

Original

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

**RECEIVED
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In the Matter of)
)
Amendment of Section 73.202(b),)
Table of Allotments,)
FM Broadcast Stations.)
Siren, WI)

**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY**

RM-8852
MM Docket No. 96-105

To: Chief, Allocations Branch

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OPPOSITION TO PETITION FOR RULEMAKING

Harbor Broadcasting, Inc. (HBI), by its attorney, hereby submits comments opposing Badger Broadcasting Corporation's (Badger) June 28, 1996 counterproposal submitted in the captioned Docket. In opposition thereto, the following is respectfully submitted:

1) HBI's July 15, 1996 Reply Comments In Support of Rule Making proposed the allocation of channel 289A to Siren, WI rather than channel 265A as proposed by Badger. Allocation of channel 289A would permit HBI to upgrade its Hermantown, MN Station WWAX(FM) from 221A to 221C3. Allocation of channel 265A to Siren, WI would prevent HBI from upgrading its Hermantown, MN allocation by precluding the substitution of channel 265A for channel 221A at Pine City, MN and thereby deprive Hermantown, MN of expanded radio services. The instant opposition provides additional public interest justification for allocating channel 289A to Siren, WI rather than 265A as Badger proposes.

2) The attached engineering study produced by Carl E. Smith Consulting Engineers demonstrates that there is a fully spaced site location available if channel 289A is allocated to Siren, WI. The

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attached engineering study demonstrates that there is an area of 110 square kilometers which would provide 100% city grade coverage over Siren on channel 289A. Moreover, a transmission tower exists within this area which is fully spaced (translator station W39AF) which supports the presumption that a viable site exists for the allocation of channel 289A to Siren, WI.

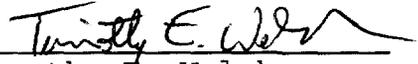
3) Finally, as noted in the attached engineering analysis, allotment of channel 289A to Siren, WI, would provide a second full time aural service to a larger area (+153 sq. km.) containing a greater population (+234 persons) than would the allotment of channel 265A. Thus, allotment of channel 289A to Siren, WI would better serve the public interest.

WHEREFORE, in view of the information presented herein, and in the other pleadings contained in this Docket, the public interest would be best served by the following allocations:

<u>Location</u>	<u>Current Allocation</u>	<u>Proposed Allocation</u>
Hermantown, MN	221A	221C3
Ely, MN	221A	233A
Pine City, MN	221A	265A
Siren, WI	----	289A

Respectfully submitted,
HARBOR BROADCASTING, INC.

Hill & Welch
Suite #113
1330 New Hampshire Ave., N.W.
Washington, D.C. 20036
(202) 775-0070
August 21, 1996



Timothy E. Welch
Its Attorney

ENGINEERING STATEMENT IN
SUPPORT OF REPLY COMMENTS

MM DOCKET 96-105

CHANNEL 265A - SIREN, WI

Harbor Broadcasting, Inc.
Hermantown, MN

August 20, 1996

Prepared for: Mr. Tom Lijewski
Harbor Broadcasting, Inc.
111 Marquette Avenue, South
#1501
Minneapolis, MN 55401

CARL E. SMITH CONSULTING ENGINEERS

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Siren, WI

3.0 Second Fulltime Aural Service

Fig. 3.0 - Area Which Would Receive Second
Full Time Aural Service
Channel 265A - Siren, WI

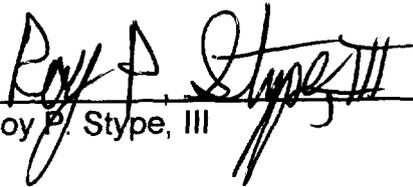
Fig. 3.1 - Area Which Would Receive Second
Full Time Aural Service
Channel 289A - Siren, WI

ENGINEERING AFFIDAVIT

State of Ohio)
) ss:
County of Summit)

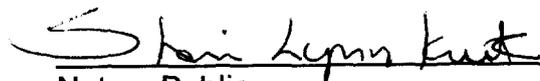
Roy P. Stype, III, being duly sworn, deposes and states that he is a graduate Electrical Engineer, a qualified and experienced Communications Consulting Engineer whose works are a matter of record with the Federal Communications Commission and that he is a member of the Firm of "Carl E. Smith Consulting Engineers" located at 2324 North Cleveland-Massillon Road in the Township of Bath, County of Summit, State of Ohio, and that the Firm has been retained by Harbor Broadcasting, Inc., to prepare the attached "Engineering Statement In Support Of Reply Comments - MM Docket 96-105 - Channel 265A - Siren, WI."

