

ORIGINAL

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December 3, 1998

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DEC - 4 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas, Secretary
Federal Communications Commission
1919 M St., N.W., Room 222
Washington, D.C. 20554

Re: Petition for Reconsideration of Report and Order in Docket 96-66
Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations.
Sibley, Iowa, and Brandon, South Dakota

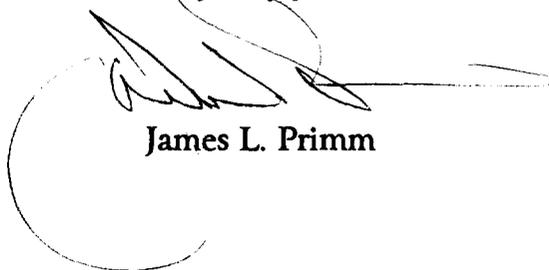
Dear Madam Secretary:

Please find enclosed an original and four copies of the above referenced Petition for Reconsideration filed on behalf of 21st Century Radio Ventures, Inc., Permittee of FM station KAJQ, Sibley, Iowa.

Please stamp and return the copy so marked.

If you have any questions, please contact the undersigned.

Very truly yours,



James L. Primm

enclosure

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ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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DEC - 4 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Amendment of Section 73.202(b))	
Table of Allotments,)	MM Docket No.: 96-66
FM Broadcast Stations,)	RM-8729
(Sibley, Iowa and Brandon, South Dakota))	RM-8821

PETITION FOR RECONSIDERATION

21st Century Radio Ventures, Inc., permittee of KAJQ-FM, Channel 262A, Sibley, Iowa, (the "Petitioner") by its attorneys, hereby respectfully requests reconsideration of the Report and Order issued in the above referenced proceeding.

Petitioner sought to substitute Channel 261C3 for Channel 262A at Sibley, Iowa and the reallocation of Channel 261C3 from Sibley, Iowa to Brandon, South Dakota pursuant to Section 1.420 (i) of the Commission's rules. In a separate proceeding, to ensure that Sibley would not be losing its sole local service, on May 20, 1996, the Petitioner filed a request for a second allocation at Sibley, Iowa (Channel 282A).

Petitioner now requests reconsideration of the Commission's order which granted Channel 261A at Brandon pursuant to a counterproposal filed in Docket 96-66. Pursuant to Section 1.06 of the Commission's rules, reconsideration will be granted "where there are findings of fact and/or conclusions of law which petitioner believes to be erroneous." The Commission erred in that it never took into consideration the second allotment at Sibley in its analysis of the allotment priorities in the Report and

Order issued in the instant proceeding. This runs directly counter to established Commission precedent. See Llano and Marble Falls, Texas, 12 FCC Rcd 6809 (1997).

Upon reconsideration, the Commission will find that a preferential arrangement of allotments will result from the Petitioner's request. The Petitioner's request, which will move Channel 261C3 to Brandon, South Dakota, while leaving Channel 282A at Sibley, Iowa, will result in additional service to 146,523 people, while the counterproposal to grant Channel 261A to Brandon, approved in the instant proceeding by the Commission, will result in increased service to only 129,474 people.

1. Statement of Facts

The following chronological summary of events will be helpful in evaluating the error that arose in this case:

November 2, 1995 -- Petitioner files a Petition for Rule Making in the instant proceeding (Exhibit 1).

March 29, 1996 -- Notice of Proposed Rule Making (the "NPRM") issued in the instant proceeding (Docket 96-66) (Exhibit 2).

May 20, 1996 -- Petitioner files request for a second allotment at Sibley, Iowa for Channel 282A (Exhibit 3)

May 20, 1996 -- Petitioner files Initial Comments in Docket 96-66 indicating, among other things, that removal of KAJQ from Sibley will not result in the loss of a first service to Sibley because Petitioner had sought a second allocation to Sibley (Exhibit 4).

May 20, 1996 -- Brandon Broadcasters files a counterproposal and initial

comments in Docket 96-66 (Exhibit 5).

June 3, 1996 -- Petitioner files Reply Comments in Docket 96-66 (Exhibit 6).

June 19, 1996 -- Brandon Broadcasters files Additional Comments in Docket 96-66 (Exhibit 7)

November 6, 1998 - Commission releases its Report and Order in Docket 96-66. In allotting channel 261A at Brandon, there is no mention of the requested Channel 282A at Sibley and the fact that Sibley therefore had two FM services and the grant of the requested reallocation would not remove the sole existing service from Sibley.

As noted above, Petitioner sought allotment of a second FM station to Sibley, Iowa. The staff took no action on this petition. The undersigned telephoned Ms. Pam Blumenthal at the Allocations Branch in early 1997 to enquire as to why the requested second allotment to Sibley was not put on public notice. Ms. Blumenthal indicated that the requested second allotment was being treated as a counter-proposal and would be considered with the reallocation of KAJQ to Brandon, South Dakota. The undersigned believed that as a result, any further enquiry as to the status of the second allotment at Sibley, Iowa would be a violation of the Commission's ex parte rules and he therefore did not make any further attempts to discuss the status of the second allotment.

