its proximity to the epicenter of the October 17, 1989 quake, appears to be a poorer location for a TV transmission facility, in terms of seismic risk, than the Alternative Sites. Based upon proximity to active faults believed by experts to be capable of generating major seismic events, the Alternative Sites appear to be less likely to experience ground shaking as severe as has occurred and is likely to occur again at Loma Prieta Peak.

I declare that the foregoing is true and correct to the best of my knowledge and belief.

Richard E. Hammond
RICHARD E. HAMMOND

Dated: July 19, 1993

Exhibit E

Engineering Statement in Re:

Comments on an Amendment to Section 73.606(b)

Deletion of Ch. 11 at Willits, California

RM-8208 - MM Docket 93-142

Prepared on Behalf of

Granite Broadcasting Corporation and KNTV, Inc.

Introduction

In response to a petition for rulemaking by Granite Broadcasting Corporation ("Granite"), the Federal Communications Commission ("FCC") has issued a Notice of Proposed Rulemaking to entertain discussion as to whether to delete Ch. 11 at Willits, California. Granite seeks to delete the vacant, frozen Ch. 11 allotment for Willits, CA to enable its VHF-TV facility, KNTV, serving San Jose, CA on Ch. 11, to relocate to a point which is more seismically stable than the Loma Prieta Peak and which provides comparable or improved service into its community of license. In the Notice of Proposed Rulemaking (RM-8208 Released May 27, 1993), the Commission enumerates certain issues regarding the deletion of Willits which Granite addresses in the instant comments:

1) Can KNTV's proposal be accommodated by a further site restriction to the Willits allotment?

2) Can KNTV be operated in a manner designed to avoid interference to the Willits allotment?

3) If a further site restriction would be possible for Willits, is there any reasonable assurance that a site conforming to the new restrictions would be available?

Summary Overview

As stated in its Petition for Rulemaking, Granite must move KNTV off of Loma Prieta. Granite has searched for alternative sites which will not worsen its coverage into San Jose and which will still serve important secondary cities to the south such as Monterey, Seaside, and Salinas. KNTV is currently situated on the Loma Prieta peak, which is the highest point on the crest of the Santa Cruz Mountain Ridge. Therefore, any move off of Loma Prieta is downwards. Equally important, KNTV must not worsen its coverage into its city of license - San Jose. Indeed, Granite is well aware that, despite the great height of the Loma Prieta Peak KNTV transmitter site, shadowing problems exist in nearby communities such as Los Gatos, Palo Alto, and Cupertino.

Granite has identified a number of alternative sites which might provide comparable or improved service to San Jose and which appear to be less vulnerable to shaking and damage from earthquakes. None of these sites meet the minimum distance separation requirement towards the FCC's restricted reference point for Willits. Any site relocation for KNTV to a safer, more stable point which might still serve San Jose is dependent on the deletion of the allotment of Ch. 11 at Willits, either by deleting the allotment altogether, or by allotting a UHF channel tentatively, subject to final selection when the HDTV/ATV allotment tables are resolved.

The FCC specified reference point for Channel 11 at Willits is situated almost as close to the KNTV San Jose site and the KRXI, Ch. 11 site at Reno, NV as the pertinent minimum distance separation requirement of 304.9 km allows. This effectively butts the Ch. 11 Willits allotment up against KNTV and KRXI so that neither may move in the direction of Willits. The FCC specified reference point is 18.6 km distant from the center of Willits as defined by the Index to the National Atlas of the United States. From this restricted site, and all non-short-spaced points, there is no available site which does not suffer from path obstructions into the town of Willits. Any increased site restriction will further exacerbate a fundamentally flawed allotment.

Granite's need to relocate KNTV can not be accommodated by further restricting the reference point for the Willits Ch. 11 allotment. Nor are there prescribed methods in the television portion of the FCC Rules and Regulations ("Rules") for assuring interference protection towards an allotment when relocating a licensed facility. Directionalization of KNTV to avoid interference with a theoretical facility which may never be implemented would bring to KNTV a severe degradation of service to the 6.6 million viewers in its Grade B service area. The population which might be served by a Ch. 11 allotment at Willits is on the order of 167,500 people, most of whom would not be able to receive the station anyway because of terrain obstructions. When Ch. 11 was allotted to Willits (MM Docket 86-96, Released Nov. 19, 1987), there were no TV facilities which encompassed Willits with a Grade B or better service contour. Since then, KFWU (Ch. 8 at Fort Bragg, CA) has been licensed. Willits is now within the City Grade (77 dBu) service contour for KFWU.

There are no non-short-spaced sites available from which KNTV might operate without losing coverage within its community of license. Because of the mountain ranges on the Eastern and western edges of San Jose, which almost converge at Morgan Hill, there are already significant pockets of population, e.g. Cupertino, Los Gatos, and others, which are shadowed from receiving KNTV. Any movement southwards, away from San Jose will worsen KNTV's service problems. As stated previously in Granite's Petition for Rulemaking, the Loma Prieta peak was the focus of extremely violent lateral shaking during the Loma Prieta Earthquake of 1989. From U.S.G.S. data and facts presented in the Petition, it is clear that there are other peaks of lesser but practical height which are removed from the fault zones and densely packed, recorded epicenters of seismic activity which might be suitable as alternative sites for KNTV.