

BEFORE THE

Federal Communications Commission

WASHINGTON, D. C. 20554

NOV 20 1996

In the Matter of)

Amendment of Section 73.202(b))

Table of Allotments)

FM Broadcast Stations)

(Ely, Hermantown, and Pine City, Minnesota;)
Siren and Menomonie, Wisconsin))

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

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

MM Docket No. 96-105

RECEIVED

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**MOTION FOR LEAVE TO FILE
SUPPLEMENTARY ENGINEERING STATEMENT**

Phillips Broadcasting Company, Inc. ("Phillips") herein moves for leave to file the attached supplementary Engineering Statement in the above-captioned FM allotment proceeding.¹ In support of this motion, the following is stated:

Badger Broadcasting Corporation ("Badger") has filed a counterproposal in this proceeding. Specifically, Badger requests that Channel 265A be allotted to Siren, Wisconsin, rather than to Pine City, Minnesota. Harbor Broadcasting, Inc. ("Harbor") subsequently

¹ Phillips, licensee of Station WMEQ-FM, Menomonie, Wisconsin, has previously proposed a substitution of Channel 221C2 for Channel 221C3 at Menomonie, Wisconsin, and the corresponding modification of the WMEQ-FM license. Phillips' proposal is dependent upon the substitution of Channel 265A for Channel 221A at Pine City, Minnesota, as proposed in the Notice of Proposed Rulemaking and Order to Show Cause in this proceeding.

2.

suggested allocation of Channel 289A to Siren, rather than Channel 265A. Badger, however, objects to allotment of Channel 289A. In Reply Comments, dated September 6, 1996, Badger complained that substitution of Channel 289A "reduces the site search area significantly, as the proposed reference coordinates for the latter channel [289A] are approximately seven miles (8.2 kilometers) northwest of Siren between two designated wildlife areas" Badger indicates it is concerned that substitution of Channel 289A will render the allocation "unusable for all practical purposes." Id. at ¶4.

To facilitate the Commission's analysis as to whether a suitable "open area" exists for allotment of Channel 289A at Siren, Phillips respectfully requests the Commission to consider the attached supplementary Engineering Statement. The supplementary Engineering Statement quantifies the extent of the open area and depicts the "wilderness areas" referred to in Badger's pleadings. (Those areas, in fact, are Wisconsin State Public Hunting Grounds. As the supplementary Engineering Statement indicates, only one of those areas, the Crex Meadows State Public Hunting Grounds, is within the open area.)

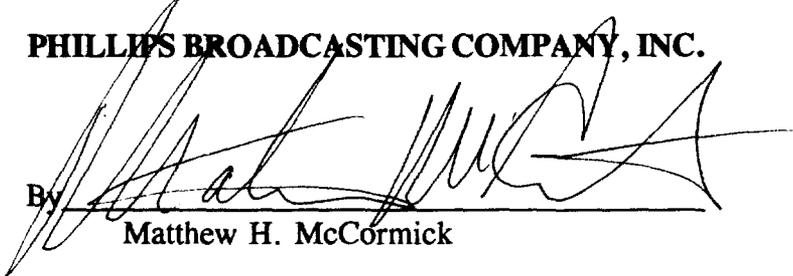
The attached Engineering Statement reports the open area consists of 104.5 square kilometers. The Crex Meadows State Public Hunting Grounds occupies 18.3 square kilometers of that area, leaving 86.2 square kilometers of the open area available.

3.

Phillips recognizes that this supplementary Engineering Statement is being filed outside of the time for comments and reply comments.² It is being offered in the spirit of cooperation and to help facilitate the Commission's analysis of the arguments presented by the parties.

WHEREFORE, in light of the foregoing, it is respectfully requested that this Motion for Leave to File Supplementary Engineering Statement be GRANTED, and that the attached supplementary Engineering Statement be CONSIDERED.

PHILLIPS BROADCASTING COMPANY, INC.

By 

Matthew H. McCormick

Its Counsel

Reddy, Begley & McCormick
1001 22nd Street, N.W., Suite 350
Washington, D.C. 20037
(202) 659-5700

November 20, 1996

² Phillips notes that its counterproposal is mutually exclusive with Badger's counterproposal. Accordingly, had Phillips failed to submit its allotment plan by the initial deadline for comments in this proceeding, its counterproposal would have been untimely and subject to dismissal. E.g., Pinewood, South Carolina, 5 FCC Rcd 7609 (1990). Thus, Phillips' plan constitutes a valid counterproposal. As such, it should be placed on public notice but has not been to date.