The deponent states that the Exhibit was prepared by him or under his direction and is true of his own knowledge, except as to statements made on information and belief and as to such statements, he believes them to be true.



Roy P. Stype, III

Subscribed and sworn to before me on **August 20, 1996.**



Notary Public

SHERI LYNN KURTZ, Notary Public
Residence - Summit County
State Wide Jurisdiction, Ohio
My Commission Expires June 14, 2000

/SEAL/

ENGINEERING STATEMENT

1.0 GENERAL

This engineering statement is prepared on behalf of Harbor Broadcasting, Inc., permittee of FM station WWAX(FM) - Hermantown, Minnesota, and proponent of MM Docket 96-105, which proposes to upgrade WWAX to a Class C3 facility. It supports reply comments to a counterproposal in this rulemaking proceeding proposing to allot Channel 265A to Siren, Wisconsin, as its first local service.

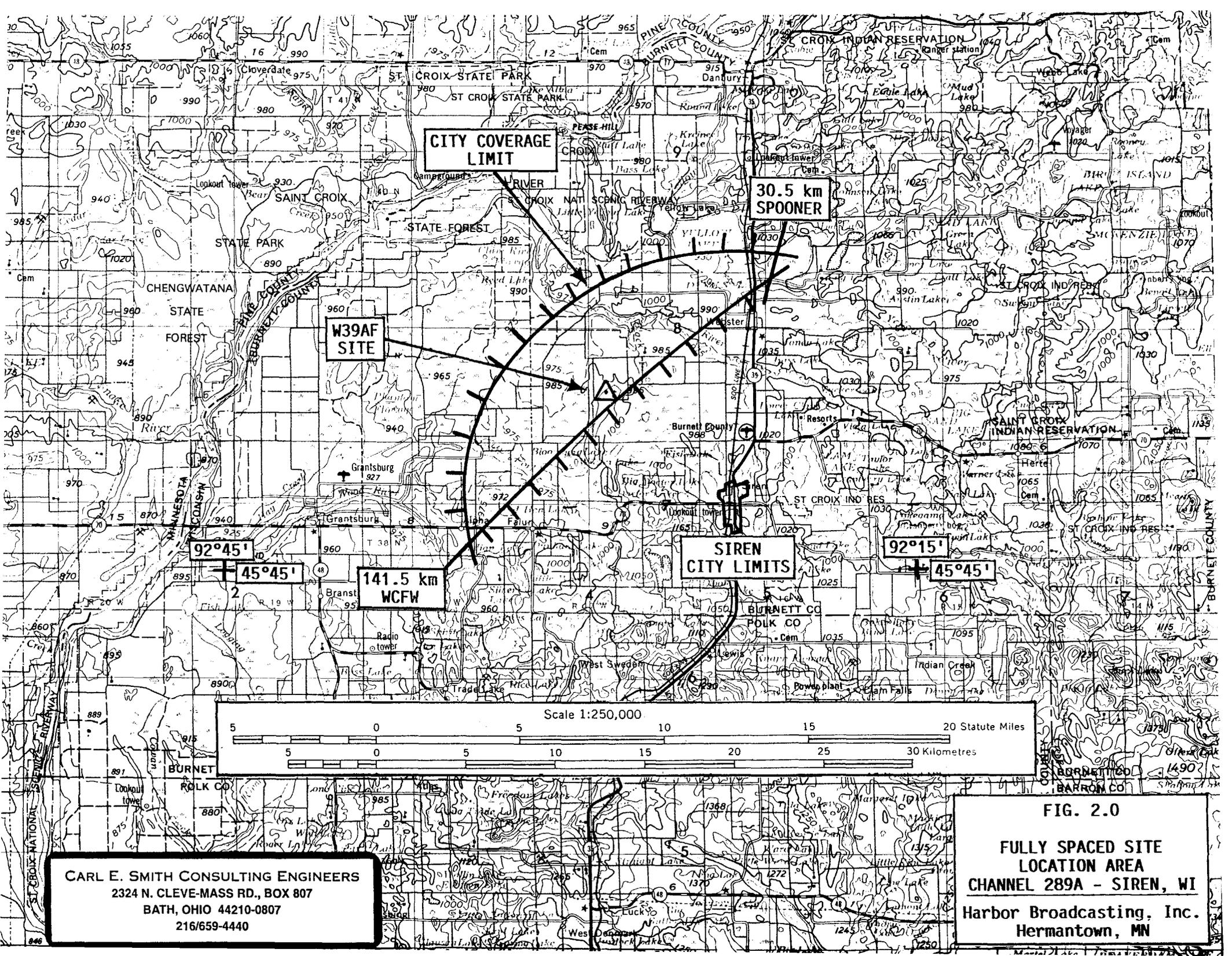
WWAX presently is operating on Channel 221A with the facilities authorized in its construction permit under the automatic program test authority provisions of Section 73.1620 of the FCC Rules. A license application has been filed to cover this construction permit. The above referenced rulemaking proceeding proposes to substitute Channel 221C3 for Channel 221A in Hermantown, and modify the authorization for WWAX to specify operation on Channel 221C3. In order to accommodate this upgrade for WWAX, it is also proposed to substitute Channel 233A for Channel 221A in Ely, Minnesota, and modify the construction permit for WELY-FM to specify operation on Channel 233A and to substitute Channel 265A for Channel 221A in Pine City, Minnesota, and modify the license of WCMP-FM to specify operation on Channel 265A.

