

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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of) MM Docket No. 94-70
)
Amendment of section 73.202(b)) RM-8474
Table of Allotments) RM- _____
FM Broadcast Stations)
(Moncks Corner, Kiawah Island)
and Sampit, South Carolina)

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

REPLY OF
SAMPIT BROADCASTERS

Sampit Broadcasters ("SB"), by its attorneys, hereby submits its Reply to "Comments of Orville Ronald Brandon" ("Brandon") filed August 26, 1994, in the above-captioned rule making proceeding.¹ In reply, SB shows the following:

By way of summary, at the request of Ceder Carolina Limited Partnership ("Ceder") by Notice of Proposed Rulemaking, 9 FCC Rcd 3136 (1994), the Commission proposed to delete FM Channel 287C3 from Moncks Corner, South Carolina, and to allot Channel 288C2 to Kiawah Island, South Carolina. Ceder is the former licensee of WJYQ(FM), Moncks Corner. Since Channel 287C3 is currently occupied by WJYQ(FM), Ceder asked that WJYQ's outstanding construction permit be modified for operation on Channel 288C2 at Kiawah Island. The Commission established August 26, 1994, as the date for filing comments. Brandon, Ceder's

¹ Reply Comments are due September 12, 1994, therefore this pleading is timely filed.

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comments. Brandon, Ceder's court-appointed receiver, filed his Comments on that date. On August 26, 1994, SB filed its "Comments and Counterproposal."

SB proposed to allot Channel 288A to Kiawah Island, Channel 287A to Moncks Corner, and Channel 289A to Sampit, South Carolina. SB pointed out that its counterproposal would accomplish Ceder's goal of providing first service to Kiawah Island, would not deprive Moncks Corner of service, and would provide first local service to Sampit. SB supported its Comments and Counterproposal with a Technical Statement prepared by Bromo Communications, Inc., showing that the allotments can be made consistent with the Commission's allocation rules.

Without belaboring the point, SB pointed out that Ceder had proposed an unusable site in the Charleston, South Carolina Urbanized Area; and proposed an inefficient use of the frequency. All those matters are covered in detail in SB's Comments and Counterproposal and the attachments thereto.

SB compared the public interest benefits to be gained by the allotment of Channel 288C2 to Kiawah Island (population 718), against the benefits to be gained by the allotment of Channel 288A to Kiawah Island, Channel 287A to Moncks Corner (population 5,607) and Channel 289A as a first service to Sampit, South Carolina (population 2,607),² and demonstrated that under current Commission precedent, the public interest would be better served by adopting SB's counterproposal.

² Source: Georgetown County Planning Commission. See page 3 of Technical Statement supporting SB's Comments and Counterproposal.

In his Comments, Brandon compared coverage provided by the formerly authorized Class A facilities of WJYQ at Moncks Corner to the coverage to be gained by allotting Channel 288C2 to Kiawah Island. By doing so, he claimed that allotting Channel 288C2 to Kiawah Island will result in a gain area of more than 250,000 persons and a "minuscule 'loss area,' in which fewer than 7,800 reside...."

However, the attached Technical Exhibit shows that Brandon grossly overstated the gain area. Brandon should have compared his Channel 287C3 construction permit for WJYQ³ at Moncks Corner with his proposed use of Channel 288C2 at Kiawah Island. Channel 288A has been deleted from Moncks Corner in MM Docket 91-127 (See Second Report and Order, *Blackville, Branchville, Estill, Georgetown, Kiawah Island, Moncks Corner, and Walterboro, South Carolina, and Richmond Hill, Georgia*, 7 FCC Rcd 6522 (October 7, 1992)), with the effective date of the channel deletion November 20, 1992. Therefore, Brandon improperly compared the service to be expected from the deleted Class A channel instead of the authorized service to be expected from WJYQ operating at Moncks Corner as a Class C3 station.

Brandon stated that the population gain was 250,238. In contrast, however, the Technical Statement shows that when the proper comparison is made, there would be a gain of only 14,913 persons if Channel 288C2 were allotted to Kiawah Island. If the adequately served population within the Charleston Urbanized Area is excluded, the gain area shrinks to 491 persons. The Technical Statement indicates that the area of coverage would result in a loss for the Class C2. The Technical Statement also

³ See File No. BPH-930511IB, granted August 1993.

shows that 55% of the proposed Class C2 coverage will be over the Atlantic Ocean. Therefore, the Kiawah Island facility would cover only 3,849 square kilometers while the authorized WJYQ construction permit serves 4,254.1 square kilometers, resulting in a loss of service to 405 square kilometers.

