

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), )  
Table of Allotments, )  
FM Broadcast Stations )  
(Hopkinsville and Oak Grove, )  
Kentucky )

RM- \_\_\_\_\_

To: Chief, FM Allocations Branch  
Policy and Rules Division  
Mass Media Bureau

Attention: Mail Stop 1800D5

AMENDMENT TO PETITION FOR RULE MAKING

1. Ham Broadcasting, Inc. ("Ham") hereby petitions the Commission to amend the FM Broadcast Table of Allotments to upgrade Station WKDZ-FM, Cadiz, Kentucky, from Class A to Class C3, and to change the station's community of license to Oak Grove, Kentucky, as follows:

	<u>Present</u>	<u>Proposed</u>
Cadiz, Kentucky	292A	--
Oak Grove, Kentucky	--	293C3

2. Ham is the licensee of WKDZ-FM, which is currently licensed to operate on Channel 292A at Cadiz. Pursuant to Section 1.420(i) of the Commission's Rules, Ham seeks a modification of license for WKDZ-FM to specify operation on Channel 293C3 at Oak Grove.

3. This Petition modifies a Petition for Rule Making filed on November 1, 1991, to upgrade WKDZ-FM to Channel 293C3 at Cadiz. The Chief, FM Allocations Branch, dismissed that Petition by Letter of February 3, 1992, because the proposal was short-spaced to the

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then-authorized transmitter site of unbuilt station WSEQ(FM), Reidland, Kentucky. Ham filed an Application for Review on March 4, 1992, which Application remains pending. Ham now requests that the Application for Review be dismissed as moot, because the amended proposal being made herein is not short-spaced to WSEQ or any other station.<sup>1/</sup>

4. The proposed reference point for the Channel 293C3 allotment is 36°45'42" north latitude, 87°25'47" west longitude. The attached Engineering Statement presents a separations study showing that Channel 293C3 may be used at this reference point in full compliance with the Commission's Rules. The study includes a "window" map showing the area where a Channel 293C3 transmitter may be located in compliance with Section 73.207(b). This "window" does not include Oak Grove itself. However, the proposed reference point is only 9.7 km. away from Oak Grove. The Engineering Statement indicates that a station operating from the proposed reference point will be able to place a 3.16 mV/m contour over all of Oak Grove, as required by Section 73.315(b) of the Rules.

5. The proposed Oak Grove reference point is 36.5 km. away from Cadiz, the present community of license of WKDZ-FM.<sup>2/</sup> This distance exceeds the reach of the 3.16 mV/m contour of a Class C3 station. Thus a change of community of license must accompany the

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<sup>1/</sup> The attached declaration of D. J. Everett states that Ham has not been paid or promised any consideration for filing this amended petition and dismissing its Application for Review.

<sup>2/</sup> The coordinates for the community of Cadiz are 36°51'48" north latitude, 87°50'06" west longitude.

upgrade in station class in order to achieve compliance with Section 73.315(a) of the Commission's Rules..

6. The distance between Cadiz and the proposed reference point is substantially less than the 89 km. separation required between Channels 292A and 293C3 under Section 73.207(b), so the proposed Channel 293C3 allotment is mutually exclusive with the present Channel 292A allotment at Cadiz. Consequently, pursuant to Section 1.420(i), Ham's license for WKDZ-FM may be modified to specify operation on Channel 293C3 at Oak Grove without accepting competing expressions of interest for the new allotment. Cleveland and Rosedale, Mississippi, 6 FCC Rcd 5583 (MM Bur. 1991). Ham requests that its license be so modified and states that if the proposed change in the Table of Allotments is modified, it will file an application for a construction permit for upgraded facilities and, when that application is granted, will construct and operate upgraded facilities at Oak Grove.

7. Relocating WKDZ-FM from Cadiz to Oak Grove will result in a preferential arrangement of stations, furthering the objectives of Section 307(b) of the Communications Act. Oak Grove qualifies as a community for allotment purpose. It is listed in the 1990 U.S. Census with a population of 2,864 persons. Oak Grove is an incorporated community<sup>3/</sup> with its own mayor, city government, police force, fire department, and chamber of commerce, as well as

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<sup>3/</sup> Oak Grove was incorporated in 1974.

numerous churches, civic organizations and business establishments.<sup>4/</sup> There are presently no broadcast stations licensed to Oak Grove. Cadiz has two -- WKDZ(AM) and WKDZ-FM. After implementation of Ham's proposal, Cadiz would have one station, WKDZ(AM); and Oak Grove would have one station, WKDZ-FM. Oak Grove has a larger population than Cadiz.<sup>5/</sup> In other words, a community with a greater population will receive a station when it now has none, and the community from which the station is moving will not be deprived of locally licensed aural transmission service.<sup>6/</sup> Oak Grove is not in an urbanized area, so it is not disqualified from receiving the Section 307(b) preference to which it is otherwise entitled. Winslow and Kachina Village, Arizona, 6 FCC Rcd 5117 (MM Bur. 1991); Cf. Clovis and Madera, California, 6 FCC Rcd 5071 (MM Bur. 1991).

