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June 12, 1995

JUN 12 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

HAND-DELIVERY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Stop Code -1170
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

Re: MM Docket No. 95-46; RM 8594

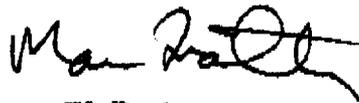
Dear Mr. Caton:

Transmitted herewith is an original and four copies of Comments in the above-referenced rule making proceeding.

If any questions should arise during the course of your consideration of this matter, it is respectfully requested that you communicate with this office.

Very truly yours,

**BROOKS, PIERCE, McLENDON,
HUMPHREY & LEONARD**



Marcus W. Trathen
Counsel to Lawrence
and Margaret Loesch

MWT
Enclosures

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

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JUN 12 1995
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20541

In Re Matter of)
)
AMENDMENT OF SECTION 73.202(b),)
Table of Allotments,)
FM Broadcast Stations.)
(Edenton, Columbia and Pine)
Knoll Shores, North Carolina))

MM Docket No. 95-46
RM-8594

DOCKET FILE COPY ORIGINAL

To: The Chief
Allocations Branch
Mass Media Bureau

**COMMENTS OF
LAWRENCE F. AND MARGARET A. LOESCH**

Lawrence F. and Margaret A. Loesch ("Loeschs"), by and through their undersigned counsel, hereby offer the following comments in response to a Notice of Proposed Rule Making issued in the above-captioned docket.

The Loeschs are Petitioners in the above-referenced rule making proceeding. The Loeschs have requested the upgrade of station WERX-FM from channel 273C2 to Channel 273C1, the re-allotment of the improved channel from Edenton, North Carolina, to Columbia, North Carolina, and the modification of Station WERX-FM's license to specify Columbia as the station's community of license. In order to accommodate this request, the Loeschs also request the substitution of Channel 290A for unoccupied by applied for Channel 272A at Pine Knoll Shores, North Carolina.

These Comments are filed in response to a request by the Commission in its Notice of Proposed Rule Making that the Petitioners submit additional information demonstrating that their petition is in the public interest. In addition, these comments are in response to the Commission's specific request for information concerning the areas that would be served by the new service and the areas which would lose service as a result of the re-allotment of Channel 273 from Edenton to Columbia.

DISCUSSION

The Commission notes in its Notice of Proposed Rule Making that Channel 273C1 can be allotted to Columbia in compliance with the Commission's minimum distance separation requirements with a site restriction of 24.7 kilometers southeast to avoid short-spacings to Stations WOLC, Channel 27B, Princess, MC and WHLQ, Channel 273A, Louisburg, NC. The Loeschs, however, propose to upgrade Channel 273 from the presently licensed location for the channel. The present WERX-FM site is located 8.8 kilometers northwest of Columbia. While this proposal does not meet Section 73.207 spacing regulations on Channel 272C1, it does meet Section 73.215 of the rules. See Technical Comments (attached hereto as Exhibit 1).

By upgrading WERX-FM from its present location, there will be no loss of service to any of the 91,878 persons presently receiving service from WERX. See Technical Comments. Operating with 62 kilowatts of power, WERX-FM will provide 1.0 mV/m service to 122,518 persons in 11,389.8 kilometers. Id. This represents a gain of 30,640 persons in 2,802.2 square kilometers over the licensed operation of the station. Id. In addition, Edenton, as well as Columbia, will continue to receive 3.16 mV/m service from WERX-FM. Id.

Because the requested upgrade of Channel 273 will result in higher quality broadcast

services to more people without any loss in service to the existing community of license, the Petitioner's request is in the public interest.

Submitted herewith in further response to the Commission's request for information are Technical Comments prepared by Graham Brock, Inc., Broadcast Technical Consultants.