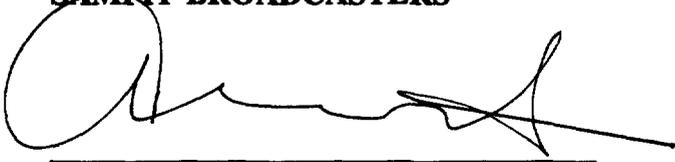
Therefore, in addition to the reasons set forth in SB's counterproposal, it is clear from an analysis of Brandon's faulty Comments, that the counterproposal advanced by SB would result in a preferential arrangement of allotments over the allotment to Kiawah Island proposed by Brandon.

In light of the foregoing, SB renews its request that the Commission amend Section 73.202 of the Rules as follows:

<u>Community</u> (All South Carolina)	<u>Present</u>	<u>Proposed</u>
Moncks Corner	287C3	287A
Kiawah Island	--	288A
Sampit	--	289A

Respectfully submitted,

SAMPIT BROADCASTERS

By: 

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September 12, 1994

ATTACHMENT 1

REPLY COMMENTS
COUNTERPROPOSAL
NPRM MM Doc No. 94-70 (RM-8474)
Sampit Broadcasters
Sampit, Moncks Corner &
Kiawah Island, South Carolina
August 1994

Technical Exhibit
TE-1

BROMO
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**REPLY COMMENTS
COUNTERPROPOSAL
NPRM MM Doc No. 94-70 (RM-8474)
Sampit Broadcasters
Sampit, Moncks Corner &
Kiawah Island, South Carolina
August 1994**

INTRODUCTION

This Technical Exhibit supports the Reply Comments by Sampit Broadcasters ("SB") to the *Notice of Proposed Rule making* ("NPRM"), MM Docket No 94-70, RM-8474. This NPRM is the result of a proposal by Ceder Carolina Limited Partnership and its assigns ("Petitioner"). The NPRM proposes to delete *Channel 287C3* at Moncks Corner, South Carolina and add *Channel 288C2* at Kiawah Island, South Carolina. SB proposes to substitute Channel 287A for Channel 287C3 at Moncks Corner, add Channel 288A at Kiawah Island and add Channel 289A at Sampit, all South Carolina. This proposal allows Moncks Corner to keep its only full-time local service and would add first service to Kiawah and Sampit communities.

WRONG COMPARISON

The Petitioner proposed to delete Channel 287C3 at Moncks Corner. However, in the petition for rule making the Petitioner compared the gain/loss of Channel 288C2 at Kiawah Island with the original WJYQ facilities (Channel 288A) at Moncks Corner. The Petitioner stated they compared the licensed Class A facility because the Class C3 facility was never in operation. However, the Petitioner also stated the Class A facility has been *dark for the past four years*. MM Docket No 91-127 ordered WJYQ to Channel 287C3. The Petitioner filed a timely application for WJYQ to operate with the new facilities¹. Since that time the Commission has deleted Channel 288A at Moncks Corner. Therefore, Channel 288A at Moncks Corner no longer exists and has no relevance with the proposal at hand.

¹ The WJYQ Class C3 Construction Permit (BPH-930511B) was granted in August 1993. The CP granted a power of 20 kW, Height Above Average Terrain 114 meters from site coordinates of N. Lat. 33° 05' 35" and W. Lng. 80° 02' 01".