8. In light of the foregoing, it is respectfully requested that the Table of Allotments be amended as proposed in Paragraph 1

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4/ According to information supplied to Ham by Oak Grove officials, there are currently 160 business licenses issued in Oak Grove. Oak Grove also has at least six churches; local chapters of the Kiwanis and Lions Clubs, Amvets, and the American Legion; and two Masonic Lodges.

5/ The 1990 population of Cadiz is 2,148.

6/ The fact that WKDZ(AM) is a daytime only station does not affect this conclusion. Modification of FM and TV Authorizations To Specify a New Community of License, 5 FCC Rcd. 7094, 7096 (1990).

hereof and that the license for WKDZ-FM be modified to specify operation on Channel 293C3 at Oak Grove, Kentucky.

Arent Fox Kintner  
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(202) 857-6024

September 14, 1993

Respectfully submitted,

  
Peter Tannenwald

Counsel for Ham Broadcasting  
Co., Inc.

DECLARATION OF D. J. EVERETT

D. J. EVERETT hereby declares as follows:

1. I a President of Ham Broadcasting Co., Inc. ("Ham"), licensee of Station WKDZ-FM, Cadiz, Kentucky.

2. If the Commission amends the FM Table of Allotments to substitute Channel 293C3 at Oak Grove, Kentucky, for Channel 292A at Cadiz, Kentucky, Ham will file an application for a construction permit to construct Class C3 facilities at Oak Grove and will construct and operate WKDZ-FM pursuant to the authorization granted under that construction permit.

3. I have personally visited Oak Grove and am familiar with the business and civic establishments in that community. I have determined from research sources the following: The 1990 population of Oak Grove is 2,864 persons and of Cadiz is 2,148 persons. Oak Grove was incorporated in 1974. Oak Grove's business area runs for two or three miles along Route 41. Oak Grove has its own mayor, city government, police force, and fire department; chamber of commerce; at least six churches; local chapters of the Kiwanis, Lions, Amvets, American Legion, and two Masonic Lodges; and more than 100 licensed business establishments.

4. Ham has not been paid or promised any consideration, monetary or otherwise, by WMOK, Inc. or any other person or entity in return for amending its Petition for Rule Making to specify Oak Grove as the community of license for WKDZ-FM or for withdrawing its informal objection against BMPH-919013IC, filed by WSEQ(FM), Reidland, Kentucky.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 23, 1993.

  
D. J. Everett

# ENGINEERING STATEMENT

OAK GROVE, KENTUCKY  
FM CHANNEL 293C3  
for  
HAM BROADCASTING  
Licensee of WKDZ on Channel 293A, Cadiz, KY

The attached engineering study of channel 293C3 for Oak Grove, Kentucky was performed using the Commission's separation criteria contained in 47 C.F.R. Section 73.207, Minimum Distance Separation Between Stations. This study indicates that channel 293C3 can be assigned to Oak Grove, Kentucky 1/ with the reference point 2/ 9.7 kilometers north of the community (providing channel 293A, Cadiz, KY is deleted). The proposed allocation point will avoid short-spacing WLAC-FM, channel 290C, serving Nashville, Tennessee and the construction permit modification for WZZL, channel 294A, serving Reidland, Kentucky (BMPH-910913IC).

## DISCUSSION

The FM Channel Spacing Study and Clearance Map, attached as Exhibits I and II, demonstrate that there is land north of Oak Grove, Kentucky which will accommodate the site restriction and allow for a tower site.

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1/ Coordinates for Oak Grove, KY city-center:

N LAT 36-39-54; W LNG 87-26-12

2/ Proposed reference coordinates for channel 293C3:

N LAT 36-45-05; W LNG 87-27-02

At maximum facilities (25 kw ERP; 100m HAAT) a class C3 city-grade contour will cover approximately 24 kilometers from the antenna site. Therefore it is quite possible to provide Oak Grove, Kentucky with the required city-grade signal from a transmitter site within the clearance area shown on Exhibit II.

