

ORIGINAL

LAW OFFICES  
HALEY BADER & POTTS P.L.C.

4350 NORTH FAIRFAX DR., SUITE 900

ARLINGTON, VIRGINIA 22203-1633

TELEPHONE (703) 841-0606

FAX (703) 841-2345

E-MAIL: haleybp@haleybp.com

JOHN CRIGLER

DOCKET FILE COPY ORIGINAL

OUR FILE NO.  
0250-131-63

August 15, 1996

RECEIVED

AUG 15 1996

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

Re: Petition to Amend FM Table of Allotments.

Dear Mr. Caton:

Transmitted herewith on behalf of Wilks Broadcast Acquisitions, Inc., are the original and four (4) copies of a Petition For Rule Making which proposes the addition of Channel 269C3 to Augusta, Georgia; the substitution of Channel 232A for Channel 269A at Thomson, Georgia, and the deletion of Channel 239A from Gibson, Georgia. Camellia City Communications, Inc., the licensee of WTHO, which currently operates on Channel 269A, has consented to the proposed substitution. Its consent is attached.

Please refer any questions concerning this matter directly to this office.

Respectfully submitted,



John Crigler

JC:dh  
Enclosures

No. of Copies rec'd  
Listed Below

024  
MMB

ORIGINAL

DOCKET FILE COPY ORIGINAL

Before The  
**Federal Communications Commission**

Washington, D.C. 20554

RECEIVED

AUG 15 1996

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In The Matter Of )  
 )  
Amendment of Section 73.202 )  
FM Table of Allotments )  
(Augusta, Thomson and )  
Gibson, Georgia) )  
 )

MM Docket No.  
RM

TO: Chief, Policy and Rules Division

**PETITION FOR RULE MAKING**

Wilks Broadcast Acquisitions, Inc. ("WBA"), by its attorneys and pursuant to Section 1.401 of the Commissions' Rules, hereby respectfully requests the Commission to take the following actions :

- (1) Substitute Channel 269C3 for Channel 272A at Augusta, Georgia;
- (2) substitute Channel 232A for Channel 269A at Thomson, Georgia;
- (3) delete Channel 232A at Gibson, Georgia; and (4) order Station WEKL at Augusta, Georgia and Station WTHO at Thomson, Georgia to modify their facilities to operate on Channels 269C3 and 232A, respectively.

**DISCUSSION**

WBA is the licensee of Station WEKL, Augusta, Georgia. WEKL operates on channel 272A. Camellia City Communications ("CCC") is the licensee of Station WTHO, Thomson, Georgia. WTHO operates on Channel 269A. WBA proposes to upgrade on third adjacent Channel 269C3. This upgrade could be effected by minor change application, see Section 73.203(b) of the Commission's Rules, but for the fact that such

an upgrade would be short spaced to Station WTHO. To accommodate the WEKL upgrade, CCC has consented to the substitution of Channel 232A for Channel 269A as the frequency on which WTHO will operate. WBA has agreed to compensate CCC for modifying the license of WTHO to operate on Channel 232A. This channel substitution would require the deletion of Channel 232A at Gibson, Georgia. Channel 232A was allotted to Gibson effective May 28, 1992, see 57 *Fed Reg.* 40365, but has lain fallow for over four years.

The proposed change will clearly serve the public interest. As set forth in the Engineering Report attached hereto as Exhibit A, the upgrade of WEKL on 269C3 and modification of WTHO to operate on 232A will increase the area and population served by each station and result in the delivery of FM service to an additional 68,851 persons over a net service area gain of 2,140 square kilometers.

As demonstrated in the attached Engineering Report, the proposed allotments comply with all mileage separation and coverage requirements.

The channel changes proposed should be authorized as minor changes for both WEKL and WTHO. As set forth in Attachment B, WTHO has consented to the substitution of Channel 232A for 269A in order to accommodate WEKL's upgrade on 269C3. If WTHO were modified to

operate on Channel 232A, WEKL could propose an upgrade on Channel 269C3, the third adjacent channel to Channel 272A on which it now operates, by a minor change application. See Section 1. 4(g) and 73. 203(b) of the Commission's Rules.

