

ORIGINAL

LAW OFFICES
LEVENTHAL, SENTER & LERMAN P.L.L.C.

SUITE 600
2000 K STREET, N.W.
WASHINGTON, D.C. 20006-1809

TELEPHONE
(202) 429-8970

TELECOPIER
(202) 293-7783

NORMAN P. LEVENTHAL
MEREDITH S. SENTER, JR.
STEVEN ALMAN LERMAN
RAUL R. RODRIGUEZ
DENNIS P. CORBETT
BRIAN M. MADDEN
BARBARA K. GARDNER
STEPHEN D. BARUCH
SALLY A. BUCKMAN
NANCY L. WOLF
DAVID S. KEIR
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CHRISTOPHER J. SOVA

April 3, 1998

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WWW.LSL-LAW.COM

WRITER'S DIRECT DIAL
202-416-6770

WRITER'S E-MAIL
BMADDEN@LSL-LAW.COM

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VIA HAND DELIVERY

Magalie R. Salas
Secretary
Federal Communications Commission
Room 222
1919 M Street, NW
Washington, DC 20554

Dear Ms. Magalie:

On behalf of Charles M. Anderson, there is transmitted herewith an original and four copies of his Comments and Counterproposal in MM Docket No. 98-17, proposing a change to the FM Table of Allotments at Beaver Dam and Brownsville, Kentucky.

If any additional information is desired in connection with this matter, please contact the undersigned counsel.

Very truly yours,



Brian M. Madden

BMM/tlm
Enclosure

cc: Sharon McDonald (FCC, MMB, Room 569, 2000 M)
John Karousos (FCC, MMB, Room 554, 2000 M)

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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. 98-17
Table of Allotments)	RM-8819
FM Broadcast Stations)	
(Beaver Dam and Brownsville, Kentucky))	

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

COMMENTS AND COUNTERPROPOSAL OF CHARLES M. ANDERSON

Charles M. Anderson ("Petitioner"), permittee of Station WAUE(FM), Beaver Dam, Kentucky, by his attorneys and pursuant to Section 1.415 of the Commission's rules, hereby submits these comments with respect to the above-captioned *Notice of Proposed Rule Making* ("NPRM"), released on February 13, 1998. Petitioner filed the *Petition for Rule Making* that initiated this proceeding, and continues to strongly support the proposal to amend Section 73.202(b) of the Commission's rules to reallocate Channel 264A from Beaver Dam, Kentucky to Brownsville, Kentucky, and to upgrade the channel from Channel 264A to Channel 264C3 at Brownsville. Petitioner also requests that the construction permit for Station WAUE be modified to specify Brownsville, Kentucky as the station's community of license.

The ultimate reallocation of Channel 264C3 to Brownsville will further the public interest by providing the community with its first local transmission service and allow Station WAUE to expand its service area, realizing a net gain of more than 84,000 people. Beaver Dam will continue to receive local service from Station WSNR, licensed to Beaver Dam, Kentucky. Petitioner confirms that he will promptly apply for authority to operate Station WAUE as a Brownsville, Kentucky station on Channel 264C3 upon the adoption by the Commission of the proposal set forth in the *NPRM*, and will thereafter promptly construct the station.

However, if for some reason the Commission were asked to consider alternative allotment proposals for Brownsville, Petitioner hereby offers a counterproposal to his original request, by which Channel 264A would be allotted from Beaver Dam to Oakland, Kentucky, as that community's first local service, and upgraded to Channel 264C3 at Oakland. Although Petitioner prefers the reallocation and upgrade of Channel 264C3 to Brownsville as set forth in the *NPRM*, this counterproposal is offered to provide a second option to the Commission at this time, since proposals to add a new community to the proceeding cannot be advanced after the specified comment date.

As described in the accompanying *Statement and Technical Report*, the allotment of Channel 264C3 at either Oakland or Brownsville is mutually-exclusive with the authorized construction permit for Channel 264A at Beaver Dam. Under Section 1.420(i) of the Commission's rules, the Commission is requested to modify the construction permit for Station WAUE to modify the upgrade and the new community of license for the station without affording other parties an opportunity to file competing expressions of interest in the channel. *Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989), *recon. granted in part*, 5 FCC Rcd 7094 (1990).