CONCLUSION

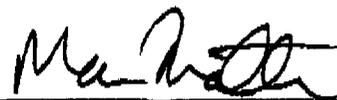
For the foregoing reasons, it is in the public interest to allow the Petitioners' request for the upgrade of station WERX-FM from channel 273C2 to Channel 273C1, the re-allotment of the improved channel from Edenton, North Carolina, to Columbia, North Carolina, and the modification of Station WERX-FM's license to specify Columbia as the station's community of license. The Loeschs will apply for and construct the necessary new facilities should the allotment be made.

This the 12th day of June, 1995.

Respectfully Submitted,

LAWRENCE F. AND
MARGARET A. LOESCH

By:



Mark J. Prak
Marcus W. Trathen
Counsel to Lawrence F. and
Margaret A. Loesch

Brooks, Pierce, McLendon,
Humphrey & Leonard
Attorneys at Law
Post Office Box 1800
Raleigh, North Carolina 27602
(919) 839-0300

CERTIFICATE OF SERVICE

I, Marcus W. Trathen, hereby certify that a copy of the foregoing Comments of Lawrence F. and Margaret A. Loesch was served on the following parties by depositing a copy thereof in the United States Mail, postage prepaid, addressed as follows:

WMBL, Inc.
4217 Woodberry Street
University Park, MD 20782

Leslie K. Shapiro
Federal Communications Commission
Mass Media Bureau
2000 M Street, Room 564
Washington, D.C. 20554

This the 12th day of June, 1995.



Marcus W. Trathen

GRAHAM BROCK, INC.

BROADCAST TECHNICAL CONSULTANTS

TECHNICAL COMMENTS
MM DOCKET #95-46
LAWRENCE F. AND MARGARET A. LOESCH
WERX-FM RADIO STATION
EDENTON/COLUMBIA, NORTE CAROLINA
June 1995

TECHNICAL EXHIBIT

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TECHNICAL COMMENTS
LAWRENCE F. AND MARGARET A. LOESCH
MM DOCKET #95-46
WERX-FM RADIO STATION
EDENTON/COLUMBIA, NORTH CAROLINA
June 1995

TECHNICAL STATEMENT

This technical statement and attached exhibits were prepared on behalf of Lawrence F. and Margaret A. Loesch ("Loeschs"), the petitioners in MM Docket #95-46. The Loeschs have requested the upgrade of station WERX-FM from channel 273C2 to Channel 273C1 and the re-allotment of the improved channel from Edenton, North Carolina, to Columbia, North Carolina. In order to accommodate the request, the Loeschs also request the substitution of Channel 290A for Channel 272A at Pine Knoll Shores, North Carolina.

In the Notice of Proposed Rule Making, the Commission requested the petitioners submit additional information in support of their request to demonstrate the proposal was in the public interest. Specifically, the question concerned the areas which would receive new service and the areas which would lose service as a result of the re-allotment of Channel 273 from Edenton to Columbia.¹

1) The Loeschs' proposed that Channel 273C1 be allocated to Columbia, North Carolina, as that community's second local service. This would leave Edenton with two facilities; WBXB, Channel 261C2, and WZBO, 1260 kHz.

DISCUSSION

The proposed site for the allotment of Channel 273C1 to Columbia, North Carolina, is site restricted 24.7 kilometers southeast of the community in order to avoid shortspacing two other Commission authorized facilities (see Exhibit #1).² While it is feasible to locate a transmitter site for this channel within the confines of the clear usable area, the Loeschs intend to implement the upgrade for WERX-FM at the presently licensed site for the channel. The present WERX-FM site is located 8.8 kilometers northwest of Columbia. While the present WERX-FM site does not meet §73.207 spacing regulations on Channel 273C1 (see Exhibit #2), it does comply with §73.215 regulations. The Loeschs may avail themselves of §73.215 processing during the application stage of this proceeding.

Pursuant to §73.215, WERX-FM may operate with a maximum effective radiated power of 62.0 kilowatts at a height above average terrain of 216 meters.³ At this level of power there will be no prohibited overlap of contours between WERX-FM and either WOLC or WHLQ. Therefore, no actual tower construction is necessary to implement this proposal.