On or about October 27, 1998, Ms. McDonald from the Allocations Branch telephoned the undersigned. She enquired as to whether the Petitioner was still desirous of the second allocation at Sibley. The undersigned responded that of course the Petitioner remained committed to the allocation and would like to see a Notice of Proposed Rule Making issued and that it intended to build the station if it obtained the

allocation.

2. There are Good and Sufficient Grounds for Reconsideration in this Proceeding.

The Petitioner sought the allocation of Channel 282A to Sibley, as Sibley's second local service on May 20, 1996. The Commission should have considered the reallocation of KAJQ from Sibley to Brandon in light of the requested second allocation at Sibley. There is no mention in the Report and Order of the requested allocation of Channel 282A. Further, the Commission has not taken any action on Channel 282A in the past 30 months since Petitioner sought its allocation to Sibley.

Because the allocation of Channel 282A has direct bearing on the instant case, the Commission should grant reconsideration in order to review the requested reallocation of KAJQ under the totality of the circumstances. LaGrange and Rollingwood, Texas, 90 FCC 2d 3337 (1995).

3. Upon Reconsideration, the Commission Will Find That A Preferential Arrangement of Allotments will Result From the Grant of Petitioner's Requested Reallocation as Compared to the Counterproposal in this Case.

The second allotment at Sibley means that Brandon would be gaining a first local service without any loss of service to Sibley, except in areas already well served by radio. As set forth in Petitioner's Petition for Rule Making and Comments to the NPRM, the requested substitution of Channel 261C3 for Channel 262A at Sibley and reallocation of 261C3 to Brandon would result in service to 151,998 persons with only a theoretical loss of service to Sibley of 5,475 people since Channel 282A would remain at Sibley to serve that community. All of the population in the loss area are already

well-served by radio, with five or more services remaining in the area. The net total population served by the requested allocation would therefore be 146,523. Applying the Commission's allotment criteria, Petitioner's request would result in a preferential arrangement of allotments, since the grant of Channel 261A at Brandon would only serve an additional 129,474 persons.¹

The Commission must also follow its own precedent when deciding similar cases. The instant case is virtually identical to a recent Allocations Branch decision in Llano and Marble Falls, Texas, 12 FCC Rcd 6809 (1997) (attached as Exhibit 8). In that case, the licensee of an operating station (KLKM(FM)) at Llano, Texas, proposed to remove that station from Llano and license it to Marble Falls. KLKM was the only station providing service to Llano. In the Notice of Proposed Rule Making, 10 FCC Rcd 4913 (1995), the Commission noted that KLKM had identified an additional allocation for Llano, but had not stated its intention to apply for the Channel. Subsequently, KLKM filed comments and sought the additional allocation to Llano. There were two counterproposals filed.

The Commission found that the public interest would be served by the reallocation to Marble Falls, even though it caused the removal of the sole existing service from Llano. The Commission cited as its reasons for granting the move both the additional number of people that would be served (a net increase of 34,860) and

¹ The Commission has long held that an allocation is to be considered for purposes of applying the allotment priorities set out in Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1982). See, e.g., Greenup, Kentucky and Athens, Ohio, 6 FCC Rcd 1493, 1494 (1994), citing, Roanoke Rapids, 9 FCC 2d 672 (1967).

the fact that KLKM had sought a second allocation to Llano to avoid a loss of service to all but approximately 5,100 people. The Commission noted that those losing service were well served by radio, receiving more than 5 full-time reception services with the exception of a small number of people whose total number of services would go from 4 to 3 and from 5 to 4.

The Commission must apply the analysis of Llano and Marble Falls to the instant case and in so doing, the only possible outcome is a grant of Petitioner's petition. Just as in Llano and Marble Falls, Petitioner sought a second allotment for Sibley which Petitioner pledged to build. This eliminates the concern that the community will be losing its sole existing service. Petitioner's proposal will result in a net gain to 146,523 people. Of the 5,475 people who will theoretically lose service all are well served by radio. This is a much better ratio of additional people served to those who will lose service than in Llano and Marble Falls and, unlike Llano and Marble Falls, all of those losing service will continue to be well-served by radio.

In addition, unlike Llano and Marble Falls which removed an existing service, the loss of service is only theoretical in the case of Sibley because the Sibley allocation is unbuilt. The Commission has consistently held in cases involving a change of city of license pursuant to Section 1.420(i) of the Commission's rules that the removal of an unbuilt service does not "present the parallel concerns with loss of service represented by the removal of an operating station, as it does not constitute a service that the public has become reliant upon." Avra Valley, Comobabi, Florence, Oracle, Oro Valley, and San Carlos, Arizona, 12 FCC Rcd 1202, 1206 (1997); Sanibel and San Carlos Park,

Florida, 10 FCC Rcd 7215 (1995); Pawley's Island and Atlantic Beach, South Carolina, 8 FCC Rcd 8657 (1993); Glencoe and LeSueur, Minnesota, 7 FCC Rcd 7651 (1992).