Oakland is an incorporated city within Warren County, Kentucky, first established in 1859. It is listed in the 1990 U.S. Census and in the *Rand McNally Road Atlas*. Oakland is governed by an elected mayor and city council, and has its own city hall, post office and zip code, several churches, including the Oakland Baptist Church and the Oakland Christian Church, an active Masonic Hall and the Oakland Elementary School. *Statement and Technical Report* at 1. There is a fully spaced transmitter location from which the station can operate as a Class C3 facility on Channel 264 from which a predicted 70 dBu signal will extend well past Oakland. *Id.* This site is the same transmitter location identified by Petitioner for use of Channel 264C3 at

Brownsville; consequently, the same area and population gains and losses as previously described will be realized. All of the loss area receives five or more full-time aural services. *See Statement and Technical Report* at 2-3. The use of Channel 264C3 at Oakland as that community's first local aural transmission service represents a more efficient use of the spectrum than the present allotment of Channel 264A at Beaver Dam, which will continue to receive local service from Station WSNR, licensed to Beaver Dam. The assignment of Channel 264C3 at Oakland is mutually-exclusive with the allotment of Channel 264C3 at Brownsville.

For the foregoing reasons, Petitioner respectfully urges the Commission to adopt a *Report and Order* amending Section 73.202(b) of its rules to substitute Channel 264C3 for Channel 264A at Beaver Dam, Kentucky, and to reallocate the channel to either Brownsville, Kentucky, as originally proposed, or to Oakland, Kentucky, as presented in this counterproposal. In either event, Petitioner is prepared to promptly file an application for authority to modify the facilities of Station WAUE for operation on Channel 264C3 at either Brownsville or Oakland, and will construct the station promptly upon approval of that application.

Respectfully submitted,

CHARLES M. ANDERSON

By: 

Brian M. Madden
Leventhal, Senter & Lerman P.L.L.C.
2000 K Street, N.W. Suite 600
Washington, D.C. 20006-1809

April 3, 1998

His Attorneys

STATEMENT AND TECHNICAL REPORT

This statement and technical report has been developed in support of a counterproposal in MM Docket No 98-17. The assignment of channel 264C3 at Oakland, KY as a first local service is proposed as an alternative to the original proposal to assign 264C3 to Brownsville, KY. In this case as in the original proposal, the use of 264C3 at Oakland, KY is entirely mutually exclusive with the existing WAUE construction permit on 264A.

Oakland, KY:

Oakland, KY, first established in 1859, is an incorporated city of the county of Warren and state of Kentucky. It is listed in the 1990 U.S. Census (population of 229) and in the Rand-McNally Road Atlas. It has distinct boundaries identified on the Smiths Grove 7.5 minute topographic map. Oakland has a mayor-city council form of government, and included a city hall, a post office with its own zip code, Mt. Zion Baptist Church, Oakland Baptist Church, Oakland Christian Church, Family Worship Center, an active Masonic Hall, and the Oakland Elementary School.

Allocation Study:

Exhibit E-1 demonstrates that channel 264C3 may be assigned to Oakland, KY in full compliance with Section 73.207 separation requirements at an arbitrary site of:

N 37-10-34 W 86-18-08 (15.65 km northwest).

This is the same site as proposed in the original petition for Brownsville, KY and will provide a 70 dBu well past the City of Oakland. Exhibit E-2 shows a uniform 23.2 km maximum class C3

70dBu as well as a 70 dBu based on a 3 second terrain database. Exhibit E-3 demonstrates that a line of sight exists between the proposed allocation point and Oakland. The plot was developed utilizing the V-Soft PLOTPATH program and a 3 second terrain database. A 150 meter tower is utilized although a significantly shorter tower would provide line of sight.

Population and Area Gains:

The upgrade of 264A to 264C3 and its reallocation to Oakland, KY as proposed herein will yield a 60 dBu coverage area of 4,803 sq km and a 60 dBu population of 134,533. This represents an absolute area gain of 2,295 sq km (+91.5%) and an absolute population gain of 103,729 (+337%).

