



constructed, will downgrade WSTE-FM to operate on Channel 291C1 at coordinates **North latitude 34° 22' 41" and West longitude 83° 39' 30"** (herein, the "Reference Point"). Southern requests the Commission to delete Channel 291C1 from Toccoa and to reallocate it to Sugar Hill, Georgia, with a concurrent modification of the license of WSTE-FM to operate on Channel 291C1 at Sugar Hill, Georgia. This change is permissible under Section 1.420(i) of the Rules, which authorizes the Commission to modify the license or permit of an FM station to specify a new community of license where the amended allotment would be mutually exclusive with the licensee's present allotment.

2. Two factors must be demonstrated in order to change a station's city of license in a rule making proceeding: (1) the channel changes must be mutually exclusive, and (2) the rule making must not deprive a community of an existing service representing its only local transmission service. The Commission stated that in making the determination of whether to amend the Table of Assignments it would "take into account the totality of the service improvements resulting from a proposed change in community of license in determining whether an allotment proposal should be approved." *See Modification of FM and TV Authorizations (New Community of License)*, 4 FCC Rcd 4870 [66 RR 2d 877] (1989). Southern's proposal is consistent with the rules and Commission policies, i.e., the channel changes are mutually exclusive, and the rule making will not deprive Toccoa of its only local transmission service.

#### **Expression of Continuing Interest**

3. If the Commission allots Channel 291C1 to Sugar Hill, Southern will promptly file an application for a minor change construction permit to operate WSTE-FM at Sugar

Hill, and upon grant, will promptly construct and operate the facilities.

4. Attachment B is a Technical Exhibit, which is incorporated herein by reference, that provides the Commission with technical information about the proposed Toccoa/Sugar Hill channel exchange. Channel 291C1 can be allotted at the Reference Point in compliance with all constraints.

#### **Toccoa, Georgia**

5. As stated in the Technical Exhibit, Toccoa had a 1990 population of 8,266. Toccoa has two AM stations, WLET and WNEG, one FM station, WSTE-FM, and one commercial television station, WNEG-TV, Channel 32 (CBS) assigned to it.

#### **Sugar Hill, Georgia**

6. Sugar Hill, Georgia, had a 1990 population of 4,557. Sugar Hill is an incorporated city in North Gwinnett County between Suwanee and Buford. Sugar Hill has a mayor and five councilmen. Sugar Hill has its own post office with ZIP code 30518. Sugar Hill has police and fire service provided by Gwinnett County. Sugar Hill has a local park, the E. E. Robinson Park. The city is growing and contracts with United Trash Service for sanitation services. The city taxes both property and *ad valorem*. It chooses to use Gwinnett County to provide water, sewerage, library, police and fire primarily because using the county to provide the services is more efficient. Sugar Hill has businesses such as Shoney's Restaurant, Big Lots retail store, Quality Food Store, Wade Ford, Tobacco Shack, Georgia Power, Enterprise Rent a Car, Memories of Lifetime, and other retail and service companies. WSTE-FM would bring first local service to Sugar Hill, since Sugar Hill currently does not have a local station. Sugar Hill is not located in

an Urbanized Area.

**Public Interest Considerations**

7. In changing its city of license, WSTE-FM does not propose to relocate its transmitter site from the site authorized in construction permit File No BPH-970325IC, so there is no need for a gain or loss area study. Since Toccoa will continue to receive local service from two commercial radio stations and a television station, Southern's proposal will not deprive Toccoa of its only local transmission service.

8. As shown in the attached Technical Exhibit, Sugar Hill would be entirely covered by a 70 dBu or better signal from WSTE-FM. Thus, modification of the license for WSTE-FM would be consistent with the Commission's city-grade contour coverage requirements.

9. The Commission's priorities for assigning FM allotments are set out in *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88, 92 [51 RR 2d 807] (1982). They are: (1) first aural service, (2) second aural service, (3) first local service, and (4) other public interest matters. Co-equal weight is given to priorities (2) and (3). Here, first local service to Sugar Hill is greatly preferred to third local aural service to Toccoa. Thus, there would a preferential arrangement of allotments resulting from the allotment of Channel 291C1 to Sugar Hill.