The Badger Broadcasting Corporation filed a rulemaking petition which constitutes a counterproposal in this proceeding, proposing to allot Channel 265A to Siren, Wisconsin, as its first local service. The proposal to allot Channel 265A to Siren conflicts with the proposal in this proceeding to substitute Channel 265A for Channel 221A in Pine City, Minnesota, for use by WCMP-FM. In earlier reply comments in this proceeding, it was noted that it will not be necessary to comparatively evaluate these two pro-

posals, since Channel 289A can be allotted to Siren as its first local service in lieu of Channel 265A, permitting both the WWAX upgrade proposal and the proposal for a first local service to Siren to be granted. The information contained in Section 2.0 of this engineering statement documents that a suitable site area exists for Channel 289A in Siren. It also shows that the allotment of Channel 289A to Siren would provide greater public interest benefits than would the allotment of Channel 265A, due to the fact that the allotment of Channel 289A would also permit the WWAX upgrade to be granted, as well as the fact that Channel 289A in Siren would provide a second full time aural service to a larger area and population than would Channel 265A, as shown in Section 3.0 of this exhibit.

2.0 FULLY SPACED SITE AREA - CHANNEL 289A

Figure 2.0 is a map exhibit depicting the fully spaced site location area for Channel 289A in Siren. As shown in this figure, there is a fairly large area, comprising 110 square kilometers, in which the transmitter site for Channel 289A can be located while meeting the spacing requirements to other stations requiring consideration and also providing the required city grade coverage to 100% of Siren. Also shown in this figure is the location of an existing 425' AGL/1505' MSL tower, located 8.2 kilometers northwest of Siren, which supports the antenna for TV Translator station W39AF - Webster, Wisconsin, and lies within this fully spaced site area. Table 2.0 is an FM spacing study for Channel 289A, which was conducted from the licensed coordinates for W39AF. The data in this table confirms that this existing tower would permit fully spaced operation on Channel 289A. The presence of this existing tower within this site area strongly supports the presumption that suitable sites exist within this area in which construction of a tower to support operation on Channel 289A would be possible. It also indicates the possibility that the antenna for operation on Channel 289A could be mounted on this tower.