ENGINEERING STATEMENT

This firm was retained to prepare an engineering exhibit in Docket No. 96-105, with respect to a counter-proposal, RM-8852, to add a new FM Channel to the FCC Table of Allotments at Siren, WI. The counter-proposal sought to add Channel 265A, 100.9 MHz to the community of Siren. Another party, Harbor Broadcasting, Inc., suggested that Channel 289A, 105.7 MHz be substituted for Channel 265A.

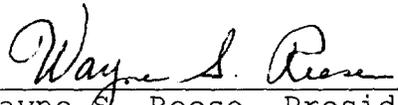
In comments by the original counter proponent, Badger Broadcasting Corp., it was stated that the transmitter open area for Channel 289A was almost totally excluded by wildlife preserves. Topographical maps were procured for the entire open area. These maps showed two Wisconsin State Public Hunting Grounds in the vicinity. The boundaries of these hunting grounds have been transferred to a portion of the 1:250,000 series map showing the open area, which has been highlighted. The Amsterdam Sloughs State Public Hunting Grounds appears to lie entirely outside the open area. The boundaries of the portion of the Crex Meadows State Public Hunting Grounds that lies in the open area have been shown. These are the only areas, based on the topographical maps, that appear to qualify as wildlife preserves.

Use of a calibrated polar planimeter calculates that the total size of the transmitter open area is 104.5 square kilometers. The portion of the Crex Meadows State Public Hunting Grounds occupies 18.3 square kilometers of the transmitter open area. This leaves 86.2 square kilometers or 82.5% of the open area free of designated wildlife areas.

CERTIFICATION OF ENGINEER

I hereby certify, under penalty of perjury, that the information included in this engineering statement is true and accurate to the best of my knowledge and belief. My qualifications are a matter of record before the Federal Communications Commission.