Alternatively, the proposed change may be authorized as an "incompatible channel swap" as contemplated in *Modification of FM Broadcast Licenses to Higher Class Co-Channels or Adjacent channels*, 60 RR2d 114 (1986). As set forth in the attached Engineering Statement, Channel 269C3 is the only channel available for allotment to Augusta as a Class C3 channel. Channel 269C3 can be allotted to Augusta, Georgia only if Channel 269A is deleted as the allotment for existing station WTHO in Thomson, Georgia. Channel 269C3 is thus not available in "the Ashbacker sense" and should not be made available for application by third parties. *Id.* At 119-120.

Accordingly, for good cause shown, WBA respectfully requests that The FM Table of Allotments be amended as follows:

City	Present	Proposed
Augusta, Georgia	214C2, 219A, 272A 276A, 282C, 289C	214C2, 219A, 269C3 276A, 282C, 289C
Thomson, Georgia	269A	232A
Gibson, Georgia	232A	None

Upon adoption of a Commission order implementing the requested changes in FM allotments, WBA and CCC have each committed to file the necessary minor change applications and promptly to upgrade WEKL and modify WTHO accordingly.

Respectfully submitted,

**WILKS BROADCAST ACQUISITIONS, INC.**

By:   
\_\_\_\_\_  
John Crigler  
Its Attorney

HALEY, BADER & POTTS  
Suite 900  
1450 North Fairfax Drive  
Arlington, VA 22203-1633  
703/841-0606

August 15, 1996

**REQUESTED RULE MAKING  
TO UPGRADE WEKL (FM)  
TO CLASS C3  
AUGUSTA, GEORGIA  
July 1996**

This Rule Making is being requested by Wilks Broadcast Acquisitions, Inc (hereafter referred to as "WBA"). WBA owns and operates WEKL (FM), Augusta, Georgia presently allotted on Channel 272A. WBA seeks to increase WEKL to Class C3 on Channel 269.

**ALLOCATION**

The requested site of North Latitude 33° 28' 20" and West Longitude 82° 05' 18" clears all allocation constraints of §73.207 with the exception of WTHO-FM, Thomson, Georgia. Exhibit #1 is the allocation study. This is a third adjacency upgrade. Because the current Class A WEKL precludes any other party from using this channel, this request is a "protected upgrade" and not open to any other applicant. Additionally no other Class C3 channel could be allotted to Augusta, Georgia for this proposed upgrade. This instant rule making requests that Channel 232A be substituted at Thomson for the presently allotted Channel 269A and WTHO be ordered to the new channel.

Exhibit #2 is the Thomson allocation study conducted from the new reference site of North Latitude 33° 27' 26" and West Longitude 82° 32' 31". Found elsewhere in this rule making is the concurrence of Camelia City Communications, WTHO licensee, that it has no objection to the frequency move or the change of reference sites. This Thomson site has no §73.207

shortages other than to a vacant allotment for Gibson, Georgia. This First Come-First Served allotment has never been applied for by any applicant. We hereby request that the Gibson allotment be deleted. Since Channel 232A at Gibson has never been on the air, there is no loss of service due to the deletion of the allocation.

### CITY GRADE COVERAGE

From the reference sites proposed above, the 3.16 mV/m contours cover 100 percent of the respective cities of license, Augusta and Thomsom. Exhibits #3 and #4 indicate this coverage.

### AREA AND POPULATION

Exhibit #5 compares the present WEKL Class A facility to the proposed Class C3 facility. Currently WEKL serves 319,819 persons in 2565 sq. km compared to 387,777 persons in 4704.4 sq. km from the C3 site proposed herein.

Exhibit #6 compares the current WTHO to the proposed contour. Because there is a slight reference site change proposed for the station, there is a gain and loss calculation also. The present station serves 40,650 persons in 2494.5 sq. km. while this instant proposal would serve 41,543 persons in 2501.9 sq. km.

<u>STATION</u>	<u>LOSS</u>	<u>GAIN</u>
WEKL	0.0 sq. km	2139.4 sq. km.
WTHO	224.5	225.1
TOTAL	224.5 sq. km.	2364.5 sq. km.