CORRECT COMPARISON

The Petitioner should have compared his Channel 287C3 Construction Permit with his proposal of Channel 288C2 at Kiawah Island. Since the Petitioner holds a construction permit, we have exact facilities¹ to make a good comparison. In Exhibit #1 we show the proposed WJYQ (CP) 1.0 mV/m contour and the proposed 1.0 mV/m at Kiawah Island². By making the correct comparison we see a far different story than was shown in the original petition and by the Petitioners comments. From the Petitioners own figures the WJYQ application for construction permit on Channel 287C3 proposes to serve 4,254.1 sq. Km with a population of 446,246 persons. He has also stated in his petition that Channel 288C2 at Kiawah Island will serve 468,867 persons or a difference of 22,621. More than half being in the Charleston Urbanized Area (13,702 persons) which is already adequately served with aural broadcast facilities. When we look at the population of the gain and the loss area we find major differences in population from the figures stated by the Petitioner. The gains by adding the C2 to Kiawah will be 37,415 persons and the loss will be 23,222 persons.³ The gain area will be the area covered by the proposal at Kiawah over the WJYQ (CP). The loss area is the area not served by the Kiawah proposal but is served by the WJYQ (CP). If we exclude the Charleston Urbanized Area population figures⁴ from the Kiawah gain area, we will find the population gain is only 23,713. This is almost equal to the loss area of 23,222 persons. There is no Charleston Urbanized Area within the loss area.⁵

We have also found that 55% of the proposed Class C2 coverage will be in the Atlantic Ocean. Therefore, the proposed Class C2 facility will provide service to a land area of only 3,849 square kilometers. The WJYQ (CP) facility serves 4,254.1 square kilometers of land area.

The SB counterproposal pointed out the reference site for Channel 288C2 at Kiawah Island is not suitable for a tower. In order to select a site that would allow a maximum Class C2 antenna height (150 meters) the site must be located about 8 km south of the Charleston Executive Airport to avoid both aeronautical and environmental problems.

²The Kiawah Island site is being used here for comparison purposes only. We noted in our original comments that the proposed allocation site for Channel 288C2 at Kiawah Island is not usable. This site is located in a tidal marsh (environmentally sensitive) area and very near the Charleston Executive Airport (2,400 meters, 1.5 miles). The Petitioner stated he had to select a site as far north as possible to minimize the loss area north of Moncks Corner.

³We determined the gain and loss populations with the proposed 1.0 mV/m contours drawn on US Census maps. An even distribution of population was assumed in each civil division with minor divisions, cities & Census Designated Places (CDP) being included when inside the proposed contours.

⁴The Petitioner stated in the original petition that the proposed change is from a non urbanized area to a non urbanized area. We simply deleted the urbanized area here for comparison purposes.

⁵Moncks Corner or Kiawah Island are not in the Charleston Urbanized Area. However the proposed Channel 288C2 allocation site is inside the Charleston Urbanized Area as selected by the petitioner.

