

BEFORE THE
Federal Communications Commission

WASHINGTON, D.C. 20554

RECEIVED
JUN 15 1998
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MM Docket No. 98-59
Table of Allotments)	RM-9256
FM Broadcast Stations)	
(Casper, Wyoming))	

COUNTERPROPOSAL

Mountain States Radio, Inc. ("Mountain States") files this Counterproposal to the Notice of Proposed Rule Making (DA 98-771, Released April 24, 1998). The NOPR proposes allocation of Channels 228C1, 243C1, and 263C1 to Casper, Wyoming as that community's eighth, ninth, and tenth local commercial FM stations. Mountain States, in this Counterproposal, proposes the allotment of Channel 228C1 to Guernsey, Wyoming; Channel 242C to Lusk, Wyoming; and 262C to Sinclair, Wyoming.

1.0 Channel 228C1, Guernsey, Wyoming

Mountain States proposes the allotment of Channel 228C1 to Guernsey, Wyoming. Guernsey is an incorporated community listed in the U.S. Census and the 1998 issue of the Rand McNally Road Atlas. It has a population of 1,155 people (according to the 1990 census).¹ It is located in Plat County Wyoming (population 8,145) in the southeast part of the state. Allocation of the Channel to Guernsey would result in a first local service to the community.

2.0 Channel 242C, Lusk, Wyoming

Mountain States proposes the allotment of Channel 242C to Lusk, Wyoming. This proposal will utilize Channel 243 as a full class C station in lieu of a C1. The population of Lusk, an

¹ All Census data based on the 1990 Census.

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incorporated community, is 1,504. It is the county seat of Niobrara County (population 2,499) and is listed in the U.S. Census and the 1998 issue of Rand McNally Road Atlas. This proposal would result in allocation of a first local service to Lusk and Niobrara County.

3.0 Channel 262C, Sinclair, Wyoming

Mountain States proposes to allocate Channel 262C to Sinclair, Wyoming. Again, this proposal would utilize Channel 262 as a full C in lieu of a C1 facility in Casper. Sinclair is an incorporated community listed in the U.S. Census and 1998 Rand McNally Road Atlas. The population of Sinclair is 500. Sinclair is located in Carvin County (population 16,659).

4.0 The Counterproposal is the Preferred Allocation

The Commission is charged by Section 307(b) of the Communications Act of 1934 as amended, to make distributions of frequencies, "among several states and communities so as to provide a fair, efficient and equitable distribution of radio service." In implementing its duty under 307(b), the Commission has adopted certain criteria to assist in advancing such policies for radio stations. The Commission's current priorities for choosing between conflicting allocation proposals are as follows: "(1) First full time aural service; (2) Second full time aural service; (3) First local service, and (4) other public interest matters. Co-equal weight is given to priorities 2 and 3. *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88, 51 RR 2d 807 (1982).

Mountain States' Counterproposal is the preferred allocation of Channels 228C1, 242C, and 262C. Unlike the allocation of the channels to Casper, which would result in an eighth, ninth, and tenth new service, the allocations proposed by Mountain States would result in first service to three different communities -- one a county seat. The Commission has always preferred provision of a first local service to provision of a second or third local service. Here the comparison is first local

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service to an eighth, ninth, and tenth service.² Mountain States' proposal would also result in a more efficient use of the channels by allowing Channels 242 and 262 to be used as full Class C facilities, in lieu of lower class C1 facilities in Casper.

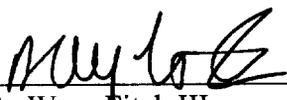
Mountain States will apply for each of the channels, if allocated as proposed. If the Mountain States applications are granted, it will commit to build the stations promptly.

WHEREFORE it is respectfully requested that the following allocation be made:

<u>City</u>	<u>Channel</u>
Guernsey, Wyoming	228C1
Lusk, Wyoming	242C
Sinclair, Wyoming	262C

Respectfully submitted,

MOUNTAIN STATES RADIO, INC.

