

DOCKET FILE COPY ORIGINAL

ORIGINAL

LAW OFFICES
LEVENTHAL, SENTER & LERMAN
SUITE 600

2000 K STREET, N.W.
WASHINGTON, D.C. 20006-1809

NORMAN P. LEVENTHAL
MEREDITH S. SENTER, JR.
STEVEN ALMAN LERMAN
RAUL R. RODRIGUEZ
DENNIS P. CORBETT
BARBARA K. GARDNER
STEPHEN D. BARUCH
SALLY A. BUCKMAN
LAURA B. HUMPHRIES
LYNN M. CRAKES
DAVID S. KEIR
ANATOLIO B. CRUZ III+
LINDA G. MORRISON*

TELEPHONE
(202) 429-8970

TELECOPIER
(202) 293-7783

July 19, 1993

RECEIVED

OF COUNSEL
BRIAN M. MADDEN
TERRY B. MARZOUK

JUL 19 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

+ ADMITTED PA ONLY
* ADMITTED CA ONLY

BY HAND DELIVERY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20554

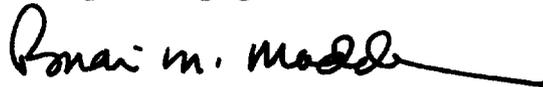
Re: MM Docket No. 93-142

Dear Mr. Caton:

On behalf of William H. Sauro and Ronna L. Sauro, there are transmitted herewith an original and four copies of their Comments in connection with the above-captioned rule making proceeding, proposing to delete or substitute an alternative channel for Channel 11 at Willits, California.

If any additional information is desired in connection with this matter, please contact the undersigned counsel.

Very truly yours,



Brian M. Madden

BMM:kbs
Enclosures
cc: Michael C. Ruger, Esq.
Tom W. Davidson, Esq.

No. of Copies rec'd
List A B C D E



ORIGINAL

BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

RECEIVED

JUL 19 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of Section 73.606(b))
Table of Allotments)
TV Broadcast Stations)
(Willits, California))

MM Docket No..93-142
RM-8208

To: Chief, Allocations Branch

COMMENTS

William H. Sauro and Ronna L. Sauro, by their attorneys and pursuant to Section 1.420 of the Commission's rules, hereby submit these Comments in the above-captioned proceeding which seeks, at the request of KNTV, Inc. and Granite Broadcasting Corporation (collectively, "Granite"), the deletion of the vacant Channel 11 allotment at Willits, California, or, alternatively, the substitution of a UHF channel for use in Willits.

As the Commission recognized in the Notice of Proposed Rule Making, DA 93-778, released July 8, 1993 ("NPRM") at ¶ 4, Channel 11 was assigned to Willits in 1987, but has never been available for applications because of the freeze imposed as a part of the Commission's ATV proceeding. See Report and Order in MM Docket No. 86-96, 2 FCC Rcd 6962, 6963 (Mass Media Bureau, 1987). Granite claims that deletion of the channel would not, therefore, adversely affect the public interest because the

service may never materialize. It is clear, however, that the effect of the ATV freeze has been to preclude for the past five years the opportunity for any local television service for Willits; Granite's proposal would deny the residents of Willits any opportunity for such service in the future no matter what the outcome of the ATV proceeding.

Mr. Sauro is an experienced broadcaster. He and his wife currently intend to file an application for Channel 11 at Willits once the ATV freeze is removed. Attached hereto is an Engineering Statement prepared by Lawrence L. Morton Associates at the request of the Sauros. Mr. Morton confirms that it is not possible to propose a site for use by a Channel 11 allotment that is both outside of the freeze zone and from which the station could still provide city-grade service to Willits. See Exhibit E-2. Mr. Morton also confirms that the freeze precludes the assignment of a UHF channel in a manner that would allow any near-term activation of a Willits station. See Exhibit E-3. As to the assertion that a UHF channel might be able to render acceptable service to Willits, see NPRM at n.9, Mr. Morton states that the superior propagation characteristics of the existing VHF channel assigned to Willits will be important in determining the success of a Willits facility; in addition, Mr. Morton notes that operation of a station on Channel 11, rather than on a UHF channel, will be more economical.

In view of the foregoing, Mr. and Mrs. Sauro respectfully urge that the Commission not delete Channel 11 from

the TV Table of Allotments as the allotment for Willits,
California and that no UHF channel be substituted for Channel 11

EXHIBIT E-1 ENGINEERING STATEMENT

The information and data contained within these Engineering Exhibits were prepared on behalf of William Sauro, in support of comments to the *Notice of Proposed Rule Making*, RM-8208, MM Docket No. 93-142, released May 27, 1993.

I. DISCUSSION

A petition for rule making was filed on behalf of Granite Broadcasting Corporation and KNTV, Inc., seeking the deletion of vacant VHF television Channel 11 at Willits, California, or alternatively, the substitution of a UHF channel for the vacant Willits allotment. The petitioner states that the proposed change to the Table of Allotments of §73.606(b) is to accommodate the KNTV(TV), Channel 11, San Jose, California, relocation plans.

The petitioner further states that the KNTV(TV) licensed site on Loma Prieta Peak, in the Santa Cruz Mountains, is located on the Sargent-Barrocal earthquake fault, and that having already sustained damage to its tower and antenna in the Loma Prieta earthquake in October 1989, it desires to relocate its tower to a less vulnerable area.

KNTV(TV) has determined that geographic and topographic factors require a northerly movement of its site in order to maintain acceptable service over San Jose. However, the presence of the vacant Channel 11 allotment at Willits, California, is precluding such northerly movement.

In further support of the requested deletion, the petitioner points out that Channel 11 at Willits is presently unavailable for application as a result of the current freeze on the filing of petitions for new allotments and applications for vacant allotments in certain metropolitan areas pending the outcome of the Commission's advanced television ("ATV") proceeding.

The commenter, William Sauro, intends on filing an application for construction permit to build a new VHF television station on Channel 11 at Willits, California, as soon as the present freeze is lifted.

The freeze order specifically applies to areas that are within the co-channel minimum separation distance requirements from the centroid geographic coordinates of the top 30 Arbitron ADI television household markets. Willits is located within Zone II as defined under §73.609(a)(2) and, therefore, the VHF co-channel minimum mileage separation requirement is 189.5 miles (304.9 kilometers). The reference coordinates for the television markets of San Francisco (ADI market five) and Sacramento (ADI market nineteen) were obtained from §76.53.