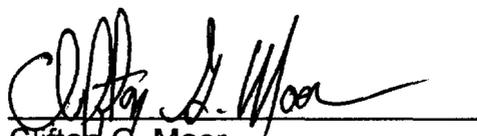
## CONCLUSION

Based on the preceding exhibits, WBH has indicated that the changes proposed herein are consistent with all spacing, and city grade coverage regulations. Camellia City Communications, licensee of WTHO, Thomson, Georgia has no objections to a channel change and a change of reference coordinates. Additionally no person has ever applied for the vacant allotment at Gibson, Georgia. Therefore, the following changes of the Table of Allotments, §73.207 are requested:

CITY	PRESENT	PROPOSED
Augusta, Georgia	214 C2, 219A, 272A 276A, 282C, 289C	214C2, 219A, 269C3 276A, 282C, 289C
Thomson, Georgia	269A	232A
Gibson, Georgia	232A	None

When ordered to 269C3, WBA will timely file FCC Form 301 to construct the new facility.

All information contained herein is true and correct to the best of my knowledge.

A handwritten signature in cursive script, appearing to read "Clifford G. Moor", written over a horizontal line.

Clifford G. Moor  
Consultant to  
Wilks Broadcast Acquisitions, Inc.

July 24, 1996

WEKL Radio Station  
From C3 Reference Site

REFERENCE  
33 28 20 N  
82 05 18 W

CLASS C3  
Current rules spacings  
----- CHANNEL 269 -101.7 MHz -----

DISPLAY DATES  
DATA 06-28-96  
SEARCH 07-18-19

CALL TYPE	CH# LAT	CITY LNG	STATE	BEAR' HT	D-KM D-Mi	R-KM R-Mi	MARGIN (KM)
WTHOFM LI CN	269A 33 28 20	Thomson 82 31 02 Camellia City Communications,	GA	270.0 108M	39.88 24.8	142.0 88.3	-102.12 *
						BLH950215KB	
WEKL LI CN	272A 33 26 15	Augusta 82 05 27 Benchmark Radio Acquisition F	GA	183.6 203M	3.85 2.4	42.0 26.1	-38.15 *
						BMLH920421KB	
WAHZ.C CP CN	269A 32 14 02	Mount Vernon 82 28 52 John Swinson and Judi H. Bake	GA	195.0 100M	142.16 88.3	142.0 88.3	0.16 <
						BPH930316ME	950908
WJFL.C CP ZCN	270A 32 54 49	Tennille 82 53 06 Washington County Broadcastin	GA	230.2 100M	96.73 60.1	89.0 55.3	7.73
						BPH901227MA	941123
WRBG LI ZCN	269A 32 38 19	Warner Robins 83 38 33 Taylor Communications Corpora	GA	237.5 108M	172.10 107.0	142.0 88.3	30.10
						BLH950405KC	
WBAVFM LI CY	270C 35 13 56	Gastonia 81 16 35 Beasley B/Cting of Charlotte,	NC	20.9 301M	209.04 129.9	176.0 109.4	33.04
						BLH880129KD	

**WEKL Allocation Study**

**EXHIBIT #1**  
**Requested Rule Making**  
**WEKL (FM) - 269 C3**  
Augusta, Georgia  
July 1996

**BROMO**  
COMMUNICATIONS  
BROADCAST  
TECHNICAL CONSULTANTS

WTHO Radio Station  
From new Reference Site

REFERENCE  
33 27 26 N  
82 32 31 W

CLASS A  
Current rules spacings  
CHANNEL 232 - 94.3 MHz

DISPLAY DATES  
DATA 06-28-96  
SEARCH 07-18-19

CALL TYPE	CH# LAT	CITY LNG	STATE PWR	BEAR' HT	D-KM D-Mi	R-KM R-Mi	MARGIN (KM)
--------------	------------	-------------	--------------	-------------	--------------	--------------	----------------

ALPEN	232A	Gibson	GA	196.7	21.87	115.0	-93.13 *
AL	N 33 16 06	82 36 34	0.000 kW	OM	13.6	71.5	
WO= 910111						910210	

>Site Restricted-Effective 5-28-92-Channel 234A allotment Per R&O D8  
>changed to Channel 232A Per MO&O D89-404. Allotment remains First  
>First Served.