3. Conclusion

The Commission should have considered the second allotment at Sibley, Iowa in analyzing the instant request to reallocate KAJQ to Brandon, South Dakota. Because it did not do so, there are sufficient grounds for reconsideration of the Report and Order in this Docket. Upon reconsideration, the Commission will find that a preferential arrangement of allotments will result from allocation of Channel 261C3 to Brandon, South Dakota and Channel 282A to Sibley, Iowa because 146,523 more people will receive service, as compared to only 129,474 under the grant of Channel 261A to Brandon as ordered by the Commission in the Report and Order.

The Commission should reverse its decision in the above referenced rule making. The resulting change in the FM table of allotments would be:

City	Channel No.
Brandon, SD	261C3
Sibley, Iowa	282A

The foregoing is true and correct to the best of my knowledge and belief and is

made under penalty of perjury.

Respectfully Submitted,

21st Century Radio Ventures, Inc.

Dated: 12/3/98

By: 

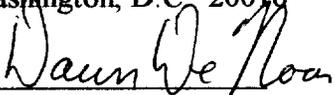
James L. Primm
Its: Attorney

James L. Primm
Attorney-at-Law
3460 Torrance Blvd. suite 303
Torrance, CA 90503
310-540-4799

CERTIFICATE OF SERVICE

I, Dawn E. DeNoon, hereby certify that on this 3rd day of December, 1998, I have served a copy of the foregoing "Petition for Reconsideration" first-class, postage prepaid, on the following:

Cary S. Tepper, Esq.
Booth, Freret, Inlay & Tepper
5101 Wisconsin Avenue, N.W., suite 307
Washington, D.C. 20016


Dawn E. DeNoon

STAMP & RETURN

21st CENTURY RADIO VENTURES, INC.
530 WILSHIRE BOULEVARD, SUITE 301
SANTA MONICA, CA 90401
310-393-2741 (telephone)
310-393-4802 (fax)

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November 2, 1995

Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554
Attn: Allocations Branch

RE: Petition for Rulemaking To Amend FM
Table of Allotments, Sibley, IA and Brandon, SD

To Whom It May Concern:

Please find enclosed an original and four copies of the above referenced Petition for Rule Making to substitute Channel 261C3 for Channel 262A at Sibley, Iowa and the reallocation of Channel 261C3 from Sibley, Iowa to Brandon, South Dakota and the modification of the construction permit of FM Station KAJQ (BPH-930809MA) accordingly.

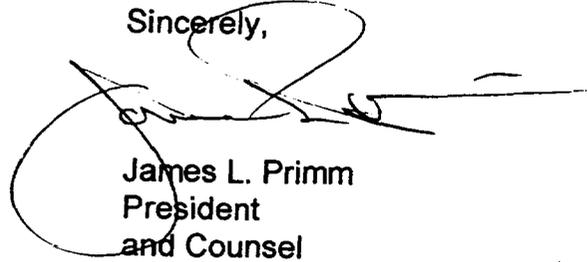
Also enclosed is a file stamped copy. Please stamp and return the copy marked Stamp and Return in the attached postage paid return envelope.

21st Century hereby requests expedited consideration of the attached Petition. 21st Century wishes to change its city of license for its construction permit currently for operation on Channel 262A Sibley, IA to Channel 261C3 at Brandon, SD pursuant to Section 1.420(i) of the Commission's rules. Petitioner's construction permit for Channel 262A at Sibley, IA will expire on May 4, 1996 and 21st Century therefore requests expedited consideration of the instant Petition so that it will have time to construct its facility at Brandon prior

to expiration of its construction permit, provided the Commission grants this Petition.

Please contact the undersigned if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "James L. Primm", is written over a horizontal line. The signature is stylized with a large loop at the beginning and a long horizontal stroke extending to the right.

James L. Primm
President
and Counsel

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the matter of)	
)	MM Docket No.
Amendment of Section 73.202(b))	RM-
Table of Allotments)	
FM Broadcast Stations)	
Sibley, IA and Brandon, SD)	
To: Chief, Policy and Rules Division		

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PETITION FOR RULE MAKING

21st Century Radio Ventures, Inc., permittee of KAJQ (FM), Sibley, IA ("Petitioner") (File No. BPH-930809MA) hereby petitions the Commission to institute a rule making proceeding for the purpose of substituting Channel 261C3 for Channel 262A at Sibley, IA and the reallocation of Channel 261C3 from Sibley to Brandon, South Dakota to provide that community with its first local service. Petitioner proposes to amend the Table of FM Allotments as follows:

	<u>Present</u>	<u>Proposed</u>
Sibley, IA	262A	-----
Brandon, SD	-----	261C3

The coordinates for the proposed allotment to Brandon, SD are North Latitude 43°36'02" and West Longitude 96°31',15". Note that Channel 282A is available as an

equivalent substitution for Channel 262A at Sibley, IA.

