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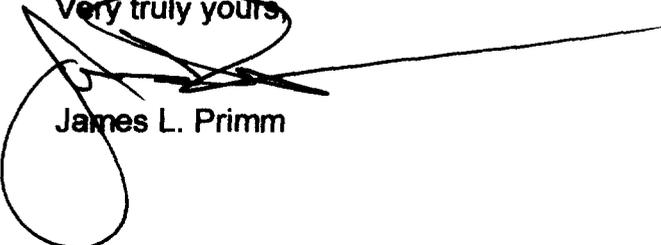
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

re: Initial Comments of 21st Century Radio Ventures, Inc. in MM Docket 96-66 Table of Allotments, FM Broadcast Stations (Sibley, IA and Brandon, SD)

Please find enclosed the original and four copies of the Initial Comments of 21st Century Radio Ventures, Inc. in the above entitled action. Also enclosed is a copy marked stamp and return. Please return that copy in the enclosed postage paid envelope.

Please contact the undersigned if you have any questions.

Very truly yours,


James L. Primm

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the matter of)
)
Amendment of Section 73.202(b)) MM Docket No. 96-66
Table of Allotments) RM-8729
FM Broadcast Stations)
Sibley, IA and Brandon, SD)

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TO: Chief, Policy and Rules Division

INITIAL COMMENTS OF 21ST CENTURY RADIO VENTURES INC.

21st Century Radio Ventures, Inc. ("Petitioner") hereby files its initial comments in the above referenced proceeding.

I. Petitioner's Proposal to Substitute Channel 261C3 for Channel 262A at Sibley, Iowa and Reallocation of Channel 261C3 from Sibley to Brandon, South Dakota Does Not Constitute A Request to Remove the Sole Local Service from Sibley.

A. After Allotment of Channel 282A To Sibley As Requested By Petitioner In A Separate Petition for Rule Making Filed Today, There Will Be A Channel Available At Sibley.

Petitioner seeks allotment of Channel 282A and will apply for that channel if allotted (see "Petition For Rule Making" filed by Petitioner concurrently with the instant pleading (Exhibit 1 attached hereto). As a result, Sibley will have a new station to serve the community and Sibley will therefore not be deprived of its sole local service if the Commission reallocates Channel 261C3 to Brandon, South Dakota.

B. Removal of an Unbuilt Construction Permit Does Not Constitute Removal of an Existing Service For Purposes of Section 1.420(i)

In Modification of FM and TV Authorizations to Specify a New Community of License, 4 FCC Rcd 4870, 66 RR 2d 827 (1989) ("Change of Community R&O) recon.

granted in part, 5 FCC Rcd 7094, 68 RR 2d 644 (1990) ("Change of Community M&O"), the Commission stated that a reallocation must not deprive a community of an "existing service." Change of Community R&O at 4874 (emphasis added). In the instant case, KAJQ has never been on the air. Its reallocation will not result in the loss of a service upon which the public has come to rely. As a result, its reallocation does not constitute removal of an existing service and the Commission may therefore grant the instant Petition in accord with Section 1.420(i) which prohibits only the removal of the sole existing local service.

Commission precedent uniformly supports the contention that removal of an unbuilt construction permit does not constitute removal of an existing service for purposes of Section 1.420(i). See, e.g., Glencoe and Le Sueur, Minnesota, 7 FCC Rcd 7651 (1992)(Granted the change of community of license and removal of only construction permit at Le Sueur. "We find that the change in community will not cause any disruption to existing service since Station KQXA has never been on the air").

The reason that removal of an unbuilt construction permit does not constitute removal of an existing service is because it does not constitute a service upon which the public has come to rely. See Sanibel and San Carlos Park, Florida, 10 FCC Rcd 7215, 7216-17 (1995) (Granted change of community of license and removal of only construction permit allocated to Sanibel. "While we consider important the potential service that unbuilt stations represent, we acknowledge that they are not a service on which the public has come to rely on. Therefore, we do not consider their removal from a community to represent the same concerns with loss of service that removal of an

operating station would represent."); Pawley's Island and Atlantic Beach, South Carolina, 8 FCC Rcd 8657 (1993) (Granted change of community of license and noted that removal of a construction permit did not constitute loss of an existing service).