WMUUFM	233C	Greenville	SC	4.2	165.07	165.0	0.07 <
LI CN	34 56 29	82 24 41	100.000 kW	366M	102.6	102.6	
WMUU, Inc.						BLH6867	

WGOR	230C3	Martinez	GA	92.9	42.21	42.0	0.21 <
LI ZCN	33 26 17	82 05 19	13.000 kW	139M	26.2	26.1	
CSRA Broadcasters, Inc.						BLH940224KA	

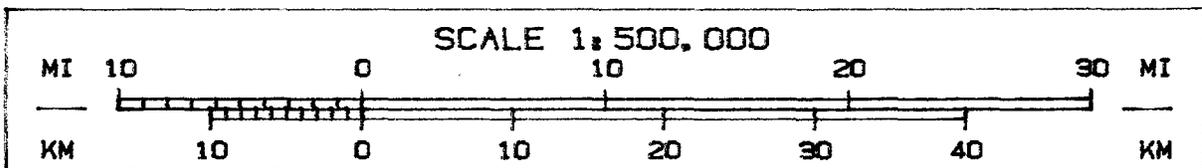
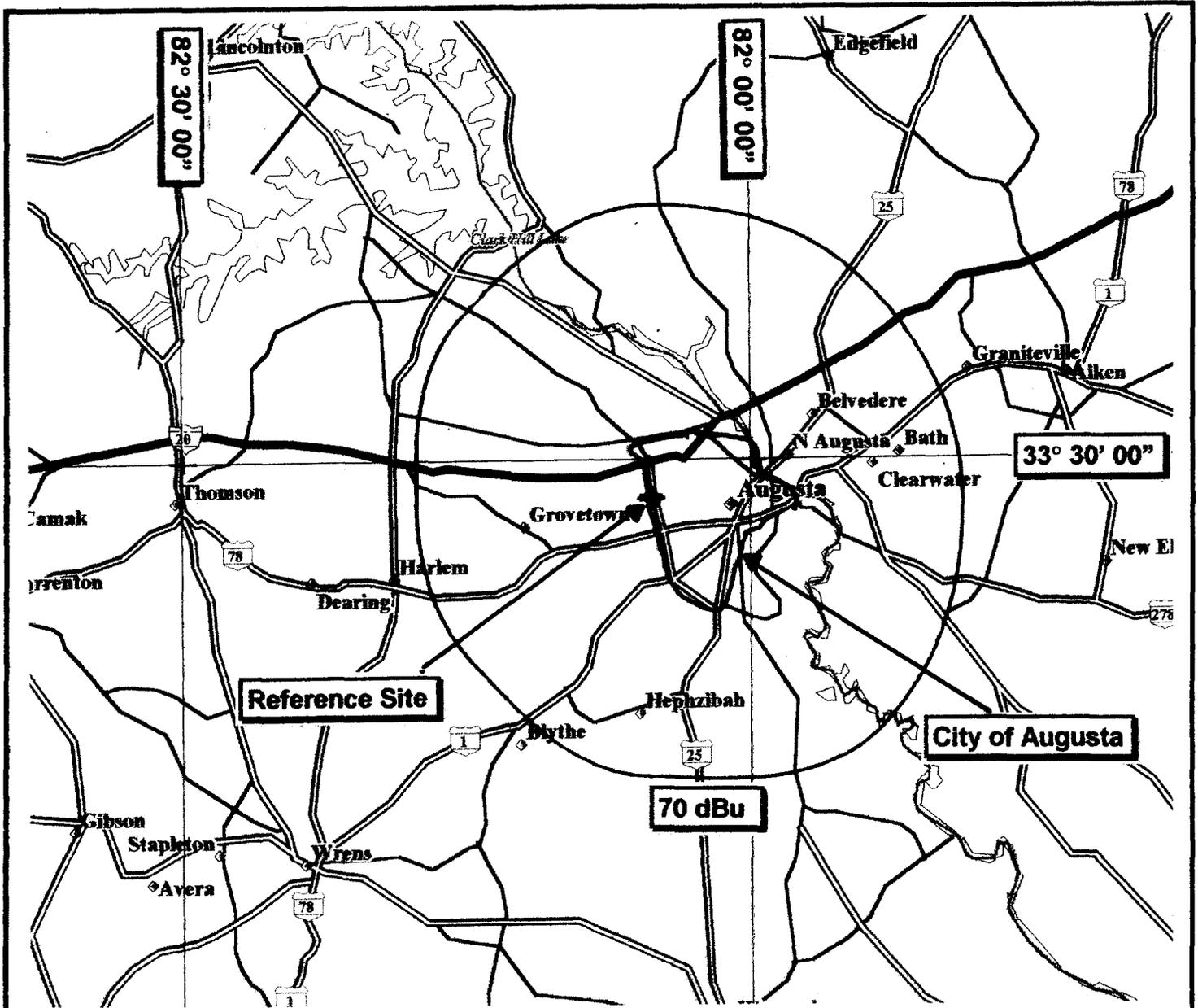
WSTR	231C	Smyrna	GA	281.4	169.78	165.0	4.78
LI CN	33 45 35	84 20 07	100.000 kW	311M	105.5	102.6	
Jefferson-Pilot Communication						BLH890929KD	