By 
A. Wray Fitch III

GAMMON & GRANGE, P.C.
8280 Greensboro Drive, 7th Floor
McLean, VA 22102-3807
(703) 761-5000

April 20, 1998

[K:\0524\CASPER\COUNTER.AWF]

² Casper (population 46,742) is located in Natrona County (population 61,226). Casper is well served. It has seven licensed FMs and two licensed AMs and three commercial television stations. In addition, there is an FM and an AM construction permit outstanding for stations in Casper. There are other stations in Natrona County, including KUYO in Evansville and an FM construction permit for Midwest, Wyoming. There is also an outstanding allotment in Mills, Wyoming.

TECHNICAL STATEMENT

SUPPORTING

COUNTERPROPOSAL

MM DOCKET No. 98-59

RM-9256

**VICTOR A. MICHAEL, JR.
TECHNICAL CONSULTANT
MOUNTAIN STATES RADIO, INC.**

JUNE 1998

INTRODUCTION

The following is a technical statement supporting the counterproposal being filed by Mountain States Radio, Inc. in regards to MM-Docket 98-59, RM-9256. It is proposing to allot channels 228C1, 243C1, and 263C1 to Casper, Wyoming as its eighth, ninth and tenth local commercial FM transmission services. Mountain States Radio, Inc. ("MSR") feels these new allotments would provide greater benefit as new first commercial FM service to the communities of Guernsey, Wyoming (Ch. 228C1), Lusk, Wyoming (ch. 242C) and Sinclair, Wyoming (262C). These incorporated communities, our without a local broadcasting outlet. The following will show that these channels can be allotted to these communities in full compliance with current Commission rules for new amendments to the FM table of allotments.

CHANNEL STUDIES

MSR is counterproposing channel 228C1 from Casper, Wyoming to Guernsey, Wyoming. The coordinates for Guernsey are: 42 - 16 - 00, 104 - 44 - 42. A channel search shows (See Figure 1) that channel 228C1 can also be allotted to Guernsey, Wyoming at the coordinates of: 42 - 24 - 44, 104 - 50 - 13. The coordinates of this site is located at a point 17.5 kilometers northwest of the community of Guernsey. A site restriction of 17.5 KM northwest of the community of Guernsey will be required for this allotment. At this point, channel 228C1 meets all of the necessary spacing requirements under section 72.207 except, the new proposed allotment at

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Casper, Wyoming on channel 228C1. It is short spaced with this allotment by 111.3 kilometers. Thus, MSR is proposing the commission allot channel 228C1 to Guernsey, Wyoming in place of Casper, Wyoming.

MSR is counterproposing channel 242C be allotted to the community of Lusk, Wyoming in place of 243C1 at Casper, Wyoming. The coordinates for Lusk are: 42 - 45- 42, 104 - 27 - 06. These coordinates are located inside the community boundaries of Lusk. They also were used for the channel spacing study for Lusk (see figure 2). A channel spacing study shows that channel 242C (96.3 MHz) can be allotted to the community of Lusk and meet all spacing requirements under section 73.207 of the Commissions rules with the exception of the new proposed allotment for Casper, Wyoming on channel 243C1. It is short spaced by this allotment by 58.5 kilometers. Thus, MSR is proposing the Commission allot channel 242C to Lusk, Wyoming in place of Channel 243C1 to Casper, Wyoming. MSR would also like to note that channel 242C would be a better use of the frequency spectrum as it would be a C in place of a C1 allotment.

MSR is counterproposing channel 262C to Sinclair, Wyoming in place of channel 263C1 to Casper, Wyoming. The coordinates for Sinclair are: 41 - 46 - 42, 107 - 06 - 48. A channel study was conducted (see figure 3) at the coordinate of: 41 - 51 - 01, 107 - 06 - 48. This site is located 8.0 kilometers north from the community of Sinclair. A site restriction of 8.0 kilometers north will be required to allot channel 262C to Sinclair. At this reference point, this proposed channel meets all of the spacing requirements under section 73.207 of the commissions rules with the exception of the new

Page 3 (Technical Statement)

proposed allotment for Casper, Wyoming on channel 263C1. Thus, MSR is proposing that the commission allot channel 262C to Sinclair, Wyoming in place of channel 263C1 to Casper, Wyoming. It should also be noted that allotment of 262C would also be a better use of the FM broadcast frequency spectrum as it will be a full class C allotment in place of a class C1 allotment.