Exhibit E-2 is a map depicting arcs 189.5 miles (304.9 kilometers) in radius centered at the reference coordinates for the above-mentioned markets. Also shown on this exhibit is the centroid location of Willits, California. Clearly, Willits is located well within the freeze zone due to its proximity to the San Francisco and Sacramento ADI television markets. In fact, Willits, in Mendocino County, is situated within the Arbitron-defined San Francisco ADI market¹. The area defined as the San Francisco ADI market is depicted cartographically in exhibit E-6. Due to the extent of the freeze zone, it is not possible to propose a site that falls outside of the zone from which a principal community (77 dB μ) contour would encompass Willits.

The petitioner, in the alternative, asks the Commission to substitute a UHF channel for VHF Channel 11 at Willits. Exhibit E-3 shows the freeze area based on the UHF co-channel minimum separation distance of 174.5 miles (280.8 kilometers). Again, Willits is well inside of the area so a UHF channel substitution would not affect the present availability of a channel at Willits. Moreover, the commenter finds this option unacceptable due to the specific nature of the terrain surrounding Willits.

Exhibit E-4 is a orthographic view of the terrain within 50 kilometers of the center of Willits, California. Exhibits E-5A through E-5H are terrain profiles drawn out to 100 kilometers in eight cardinal directions from the center of Willits. These exhibits serve to show the extremely rugged terrain within Mendocino County. The terrain data were obtained from the computerized Defense Mapping Agency 3-arc-second point elevation database.

In order to fulfill the principal community service requirements of §73.685(a) and (b), a transmitter site must be situated within close proximity to Willits. For this reason, the imposition of a site restriction on the Channel 11 allotment at Willits is not a viable solution to KNTV's problem.

Furthermore, Mendocino County is made up of small, isolated communities within the Coast Ranges of mountains. Television service to these secluded communities is very important both from community service and commercial viability standpoints. Propagation characteristics of the television signal through this rugged terrain will play an important role in the success of a television station at Willits.

VHF Channel 11, operating over a frequency band from 198 through 204 MHz., has superior propagation characteristics over rugged terrain to UHF channels which start at 470 MHz. Furthermore, it is considerably more economical to operate a VHF high-band television station with an effective radiated power ("ERP") of 316 kW than to operate a UHF station at 5,000 kW. This aspect is important to a station serving a small isolated market such as Willits.

¹See *Arbitron Radio Market Survey Area Guide for 1992-1993*, p. 208.

II. CONCLUSION

For the reasons set forth above, the commenter, William Sauro, respectfully requests that:

1. The unused Channel 11 allotment at Willits, California, be retained within the Table of Allotments of §73.606(b).
2. A UHF channel not be substituted for the Channel 11 allotment.
3. The *Petition for Rule Making* of Granite Broadcasting Corporation and KNTV(TV), Inc., be dismissed.

The commenter asserts that, upon the removal of the present freeze on new television station applications, he will file promptly an application for construction permit to build a new VHF television station on Channel 11 to serve Willits, California.

It is believed that all methods employed in making the determinations contained within these Engineering Exhibits were in accordance with applicable F.C.C. Rules and Regulations and Good Engineering Practice.

Lawrence L. Morton, P.E.
Consulting Telecommunications Engineer
July 15, 1993

Lambert Azimuthal Equal-Area

1 00' 00" Graticule Spacing

189.5 MILE RADIUS FROM SACRAMENTO MARKET

189.5 MILE RADIUS FROM SAN FRANCISCO MARKET

FREEZE ZONE

Willits

Sacramento

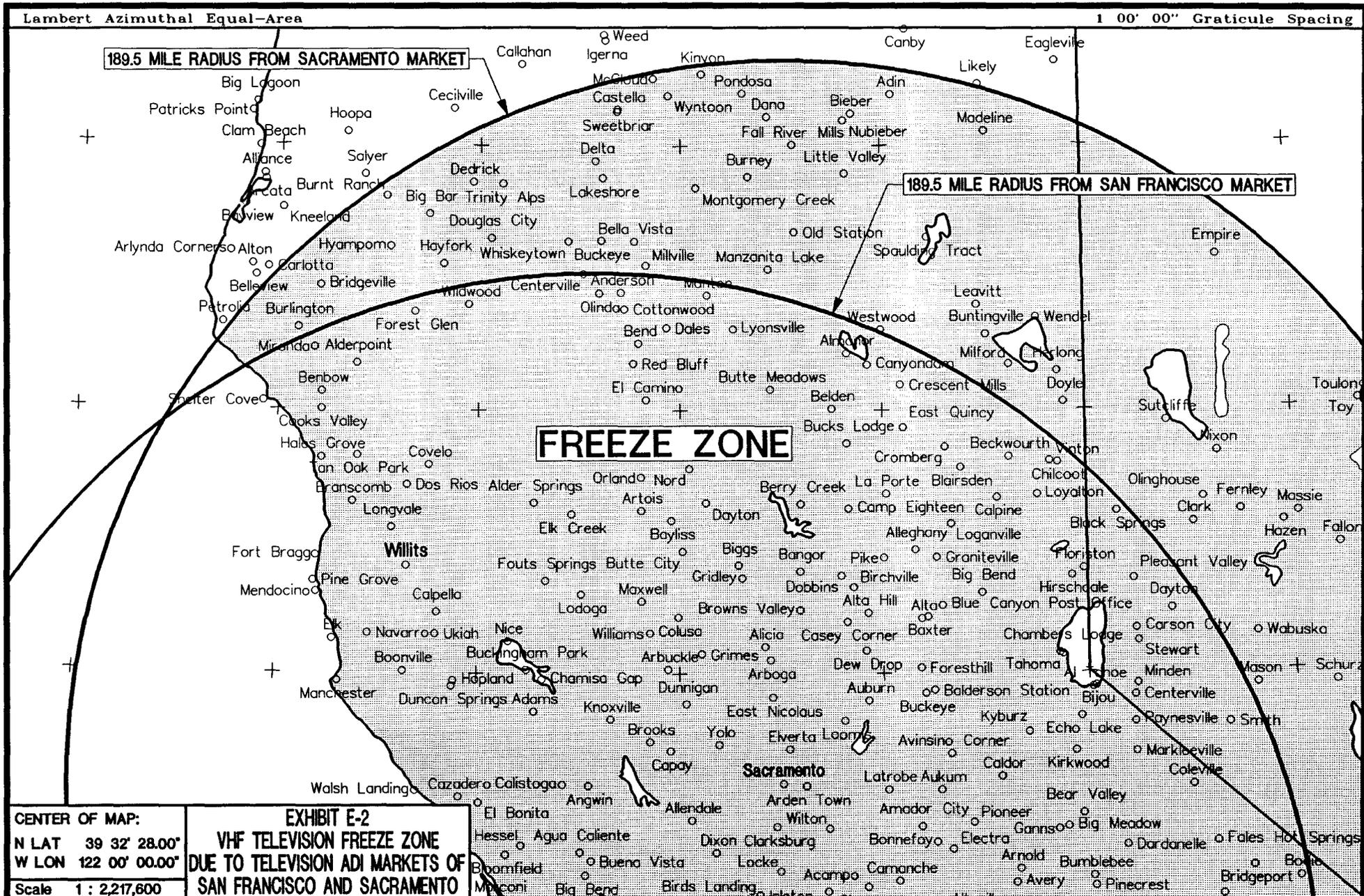
CENTER OF MAP:

