

Before the
Federal Communications Commission
Washington, D.C. 20554

FCC
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In the Matter of)
)
Amendment of Section 73.202(b),) MM Docket No. 94-78
Table of Allotments,) RM-8472
FM Broadcast Stations.)
(Cloverdale, Alabama))
)

TO: Chief, Allocations Branch

COMMENTS AND COUNTERPROPOSAL OF WILLIAM P. ROGERS

William P. Rogers ("Rogers"), by his attorney, hereby respectfully submits the following Comments and Counterproposal in the above-referenced proceeding:

1. William P. Rogers is a resident of Florence, Alabama. He is a substantial local resident, involved in the ownership and management of the Rogers department stores. Mr. Rogers has long had an interest in radiobroadcasting and is the owner of a number of FM translator stations.

2. By Notice of Proposed Rule Making, released in this proceeding on July 13, 1994, the Commission proposes to allocate Channel 254A to the community of Cloverdale, Alabama. At ¶3 of its NPRM, however, the Commission expresses doubt as to whether Cloverdale qualifies as a community for allocation purposes and requests additional information concerning that matter.

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3. Mr. Rogers has investigated this matter further and has learned that Channel 254A can be allocated to the community of Florence, Alabama. An engineering statement, executed by Keith G. Blanton, demonstrating the feasibility of that allotment is attached and marked Exhibit A. As the engineering statement makes clear the station, operating from a hypothetical site, will place a city grade contour over 88% of both the area and population within the Florence city limits. That is sufficient to comply with the provisions of Section 73.315(a) of the Commission's Rules and Regulations, concerning location of transmitter sites.¹

4. Florence, Alabama, is an incorporated city of 36,426 persons (1990 Census). Therefore, there can be no question, whatsoever, that Florence qualifies as a community for allocation purposes. Rogers proposes that the channel be assigned to that community, and Rogers represents that if the allocation is made he will apply for a construction permit for a new FM broadcast station to serve the city of Florence and if his application is granted he will construct a station and put it on the air in the public interest.

5. In making his counterproposal to assign the channel to Florence, Rogers does not oppose the original proposal to allocate the channel to Cloverdale or, for that matter, to any community in the "open area" which qualifies for allocation

¹It is sufficient that the city grade contour encompass in excess of 80% of the community. Barry Skidelsky, 70 Pike and Fischer RR 2d 722 (Rev. Bd. 1992).

purposes. Rogers merely suggests the allotment to Florence, because it obviates entirely the need for the Commission to decide whether or not Cloverdale qualifies as a community for allocation purposes.

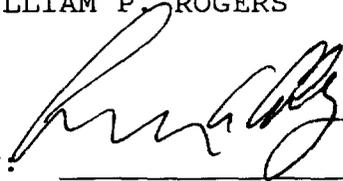
August 30, 1994

Law Office of
LAUREN A. COLBY
10 E. Fourth Street
P.O. Box 113
Frederick, MD 21705-0113

Respectfully submitted,

WILLIAM P. ROGERS

By:



Lauren A. Colby
His Attorney

Exhibit A

ENGINEERING STATEMENT OF KEITH G. BLANTON OF THE FIRM OF
KESSLER AND GEHMAN ASSOCIATES, CONSULTING ENGINEERS
ON BEHALF OF WILLIAM P. ROGERS
IN CONNECTION WITH A PETITION FOR RULE MAKING
TO ALLOCATE FM CHANNEL 254A TO THE COMMUNITY OF
FLORENCE, ALABAMA

I, Keith G. Blanton, am an associate of Kessler and Gehman Associates, Inc., with offices in Gainesville, Florida. I have been working in the field of radio and television consulting engineering since 1961. I graduated from Duke University in 1951 with a Bachelor of Science degree in Physics.

This firm has been employed by William P. Rogers to make engineering studies and to prepare this engineering statement in support of a petition for rule making to add FM channel 254A (98.7 MHz) to the community of Florence, Alabama in the FM Table of Allotments, Section 73.202, of the FCC Rules. Florence is a city of 36,426 persons in 15,910 housing units in Lauderdale County in northwest Alabama. Florence presently has channels 241A and 297C allocated to it and both channels are presently used by the licensed stations WXFL and WQLT.

It has been determined that there is an area in the vicinity of Florence in which a channel 254A station might be operated in accordance with the rules of the FCC. The attached Figure 1 is a tabulation of the nearest cochannel and adjacent channel stations and allocations. The map Figure 2 shows the area in which a channel 254A station might be located and the reference site location together with the 70 dBu contour location with respect to Florence.