III. Brandon is Deserving of A First Local Service Preference Using the Commission's Three Factors Enumerated in RKO General and Faye and Richard Tuck.

The Commission has requested that Petitioner submit evidence sufficient to show that Brandon is deserving of a first local service preference using the Commission's three factors enumerated in RKO General, Inc.(KFRC), 5 FCC Rcd 3222 (1990) and Faye and Richard Tuck, 3 FCC Rcd 5374 (1988). In RKO and Faye and Richard Tuck the Commission clarified the type of evidence to consider in determining whether a proposal to serve a suburban community should be considered as a first local service or whether the suburban community should be credited with all of the services licensed in the urbanized area. There are three primary criteria: First, signal population coverage is examined. This refers to the degree of coverage to which the station could provide service not only to the suburban community but to the adjacent metropolis as well. Second, the size of the suburban community is compared to the size of the metropolis and whether the suburban community is within or outside but proximate to the Urbanized Area of the central city. Third, the Commission reviews eight factors to determine the degree of interdependence between the two communities. Headland Alabama, 10 FCC Rcd 10352, 10355 (1995); RKO, 5 FCC

Rcd at 3223.

As demonstrated below, although Brandon is located near a larger community, it is a separate and independent community richly deserving its first local radio service. Indeed, public policy demands that towns such as Brandon be provided their own independent media outlets so that they can maintain their independence from larger neighbors for reliance on news, community events and local retail sales.

A. Factor 1 -- Signal Population Coverage.

The Commission noted in its Notice of Proposed Rule Making in the instant case, that Petitioner's proposed signal will provide a 70 dBu signal to 90% of the Sioux Falls Urbanized Area. The Commission should be aware that the coordinates utilized by Petitioner were determined based on obtaining a "best case" site within its area to locate for service to Brandon. In fact, Petitioner has not yet obtained a transmitter site for service to Brandon. In the event that the reallocation is approved, Petitioner expects to expeditiously obtain a site. It should be noted, however, that due to land ownership issues, zoning restrictions and other environmental issues, a site much farther away from Brandon may be the actual site utilized by Petitioner. The actual site may not permit a city grade signal to be placed over more than 50% of the Sioux Falls Urbanized Area. This is particularly true in the instant case because a Class C3 station is not expected to produce a city grade signal for more than a 14 mile radius. For example, a tower site located more than 10 miles from the current proposed site and still within Petitioner's area to locate might provide only minimal city grade coverage into the urbanized area. See Exhibit 2.

B. Factor 2 -- Size and Proximity of Brandon To Sioux Falls

Brandon is a sizeable rural community with 3,543 people (1990 census). Sioux Falls contains approximately 100,814 people (1990 census). Brandon is located approximately three miles outside of the city limits of Sioux Falls, separated by farms and open space. Brandon is also located outside of the urbanized area by approximately three miles.

C. Factor 3 -- Interdependence of Brandon on Sioux Falls

As discussed below, Brandon is independent in virtually every way from Sioux Falls. Many residents live and work in Brandon which offers virtually every type of service to its residents. Brandon maintains its own elected mayor and city council. It has its own city financed police department and the Brandon Volunteer Fire Department supplies emergency fire and medical services to the city. Brandon also has a medical clinic with a full time M.D. staff, two dental clinics and two chiropractic offices. The city provides water and sewer services to the residents of Brandon and it maintains a branch of the Minnehaha County Public Library. It also owns and operate an 18 hole golf course, two public parks and a public swimming pool. There are hundreds of diverse businesses located in Brandon.

1. Approximately 35% of Residents Work in Brandon Rather Than Commuting.

A July 1995 survey of Brandon residents found that about 35% of all residents work in Brandon (130 out of a total of 374 respondents, see Exhibit 3 for a copy of the

survey). The survey did not indicate the number who commuted to Sioux Falls as opposed to other areas, such as farms and ranches, outside of the urbanized area. It is estimated that an additional 5% to 10% of Brandon residents who commute do so to jobs outside of the urbanized area. This evidence strongly suggests the independence of Brandon from Sioux Falls since as many as 45% of workers either work in Brandon or at jobs outside of the Sioux Falls urbanized area.