N LAT 39 32' 28.00"
W LON 122 00' 00.00"

Scale 1 : 2,217,600

EXHIBIT E-2

**VHF TELEVISION FREEZE ZONE
DUE TO TELEVISION ADJ MARKETS OF
SAN FRANCISCO AND SACRAMENTO**



Lambert Azimuthal Equal-Area

1 00' 00" Graticule Spacing

174.5 MILE RADIUS FROM SACRAMENTO MARKET

174.5 MILE RADIUS FROM SAN FRANCISCO MARKET

FREEZE ZONE

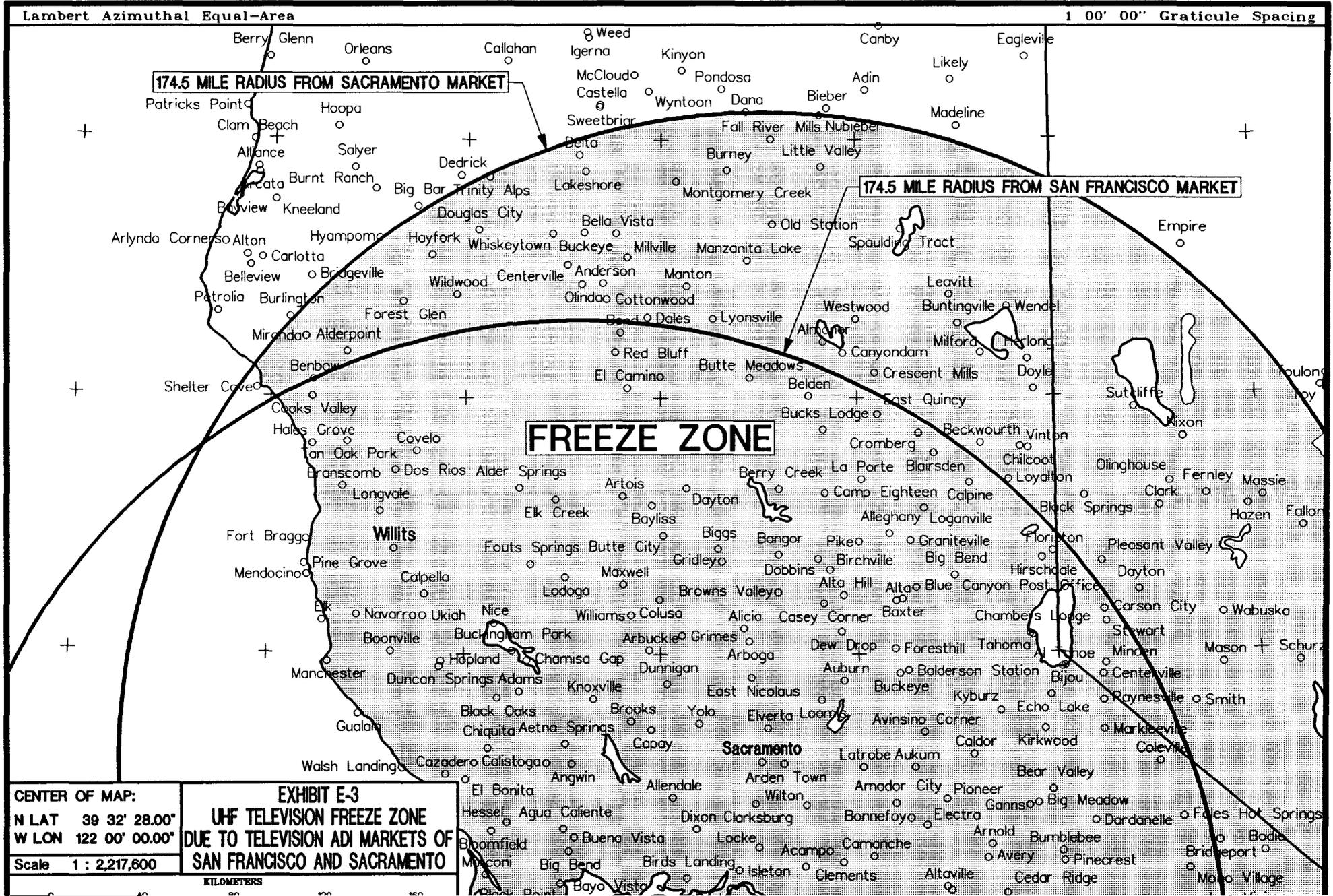
Willits

Sacramento

CENTER OF MAP:
 N LAT 39 32' 28.00"
 W LON 122 00' 00.00"