When adjusted for loss in existing service from the 264A CP, a net new population gain of 84,033 (103,729-19,696 in the loss area) (+273%) and a net new area of 853 sq km (gain of 2,295 sq km - 1,442 sq km loss) (+34%) result.

Loss Area has Five or More Fulltime Aural Services:

Exhibit E-4 demonstrates that the existing 264A 60 dBu service area which will lose service as a result of the reallocation to Oakland and concomitant upgrade to 264C3 retains 5 or more full-time aural services (additional daytime only services are not plotted). Consequently, it is well served. In fact AM service from WSM on 650 kHz and WHAS on 840 kHz are not included although their daytime .5 mV/m service contours encompass the entire loss area as well.

It is noted that circular service contours were utilized for all FM facilities, and maximum permissible power and HAAT were assumed for all class A, C3, C2, and C1 stations while licensed facilities were utilized for class C stations in accordance with Commission

procedures for study of existing services in allocation proceedings.

Conclusion:

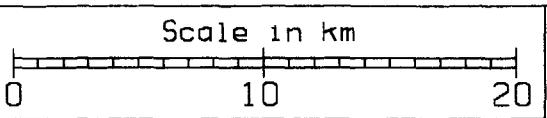
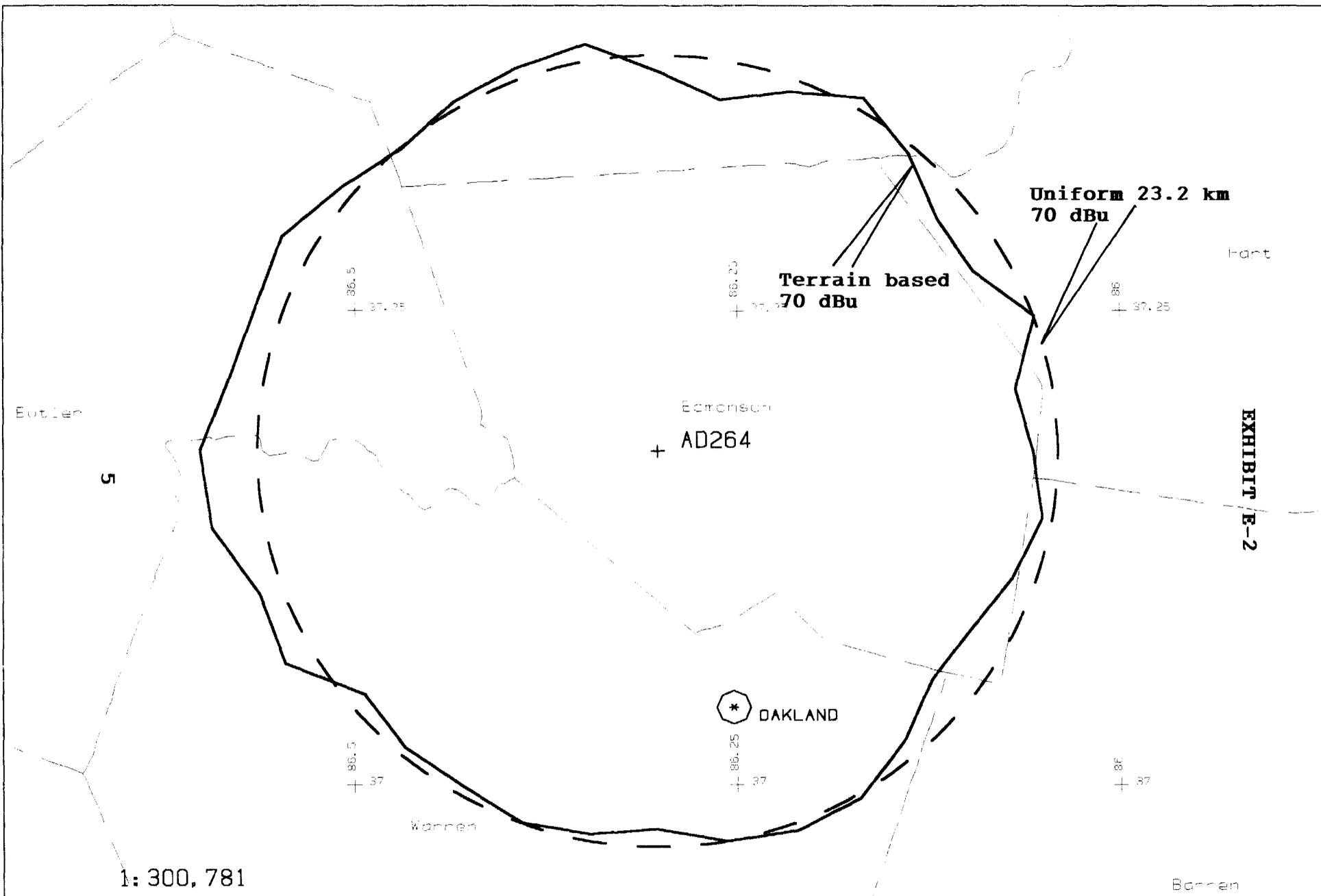
Upgrade of channel 264A to channel 264C3 and reallocation from Beaver Dam, KY to Oakland, KY at reference point N 37-10-34 W 86-18-08 will result in a net gain in population served of 84,033; and a net gain in area served of 853 sq km after correction for loss area and population. Furthermore the assignment will provide a first local service to Oakland, KY, and will result in a more efficient use of the spectrum with the upgrade to class C3 which is not possible at the current city of assignment - Beaver Dam, KY.