In addition, it is requested that the Commission modify the construction permit issued to Petitioner for KAJQ(FM) to specify operation on Channel 261C3 at Brandon, South Dakota, pursuant to Section 1.420(i) of the Commission's Rules. The Commission may modify the permit issued to Petitioner without considering competing expressions of interest because the proposed allotment of Channel 261C3 to Brandon, South Dakota is mutually exclusive with the present allotment of Channel 262A at Sibley, IA. As discussed below, the proposed change in allotments will not deprive Sibley of a service upon which the public has come to rely because Petitioner has not yet constructed KAJQ and the proposed change in allotments will result in a preferred distribution of facilities under the Commission's FM allotment priorities and policies. See Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License, 4 FCC Rcd 4870, 66 RR 2d 827 (1989) ("Report and Order"), recon. granted in part, 5 FCC Rcd 7094, 68 RR 2d 644 (1990) ("Memorandum Opinion and Order").

DISCUSSION

I. BRANDON IS CLEARLY A COMMUNITY FOR PURPOSES OF THE COMMISSION'S ALLOTMENT CRITERIA AND IS SEPARATE AND APART FROM THE COMMUNITY OF SIOUX FALLS, SOUTH DAKOTA

47 U.S.C. Section 307(b), as amended, requires that the Commission distribute frequencies among the "several states and communities." The Commission has defined community as a geographically identifiable population grouping. Generally, if a community is incorporated or is listed in the U.S. Census, that is sufficient to satisfy its status as a community. See Revision of FM Assignments Policies and Procedures, 90 F.C.C. 2d 88 (1982) ("Assignments Policies"). Brandon, SD (population 3,543) is identified as a separate community in the 1990 U.S. Census.

Brandon is a community separate and apart from the community of Sioux Falls, South Dakota. Brandon was incorporated in 1973 and is governed independently (mayor and six council members) and holds elections for its own officials. Brandon operates its own police department. It also has a separate tax base, requiring payment of certain property taxes and a separate city sales tax of 2%. Brandon also maintains its own school system and has its own 26 member volunteer fire department. In addition, Brandon is not located within an urbanized area.

II. ALLOTMENT OF CHANNEL 261C3 AT BRANDON, SD IS MUTUALLY EXCLUSIVE WITH AN ALLOTMENT OF CHANNEL 262A AT SIBLEY, IA

Section 1.420(i) of the Commission's rules permits a station to specify a new community of license, provided the proposed allotment is mutually exclusive with the present assignment. Because the Brandon Channel 261C3 reference site would be short-spaced to the authorized KAJQ site, the new allotment is mutually exclusive with the existing allotment. Please see Figure 1 of the engineering statement of duTreil, Lundin & Rackley attached hereto for an allocation study of the cities in question.

The referenced site at Brandon also complies with the Commission's minimum distance separation requirements contained in Section 73.207 to all existing, authorized and proposed stations and allotments, except to the authorized KAJQ site. Operation from the reference site will provide the requisite city grade signal to all of Brandon. Figure 2 of the Engineering Exhibit attached hereto is a map showing the area to locate channel 261C3 at Brandon in compliance with the Commission's minimum distance separation requirements and city coverage requirements based on maximum Class C3 facilities.

III. THE PROPOSAL WILL RESULT IN A PREFERENTIAL ARRANGEMENT OF ALLOTMENTS

A. Brandon, SD Will Receive Its First Local Broadcast Service Without The Loss of an Existing Service to Sibley, IA

Application of the Commission's FM allotment priorities and policies to the

proposed change of allotments will result in a preferential arrangement of allotments. Brandon will be provided with its first local broadcast service which is the Commission's third FM allotment priority and second in weight behind provision of a first aural service. See Assignment Policies, 90 F.C.C. 2d 88, 92 (1982). The removal of KAJQ from Sibley, on the other hand, will not deprive that community of a local transmission service on which it has come to rely because KAJQ has never been constructed and is therefore not a service upon which the public has come to rely.

Figure 6 of the attached engineering statement of duTreil, Lundin & Rackley indicates that Brandon will remain "well served" by aural services even in the absence of KAJQ (which is not yet on the air in any event). As demonstrated in the attached Engineering Exhibit, all of the gain and loss areas will have at least five reception services available after giving effect to the change in community proposal. The Commission has indicated that a community is "well served" by aural service if there are more than five aural services available. See Report and Order, Amendment of Section 73.202(b) (Oshkosh, Winneconne & Townsend, Wisconsin and Menominee, Michigan), MM Docket No. 90-139, released February 21, 1995.