 Scale 1 : 2,217,600

EXHIBIT E-3
UHF TELEVISION FREEZE ZONE
DUE TO TELEVISION ADI MARKETS OF
SAN FRANCISCO AND SACRAMENTO

KILOMETERS



TERRAIN SURROUNDING WILLITS

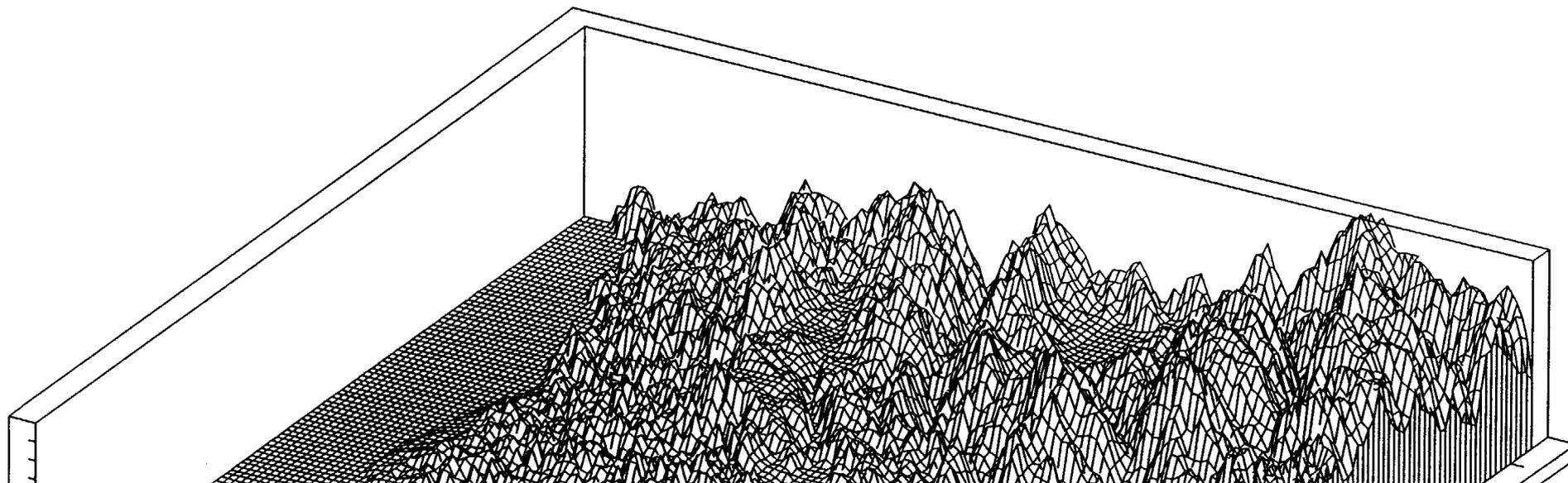
ELEV SCALE: 0.0- 6000.0 Feet
0.0- 1828.8 Meters
ELEV RANGE: 0.0- 7200.0 Feet
0.0- 2194.6 Meters
AVERAGE ELEV: 1752.7 Ft 534.2 Mtrs

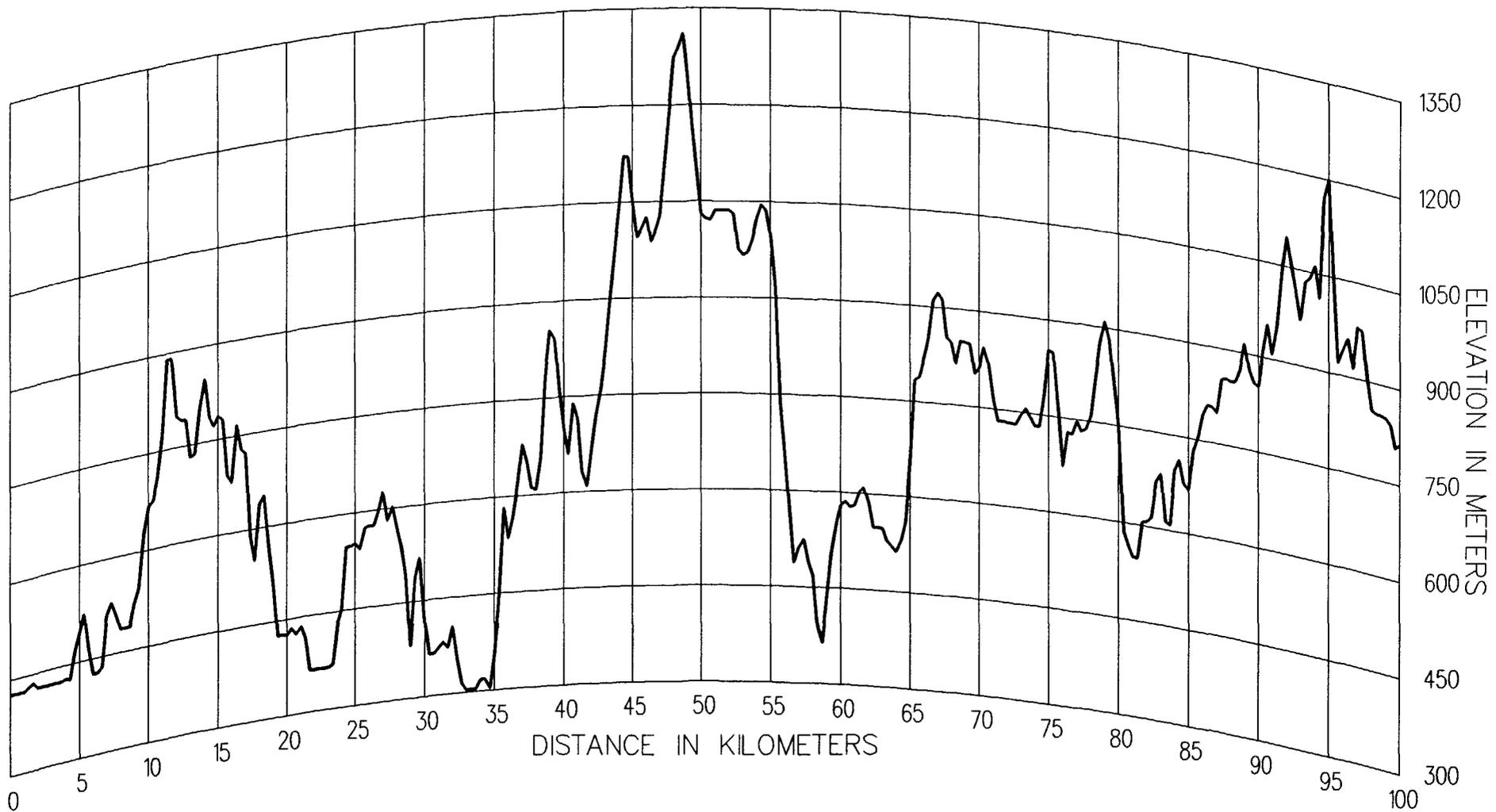
LATITUDE RANGE: 38: 57: 30/ 39: 52: 00
LONGITUDE RANGE: 122: 46: 00/123: 56: 30