All three of the proposed allotments (228C1 at Guernsey, 242C at Lusk, and 262C at Sinclair) will have been researched for available tower site locations to provide the necessary, line of sight, 3.16 mv/m (70 DBu) city grade service to the prospective communities. In all three cases, sites are available which will provide such city grade service and meet the requirements for spacing towards other stations under section 73.207.

Mountain States Radio, Inc. also hereby certifies that it will file an application for a construction permit to operate a new FM station at all three of these proposed communities, Guernsey, Lusk and Sinclair, Wyoming, during any filing period the commission may open for these communities.

CERTIFICATION

I certify that I have prepared or directly supervised the preparation of this entire Technical Statement, and that the facts contained within are true to the best of my knowledge, information and belief, accurate and true.

Dated: June 12, 1998

Respectfully submitted,



Victor A. Michael Jr.
President / Technical Consultant
Mountain States Radio, Inc.
7901 Stoneridge Drive
Cheyenne, WY 82009

MAPFM search of channel 228C1 (93.5 MHz), at N. 42 24 44, W. 104 50 13.

Searching Channel 228C1 (93.5 MHz):

CALL	CITY	ST	CHN	CL	S	DIST	SEPN	BRNG	CLEARANCE
ALC	Scottsbluff	NE	225	C	U	105.0	105.0	127.3°	-0.0
KMOR	Scottsbluff	NE	225	C	L	105.0	105.0	127.3°	-0.0
ALC	Fort Collins	CO	227	C	U	209.1	209.0	188.3°	0.0
KTCL	Fort Collins	CO	227	C	L	257.2	209.0	181.2°	48.2
ALC	Pine Ridge	SD	228	A	V	198.6	196.0	70.2°	2.6
ALC	Casper	WY	228	C1	A	133.7	245.0	288.6°	-111.3
ALC	Moorcroft	WY	228	A	V	206.1	196.0	357.4°	10.1
ALC	Grover	CO	229	C2	A	177.4	158.0	163.1°	19.4
ALC	Cheyenne	WY	229	A	A	133.6	129.0	176.8°	4.6
ALC	Rock River	WY	230	A	A	120.1	74.0	231.6°	46.1
ALC	Scottsbluff	NE	231	C1	U	124.1	82.0	129.5°	42.1
KNEBFM	Scottsbluff	NE	231	C1	L	124.1	82.0	129.5°	42.1

FIGURE 1
CHANNEL STUDY
CHANNEL 228C1
GUERNSEY, WYOMING

105°00'
42°30'