2. Brandon Has Its Own Local Media

There is a local newspaper, the Brandon Valley Challenger, which focuses almost entirely on local issues. It covers local political and cultural events as well as local sports. It has an active readership of over 1000. It is published weekly so the addition of a local radio station to provide more timely coverage of events in this rapidly growing community is needed. This factor strongly suggests independence given that Brandon is a sufficiently separate community to justify its own local newspaper focused on the community.

3. Community Leaders View Brandon as Independent From Sioux Falls

The attached letter, dated May 6, 1996 from Mayor Dennis Kleinvachter to the Federal Communications Commission (Exhibit 4) indicates the strong feeling that people in Brandon have for their community. Mayor Kleinvachter states unequivocally that "In my opinion, which I believe is shared by both Brandon and Sioux Falls, Brandon is a separate community, independent in virtually every way from Sioux Falls."

4. Brandon Has Its Own Local Government and Elected Officials

Brandon has its own local government which is completely separate and apart

from Sioux Falls. A list of local elected officials is attached as Exhibit 5. The Brandon City Council consists of six members, two from each of three wards. Each ward elects a council person every year for a two year term. The Council is presided over by a mayor who is elected at large for a two year term.

5. Brandon Has Its Own Zip Code and Has Its Own Separate Section in the Local Telephone Directory

Brandon has been assigned its own zip code which is 57005. This zip code is not shared by any portion of Sioux Falls. Brandon also has its own post office facility.

The telephone directory serves as further evidence of Brandon's independence from Sioux Falls. Brandon is serviced by Split Rock Telecom which services a wide portion of eastern South Dakota. The telephone directory includes a separate section for Brandon which lists Brandon individuals and businesses separately from Sioux Falls. A copy of the Brandon section of the telephone directory is attached as Exhibit 6.

6. Brandon Has Many Active Commercial Establishments and Its Own Health Care Facilities

Brandon has a thriving business community. A partial list of the over ninety active members of the Brandon Chamber of Commerce is attached as Exhibit 7. The telephone book reveals even more businesses, both large and small in Brandon. Exhibit 8 lists major employers and the number of employees. Brandon industries include a truck accessories company employing 165 workers, a major grocery store employing 50 employees, a manufacturer of hydraulic hoses and screw machine parts,

employing 47 and a trucking company which employs 32. There have been no major business shut downs in the last 5 years and several major new businesses have moved into Brandon, including a veterinarian supply store and a trucking company.

Brandon has its own health care clinic which employs two full time doctors and specializes in general practice. Brandon also has a dental and chiropractic clinic.

Brandon has a developed system of roads. Because it is a rural area, most people use automobiles for transportation. The survey of Brandon residents indicated that when asked what public improvements were needed, on a scale of 1 to 5 (5 being least important), a bus to Sioux Falls was rated 5 (least important).

7. Many Brandon Advertisers Do Not Advertise in Sioux Falls

Although Brandon is included as part of the Sioux Falls Arbitron radio market, a comparison of the local newspaper with the Sioux Falls paper showed that many local advertisers do not advertise outside of Brandon, further indicating that Brandon is independent from Sioux Falls. In addition, the local newspaper carries only a relatively small percentage of its ads from Sioux Falls advertisers.

8. Brandon Does Not Rely on Sioux Falls For Virtually Any Public Services; Brandon Has A Separate Taxing Authority

Brandon has its own municipally funded police department with seven officers. It has a volunteer fire department made up of 26 volunteers. Brandon has its own separate school system with 1,021 students and 260 employees. Brandon maintains a branch of the Minnehaha County Public Library.

The City of Brandon provides water and sewer services. Trash collection is

maintained on a contract for service basis through the city. Electricity, gas and telephone are supplied by major regional carriers. Only the gas supplier even lists a Sioux Falls address. Exhibit 9 lists the names and addresses of the major utilities.

The City of Brandon owns and operates a number of recreational facilities, including an 18 hole municipal golf course, two public parks and a public pool.

Brandon imposes a two cent city sales tax. It also imposes a separate property tax assessment which is collected by the county.

D. Applying the Factors of RKO and Tuck Leads To the Conclusion That Petitioner's Request Should Be Considered A First Local Service.