LON SPAN: 62.9 Mi 101.2 Km
LAT SPAN: 62.7 Mi 100.8 Km

AREA TOPOGRAPHY

68.99 Miles/Degree Latitude
53.51 Miles/Degree Longitude

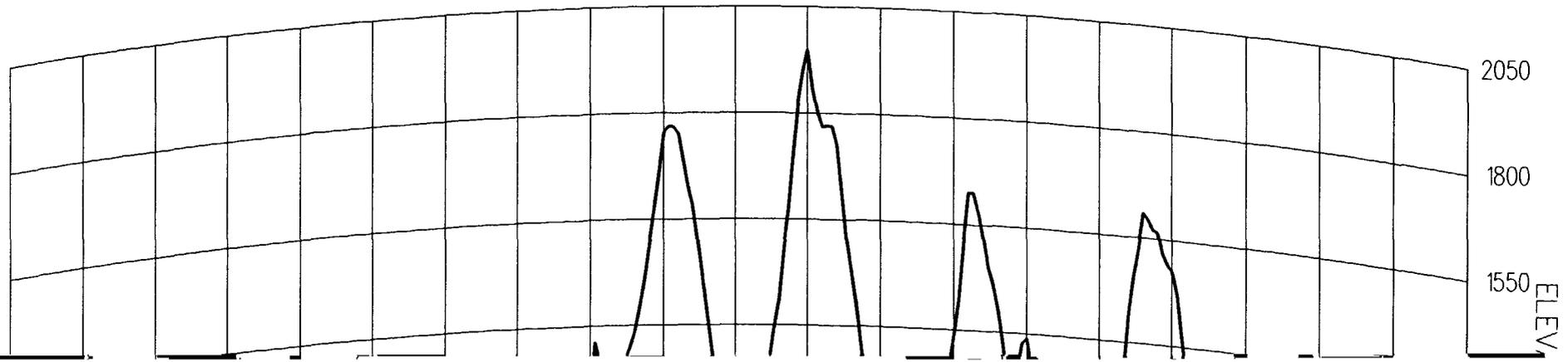


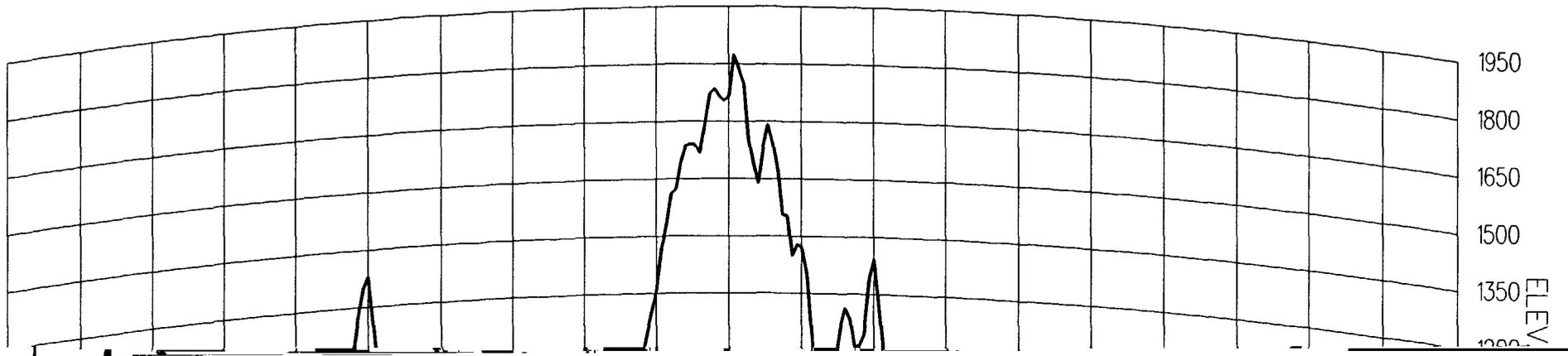


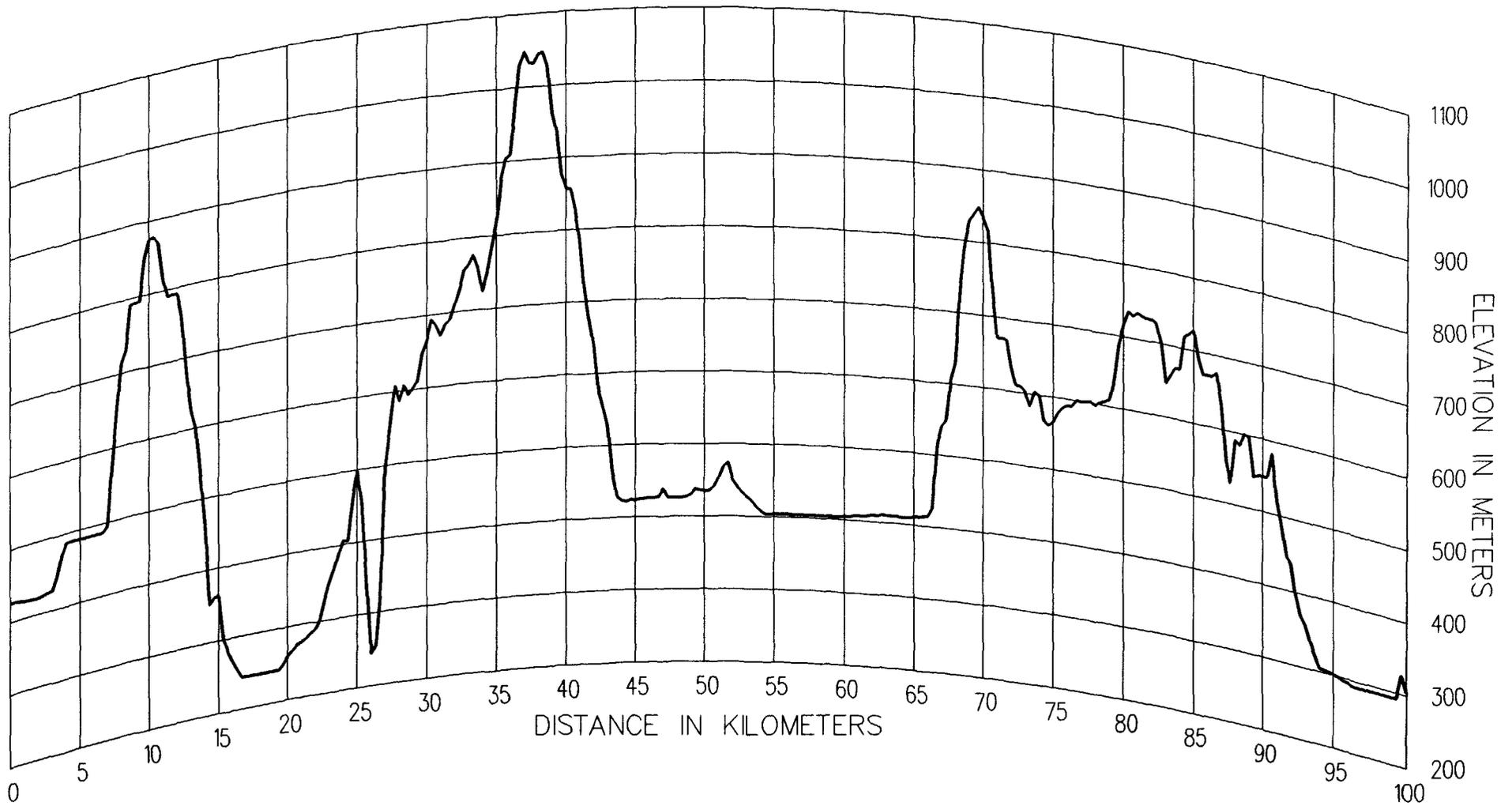
N 0.0 E Radial
 WILLIAM SAURO

EXHIBIT E-5A





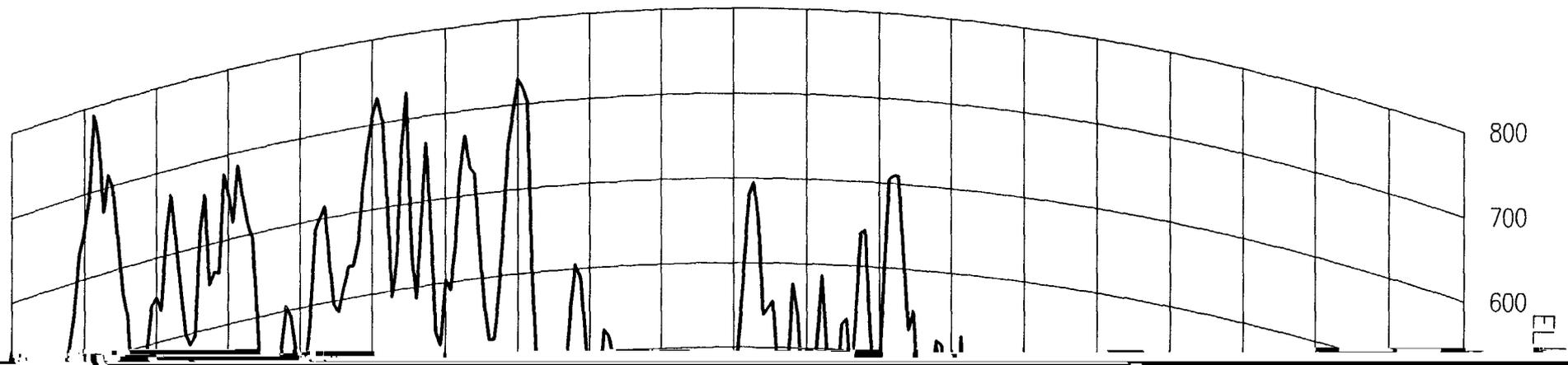


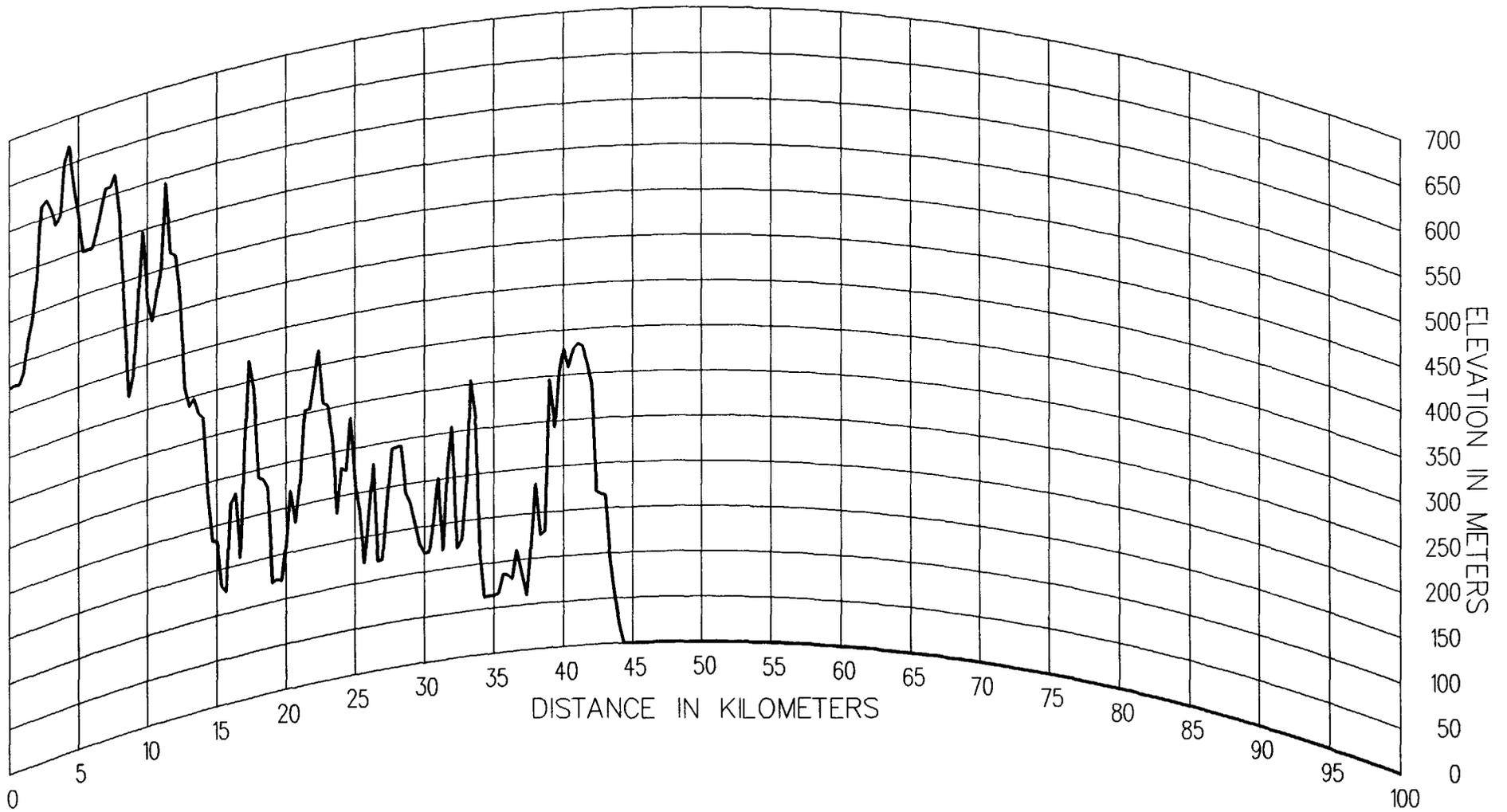


N 135.0 E Radial
WILLIAM SAURO

EXHIBIT E-5D



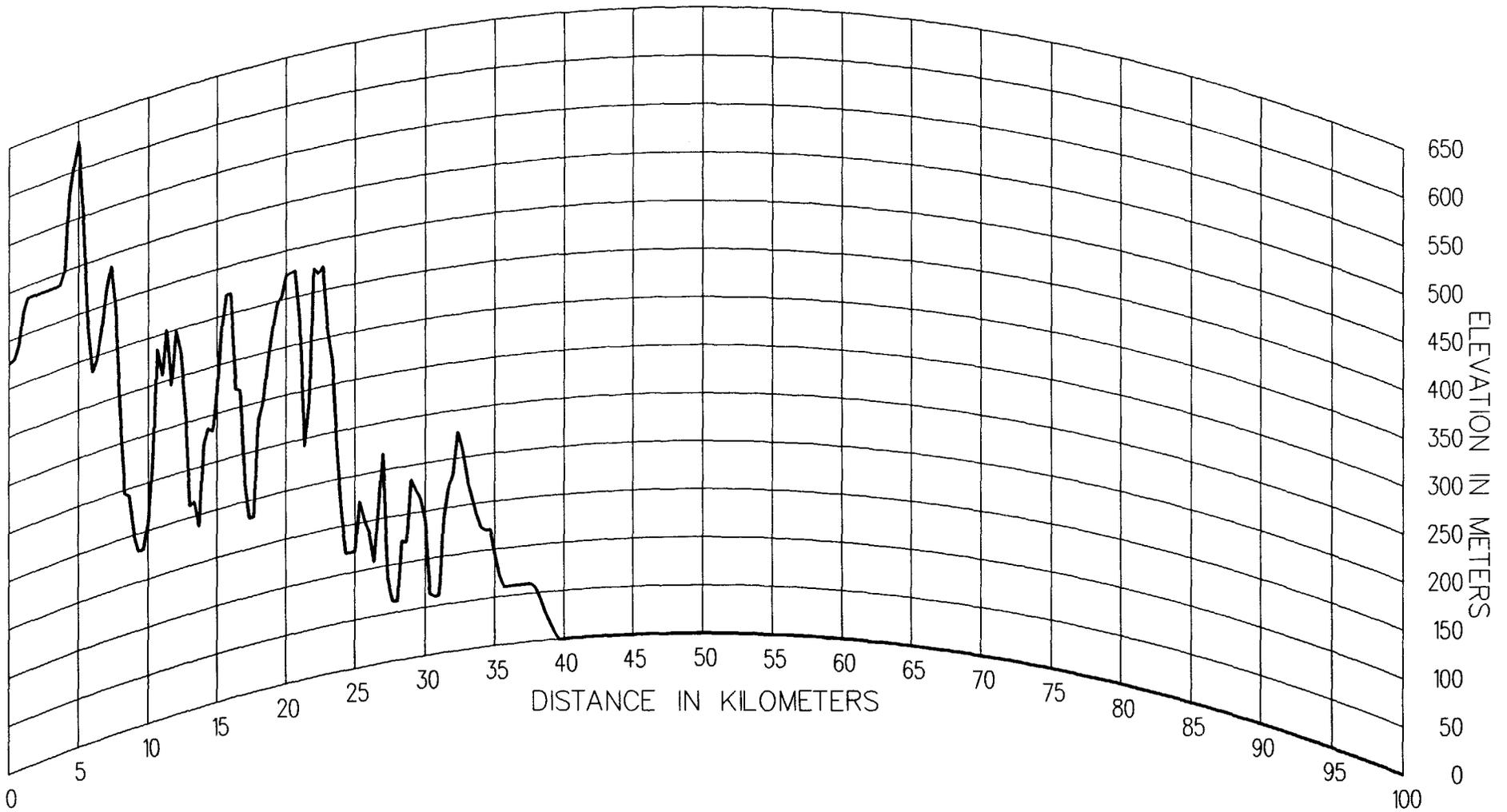




N 225.0 E Radial
 WILLIAM SAURO

EXHIBIT E-5F

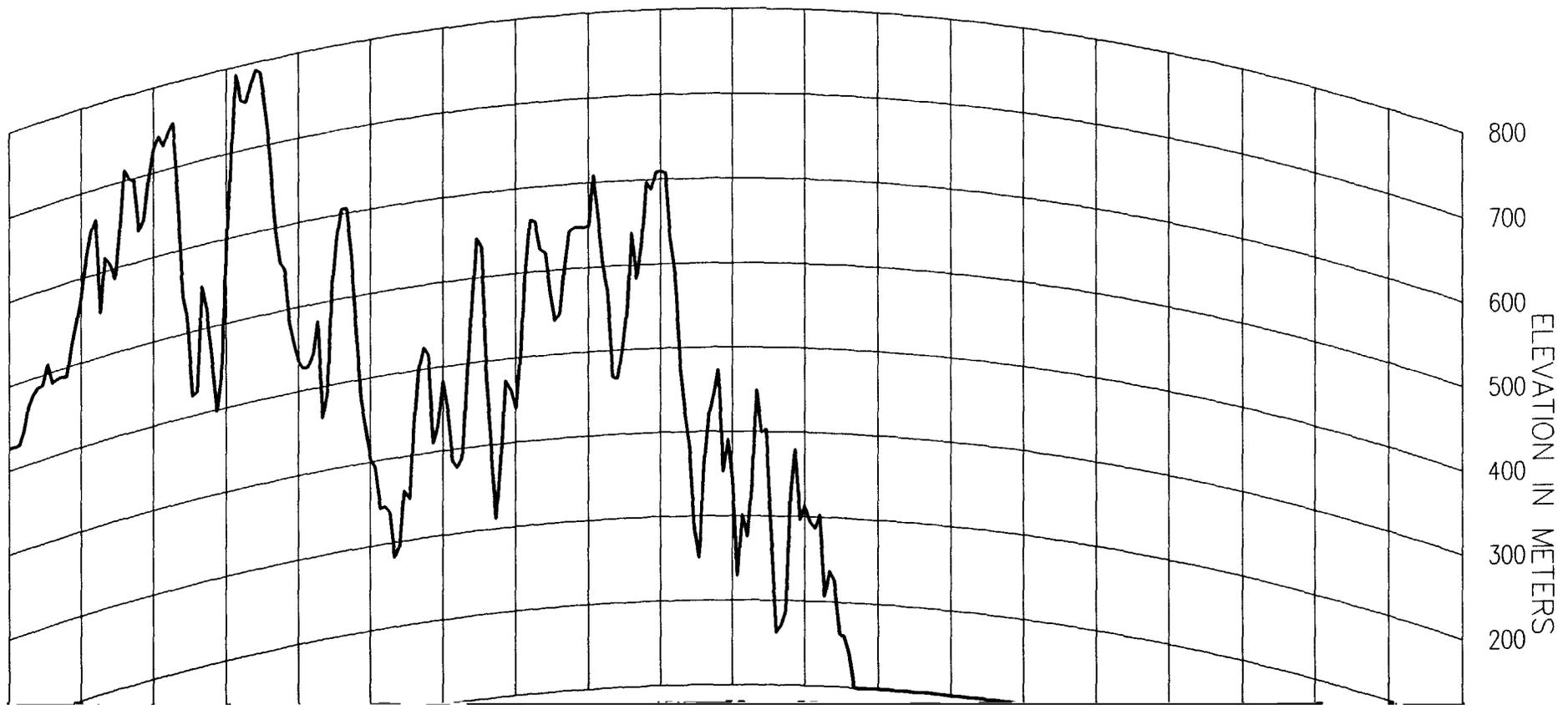




N 270.0 E Radial
 WILLIAM SAURO

EXHIBIT E-5G