- 2) The site restriction is to avoid shortspacing WOLC, Channel 273B, Princess Anne, Maryland, and WHLQ, Channel 273A, Louisburg, North Carolina.
- 3) It is proposed to make minor changes to the present WERX-FM antenna supporting structure to accommodate a larger antenna system for the implementation of the C1 facility. This will cause an increase from the present WERX-FM HAAT of 210 meters to 216 meters.

Further, by upgrading WERX-FM from its present location, there will be no loss of service to any of the 91,878 persons presently receiving service. In fact, operating with 62.0 kilowatts, WERX-FM will provide 1.0 mV/m service to 122,518 persons in 11,389.8 square kilometers. This represents a gain of 30,640 persons in 2,802.2 square kilometers over the licensed operation of the station. Further, the community of Columbia, as well as Edenton, will continue to receive 3.16 mV/m service from WERX-FM (see Exhibit #3).

The proposed change in community of license for WERX-FM is to enable the facility to provide service to Columbia as well as improve the station to a C1 facility. WERX-FM is unable to do this if it remains licensed to Edenton.⁴ WERX-FM will remain a viable transmission service in Edenton, based on the proposed continuing operation of the station from its licensed site with the proposed increase of power.⁵ Further, since there will be no actual loss in coverage (area) as a result of this upgrade and this upgrade will enable the facility to provide service to an additional 30,640 persons, this request is in the public interest.

4) Based on the Commission's allocation criteria which requires §73.207 spacing clearances and 100% city grade coverage of the community of license.

5) The petitioners have contacted the licensee of WRSP, Channel 289C1, Columbia, North Carolina, regarding the potential for WRSP's city of license to be changed from Columbia to Edenton. The licensee has entered into negotiations to sell WRSP to East Carolina Radio, Inc., whose principal is Lawrence F. Loesch, the licensee of WERX-FM. Loesch will likely propose a change in community after becoming the licensee of WRSP. The present WRSP facility does provide city grade service to Edenton from its licensed site, therefore, no alteration of the present facility would be necessary to accommodate a change in city for WRSP.

Therefore, the Loeschs propose the following changes to the Commission's Table of FM Allotments:

Columbia, North Carolina

Present

289C1

Proposed

273C1, 289C1

Edenton, North Carolina

Present

261C2, 273C2

Proposed

261C2⁶

Pine Knoll Shores, North Carolina

Present

272A

Proposed

290A

When Channel 273C1 is allocated to Columbia, North Carolina, the Loeschs will file, on a timely basis, an application seeking to make minor changes in the facilities of WERX-FM.

The foregoing technical statement and exhibits were prepared on behalf of Lawrence F. and Margaret A. Loesch by Graham Brock, Inc. its Technical Consultants. All information contained herein is true and accurate to the best of our belief and knowledge.

6) AM stations WZBO will also remain licensed to Edenton. It should be noted the petitioners are also the licensee's of WZBO.

All data relating to FM facilities was extracted from the NTIA database, as updated on April 26, 1995. We assume no liability for errors or omissions in the database which may be adverse to the requests contained herein.

CLEARANCE STUDY FOR CHANNEL 273C1 COLUMBIA, NORTH CAROLINA
USING PROPOSED ALLOCATION SITE AS REFERENCE

REFERENCE	CLASS C1	DISPLAY DATES
35 42 48 N	Current rules spacings	DATA 04-26-95
76 08 34 W	CHANNEL 273 -102.5 MHZ	SEARCH 06-09-95