**CONCLUSION**

Having demonstrated that this proposal meets the separation requirements of 47 C.F.R. Section 73.207 and that it also meets the city-grade coverage requirements of Section 73.315, the public interest will be served by deleting channel 293A serving Cadiz, Kentucky and the allotment of channel 293C3 to Oak Grove, Kentucky.

*D R Magnuson*

Dwight R. Magnuson, P.E.

Dated: 7-02-93



EXHIBIT I

\*\*\*\*\* FM CHANNEL SPACING STUDY \*\*\*\*\*

Job title: Oak Grove, KY  
 Channel: 293C3  
 Database file name: g:\fccdata\fm930526.edx

Latitude: 36 45 5  
 Longitude: 87 27 2  
 Pre-1989 Class A spacings?: N

CH	Call	Record	City	ST	Status	Bear.	Dist.	Reqd. Dist.	Result
293C	WSKZ	8127	Chattanooga	TN	LIC	132.0	261.0	237.0	24.0
294A	WXPC	8203	Horse Cave	KY	CP MOD	68.7	150.6	89.0	
292A	WKMO	8229	Hodgenville	KY	LIC	55.4	182.8	89.0	
294A		8236	Horse Cave	KY	USED	69.1	150.8	89.0	
294A	NEW	8796	Mount Juliet	TN	APP	132.3	94.9	89.0	5.9
294A	NEW	8809	Mount Juliet	TN	APP	132.3	94.9	89.0	5.9
290C	WLACFM	8812	Nashville	TN	LIC	145.7	96.0	96.0	.0
296C2	WBLG	8826	Smiths Grove	KY	CP	84.2	106.9	56.0	
294A	NEW	8835	Mount Juliet	TN	APP	132.3	94.9	89.0	5.9
294A		8855	Mount Juliet	TN	VACANT	124.3	93.3	89.0	4.3
296C2		8858	Smiths Grove	KY	USED	84.5	105.1	56.0	
296A	WBLG	8870	Smiths Grove	KY	LIC	72.0	106.6	42.0	
292A	WLLSFM	8887	Hartford	KY	LIC	32.3	91.1	89.0	2.1
292A	WKDZFM	9391	Cadiz	KY	LIC	292.6	38.1	89.0	-50.9
293C3	WKDZ	9394	Cadiz	KY	ADD	283.4	18.2	153.0	-134.8
292A	WKDZ	9396	Cadiz	KY	DEL	292.6	38.1	89.0	-50.9
294A	WBLZ	9403	Mount Vernon	IN	LIC	342.4	137.9	89.0	
291A	WJPSFM	9418	Newburgh	IN	LIC	1.2	133.5	42.0	
295A	WTTL	9423	Madisonville	KY	LIC	358.8	69.9	42.0	27.9
293B	WWBL	9443	Washington	IN	LIC	6.7	212.3	211.0	1.3
293B	WWBL	9455	Washington	IN	CP	6.7	212.4	211.0	1.4
295C1	WWYN	9926	Mckenzie	TN	LIC	232.0	152.3	76.0	
240A		9981	Camden	TN	VACANT	217.3	96.8	12.0	
292B1		10020	Benton	IL	USED	321.5	171.3	114.0	
239A		10026	Calvert City	KY	USED	299.6	86.1	12.0	
292B1	WQRL	10029	Benton	IL	CP	320.7	170.4	114.0	
292B1	WQRL	10038	Benton	IL	APP	320.7	170.4	114.0	
294A		10040	Reidland	KY	USED	289.2	101.4	89.0	12.4
294A	WZZL	10044	Reidland	KY	CP MOD	290.2	89.0	89.0	.0
292A	WQRL	10047	Benton	IL	LIC	317.6	187.5	89.0	
239A	NEW	10053	Calvert City	KY	CP	296.9	80.2	12.0	
293C2		10612	New Madrid	MO	USED	260.4	204.0	177.0	27.0
293C2	KMISFM	10623	New Madrid	MO	CP	260.4	204.0	177.0	27.0