November 13, 1996


Wayne S. Reese, President

E. Harold Munn, Jr. & Associates, Inc.
P. O. Box 220
Coldwater, MI 49036-0220

Phone: (517) 278-7339
Fax: (517) 278-6973

E. Harold Munn, Jr. & Associates, Inc.
Broadcast Engineering Consultants
Coldwater, MI 49036

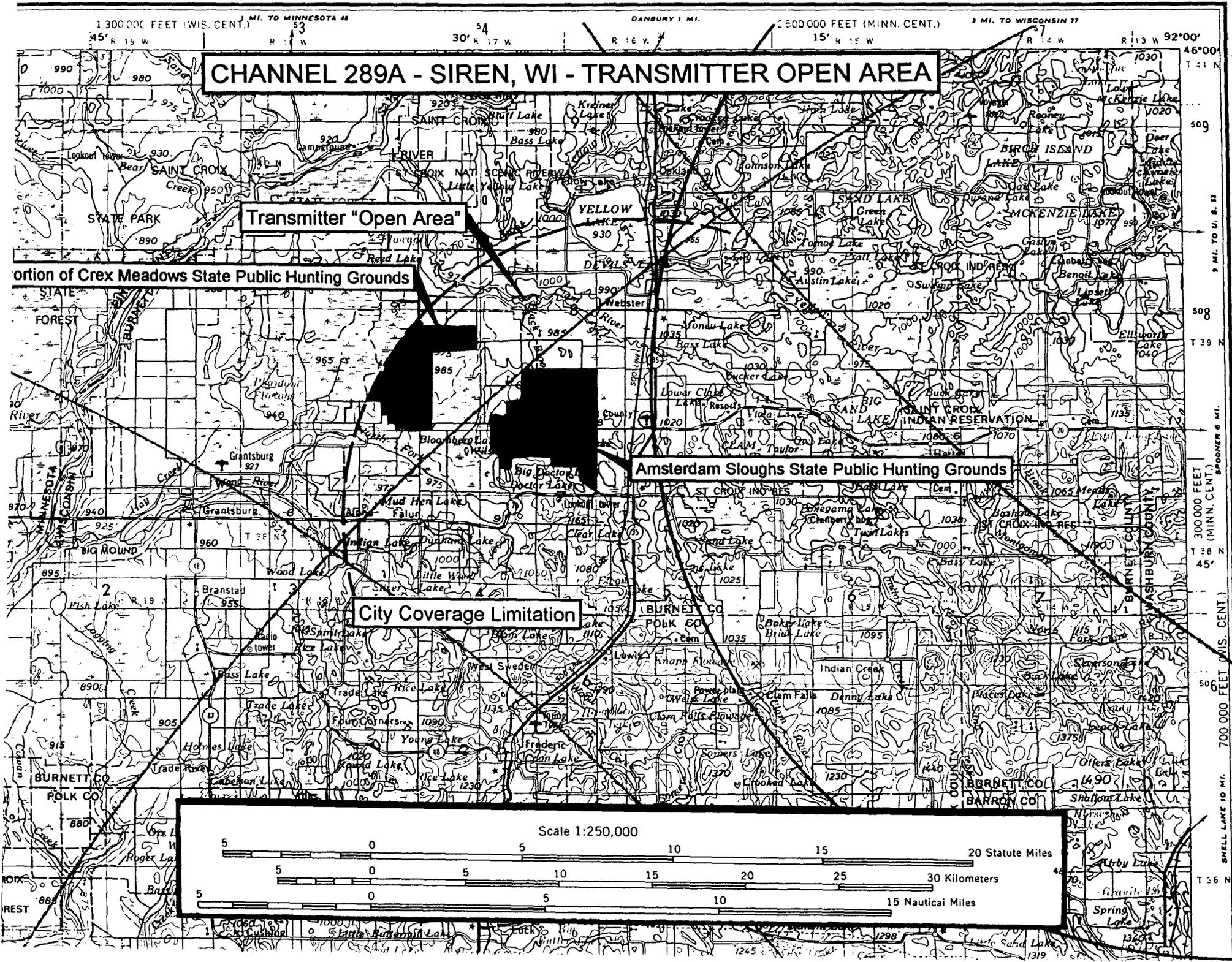
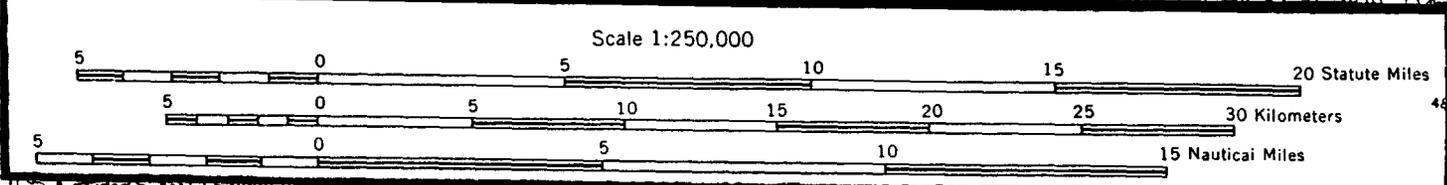
CHANNEL 289A - SIREN, WI - TRANSMITTER OPEN AREA

Transmitter "Open Area"

Portion of Crex Meadows State Public Hunting Grounds

Amsterdam Sloughs State Public Hunting Grounds

City Coverage Limitation



CERTIFICATE OF SERVICE

I, Pamela R. McKethan, hereby certify that on this 20th day of November, 1996, copies of the foregoing **MOTION FOR LEAVE TO FILE SUPPLEMENTARY ENGINEERING STATEMENT** were hand-delivered or mailed, first-class, postage prepaid, to the following:

Kathleen Scheuerle *
Federal Communications Commission
Mass Media Bureau
2025 M Street, N.W., Room 8314
Washington, D.C. 20554

Stephen T. Moravec, President
Badger Broadcasting Corp.
1407 Sumner Street, #200
St. Paul, Minnesota 55109

Tom W. Davidson, Esquire
Akin Gump Strauss Hauer & Feld, LLP
1333 New Hampshire Avenue, N.W.
Suite 400
Washington, D.C. 20036
Counsel for Granite Broadcasting Corp.

David D. O'Neil, Esquire
Rini Coran & Lancellotta, PC
1350 Connecticut Avenue, N.W., Suite 900
Washington, D.C. 20036
Counsel for Boundary Waters Broadcasting, Inc.

Pine City Broadcasting Company, Inc.
Station WCMP
RR 2
Pine City, Minnesota 55063

Timothy E. Welch, Esquire
Law Offices of Dean George Hill and Welch
1330 New Hampshire Avenue, N.W., Suite 113
Washington, D.C. 20036
Counsel for Harbor Broadcasting, Inc.



Pamela R. McKethan

* HAND DELIVERED