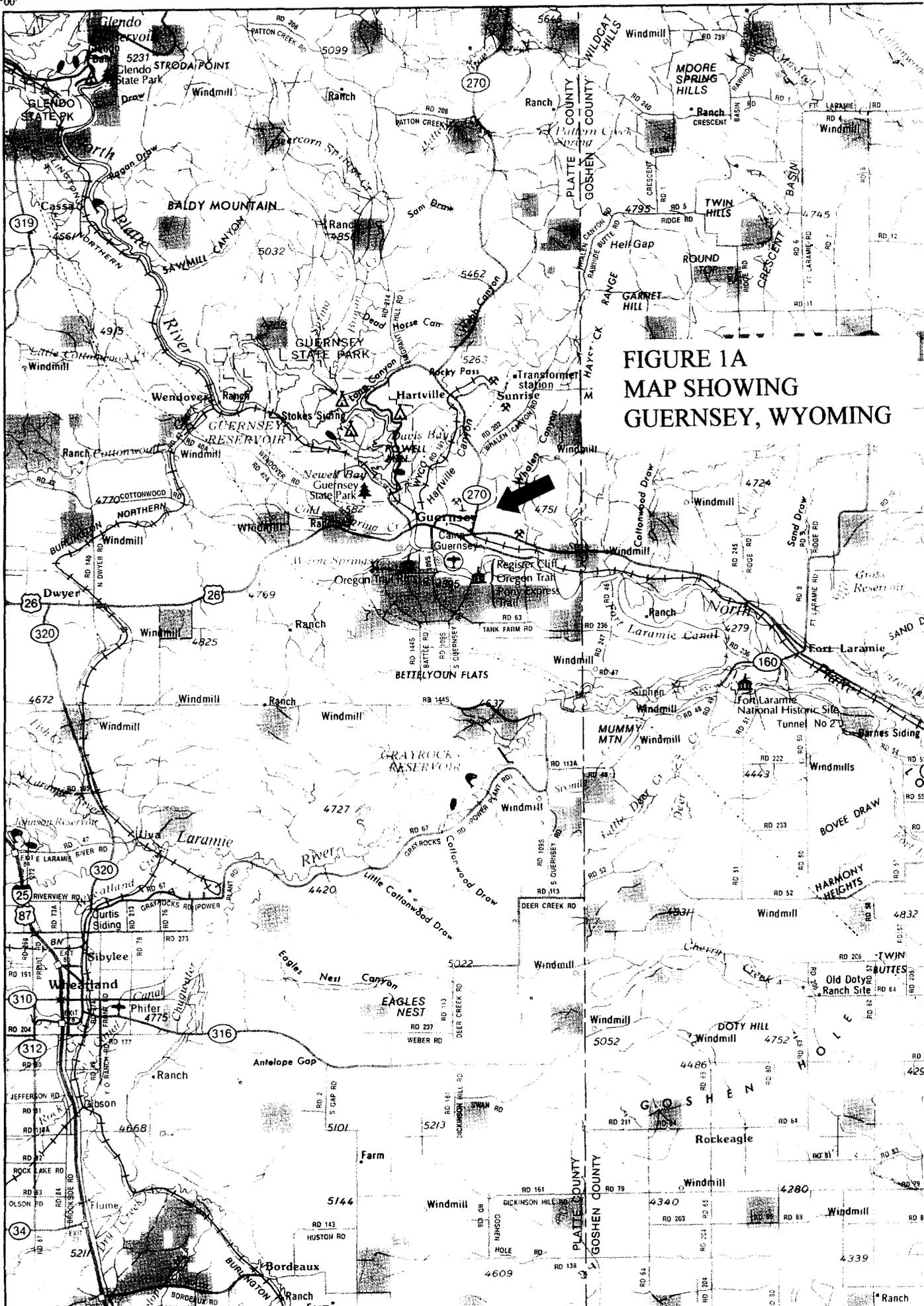


FIGURE 1A
MAP SHOWING
GUERNSEY, WYOMING

A

Continue on Page 33

B

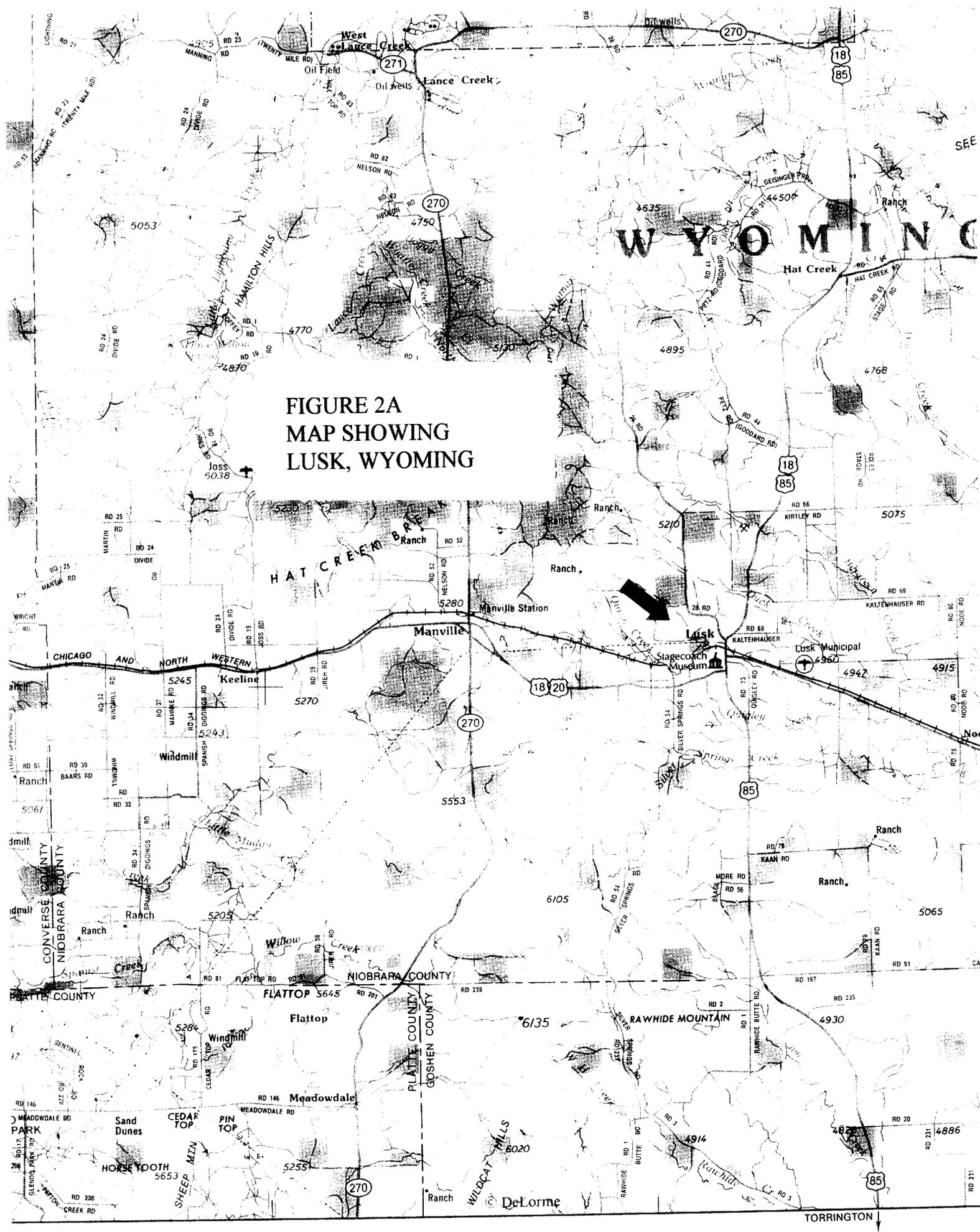
MAPFM search of channel 242C (96.3 MHz), at N. 42 45 42, W. 104 27 6.

Searching Channel 242C (96.3 MHz):

CALL	CITY	ST	CHN	CL	S	DIST	SEPN	BRNG	CLEARANCE
KOLTFM	Gering	NE	239	C3	A	117.2	96.0	148.3°	21.2
ALC	Belle Fourche	SD	240	C	U	180.8	105.0	16.0°	75.8
KZZI	Belle Fourche	SD	240	C	L	180.8	105.0	16.0°	75.8
ALC	Greeley	CO	241	C1	U	237.3	209.0	187.4°	28.3
KGLL	Greeley	CO	241	C1	L	237.3	209.0	187.4°	28.3
KGLL	Greeley	CO	241	C1	C	234.7	209.0	190.0°	25.7
ALC	Crookston	NE	241	C1	U	292.7	209.0	82.0°	83.7
KINI	Crookston	NE	241	C1	L	292.7	209.0	82.0°	83.7
ALC	Worland	WY	241	C2	U	312.3	188.0	297.7°	124.3
KKLX	Worland	WY	241	C2	L	312.3	188.0	297.7°	124.3
KKLX	Worland	WY	241	C2	L	312.3	188.0	297.7°	124.3
ALC	Evergreen	CO	243	C	U	360.9	241.0	190.7°	119.9
ALC	Julesburg	CO	243	C1	V	267.9	209.0	137.3°	58.9
ALC	Julesburg	CO	243	C	V	271.7	241.0	141.0°	30.7
KXPK	Evergreen	CO	243	C	L	353.4	241.0	194.2°	112.4
NEW	Julesburg	CO	243	C	A	271.7	241.0	141.0°	30.7