Brandon is clearly independent from Sioux Falls. As stated in Faye and Richard Tuck, the size and proximity of the specified community to the central city and signal population coverage is pertinent, but has less significance than interdependence. 3 FCC Rcd at 5374; Headland, Alabama, 10 FCC Rcd at 10355. Applying the test as set out in Faye and Richard Tuck and subsequent cases, even if the signal coverage is found to be maximized and the city is somewhat physically close to Sioux Falls (the importance of which is diluted by the fact that it is outside the urbanized area, separated by rural land and open space and is three miles from the city limits at its closest point), the clear independence of Brandon from Sioux Falls can only lead to the conclusion that the instant proposal should be considered as a request for a first local service.

III. Petitioner Restates and Confirms That it Will Apply For and Build Channel 261C3 if Granted

Petitioner restates and reconfirms its intention to apply for Channel 261C3 if it is allotted and that it will promptly build the station should the allotment be granted.

IV. Conclusion

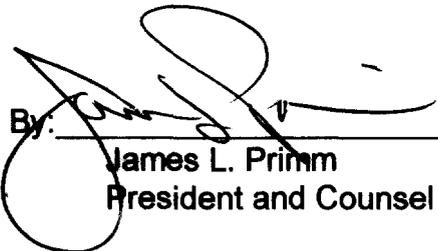
Petitioner now seeks to add Channel 282A as a new allocation to Sibley, Iowa which it will apply for if granted. This new allocation at Sibley should eliminate the finding that removal of Channel 261C3 constitutes removal of the sole local existing service at Sibley. In any event, Commission precedent clearly points out that in the context of Section 1.420(i) requests, removal of an unbuilt construction permit does not amount to removal of an existing service. Applying the factors in RKO and Faye and Richard Tuck, Brandon is clearly independent from Sioux Falls and the instant request should be considered a request for a first local service.

The statements in this Initial Comments are true, complete and correct to the best of my knowledge and belief and are made in good faith.

Respectfully submitted,

21st Century Radio Ventures, Inc.

Dated: 5/20/96

By: 
James L. Primm
President and Counsel

21st Century Radio Ventures, Inc.
530 Wilshire Blvd., Suite 301
Santa Monica, CA 90401
310-393-2741

EXHIBIT 1
PETITION FOR RULE MAKING TO ALLOT CHANNEL 282A TO
SIBLEY, IA FILED MAY 20, 1996

**21st Century Radio Ventures, Inc.
530 Wilshire Blvd. suite 301
Santa Monica, CA 90401
310-393-2741 (telephone)
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May 20, 1996

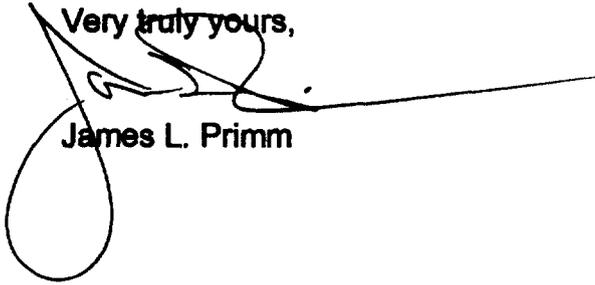
**Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554**

re: Petition for Rule Making to Allot Channel 282A to Sibley, Iowa

Please find enclosed the original and four copies of a Petition for Rule Making in the above entitled action. Also enclosed is a copy marked stamp and return. Please return that copy in the enclosed postage paid envelope.

Please contact the undersigned if you have any questions.

Very truly yours,


James L. Primm

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the matter of)
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Amendment of Section 73.202(b)) MM Docket No.
Table of Allotments) RM-
FM Broadcast Stations)
Sibley, IA)

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TO: Chief, Policy and Rules Division

PETITION FOR RULE MAKING

21st Century Radio Ventures, Inc. ("Petitioner") hereby requests the amendment of Section 73.202(b) of the Commission's Rules to add Channel 282A to Sibley, Iowa. In support hereof is an attached mileage separation study (Exhibit 1), showing that Channel 282A can be allotted to Sibley consistent with the Commission's minimum distance separation requirements (see Section 73.207 of the Commission's Rules).

If the Commission allots Channel 282A to Sibley, Petitioner will tender for filing an application seeking authority to construct the facility.

The statements in this Initial Comments are true, complete and correct to the best of my

knowledge and belief and are made in good faith.

Respectfully submitted,

21st Century Radio Ventures, Inc.