WBYZ	233C	Baxley	GA	177.4	185.51	165.0	20.51
LI CN	31 47 10	82 27 03	100.000 kW	309M	115.3	102.6	
South Georgia Broadcasters, I						BLH880719KA	

**WTHO Allocation Study**

**EXHIBIT #2**  
**Requested Rule Making**  
**WEKL (FM) - 269 C3**  
Augusta, Georgia  
July 1996

**BROMO**  
TECHNICAL CONSULTANTS  
**COMMUNICATIONS**



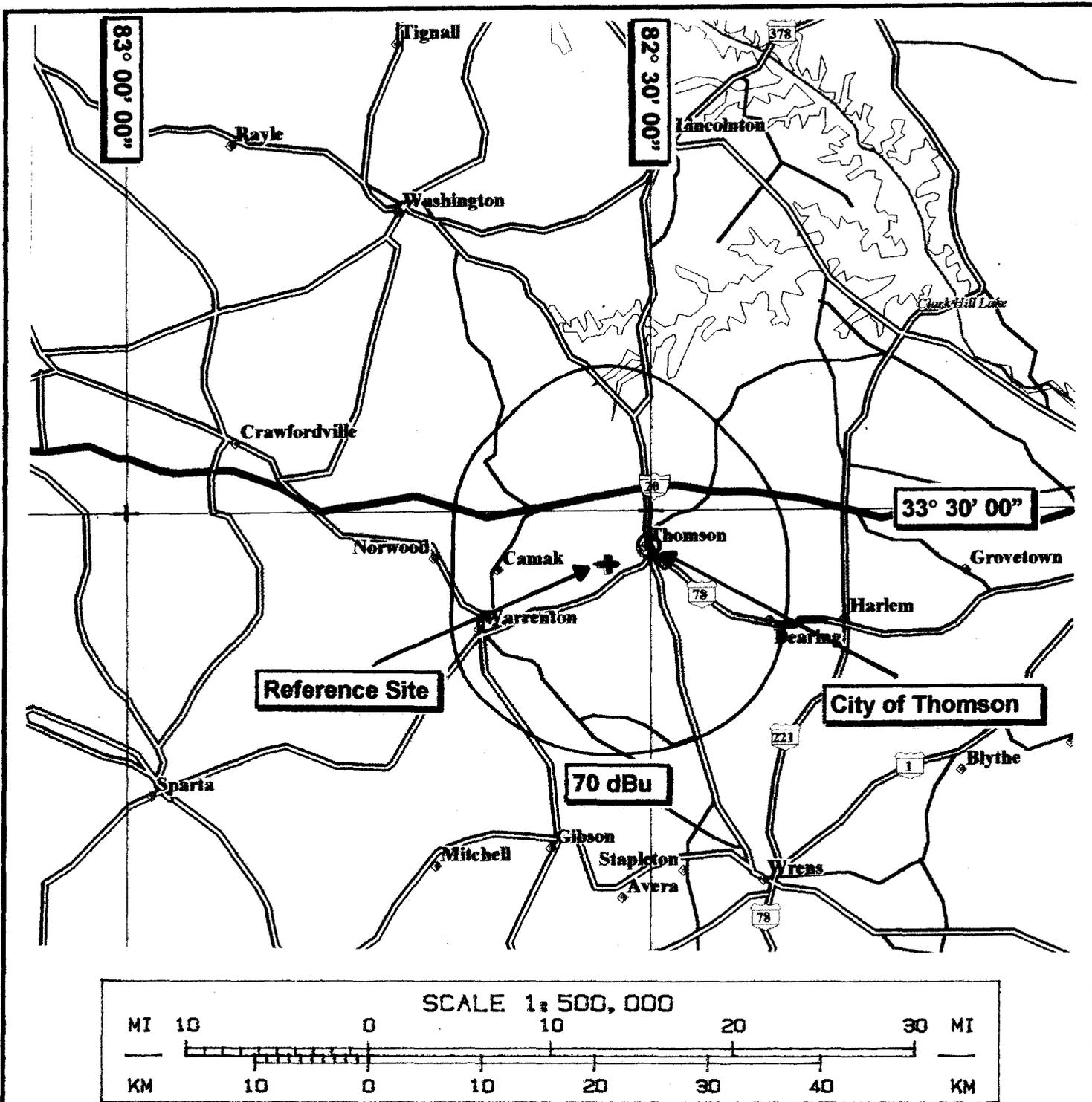
**WEKL City Grade Demonstration**

Proposed Reference:  
 33° 28' 20" North Latitude  
 82° 05' 18" West Longitude

Map ©1993 DeLorme Mapping