WHEREFORE, Southern respectfully requests the Commission to amend Section 73.202(b) of the Commission's Rules, as follows:

Georgia

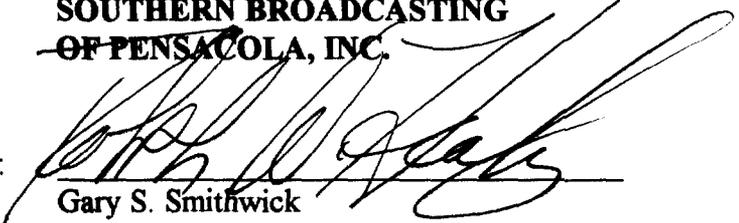
	<u>Present</u>	<u>Proposed</u>
Toccoa	291C	none <sup>2</sup>
Sugar Hill	----	291C1

Conclusion

Southern requests the Commission to (a) allot Channel 291C1 to Sugar Hill, Georgia, and (b) modify the license of WSTE-FM to operate on FM Channel 291C1 at Sugar Hill, Georgia. As stated supra, if the FCC modifies the license of WSTE-FM to operate on Channel 291C1 at Sugar Hill, Southern will timely file an application for minor change construction permit to operate WSTE-FM at Sugar Hill, and upon grant thereof, Southern will construct the new facilities and operate them.

Respectfully submitted,

**SOUTHERN BROADCASTING  
OF PENSACOLA, INC.**

By: 

Gary S. Smithwick  
Robert W. Healy  
Its Attorney

**SMITHWICK & BELENDIUK, P.C.**  
1990 M Street, N.W.  
Suite 510  
Washington, D.C. 20036  
(202) 785-2800

November 24, 1997

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<sup>2</sup>

Toccoa will continue to receive service from WLET(AM) and WNEG(AM) as well as WNEG-TV.

**ATTACHMENT A**



United States of America

FEDERAL COMMUNICATIONS COMMISSION  
FM BROADCAST STATION CONSTRUCTION PERMIT

Official Mailing Address:

SOUTHERN B/CASTING OF PENSACOLA, INC  
340 JESSE JEWELL PARKWAY  
SUITE 525  
GAINESVILLE, GA 30501

Authorizing Official:

*Daniel J Fontaine*

Daniel J Fontaine  
Supervisory Engineer  
Audio Services Division  
Mass Media Bureau

Grant Date: OCT 22 1997

Call Sign: WSTE-FM

This permit expires 3:00 a.m.  
local time, 18 months after  
grant date specified above.

Permit File No.: BPH-970325IC

Subject to the provisions of the Communications Act of 1934, as amended, subsequent acts and treaties, and all regulations heretofore or hereafter made by this Commission, and further subject to the conditions set forth in this permit, the permittee is hereby authorized to construct the radio transmitting apparatus herein described. Installation and adjustment of equipment not specifically set forth herein shall be in accordance with representations contained in the permittee's application for construction permit except for such modifications as are presently permitted, without application, by the Commission's Rules.

This permit shall be automatically forfeited if the station is not ready for operation within the time specified (date of expiration) or within such further time as the Commission may allow, unless completion of the station is prevented by causes not under the control of the permittee. See Sections 73.3598, 73.3599 and 73.3534 of the Commission's Rules.

Equipment and program tests shall be conducted only pursuant to Sections 73.1610 and 73.1620 of the Commission's Rules.

Name of Permittee:

SOUTHERN BROADCASTING OF PENSACOLA, INC.