CHARLES ANDERSON BROADCAST CONSULTANT
 1519 Euclid Ave Bowling Green KY 42101

EXHIBIT E-1

REFERENCE		CLASS C3	DISPLAY DATES
37 10 34 N		Current rules spacings	DATA 03-20-98
86 18 08 W		CHANNEL 264 -100.7 MHz	SEARCH 03-22-98

CALL	CH#	CITY	STATE	BEAR'	D-KM	R-KM	MARGIN
AD264	264C3	Brownsville	KY	0.0	0.00	152.5	-152.50 *
DE264	264A	Beaver Dam	KY	297.9	41.98	141.5	-99.52 *
WAUE.C	264A	Beaver Dam	KY	297.9	41.98	141.5	-99.52 *
WUSY	264C	Cleveland	TN	157.3	236.81	236.5	0.31 <
WJZC	266C1	Russellville	KY	205.5	79.83	75.5	4.33
WLSKFM	265C3	Lebanon	KY	64.9	107.40	98.5	8.90
WBDC	265B1	Huntingburg	IN	335.3	126.14	113.5	12.64
WJCRFM	211C1	Upton	KY	40.2	37.28	23.5	13.78
WTFX	263C2	Louisville	KY	31.4	132.15	116.5	15.65
WVVR	262C	Hopkinsville	KY	258.3	124.37	95.5	28.87
WCYO.A	264C3	Irvine	KY	74.2	198.10	152.5	45.60