CALL TYPE	CH# LAT	CITY LNG	STATE	BEAR' HT	D-KM D-Mi	R-KM R-Mi	MARGIN (KM)
AD273	273C1	Columbia	NC	0.0	0.00	245.0	-245.00
AD	35 42 48	76 08 34	0.000 kw	OM	0.0	152.3	
	Lawrence F. Loesch & Margaret				RM-8594		950126
WERXFM	273C2	Edenton	NC	321.1	29.25	224.0	-194.75
LI CN	35 55 05	76 20 48	26.000 kw	210M	18.2	139.2	
	Lawrence F. Loesch & Margaret				BLH-920820KB		
DE273	273C2	Edenton	NC	321.1	29.25	224.0	-194.75
DE	35 55 05	76 20 48	0.000 kw	OM	18.2	139.2	
	Lawrence F. Loesch & Margaret				RM-8594		950126
* AP272	272A	Pine Knoll Shores	NC	201.8	119.81	133.0	-13.19
AP CN	34 42 38	76 37 52	6.000 kw	100M	74.5	82.7	
	WMBL Inc.				BPH-920720MA		921207
* ALOPEN	272A	Pine Knoll shores	NC	201.9	120.02	133.0	-12.98
AL N	34 42 33	76 38 00	0.000 kw	OM	74.6	82.7	
	Window Open 06/19/92 Closed 07/20/92						
+ WOLC	273B	Princess Anne	MD	9.1	269.72	270.0	-0.28
LI CN	38 06 43	75 39 14	50.000 kw	152M	167.6	167.8	
	Maranatha, Inc.				BLH-7539		
WHLQ	273A	Louisburg	NC	283.3	206.91	200.0	6.91
LI CN	36 07 12	78 22 48	6.000 kw	100M	128.6	124.3	
	Franklin Broadcasting Company				BLH-920108KA		
WIKS	270C1	New Bern	NC	239.3	110.51	82.0	28.51
LI CN	35 12 07	77 11 15	100.000 kw	299M	68.7	51.0	
	WIKS-FM, Inc.				BLH-870306KD		

CHANNEL 273C1 ALLOCATION STUDY

- * NOTE : CHANNEL 290A IS TO BE SUBSTITUTED FOR CHANNEL 272A AT PINE KNOLL SHORES, NORTH CAROLINA.
- + NOTE : THE SPACING TOWARDS WOLC IS SHOWN AS -0.28 KM. HOWEVER, SINCE THIS IS LESS THAN 0.48 THE DISTANCE ROUNDS TO ZERO.

EXHIBIT #1
TECHNICAL COMMENTS
LAWRENCE & MARGARET LOESCH
MM DOCKET #95-46
WERX RADIO STATION
EDENTON/COLUMBIA, NC
June 1995

GRAHAM BROCK, INC.
BROADCAST TECHNICAL CONSULTANTS

CLEARANCE STUDY FOR CHANNEL 273C1 COLUMBIA, NORTH CAROLINA
USING PRESENT WERX-FM SITE AS REFERENCE

REFERENCE 35 55 05 N 76 20 48 W	CLASS C1 Current rules spacings CHANNEL 273 -102.5 MHz	DISPLAY DATES DATA 04-26-95 SEARCH 06-09-95
---------------------------------------	--	---