Station Location:

GA-TOCCOA

Frequency (MHz): 106.1

Channel: 291

Class: C1

Hours of Operation: Unlimited

Transmitter location (address or description):  
 0.5 KILOMETER SOUTHWEST OF THE INTERSECTION OF ATHENS STREET  
 AND GEORGIA HIGHWAY 52, LULA, HALL COUNTY, GEORGIA

Transmitter: Type Accepted. See Sections 73.1660, 73.1665 and 73.1670  
 of the Commission's Rules.

Transmitter output power: As required to achieve authorized ERP.

Antenna type: (directional or non-directional): Non-Directional

Antenna Coordinates: North Latitude : 34 22 41  
 West Longitude : 83 39 30

	Horizontally Polarized Antenna	Vertically Polarized Antenna
Effective radiated power in the Horizontal Plane (kW).....:	100	100
Height of radiation center above ground (Meters).....:	229	229
Height of radiation center above mean sea level (Meters).....:	616	616
Height of radiation center above average terrain (Meters).....:	295	295

Antenna structure registration number: 1016667

Overall height of antenna structure above ground (including obstruction  
 lighting if any) see the registration for this antenna structure.

Special operating conditions or restrictions:

1. The permittee/licensee must reduce power or cease operation as necessary to protect persons having access to the site, tower or antenna from radiofrequency radiation in excess of FCC guidelines.
2. Upon the grant of a license to cover the Class C1 facility authorized herein, the FM Table of Allotments (47 CFR 73.202(b)) will be amended to delete Channel 291C and add Channel 291C1 for Toccoa, GA.
3. The grant of this permit is subject to the final outcome of any appeal of the Report and Order in MM Docket 96-120 (FCC 97-276, rel. 8/8/97, Federal Register dated September 25, 1997 (62 FR 50518)). Any construction pursuant to this permit prior to the finality of MM Docket 96-120 is at the sole risk of the permittee.

\*\*\* END OF AUTHORIZATION \*\*\*

**ATTACHMENT B**

Southern Broadcasting of Pensacola, Inc.  
WSTE-FM  
Toccoa, ga. to Sugar Hill, Ga.  
November 1997

The following technical exhibit and statement has been prepared of behalf of Southern Broadcasting of Pensacola, Inc. The purpose is to show the Commissions staff that WSTE-FM does meet all criteria as set forth in the Federal Communications Commissions rules, related to city of license, in this proposed change to Sugar Hill, Gwinnett County, Georgia.

Sugar Hill is an incorporated city located between Suwanee and Buford, Georgia. It has a functioning city government with a sitting mayor and five city councilmen, a US Post office with the ZIP code of 30518, and many retail and service companies. Sugar Hill is NOT located in an Urbanized area.

Exhibit-1 & 2 are visual plots of the 70 dBu (3.16 Mv/M) contour. This exhibit clearly shows that Sugar Hill, Ga. Will be totally encompassed by said contour.

Exhibit-3 is a population comparison of these two cities and Counties. This exhibit clearly shows that the public interest would be better served by this proposed change in city of license from Toccoa, Georgia to Sugar Hill, Georgia. A decrease of 3,709 persons in city population and an increase of 329,653 persons in county population would be realized by granting the proposed change.

Exhibit-4 is the list of facilities that presently serve Toccoa and Sugar Hill, Georgia before and after the proposed change.

WSTE-FM has been issued a construction permit to downgrade this facility from a class C to C1 and relocate it's transmitter near Lula, Georgia. Once the construction is completed, No further change in transmitter site is anticipated or presented with this proposal, therefore, there is no loss or gain in persons served as a result. The reference coordinates for the new CP site for WSTE-FM are:

**North Latitude:**  
**34-22-41**

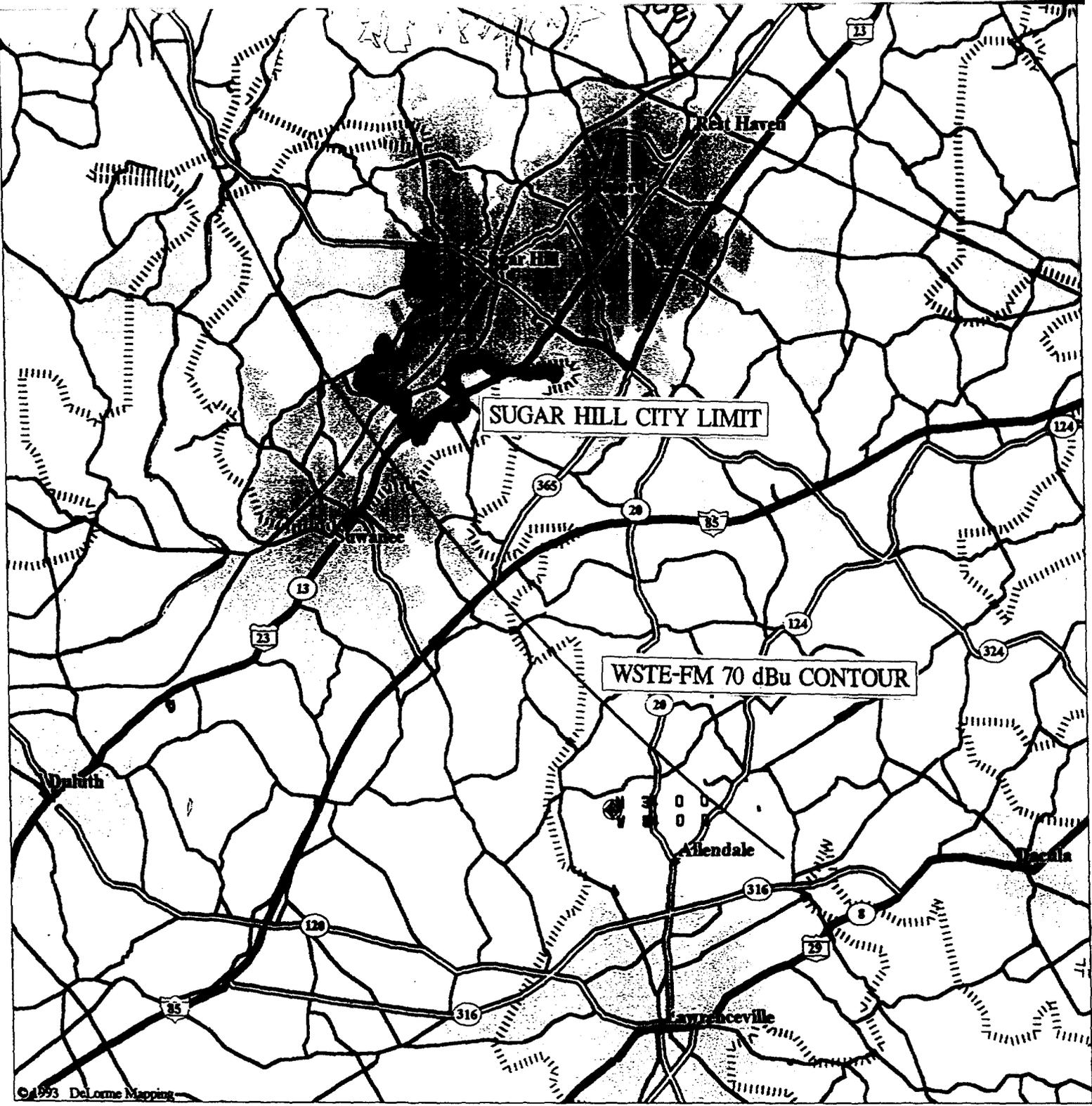
**West Longitude:**  
**083-39-30**

100KW ERP -- 616m COR AMSL -- 295m HAAT

The attached technical exhibits clearly show that the public interest would be better served in granting this proposal to change city of license for radio station WSTE-FM from Toccoa to Sugar Hill, Georgia



Clyde Scott, Jr.  
EME Communications  
293 JC Saunders Road  
Moultrie, GA. 31768  
912-890-2506