ALC	Casper	WY	243	C1	A	150.5	209.0	272.5°	-58.5
ALC	Sheridan	WY	243	C3	U	299.3	176.0	318.2°	123.3
KYTI	Sheridan	WY	243	C3	L	299.3	176.0	318.2°	123.3
KYTI	Sheridan	WY	243	C3	C	298.1	176.0	313.9°	122.1
KYTI	Sheridan	WY	243	C3	C	298.1	176.0	313.9°	122.1
ALC	Hot Springs	SD	244	C2	U	110.8	105.0	46.9°	5.8
KZMXFM	Hot Springs	SD	244	A	L	110.8	94.0	46.9°	16.8
KZMXFM	Hot Springs	SD	244	C2	C	110.8	105.0	46.9°	5.8
ALC	Laramie	WY	244	A	V	186.4	94.0	210.2°	92.4
NEW	Laramie	WY	244	A	A	186.8	94.0	210.4°	92.8
NEW	Laramie	WY	244	A	A	183.2	94.0	206.7°	89.2
NEW	Laramie	WY	244	A	A	181.2	94.0	207.2°	87.2
NEW	Laramie	WY	244	A	A	181.2	94.0	207.2°	87.2
ALC	Terrytown	NE	245	C1	U	123.8	105.0	149.6°	18.8
KCMI	Terrytown	NE	245	C1	L	133.7	105.0	151.7°	28.7
ALC	Gillette	WY	245	C1	U	189.3	105.0	334.8°	84.3
KAMLFM	Gillette	WY	245	C1	L	189.3	105.0	334.8°	84.3
ALC	Casper	WY	295	C	U	151.9	48.0	269.1°	103.9
KASS	Casper	WY	295	C	C	152.0	48.0	269.2°	104.0
KASS	Casper	WY	295	C	L	151.9	48.0	269.1°	103.9
KASS	Casper	WY	295	C	L	151.9	48.0	269.1°	103.9
K296DS	Alliance	NE	296	D	L	148.8	0.0	118.8°	148.8