CALL TYPE	CH# LAT	CITY LNG	STATE PWR	BEAR' HT	D-KM D-Mi	R-KM R-Mi	MARGIN (KM)
WERXFM LI CN	273C2 35 55 05	Edenton 76 20 48	NC 26.000 kW	0.0 210M	0.00 0.0	224.0 139.2	-224.00
		Lawrence F. Loesch & Margaret				BLH-920620KB	
DE273 DE	273C2 35 55 05	Edenton 76 20 48	NC 0.000 kW	0.0 0M	0.00 0.0	224.0 139.2	-224.00
		Lawrence F. Loesch & Margaret				RM-8594	950126
AD273 AD	273C1 35 42 48	Columbia 76 08 34	NC 0.000 kW	141.0 0M	29.25 18.2	245.0 152.3	-215.75
		Lawrence F. Loesch & Margaret				RM-8594	950126
* LI CN	273B 38 06 43	Princess Anne 75 39 14	MD 50.000 kW	13.9 152M	251.15 156.1	270.0 167.8	-18.85
		Maranatha, Inc.				BLH-7539	
* LI CN	273A 36 07 12	Louisburg 78 22 48	NC 6.000 kW	277.6 100M	184.66 114.8	200.0 124.3	-15.34
		Franklin Broadcasting Company				BLH-920108KA	
+ AP CN	272A 34 42 38	Pine Knoll Shores 76 37 52	NC 6.000 kW	191.0 100M	136.44 84.8	133.0 82.7	3.44
		WMBL Inc.				BPH-920720MA	921207
+ AL N	272A 34 42 33	Pine Knoll Shores 76 38 00	NC 0.000 kW	191.0 0M	136.63 84.9	133.0 82.7	3.63
		Window Open 06/19/92 Closed 07/20/92					
WPTM LI CN	272A 36 30 12	Roanoke Rapids 77 44 47	NC 5.400 kW	297.8 105M	141.64 88.0	133.0 82.7	8.64
		Moran Communications, Inc.				BLH-930527KC	
WOWI LI CN	275B 36 45 23	Norfolk 76 23 06	VA 50.000 kW	357.9 144M	93.09 57.9	79.0 49.1	14.09
		US Radio, L.P.				BMLH-930909KD	

CHANNEL 273C1 SPACING STUDY

* NOTE : THE SHORTAGES TO WOLC AND WHLQ
WILL BE ADDRESSED UNDER SECTION
73.215 OF THE COMMISSIONS RULES.

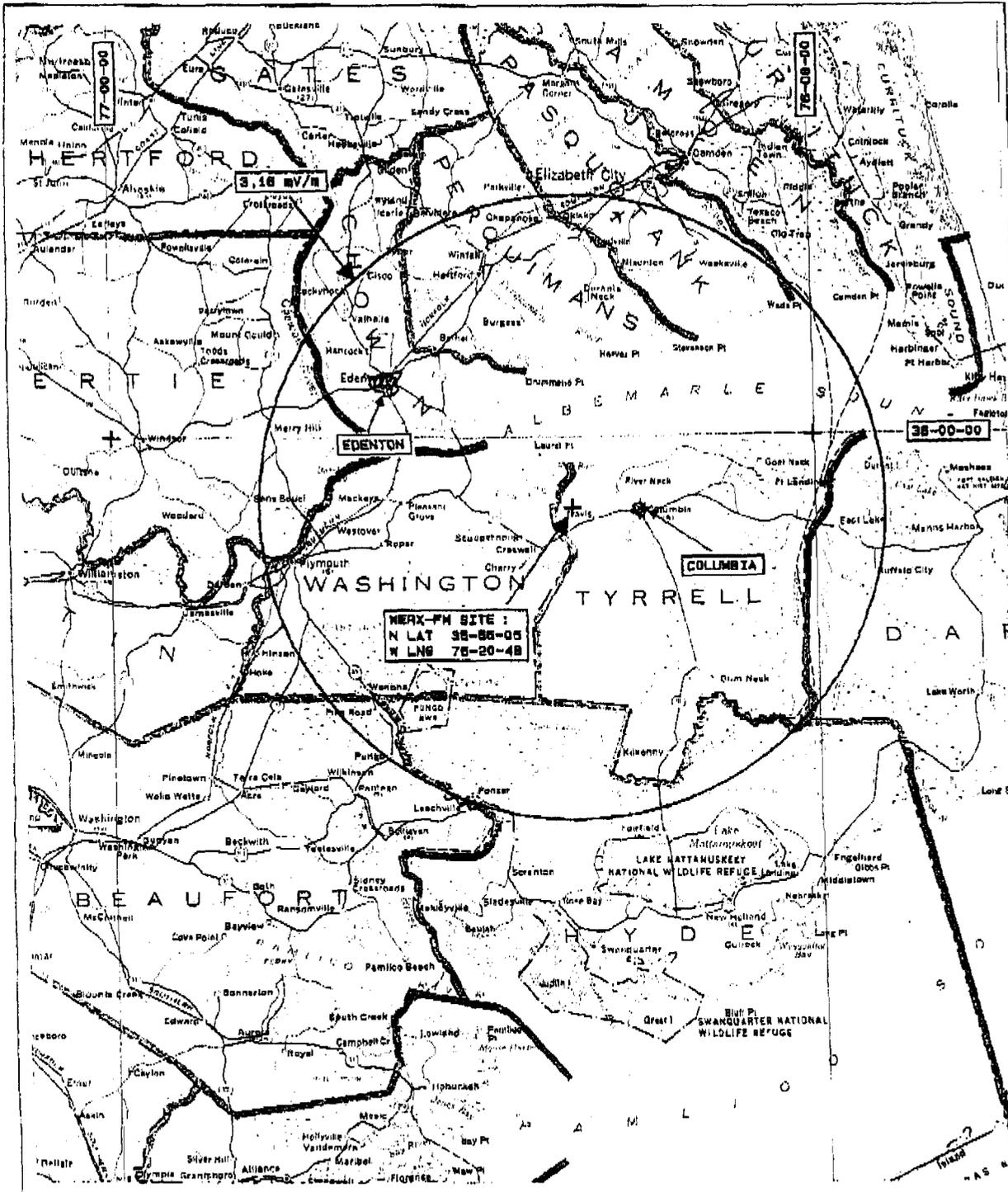
+ NOTE : CHANNEL 290A WILL BE SUBSTITUTED
FOR CHANNEL 272A AT PINE KNOLL
SHORES, NORTH CAROLINA.