The Commission has viewed reallocations which do not result in the loss of an on-air service more favorably. In the Memorandum Opinion and Order, the Commission noted that a reallocation must not deprive a community of an "existing service." The Commission has indicated that an "existing service" for purposes of

Section 1.420(i) does not include an unbuilt construction permit. The Commission recently upheld reallocation of an unbuilt construction permit noting that although the community being left behind did not yet have a constructed radio service, because no on-air service would be eliminated, the public would not be losing a service upon which it had come to rely. In the Matter of Amendment of Section 73.202(b), Sanibel and San Carlos Park, FL, Report and Order, MM Docket No. 92-10, (released June 29, 1995); Pawley's Island and Atlantic Beach, South Carolina, 8 FCC Rcd 8657 (1993) and; Glencoe and Le Sueur, Minnesota, 7 FCC Rcd 7651 (1992). KAJQ remains unbuilt and therefore there will not be a loss of existing service to Sibley.

B. Alternate FM Channel Is Available at Sibley

Channel 282A is available as an equivalent substitute for Channel 262A at Sibley. As demonstrated in the attached Engineering Exhibit, the Sibley reference site complies with the Commission's minimum distance separation requirements to all known existing, authorized and proposed stations and allotments. As a result, Sibley, IA will not be deprived of its own FM service in the future should there be an expression of interest.

**C. The Number of Persons Served Will Be Dramatically Increased From
23,527 People to 151,891 People With A "Net Increase" in 1mV/m
Coverage of 128,364 People.**

The attached Engineering Exhibit of duTreil, Lundin & Rackley indicates that the reallocation will result in a dramatic increase in service to populated areas, with service increasing from only 23,527 people to 151,891 people. This results in a net gain of 128,364 persons served, even after allowing for a theoretical loss in service to 23,527 people (the loss is noted as theoretical because the station is unbuilt and has never been on the air). The theoretical loss in service will be reduced to only 5,475 people should Channel 282A be allocated to Sibley, with a net gain of 156,090.

Petitioner suggests that the resulting large increase in population served justifies a small theoretical loss in service from unbuilt KAJQ, particularly because the loss occurs in areas already well served by radio (defined as five or more services reaching the area).

It should also be noted that Brandon (population 3,543) is itself a larger community than Sibley (population 2,815). As a result, Petitioner's request will bring first local service to more people.

D. KAJQ Was Not Obtained Through the Commission's Comparative Hearing Process

The Memorandum Opinion and Order indicates that a modification of city of license of an unbuilt facility will generally not be permitted when a construction permit is obtained through the Commission's comparative hearing process. Memorandum Opinion and Order, 5 FCC Rcd at 7097. KAJQ was obtained on a first-come first-serve

basis and as a result it is not subject to the foregoing restriction.

V. APPLICATION BY PETITIONER AFTER GRANT OF INSTANT PETITION

In the event that the instant petition is granted, Petitioner will file an application for a modification of its construction permit for the facilities provided herein and shall promptly construct the facilities when such authorization is granted.

VI. SUMMARY AND CONCLUSION

The proposed substitution of Channel 261C3 for Channel 262A at Sibley, Iowa and the reallocation of Channel 261C3 from Sibley to Brandon, South Dakota and the modification of the construction permit of FM station KAJQ accordingly, will result in a preferential arrangement of allotments under the Commission's rules. At least 128,364 more people will be served and the larger city of Brandon, South Dakota (population 3,543 compared to 2,815 at Sibley, Iowa) will be provided with its first local broadcast service. Sibley will not lose a service upon which it had come to rely because KAJQ is not yet on the air. Additionally, an additional FM channel, 282A is available as an equivalent substitution for Channel 262A at Sibley.⁴

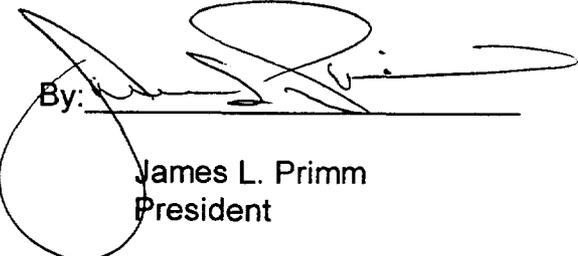
The proposed reallocation meets all Commission technical requirements, as the proposed reallocation is mutually exclusive with the present assignment and it will meet

all Commission separation requirements. Operation from the reference site will place a city grade signal over Brandon.

The Statements in this Petition for Rulemaking are true, complete and correct to the best of my knowledge and belief, and are made in good faith.

Respectfully submitted,

21st Century Radio Ventures, Inc.

By: 

James L. Primm
President

21st Century Radio Ventures, Inc.
530 Wilshire Blvd., suite 301
Santa Monica, CA 90401
310-393-2741

DATED 11/2/95

TECHNICAL EXHIBIT
IN SUPPORT OF
A PETITION FOR RULE MAKING
TO AMEND THE FM TABLE OF ALLOTMENTS
SIBLEY, IOWA AND BRANDON, SOUTH DAKOTA

Technical Narrative

This technical narrative and associated exhibits have been prepared on behalf of 21st Century Radio Ventures, Inc. (herein "Petitioner") in support of a Petition for Rule Making to amend Section 73.202(b) by the substitution of channel 261C3 for channel 262A at Sibley, Iowa and the reallocation of channel 261C3 from Sibley to Brandon, South Dakota and the modification of the construction permit (BPH-930809MA) of FM Station KAJQ accordingly. As the requested change to is mutually exclusive with the allotment of channel 262A at Sibley, Petitioner invokes the provisions of Section 1.420(i).