AD264 264C3 25kW 283.65M AMSL
 N. Lat. 37 10 34 W. Lng. 86 18 08

EXHIBIT E-2
 - 03/98

TERRAIN PROFILE AT 162.9 DEGREES T.
EXHIBIT E-3

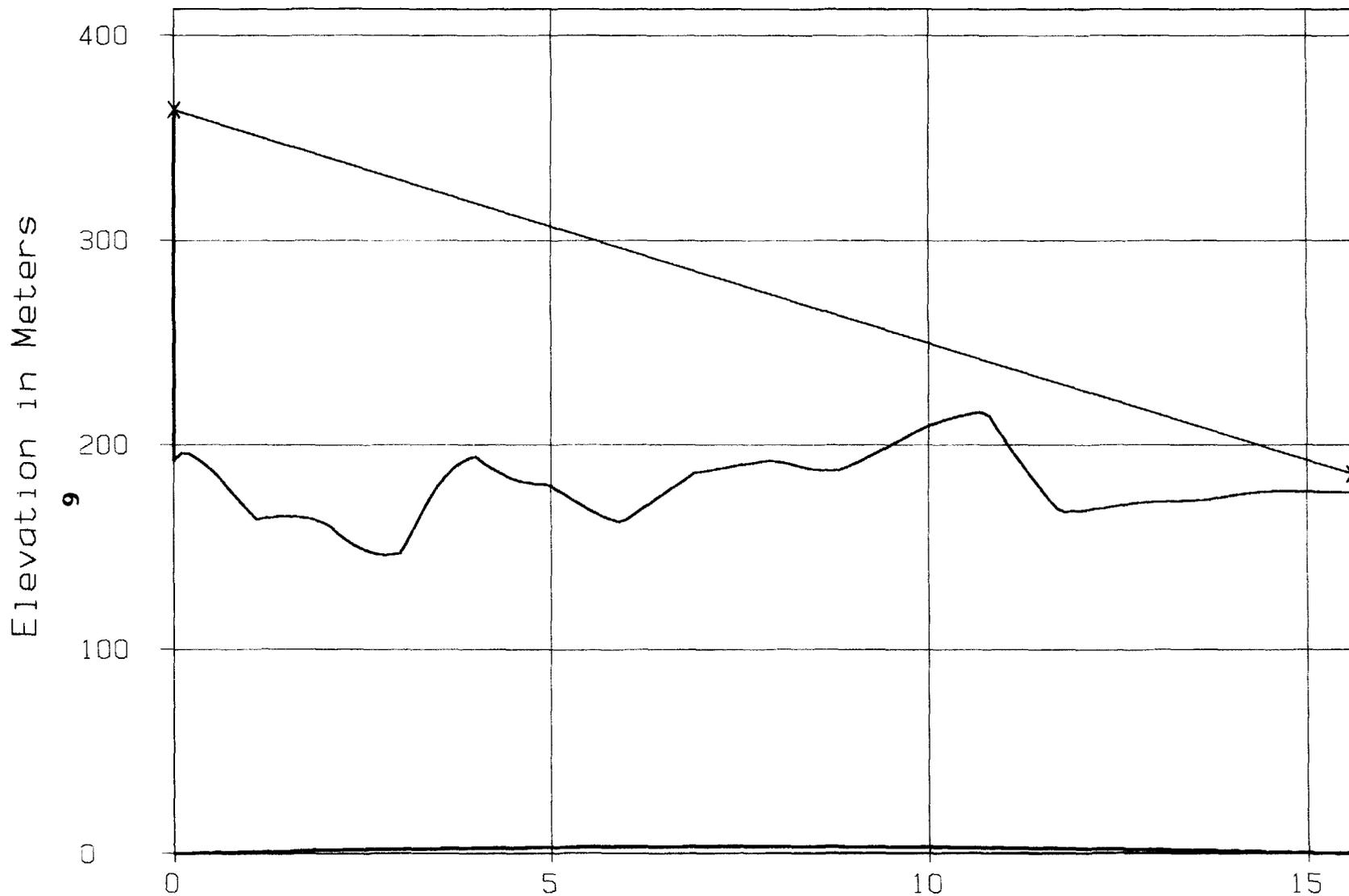
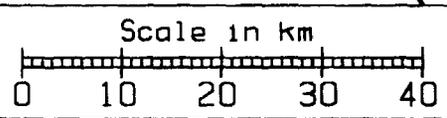
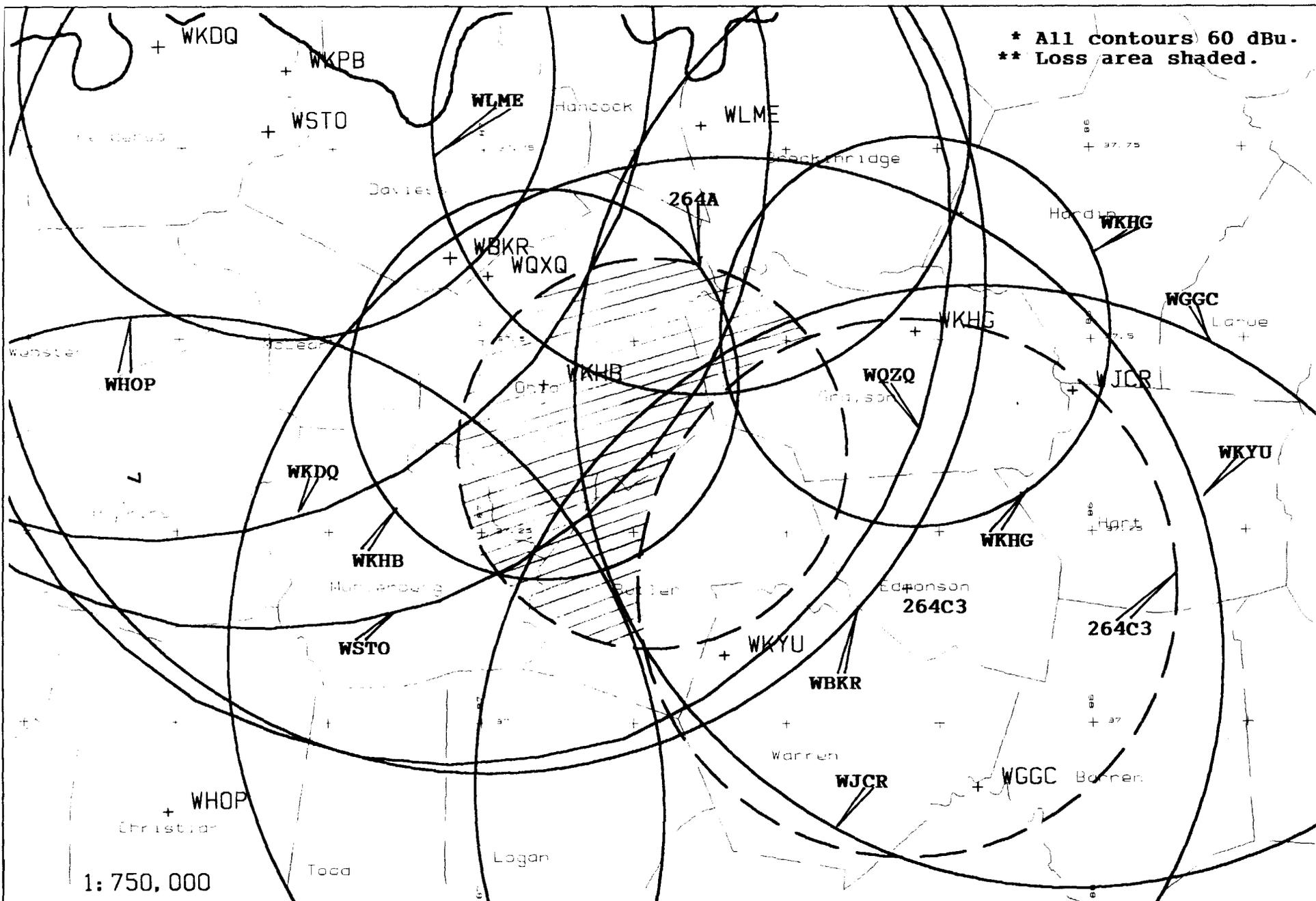