Dated: 5/20/96

By: 

James L. Primm
President and Counsel

21st Century Radio Ventures, Inc.
530 Wilshire Blvd., suite 301
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310-393-2741

EXHIBIT 1
MILEAGE SEPARATION STUDY

EXHIBIT 2
AREA TO LOCATE FOR CHANNEL 261C3

Figure 2

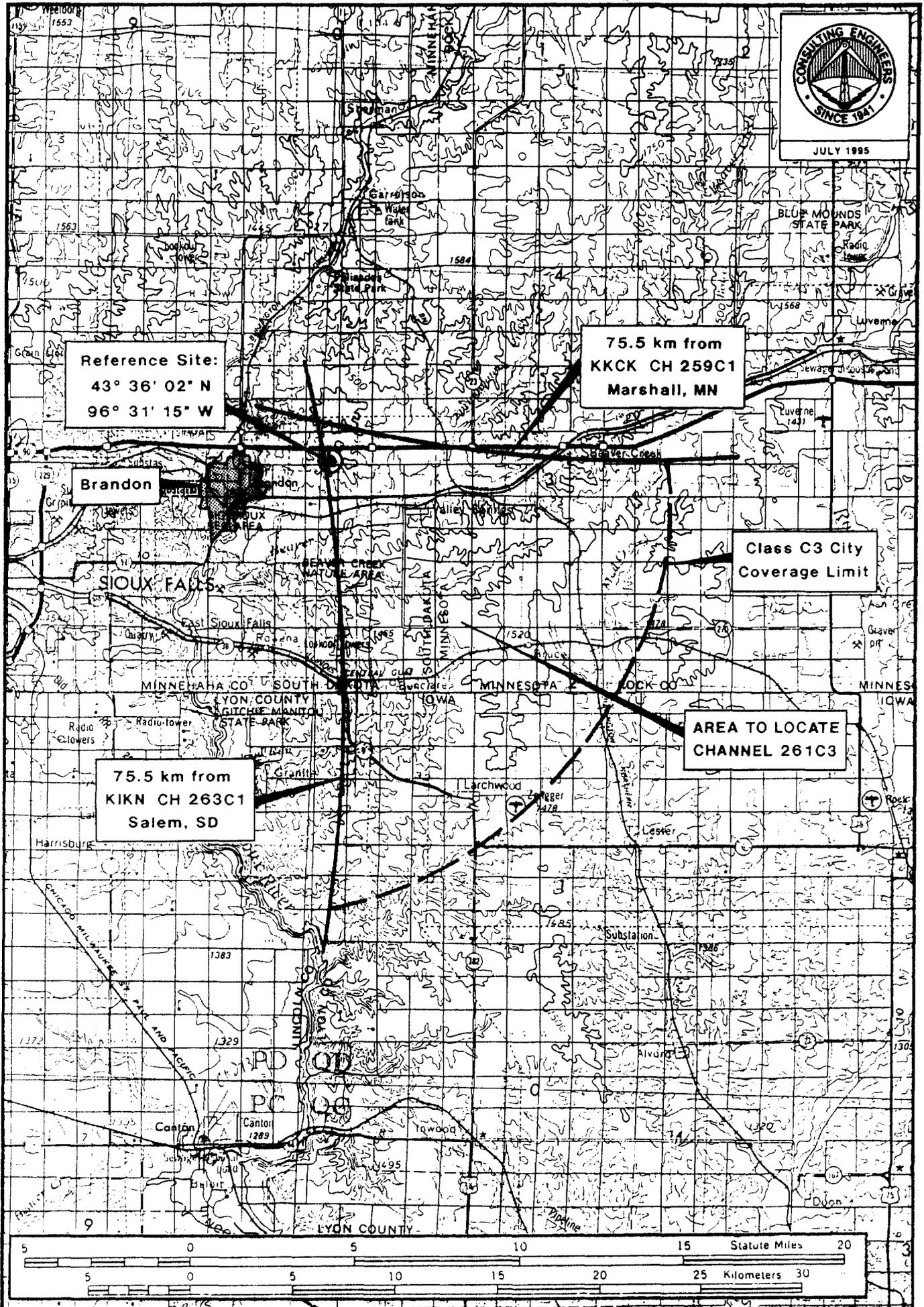


EXHIBIT 3
SURVEY OF BRANDON RESIDENTS

BRANDON COMMUNITY SURVEY 1995

Active Cities Program
Planning & Zoning
Community Center



I. INTRODUCTION

The Brandon Community Survey was conducted by the Midwest Assistance Program, Inc. in conjunction with the Brandon Planning & Zoning Commission, the Brandon Community Center Committee and the City of Brandon.