The following is a summary of the reallocation proposal:

- The larger community of Brandon (population 3,543) will be provided with its first local aural transmission service and Sibley (population 2,815) will not be deprived of its sole "existing" local service because petitioner has not yet constructed KAJQ.
- The population of Brandon has increased by 36.8 percent between 1980 and 1990, whereas the population of Sibley has decreased by 7.7 percent during the same time period.
- Brandon is not located within an Urbanized Area as defined by the 1990 U.S. Census.

- The number of persons within the KAJQ 1 mV/m contour will increase from 23,527 persons to 151,891 persons, and there will be a "net" increase in 1 mV/m coverage of 128,364 persons.
- As KAJQ is unbuilt, the loss area created by the proposal is not a service upon which the public has come to rely.
- All population affected by the change in community will remain well served with at least five reception services available.
- Channel 282A is available as an equivalent substitution for channel 262A at Sibley.
- The Petitioner filed a "first-come/first serve" application for the vacant channel 262A allotment at Sibley; therefore, the authorized KAJQ facilities did not result from a comparative hearing.

Proposed Change in Table of Allotments

Station KAJQ is currently authorized by outstanding construction permit (BPH-930809MA) to operate on channel 262A at Sibley, Iowa with an effective radiated power (ERP) of 6 kW and an antenna height above average terrain (HAAT) of 72 meters. The KAJQ application for construction permit was filed on a "first-come/first serve" basis for the vacant channel 262A allotment at Sibley. Therefore, the authorized KAJQ facilities did not result from a comparative hearing.

Sibley, Iowa has a 1990 U.S. Census population of 2,815 persons which represents a 7.7 percent decline from its 1980 U.S. Census population of 3,051. Sibley has

no existing local AM or FM service. As Petitioner has not yet constructed KAJQ adoption of the proposal will not deprive Sibley of its sole "existing" local service because. Furthermore, channel 282A is available as an equivalent substitution for channel 262A at Sibley.

Brandon, South Dakota has a 1990 U.S. Census population of 3,543 persons which represents a 36.8 percent increase in its 1980 U.S. Census population of 2,589 persons. Brandon has no local FM or AM service and, therefore, Petitioner's proposal would bring first local broadcast service to Brandon.

<u>City</u>	<u>Present</u>	<u>Proposed</u>
Sibley, Iowa	262A	-- ¹
Brandon, South Dakota	--	261C3

Compliance With FCC Rules

The attached Figure 1 is a tabulation of required separations pertinent to use of channel 261C3 at Brandon.² The reference site complies with the Commission's minimum distance separation requirements contained in section 73.207 to all existing, authorized and proposed stations and allotments, except to the

¹ Channel 282A is available as an equivalent substitution for channel 262A at Sibley.

² The geographic coordinates for Channel 261C3 at Brandon are North Latitude 43°36'02" and West Longitude 96°31'15".

authorized KAJQ site. Operation from the reference site will provide the requisite city grade signal to all of Brandon.

Figure 2 is a map showing the area to locate channel 261C3 at Brandon in compliance with the Commission's minimum distance separation requirements and city coverage requirements based on maximum Class C3 facilities (ERP 25 kW/HAAT 100 m). The Brandon city limits shown on Figure 2 were obtained from a map contained in the 1990 U.S. Census of Population.

Pursuant to section 1.420(i), the Commission will consider petitions to modify the license of an FM station to specify a new community if the proposed allotment would be mutually exclusive with the present assignment. As the entire area to locate for channel 261C3 at Brandon depicted on Figure 2 would be short-spaced to the authorized KAJQ site, including the channel 261C3 reference site, the new allotment is mutually exclusive with the existing allotment.

Channel 282A is available as an equivalent substitute for channel 262A at Sibley. Figure 3 is a tabulation of separations pertinent to the use of channel 282A at Sibley.³ As demonstrated, the Sibley reference site complies with the Commission's minimum distance

³ The geographic coordinates for Channel 282A at Sibley are North Latitude 43°23'54" and West Longitude 95°47'49".

separation requirements to all known existing, authorized and proposed stations and allotments.

Figure 4, attached, is a map showing the area to locate channel 282A at Sibley in compliance with the Commission's minimum distance separation requirements and city coverage requirements based on maximum Class A facilities (ERP 6 kW/HAAT 100 m). The Sibley city limits shown on Figure 4 were obtained from a map contained in the 1990 U.S. Census of Population.