\*\*\*\*\* End of channel 293 study \*\*\*\*\*

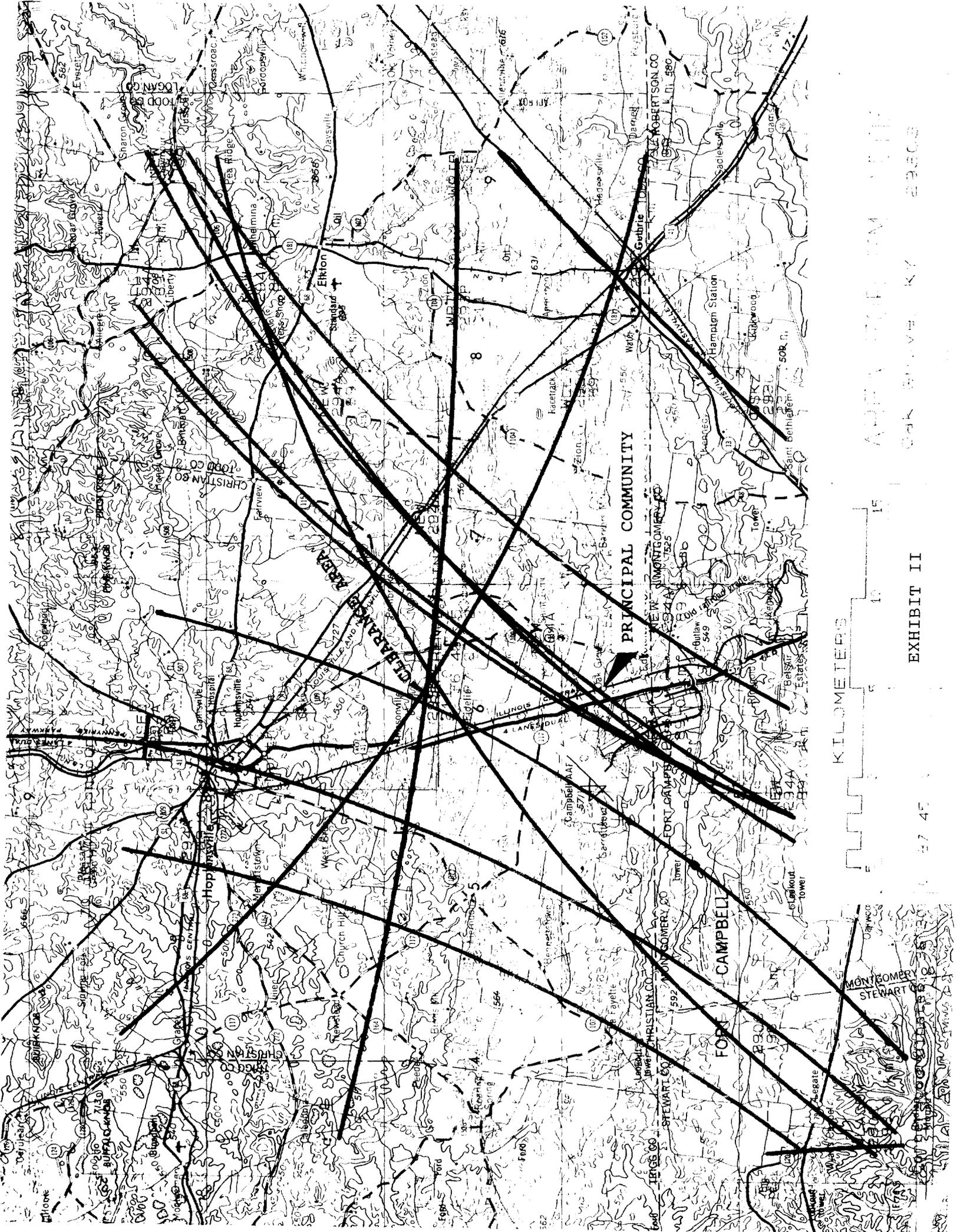


EXHIBIT II

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ADDITIONAL INFORMATION  
 OAK GROVE KY 29000

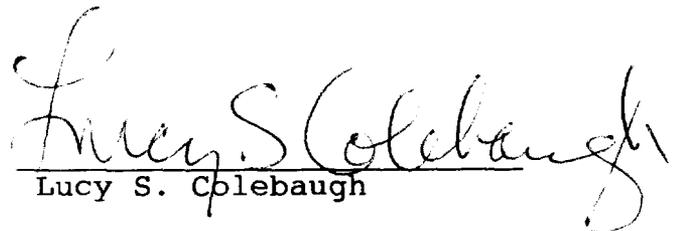
CERTIFICATE OF SERVICE

I, Lucy S. Colebaugh, do hereby certify that on this 14th day of September, 1993, I have caused to be sent by first class United States mail, postage prepaid, copies of the foregoing "Amendment to Petition for Rule Making" to the following:

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Lucy S. Colebaugh

\*by hand delivery