The reference coordinates used in making the studies were those indicated in the Notice of Proposed Rule Making for RM8472 Docket 94-78 released July 13, 1994, specifically N. Lat. 34° 56' 19" W. Long. 87° 46' 17". The 70 dBu contour was projected on the Gadsden, AL USGS Topographic Map for a maximum Class A facility of 6.0 kW at 100 meters AAT using the three second terrain data base of the Defense Mapping Industry and the Computer Software Program CVR/VER110 of EDX Engineering, Inc. The city limits of Florence were transferred to this map from a Rand McNally Street Map of Florence, Alabama Rev 1986. The area within the city limits were

determined to be 56.8 km² with 6.8 km² being outside of the 70 dBu contour by using a polar planimeter on the original USGS topographic map. The population of Florence obtained from 1990 census data was 36,426 persons. The population of Florence within the 70 dBu contour was determined by a computer program by adding the population of all the census enumeration districts whose centroid fell within the contour to be 31,954 persons. From this data the percentage of the area of Florence within the 70 dBu contour was determined to be $50.0 / 56.8 = 88.0\%$ and the percentage of the population of Florence within the 70 dBu contour was determined to be $31,954 / 36,426 = 87.7\%$.

William P. Rogers has the intention of filing an application for construction permit to build a station in this area which would operate on channel 254A if that channel were allocated to Florence.

KESSLER AND GEHMAN ASSOCIATES, INC.