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FIG. 2.0
FULLY SPACED SITE
LOCATION AREA
CHANNEL 289A - SIREN, WI
 Harbor Broadcasting, Inc.
 Hermantown, MN

TABLE 2.0

FM ALLOCATION STUDY - CHANNEL 289A (105.7 MHz) - SIREN, WI (W39AF SITE)

HARBOR BROADCASTING, INC.
HERMANTOWN, MN

STUDY COORDINATES: 45/50/24 92/28/22

STATION	LOCATION	CHANNEL	CLASS	SPACING (km)	REQUIRED SPACING*	NOTES
KQDSFM	Duluth, MN	235	C1	109.58	22.0	
WQRB	Bloomer, WI	236	C3	124.77	12.0	
KKCB	Duluth, MN	286	C1	109.06	75.0	
WREVFM	Cambridge, MN	287	C3	64.77	42.0	
WCFW	Chippewa Falls, WI	288	A	142.21	72.0	4
BPH950413MJ	Deer River, MN	288	C1	161.07	133.0	7
KASFM	Albany, MN	288	A	167.18	72.0	
KASFM	Albany, MN	288	A	167.18	72.0	2
BPH950417MI	Deer River, MN	288	C1	181.10	133.0	7
ALLOTMENT	Deer River, MN	288	C1	185.77	133.0	12
KCFE	Eden Prairie, MN	289	A	127.74	115.0	1
WCFW	Chippewa Falls, WI	289	C3	142.21	142.0	2, 5
KWNG	Red Wing, MN	290	C3	144.84	89.0	1
WEGZ	Washburn, WI	290	C1	148.39	133.0	
KKWS	Wadena, MN	290	C1	205.51	133.0	
WQPMFM	Princeton, MN	291	C2	108.93	55.0	1
BPH941118MA	Spooner, WI	292	A	39.19	31.0	7
BPH941121MF	Spooner, WI	292	A	43.51	31.0	7
BPH941117MA	Spooner, WI	292	A	44.37	31.0	7
BPH941118MC	Spooner, WI	292	A	44.41	31.0	1, 7
ALLOTMENT	Spooner, WI	292	A	44.53	31.0	12
WEVRFM	River Falls, WI	292	A	106.65	31.0	

* Required Spacing Per Section 73.207 of The FCC Rules

TABLE 2.0 (cont'd)

FM ALLOCATION STUDY - CHANNEL 289A (105.7 MHz) - SIREN, WI (W39AF SITE)