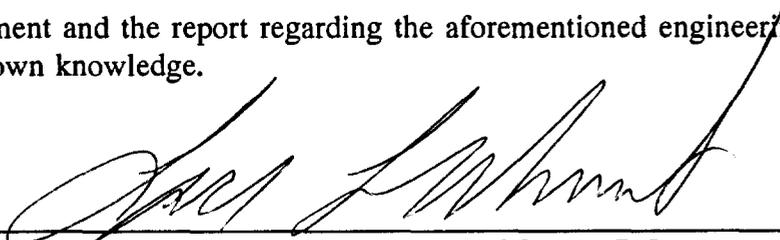
AFFIDAVIT

State of California)
)
County of Orange) ss:

Lawrence L. Morton, being first duly sworn upon oath, deposes and says:

- That he is a qualified engineer,
- That he is a Registered Professional Engineer in the State of California,
- That he is a member of the Association of Federal Communications Consulting Engineers,
- That his qualifications are a matter of record with the Federal Communications Commission,
- That he has prepared many broadcast applications and engineering exhibits that have been filed with and granted by the Federal Communications Commission,
- That he has carried out such engineering work and that the results thereof are attached hereto and form part of this affidavit, and
- That the foregoing statement and the report regarding the aforementioned engineering work are true and correct of his own knowledge.

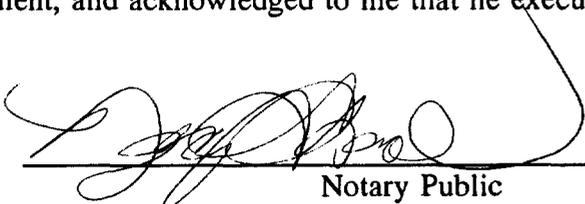
Date: July 15, 1993



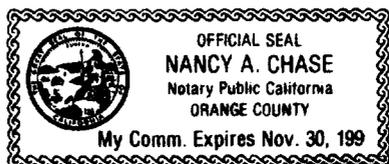
Lawrence L. Morton, P.E.

On July 15, 1993, before me, Nancy A. Chase, a Notary Public, in and for the State of California, personally appeared Lawrence L. Morton known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

My Commission expires 11/30/94



Notary Public

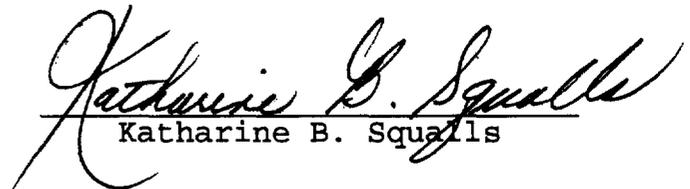


CERTIFICATE OF SERVICE

I, Katharine B. Squalls, hereby certify that true and correct copies of the foregoing "Comments" were sent by first-class postage prepaid mail this 19th day of July 1993 to the following:

*Michael C. Ruger, Chief
Nancy Joyner
Allocations Branch
Policy and Rules Division
Mass Media Bureau
Federal Communications Commission
2025 M Street, N.W.
Room 8318
Washington, DC 20554

Tom W. Davidson, Esq.
Paul S. Pien, Esq.
Akin, Gump, Strauss, Hauer & Feld, L.L.P.
1333 New Hampshire Avenue, N.W.
Suite 400
Washington, DC 20036
Counsel for Granite Broadcasting Corporation
and KNTV, Inc.


Katharine B. Squalls

*By Hand Delivery