©1993 DeLorme Mapping

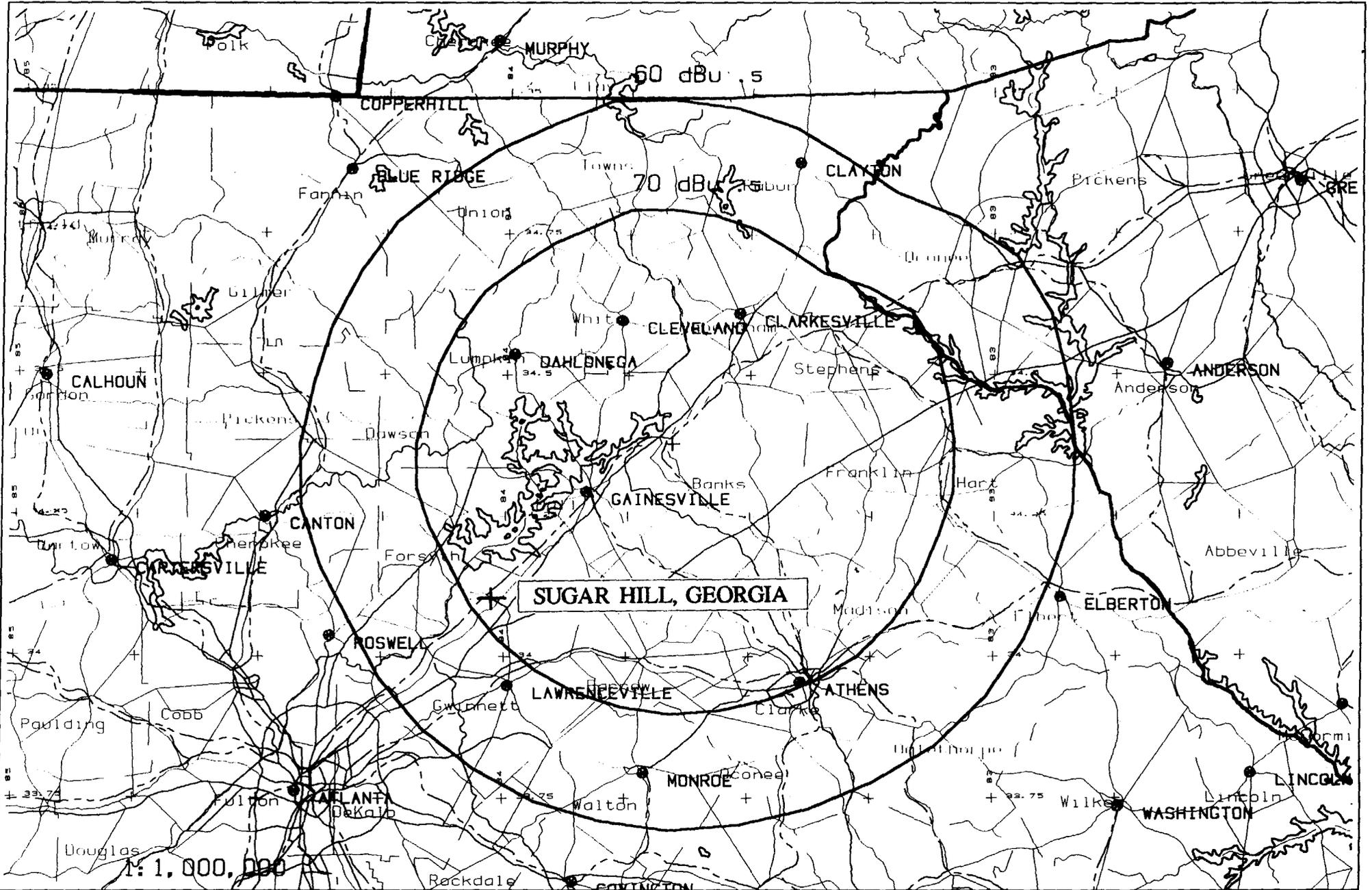
Scale 1:125,000 (at center)