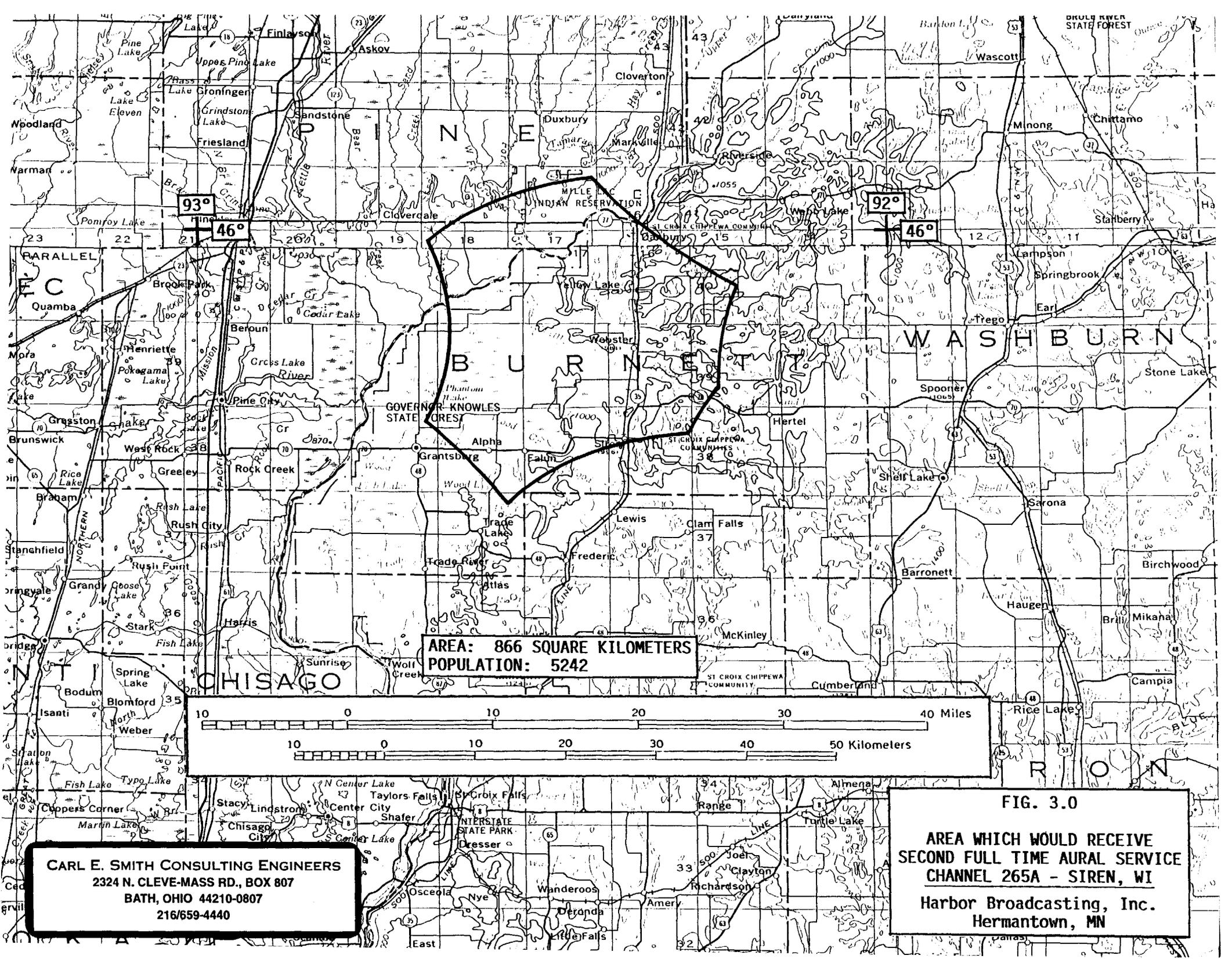
HARBOR BROADCASTING, INC.
HERMANTOWN, MN

Notes:

- | | |
|--------------------------------------|----------------------------------|
| 1 - Applied For Under Section 73.215 | 7 - Pending Application |
| 2 - Construction Permit | 8 - Petition For Reconsideration |
| 3 - Channel Deletion Proposed | 9 - Proposed Rulemaking |
| 4 - Move From This Channel Ordered | 10 - Rulemaking Petition |
| 5 - Move to This Channel Ordered | 11 - Short-Spaced |
| 6 - One Step Reference Site | 12 - Vacant Allotment |