EXHIBIT #2

**TECHNICAL COMMENTS
LAWRENCE & MARGARET LOESCH
MM DOCKET #95-46
WERX RADIO STATION
EDENTON/COLUMBIA, NC
June 1995**

GRAHAM BROCK, INC.

BROADCAST TECHNICAL CONSULTANTS



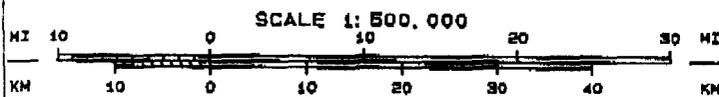
PREDICTED CONTOURS

MAP IS A PORTION OF THE 1:500,000 SCALE U.S.G.S. BASE MAP OF NORTH CAROLINA.

MAP SHOWS WERX-FM OPERATING WITH 62.0 KILOWATTS @ 216 METERS HAAT.

EXHIBIT #3

TECHNICAL COMMENTS
LAWRENCE & MARGARET LOESCH
MM DOCKET #95-46
WERX RADIO STATION
EDENTON/COLUMBIA, NC
June 1995



GRAHAM BROCK, INC.
BROADCAST TECHNICAL CONSULTANTS

AFFIDAVIT AND QUALIFICATIONS OF CONSULTANT

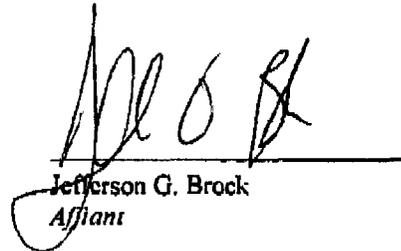
State of Georgia)
St. Simons Island) ss:
County of Glynn)

JEFFERSON G. BROCK, being duly sworn, deposes and says that he is an officer of Graham Brock, Inc. Graham Brock has been engaged by Lawrence F. and Margaret A. Loesch, licensee of Radio Station WERX-FM, to prepare the attached Technical Exhibit.

His qualifications are a matter of record before the Federal Communications Commission. He has been active in Broadcast Engineering since 1979.

The attached report was either prepared by him or under his direction and all material and exhibits attached hereto are believed to be true and correct.

This the 9th day of June, 1995.



Jefferson G. Brock
Affiant

*Sworn to and subscribed before me
this the 9th day of June, 1995*



Notary Public, State of Georgia
My Commission Expires: September 8, 1995