Keith G. Blanton, Consultant

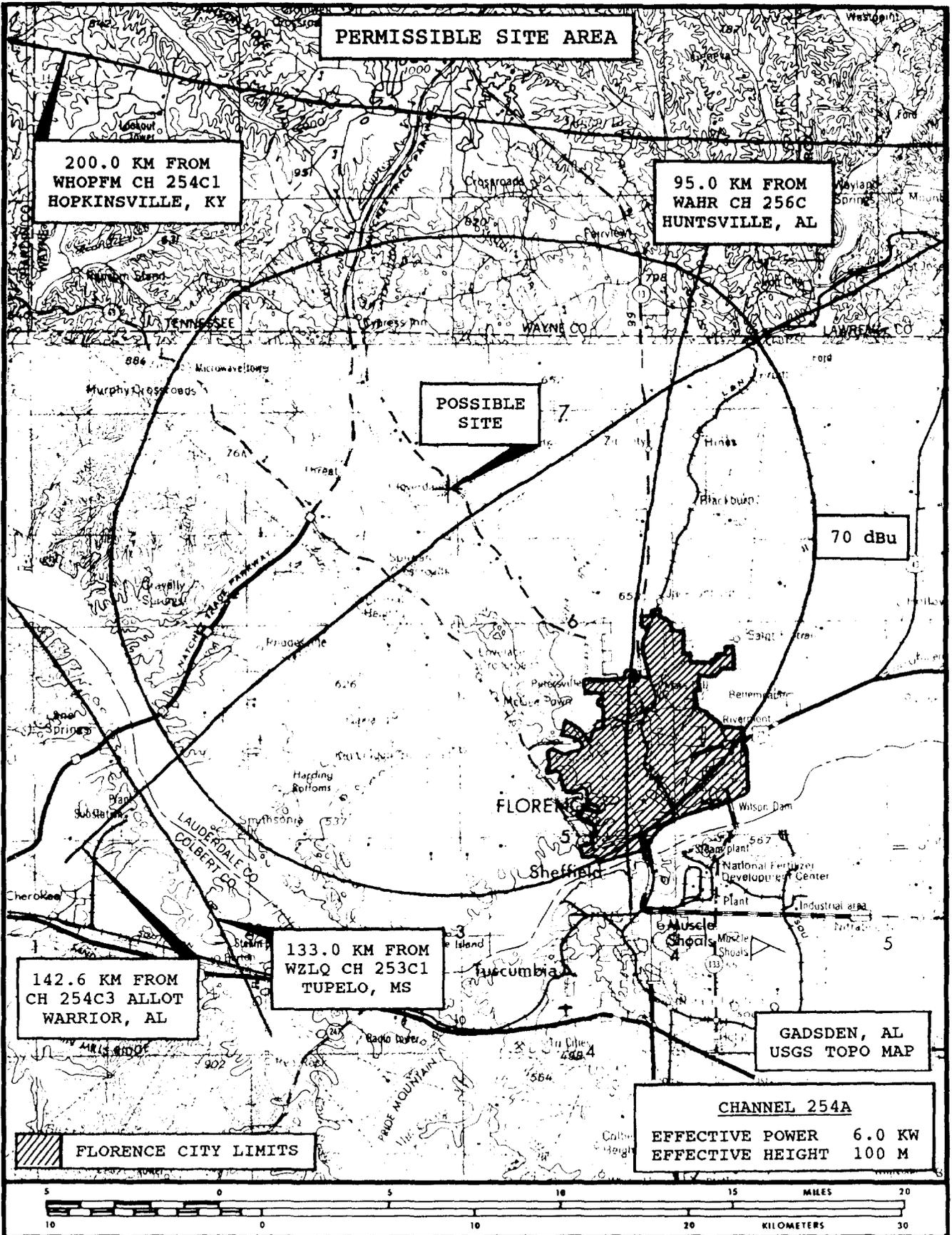
August 23, 1994

WILLIAM P. ROGERS
FLORENCE, ALABAMA

TABLE OF SEPARATIONS FROM CO-CHANNEL AND ADJACENT CHANNEL ALLOCATIONS

<u>Frequency</u>	<u>Channel</u>	<u>Class</u>	<u>Location</u>	<u>Separation-kM</u>		<u>Authorized</u>	<u>Pending</u>
				<u>Minimum</u>	<u>Actual</u>	<u>Stations</u>	<u>Applications</u>
88.1 MHz	201	A	Jackson, TN	10.0	127.2	NEW	BPED-930528MD
98.1 Mhz	251	C1	Fayette, AL	75.0	179.1	WTXT	BLH-900119KA
98.3 MHz	252	A	Pulaski, TN	31.0	66.2	WINJ	BPH-930610IC
98.5 MHz	253	C1	Tupelo, MS	133.0	153.2	WZLQ	BPH-930812IB
98.7 MHz	254	C1	Hopkinsville, KY	200.0	216.9	WHOP-FM	BLH-790727AG
98.7 MHz	254	C3	Warrior, AL	142.0	143.5	-	Docket 93-277
98.7 MHz	254	A	Cloverdale, AL	*	000.0	-	Docket 94-78
98.9 MHz	255	C3	Brooksville, MS	89.0	181.8	-	Docket 90-455
99.1 MHz	256	C	Huntsville, AL	95.0	104.6	WAHR	BLH-891219KC
99.3 MHz	257	A	Booneville, MS	31.0	80.8	WBIP-FM	BLH-911125KA

* This proposal is intended to replace the allocation for Cloverdale, AL



PERMISSIBLE SITE AREA

200.0 KM FROM
WHOPFM CH 254C1
HOPKINSVILLE, KY

95.0 KM FROM
WAHR CH 256C
HUNTSVILLE, AL

POSSIBLE
SITE

70 dBu

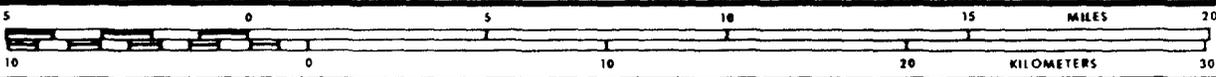
142.6 KM FROM
CH 254C3 ALLOT
WARRIOR, AL

133.0 KM FROM
WZLQ CH 253C1
TUPELO, MS

GADSDEN, AL
USGS TOPO MAP

FLORENCE CITY LIMITS

CHANNEL 254A
EFFECTIVE POWER 6.0 KW
EFFECTIVE HEIGHT 100 M



KESSLER AND GEHMAN ASSOCIATES, INC.
TELECOMMUNICATIONS CONSULTING ENGINEERS
507 N.W. 66TH STREET SUITE C
GAINESVILLE FLORIDA 32607

WILLIAM P. ROGERS
FLORENCE, ALABAMA
940823
FIGURE 2

CERTIFICATE OF SERVICE

I, Traci Maust, a secretary in the law office of Lauren A. Colby, do hereby certify that copies of the foregoing have been sent via first class, U.S. mail, postage prepaid, this 30th day of August, 1994, to the offices of the following:

Hershel Lake, President
Pulaski Broadcasting, Inc.
P.O. Box 738
Pulaski, TN 38478

Kirk A. Tollett
Commsouth Media Associates
4001 Highway 78 East
Jasper, AL 35501

Traci Maust
Traci Maust