EXHIBIT E-3

Xmtr. AMSL = 364M	Distance in km	Rcvr. AMSL = 186M
Xmtr. AG = 171.4M	K = 1.33	Rcvr. AG = 9.2M
Transmitter Site coordinates N. Lat. = 37 10 34		W. Lng. = 86 18 08



WAUE.C 264A 6kW 254M AMSL
 N. Lat. 37 21 11 W. Lng. 86 43 14

EXHIBIT E-4
 - 03/98

CERTIFICATION

Charles M. Anderson hereby certifies that;

His qualifications in broadcast allocation matters are a matter of record before the Federal Communications Commission having been presented and accepted on many occasions in the past;

That he holds a lifetime General Radiotelephone license (#PG-6-7352) , a bachelors degree in the physical sciences from Western Kentucky University, and advanced degrees from the University of North Carolina and Indiana University;

That the accompanying technical report and exhibits were developed by him personally or under his immediate supervision and that all the information presented therein is true and correct to the best of his knowledge and belief.

1s/ 
Charles M. Anderson

March 30, 1998

Disclaimer: Charles M. Anderson assumes no liability for any errors or omissions in the information, exhibits and report provided herein; and, shall not be liable for any injuries or damages (including consequential) which might result from use of said information, exhibits and report. Filing of this report with the Federal Communications Commission constitutes acceptance in full of the terms and conditions stated above.

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