The Midwest Assistance Program, Inc. (MAP) is a non-profit, technical assistance organization serving South Dakota and eight other midwestern states. It is dedicated to helping small rural communities develop or improve their water, wastewater and solid waste systems.

Brandon was one of three South Dakota communities initially selected by MAP to participate in its ACTIVE Cities Project. ACTIVE stands for A Community Involvement Environmental Effort, and is a coordinated effort among MAP, the South Dakota Department of Environmental and Natural Resources and the Environmental Protection Agency. It is a planning process consisting of a committee of Brandon area residents, who, with MAP's assistance, are working to identify, prioritize and find solutions for environmental problems and concerns affecting the City of Brandon. Critical to this project is a survey of Brandon residents to gauge their level of concern on various environmental topics.

Coincidentally, the Brandon Planning & Zoning Commission was beginning the process of updating their Comprehensive Plan for the city. Information from citizens on traffic patterns, preferred uses of available funds for improvements to city services and goals for the future was critical to this plan.

Additionally, the Brandon Community Center Committee was interested in determining the interest and support level of residents of Brandon for the construction of a Community Center. Issues such as if such a center is desired, and if so what it should contain and where it should be located needed to be resolved before planning could proceed.

II. METHODOLOGY

MAP, the Brandon Planning & Zoning Commission and the Community Center Committee each wrote their own one page survey. These were compiled and sent, with an explanatory cover letter from the Mayor of Brandon, to residents of Brandon. Address labels were generated by the City of Brandon based on water billing lists. A total of 1197 surveys were mailed by the City in late June and early July 1995. Collection boxes were placed throughout Brandon at the following five locations: City Hall, Coast to Coast Hardware, First National Bank, Home Federal Savings and Loan and Jubilee Food Store. A deadline of 7/15/95 was specified. Press coverage in the local weekly newspaper and on the local public service TV station was requested. All survey collections, tabulations and data analyses were performed by Ann Vogelmann of MAP.

In an effort to keep the surveys as short as possible, and thus encourage participation, questions on social, economic and housing characteristics were omitted. Such information was obtained from the 1990 US Department of Commerce Bureau of the Census data. This is included to give a profile of the City of Brandon. It should be noted that Brandon is a rapidly growing city and 1990 data may not accurately profile Brandon in 1995.

The Planning & Zoning Commission obtained assistance in the revision of the Comprehensive Plan from the South Eastern Council of Governments (SECOG). SECOG participated in the formulation of survey questions for the Planning & Zoning portion of the survey. Additionally, SECOG generated population projections for the city over the time period 1995-2015. Final projections were an average of four separate projections based upon (1) constant numerical increase, (2) constant percent increase, (3) change in the city's portion of the Minnehaha County total population and (4) change in the city's portion of the total South Dakota population.

In presenting its population estimate to the City of Brandon, SECOG made two caveats: (1) since Brandon was incorporated as a city in the late 1970's, census data has been compiled only since 1980 and current projections rely on this relatively short base-line; (2) there are physical barriers to Brandon's growth (Big Sioux River, Split Rock Creek, I-90) which may cause a slowdown in growth once the areas within these boundaries are filled.

V. RESULTS: DATA COLLECTION AND PARTICIPATION LEVELS

All collection boxes were first checked 7/6/95 when 130 surveys (10.9%) were collected. A second collection on 7/12/95 yielded 85 additional surveys for a total of 215 (18.0%). Delayed local newspaper coverage and less than desired response rate resulted in an extension of the collection deadline to 7/22/95. The third collection on 7/20/95 yielded 76 additional surveys for a new total of 291 (24.3%) and another deadline extension (open-ended). A fourth collection was made 7/26/95 yielding 15 additional surveys and a new total of 306 (25.6%). The final collection was made 8/1/95 resulting in 6 additional surveys. Final tally was 312 (26.1%) surveys returned.

Data was not kept regarding the numbers of surveys collected at each of the collection locations. It was observed, however, that City Hall and the Jubilee Food Store were the most utilized.