Gain and Loss Areas and Available Aural Services

Figure 5A, attached, is a map showing the FM 1 mV/m primary service contours for the authorized KAJQ operation on channel 262A at Sibley and the proposed operation on channel 261C3 at Brandon. Maximum facilities and uniform terrain were used to determine contour locations. The 1 mV/m "gain" and "loss" areas are also indicated. It is emphasized that the authorized KAJQ facilities are unbuilt and the FCC has stated that the removal of an unbuilt station from a community does not represent the same concerns with loss of service that removal of an operating station would represent.⁴

Figure 5B, attached, is a map showing the FM 1 mV/m primary service contours for the authorized KAJQ

⁴ See paragraph 2 of the Report and Order in MM Docket No. 92-175 (DA 93-1374; adopted November 10, 1993, released December 13, 1993).

operation on channel 262A at Sibley, the proposed operation on channel 261C3 at Brandon and the "available" channel 282A allotment at Sibley. Maximum facilities and uniform terrain were used to determine contour locations. The resulting 1 mV/m gain and loss areas are also indicated.

All population affected by this change in community proposal (i.e. gain and loss areas) will remain well served with at least five reception services available. Figure 6 tabulates the FM stations considered for the available reception services analysis. Only those FM stations necessary to provide at least five (5) full-time aural services to the affected areas have been tabulated on Figure 6.

Figure 7 is a tabulation of the land areas and estimated populations within the 1 mV/m FM primary service contours for the authorized KAJQ channel 262A operation at Sibley, proposed channel 261C3 operation at Brandon and the "available" channel 282A allotment at Sibley. Also tabulated are the gain area, loss area and "net" gain area based on the available channel 282A allotment at Sibley (1) not considered and (2) considered. Adoption of the Petitioner's proposal, without consideration given to the available channel 282A allotment at Sibley, will increase the number of persons within the KAJQ 1 mV/m contour from 23,527 persons to 151,891 persons, and there will be a "net" increase in 1 mV/m coverage 128,364 persons.

Adoption of the Petitioner's proposal, with consideration given to the available channel 282A allotment at Sibley, will increase the number of persons within a 1 mV/m contour from 23,527 to 156,090, and will result in a "net" increase in 1 mV/m coverage of 150,615 persons.

Coverage Contours

The FM predicted coverage contours were calculated in accordance with the provisions of Section 73.313, except that uniform terrain was presumed in all directions.

Population and Area

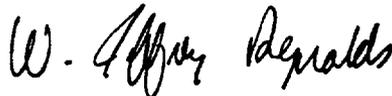
The population within each FM primary service contour (1 mV/m), gain and loss area, and reception area was calculated using a computer program that utilizes the 1990 U.S. Census database of "population centroids". The program adds the populations of those U.S. Census designated areas whose centroid was within each service area. The area within each FM primary service contour was calculated using a root mean square algorithm.

Conclusion

Channel 261C3 can be substituted for channel 262A at Sibley, Iowa and reallocated from Sibley, Iowa to Brandon, South Dakota in compliance with all applicable

Commission Rules. Furthermore, adoption of the proposal, without consideration given to the available channel 282A allotment at Sibley, will increase the number of persons within the KAJQ 1 mV/m contour from 23,527 persons to 151,891 persons, and there will be a "net" increase in 1 mV/m coverage of 128,364 persons. Adoption of the Petitioner's proposal, with consideration given to the available channel 282A allotment at Sibley, will increase the number of persons within a 1 mV/m contour from 23,527 persons to 156,090, and will result in a "net" increase in 1 mV/m coverage of 150,615 persons.

Therefore, Petitioner requests the substitution of channel 261C3 for channel 262A at Sibley, Iowa and the reallocation of channel 261C3 from Sibley to Brandon, South Dakota and the modification of the construction permit (BPH-930809MA) of FM Station KAJQ.



W. Jeffrey Reynolds

du Treil, Lundin & Rackley, Inc.
240 North Washington Blvd.
Suite 700
Sarasota, Florida 34236

July 10, 1995

TECHNICAL EXHIBIT
 IN SUPPORT OF
 A PETITION FOR RULE MAKING
 TO AMEND THE FM TABLE OF ALLOTMENTS
 SIBLEY, IOWA AND BRANDON, SOUTH DAKOTA

FM SEPARATION STUDY

Job Title : Proposed KAJQ, Brandon, South Dakota Separation Buffer 32 km
 FCC DB Date : 05/17/95
 Channel 261C3 (100.1 MHz) Coordinates : 43-36-02 96-31-15

Call Status	City State	FCC File No.	Channel Freq.	ERP(kw) HAAT(m)	Latitude Longitude	Bearing deg-Tru	Dist. (km)	Req. (km)
KRSW LIC	Worthington MN	BLED941220KA	207C1 89.3	100. DA 169.0	43-53-01 95-55-44	56.3	57.13 33.13	24 CLEAR
KKMA LIC	Le Mars IA	BLH781206AE	258C1 99.5	100. 241.0	42-28-56 96-15-30	170.2	126.08 50.08	76 CLEAR
KKCK LIC	Marshall MN	BLH890627KB	259C1 99.7	100. 282.0	44-16-56 96-19-05	12.0	77.48 1.48	76 CLOSE
KEMB LIC	Emmetsburg IA	BLH930907KC	261A 100.1	5. 82.0	43-01-26 94-41-56	112.9 SS	161.11 19.11	142 CLEAR
From Channel 252A per D92-75								
KOLV CP	Olivia MN	BPH940927ID	261C3 100.1	10. 83.0	44-45-49 94-55-49	43.9	181.33 28.33	153 CLEAR
From Channel 269A per One-Step Process								
KAJQ CP	Sibley IA	BPH930809MA	262A 100.3	6. 72.0	43-17-58 95-43-21	117.2	72.78 -16.22	89 SHORT ¹
KIKN LIC	Salem SD	BLH931019KD	263C1 100.5	100. 287.0	43-29-18 97-26-34	260.8	75.56 -0.44	76 CLOSE ²