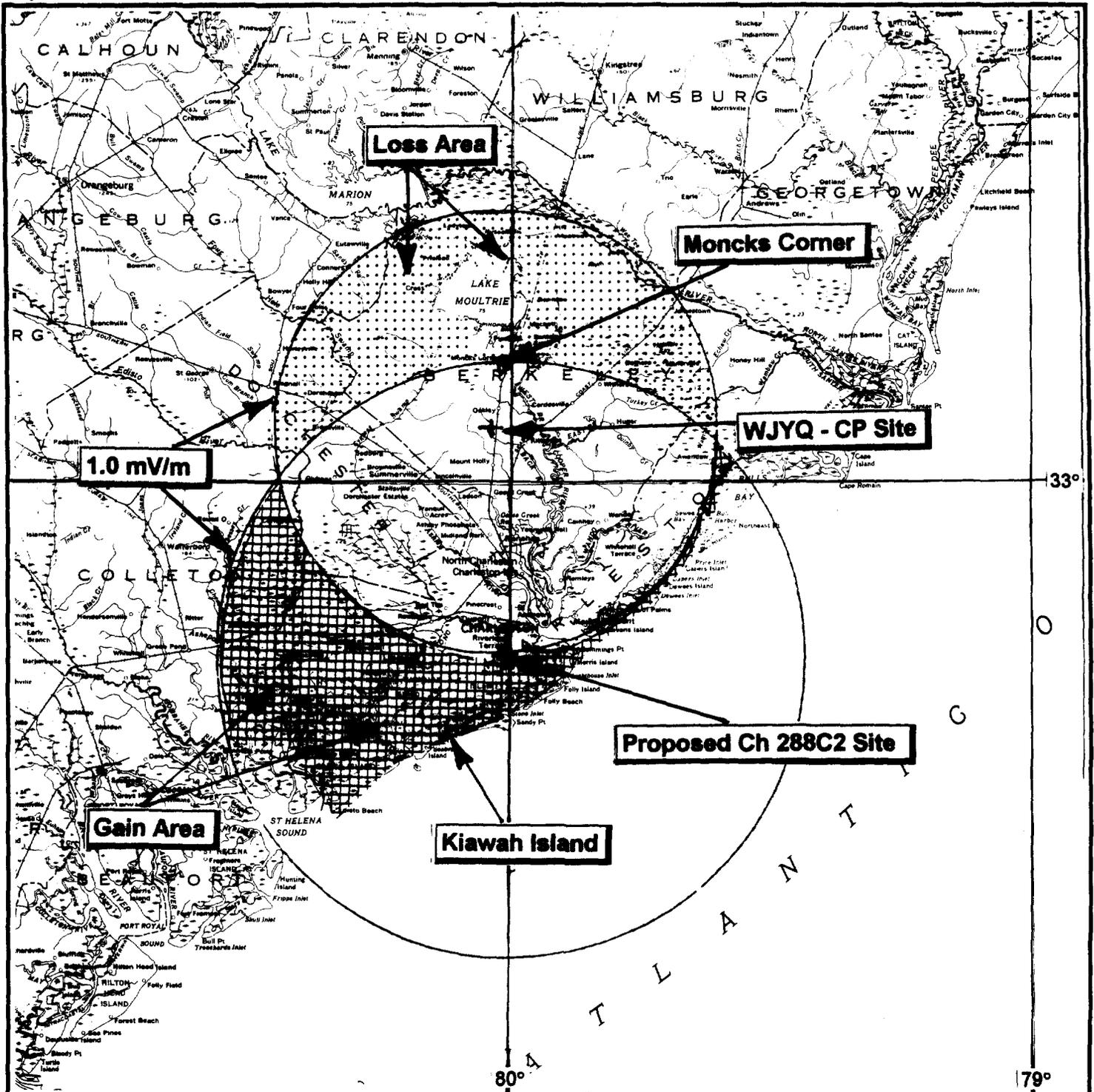
This site will be further away from the WJYQ (CP) site thus increasing the loss area. If a site was selected further south or if a short tower was utilized, then the 1.0 mV/m contour will be reduced in the direction of WJYQ further worsening the loss area. Tower heights for sites further north will also be limited due to aeronautical restrictions from The Charleston International Airport (also used by Charleston Air Force Base).

CONCLUSION

Since the proposal was to change from Channel 287C3 to Channel 288C2 the Petitioner wrongfully compared the old Channel 288A with the proposed Channel 288C2 at Kiawah Island. The Petitioner stated the population gain was 250,238; however, when you compare the correct facilities, this gain is only 14,193. If you do not consider the adequately served population within the Charleston Urbanized Area the gain shrinks to 491 persons. The area of coverage is a loss for the Class C2. Since over half of the C2 coverage is over the Atlantic Ocean the land coverage area will actually be 3,849 sq. Km, that is a reduction of 405 sq. Km (WJYQ-CP 4,254 sq. Km). The Channel 288C2 allocation site cannot be used and a "real world" site must be selected



William G. Brown
Bromo Communications, Inc.



GAIN LOSS AREA

WJYQ (CP) 1.0 mV/m contour assumes Construction Permit facilities.

Proposed CH 288C2 1.0 mV/m contour assumes maximum Class C2 facility

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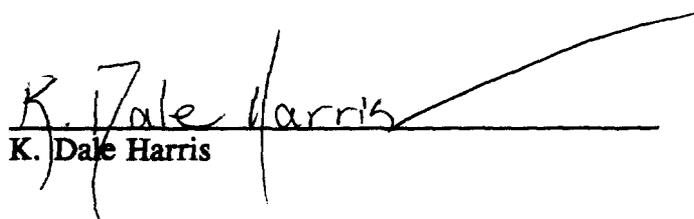
BROADBAND COMMUNICATIONS BROADCAST TECHNICAL CONSULTANTS

CERTIFICATE OF SERVICE

I, K. Dale Harris, a secretary in the law firm of Smithwick & Belendiuk, P.C., certify that on this 12th day of September, 1994, copies of the foregoing were mailed via first class mail, postage pre-paid, to the following:

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