2 Miles

2 KM

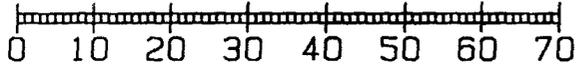
**EXHIBIT-1**  
**PLOT SHOWING SUGAR HILL CITY LIMIT**  
**WSTE-FM CITY GRADE CONTOUR**  
**DeLORME MAPPING "MAP EXPERT"**  
**SERIES V 2.0 - 1993**

**EME**  **PROFESSIONAL ENGINEERING SERVICES**  
**FOR THE PROFESSIONAL BROADCASTER**  
**COMMUNICATIONS**  
 293 JC SAUNDERS ROAD  
 MOULTRIE, GEORGIA 31768  
 (404) 999-2999



1:1,000,000

Scale in km



WSTEFM 291C1 100kW 616M AMSL  
 N. Lat. 34 22 41 W. Lng. 83 39 30

Exhibit - 2  
 POP=902,585

Southern Broadcasting of Pensacola, Inc.  
WSTE-FM  
Toccoa, ga. to Sugar Hill, Ga.  
November 1997

1990 Census Data

Toccoa

City - 8,266

Sugar Hill

City - 4,557

**Net loss by proposed change**

3,709

Stevens County

County - 23,257

Gwinnett County

County - 352,910

**Net gain by proposed move**

329,653

**EXHIBIT-3**

SOUTHERN BROADCASTING OF  
PENSACOLA, INC.

**EME**  PROFESSIONAL ENGINEERING SERVICES  
FOR THE PROFESSIONAL BROADCASTER  
**COMMUNICATIONS**  
293 IC SAUNDERS ROAD  
MOULTRIE, GEORGIA. 31768  
(912)890-2506 (912)985-0864 Fax

Southern Broadcasting of Pensacola, Inc.  
WSTE-FM  
Toccoa, ga. to Sugar Hill, Ga.  
November 1997

Facilities  
before and after  
proposed change

Sugar Hill

Toccoa

**Before**

None

WLET-AM - 1420 Khz - 5KW  
WNEG-AM - 630 Khz - 500W  
WSTE-FM - 106.1 Mhz. 100KW  
WNEG-TV - Channel 32

**After**

WSTE-FM - 106.1 Mhz. 100KW

WLET-AM - 1420 Khz - 5KW  
WNEG -AM - 630 Khz - 500W  
WNEG-TV - Channel 32

EXHIBIT-4

SOUTHERN BROADCASTING OF  
PENSACOLA, INC.

**EME**  PROFESSIONAL ENGINEERING SERVICES  
FOR THE PROFESSIONAL BROADCASTER  
**COMMUNICATIONS**  
293 JC SAUNDERS ROAD  
MOULTRIE, GEORGIA. 31768  
(912)890-2506 (912)985-0864 Fax

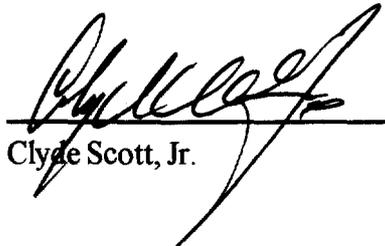
**DECLARATION AND QUALIFICATIONS OF PREPARER**

State Of Georgia                    )  
City of Moultrie                    )                    §  
Colquitt County                    )

Clyde Scott, Jr., under penalty of perjury, declares and says he is a Broadcast Engineer, Technical Consultant, and President of EME Communications. He has been engaged to prepare the attached technical exhibit and related statements.

That his qualifications are a matter of record before the Federal Communications Commission and has been active in the Broadcast industry since 1965 and in Broadcast Engineering since 1972. That he is the holder of General Radiotelephone License No. PG-6-30133.

That the attached Technical exhibit was either prepared by him or under his direct supervision. All material, exhibits, and statements hereto are believed to be true and correct.  
executed this 11th day of November, 1997.

  
Clyde Scott, Jr.