**EXHIBIT #3**  
**Requested Rule Making**  
**WEKL (FM) - 269 C3**  
 Augusta, Georgia  
 July 1996

**BROMO** BROADCAST  
 COMMUNICATIONS TECHNICAL CONSULTANTS



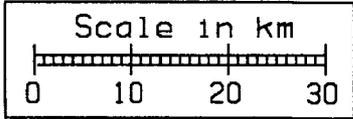
**WTHO City Grade Demonstration**

Proposed Reference:  
 33° 27' 26" North Latitude  
 82° 32' 31" West Longitude

Map ©1993 DeLorme Mapping

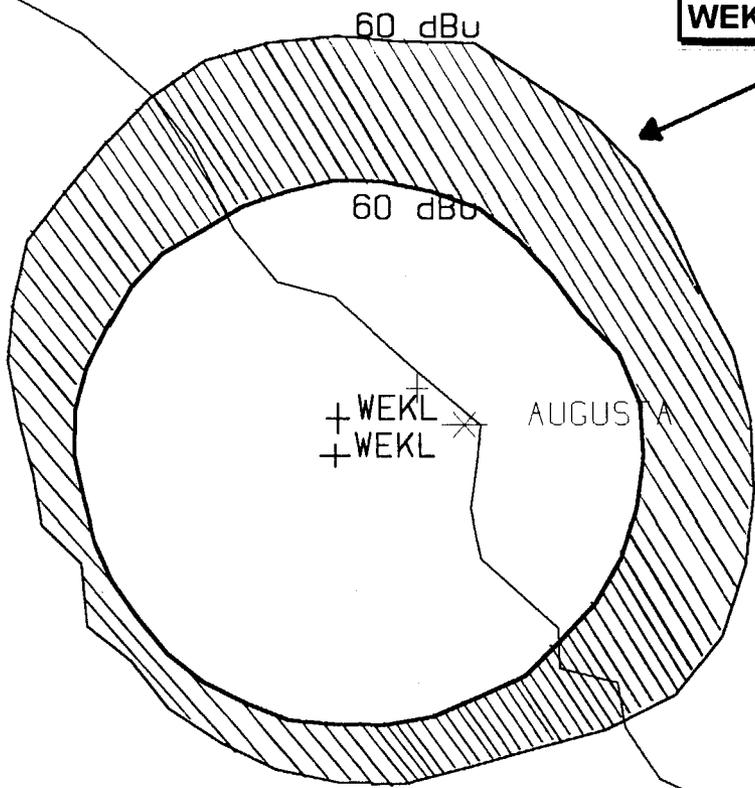
**EXHIBIT #4**  
**Requested Rule Making**  
**WEKL (FM) - 269 C3**  
 Augusta, Georgia  
 July 1996