FIGURE 2
CHANNEL STUDY
CHANNEL 242C
LUSK, WYOMING

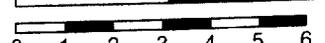
FIGURE 2A
MAP SHOWING
LUSK, WYOMING



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BLM Lands State Lands

KILOMETERS 0 5 10



MAPFM search of channel 262C (100.3 MHz), at N. 41 51 1, W. 107 6 48.

Searching Channel 262C (100.3 MHz):

CALL	CITY	ST	CHN	CL	S	DIST	SEPN	BRNG	CLEARANCE
ALC	Glendo	WY	261	A	V	187.2	161.0	67.2°	26.2
NEW	Glendo	WY	261	A	A	187.5	161.0	67.4°	26.5
NEW	Glendo	WY	261	A	A	187.5	161.0	67.4°	26.5
ALC	Denver	CO	262	C	U	296.0	290.0	144.3°	6.0
KIMN	Denver	CO	262	C	L	290.0	290.0	146.5°	-0.0
KIMN	Denver	CO	262	C	L	290.0	290.0	146.5°	-0.0
ALC	Greybull	WY	262	C	U	335.4	290.0	348.8°	45.4
KZMQFM	Greybull	WY	262	C	L	335.4	290.0	348.8°	45.4
KZMQFM	Greybull	WY	262	C	L	335.4	290.0	348.8°	45.4
ALC	Casper	WY	263	C1	A	119.1	209.0	31.2°	-89.9
K263AE	Rawlins	WY	263	D	C	21.5	0.0	208.5°	21.5
K263AE	Rawlins	WY	263	D	C	21.5	0.0	208.5°	21.5