3.0 SECOND FULLTIME AURAL SERVICE

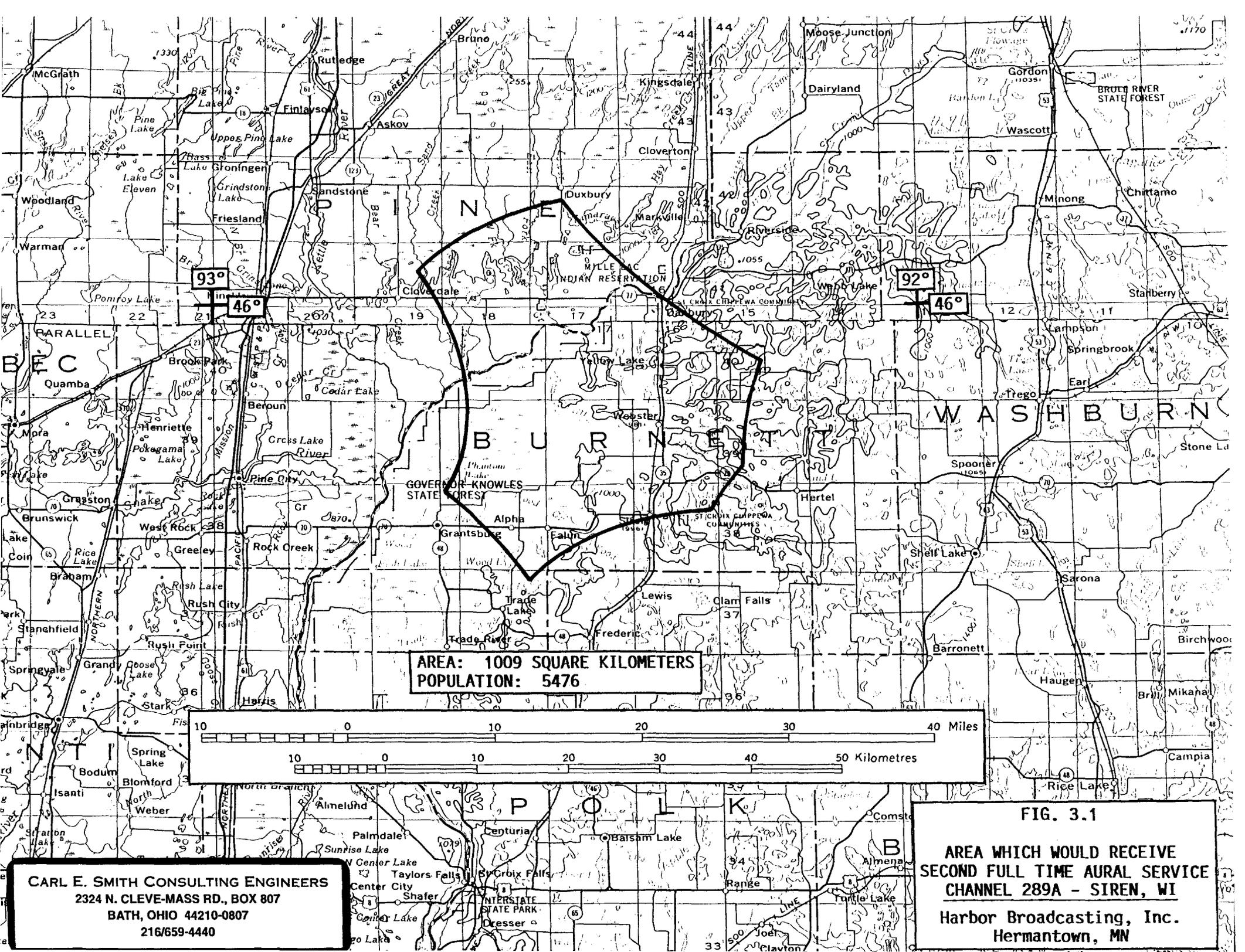
Operation on either Channel 265A or Channel 289A in Siren would meet two of the FCC's allotment priorities. It would provide a first local service to Siren and would also provide a second full time aural service to a significant area. Figure 3.0 is a map exhibit depicting the area which would receive a second full time aural service from operation on Channel 265A in Siren. Similarly, Figure 3.1 depicts the area which would receive a second full time aural service from operation on Channel 289A in Siren. As shown in these figures, the allotment of Channel 289A to Siren would provide a second full time aural service to a larger area containing a greater population than would the allotment of Channel 265A. Since none of the proposals in this proceeding would provide a first full time aural service to any area, this information indicates that the allotment of Channel 289A to Siren would be more in the public interest than would the allotment of Channel 265A, particularly since the allotment of Channel 289A to Siren would also permit the public interest benefits associated with the upgrade of WWAX to a Class C3 facility to also be realized.



**AREA: 866 SQUARE KILOMETERS
POPULATION: 5242**

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FIG. 3.0
**AREA WHICH WOULD RECEIVE
SECOND FULL TIME AURAL SERVICE
CHANNEL 265A - SIREN, WI**
Harbor Broadcasting, Inc.
Hermantown, MN



AREA: 1009 SQUARE KILOMETERS
POPULATION: 5476

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FIG. 3.1
AREA WHICH WOULD RECEIVE
SECOND FULL TIME AURAL SERVICE
CHANNEL 289A - SIREN, WI
 Harbor Broadcasting, Inc.
 Hermantown, MN

CERTIFICATE OF SERVICE

I hereby certify that I have this 21st day of August 1996 mailed a copy of the foregoing OPPOSITION TO PETITION FOR RULE-MAKING to the following by First-Class United States mail, postage prepaid:

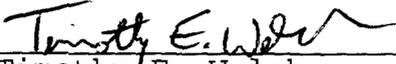
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RR Two
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