**BROMO** BROADCAST  
 TECHNICAL CONSULTANTS  
**COMMUNICATIONS**



**EXHIBIT #5**  
**Requested Rule Making**  
**WEKL (FM) - 269 C3**  
Augusta, Georgia  
July 1996

**WEKL C3 Gain Area**



+ 83  
+ 34

+ 82  
+ 34

+ 83  
+ 33

+ 82  
+ 33

+ 83  
+ 33

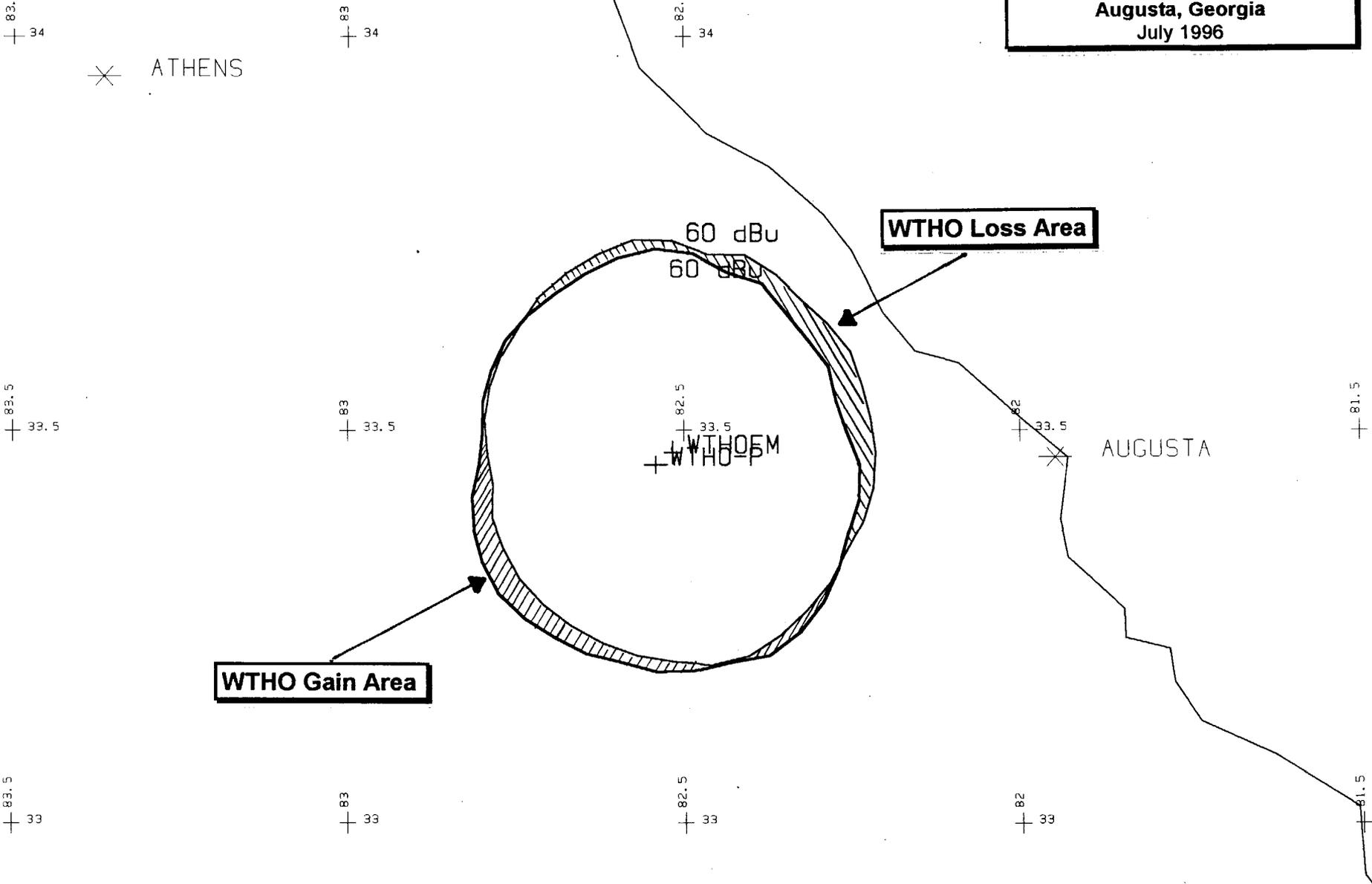
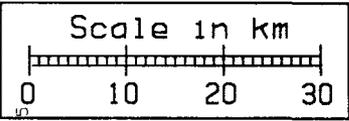
+ 83  
+ 33