FIGURE 3
CHANNEL STUDY
CHANNEL 262C
SINCLAIR, WYOMING

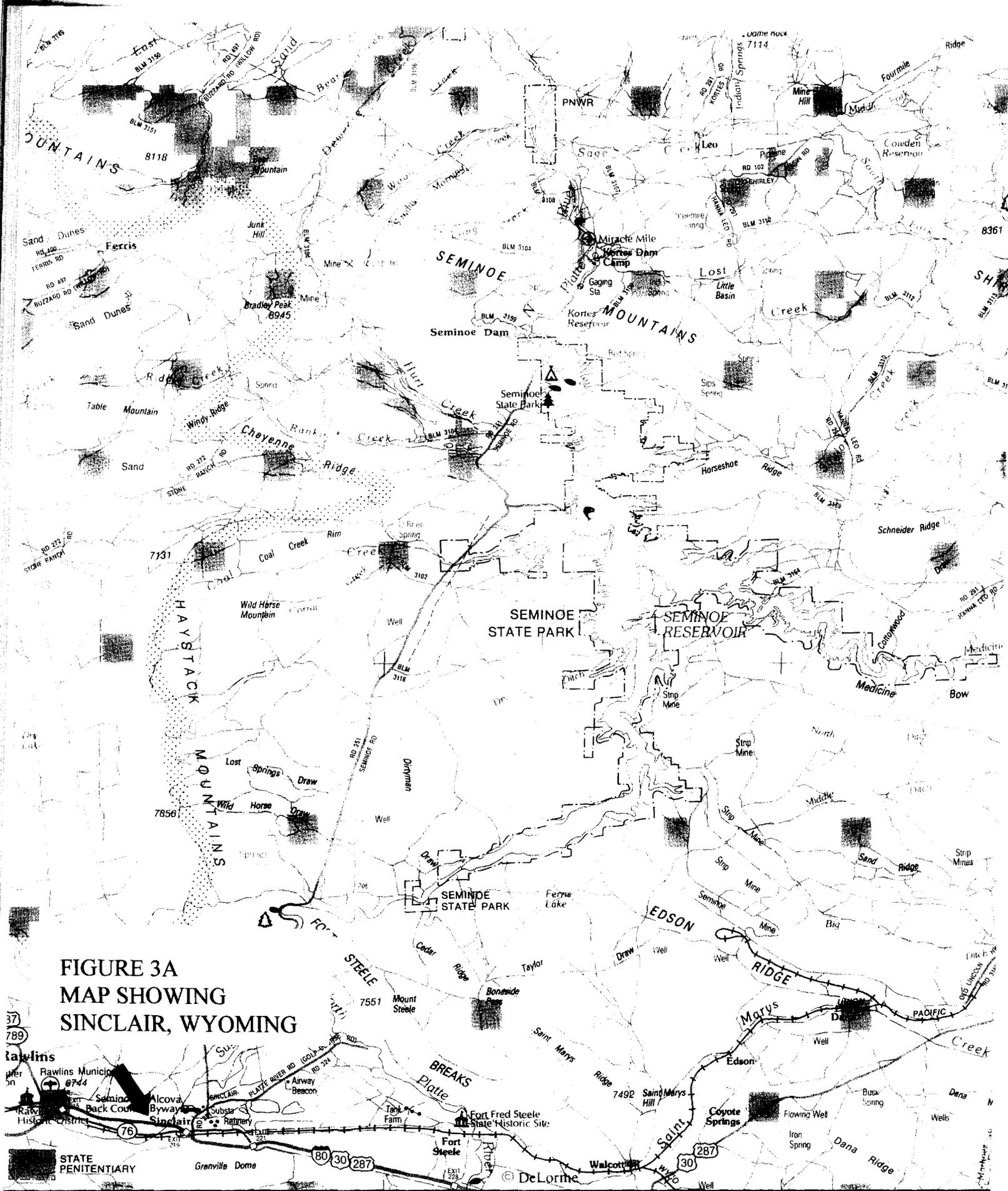


FIGURE 3A
MAP SHOWING
SINCLAIR, WYOMING

Scale 1:250,000
 1 inch represents 4 miles

Contour interval
 300 feet (91.5 meters)

Continue on

CERTIFICATION

I certify that I have prepared or directly supervised the preparation of this entire Counterproposal, and that the facts contained within are true to the best of my knowledge, information and belief, accurate and true.

Dated: June 15, 1998

Respectfully submitted,



Victor A. Michael Jr.
President / Technical Consultant
Mountain States Radio, Inc.
7901 Stoneridge Drive
Cheyenne, WY 82009

CERTIFICATE OF SERVICE

I, Millie Adams, in the law offices of Gammon & Grange, P.C., hereby certify that I have sent this 15th day of June 1998, by first-class, postage prepaid, U.S. Mail, copies of the foregoing COUNTERPROPOSAL to the following:

Cindy D. Jackson, Esq.
Hogan & Hartson, L.L.P.
555 13th Street, N.W.
Washington, D.C. 20004-1109



Millie Adams