+ 82  
+ 33

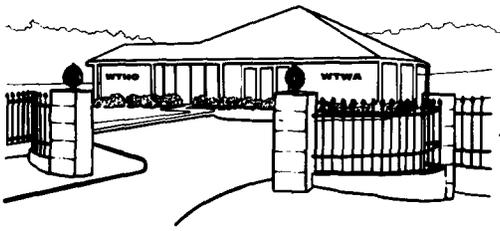
WEKL 269C3 - 25kW

WEKL - BMLH920421KB 272A - 1.5kW

**EXHIBIT #6**  
**Requested Rule Making**  
**WEKL (FM) - 269 C3**  
Augusta, Georgia  
July 1996



WTHOFM- BLH950215KB 269A - 5.1kW      WTHO-P 232A - 6kW



**WTHO-FM**

**WTWA**

Camellia City Communications

August 8, 1996

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

Dear Mr. Caton:

Camellia City Communications, Inc. ("CCC") is the licensee of FM Station WTHO, Thomson, Georgia, which operates on Channel 269A. The Petition for Rule Making to which this letter is attached proposes that the WTHO license be modified to specify operation on Channel 232A. This modification of the WTHO license would make it possible for Station WEKL, Augusta, Georgia, licensed to Wilks Broadcast Acquisitions, Inc. ("WBA"), to upgrade on Channel 269C3.

CCC and WBA have, in good faith, entered into an agreement which will compensate CCC for modifying the WTHO license as proposed in the WBA Petition for Rule Making.

Accordingly, CCC supports the attached Petition for Rule Making, consents to the proposed modification of the WTHO license to specify operation on Channel 232A, and commits to undertake the steps necessary to modify WTHO to operate on Channel 232A, promptly upon the issuance of a final Commission order.

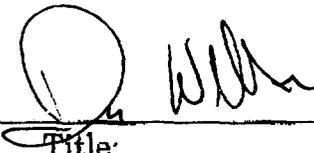
Very truly yours,

D. Michael Wall  
President

consideration set forth in the Agreement, pay CCC up to FIFTY THOUSAND DOLLARS (\$50,000.00) in costs reasonably and prudently incurred in relocating the WTHO transmitter site.

**WILKS BROADCAST ACQUISITIONS, INC.**

Date: 8-6-96

By:   
Title: \_\_\_\_\_

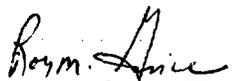
**CAMELLIA CITY COMMUNICATIONS**

Date: 8-14-96

By: D. Michael Wall  
Title: \_\_\_\_\_

Signed, sealed and delivered  
in the presence of:

CAMELLIA CITY COMMUNICATIONS

  
Witness

D. Michael Wall  
Title: \_\_\_\_\_

Mary J. Thomaston  
Notary Public  
My Commission Expires:  
1/26/97

## **CERTIFICATE OF SERVICE**

The undersigned, an employee of Haley, Bader & Potts, hereby certifies that the foregoing document was mailed this date by First Class U.S. Mail, postage prepaid, or was hand-delivered\*, to the following:

\* Mr. John A. Karousos, Chief  
Allocations Branch  
Policy and Rules Division  
2000 M Street, N.W., 5th Flr.  
Washington, D.C. 20554

Camellia City Communications  
c/o Mr. Mike Wall  
P.O. Box 900  
Thomson, GA 30824

A handwritten signature in cursive script, reading "Daniel L. Hood", is written over a horizontal line.

August 15, 1996