** End of separation study for channel 261C3 **

¹ Authorized KAJQ site. Requested reallocation of channel 261C3 to Brandon, South Dakota is mutually exclusive with the Petitioner's current channel 262A allotment at Sibley, Iowa.

² Complies with the minimum distance separation requirements of Section 73.207 when rounded to the nearest whole kilometer pursuant to Section 73.208.

Figure 2

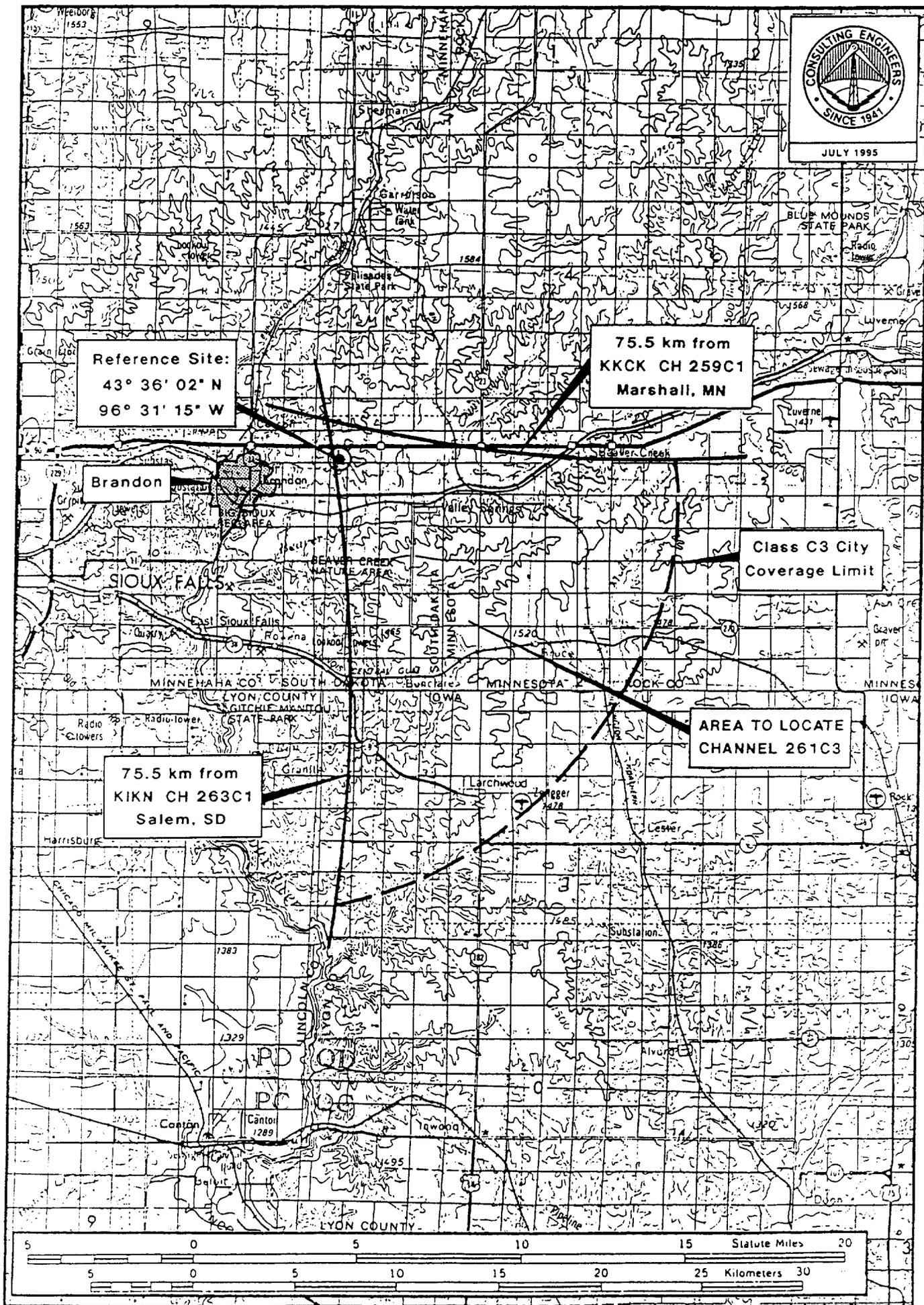


Figure 4

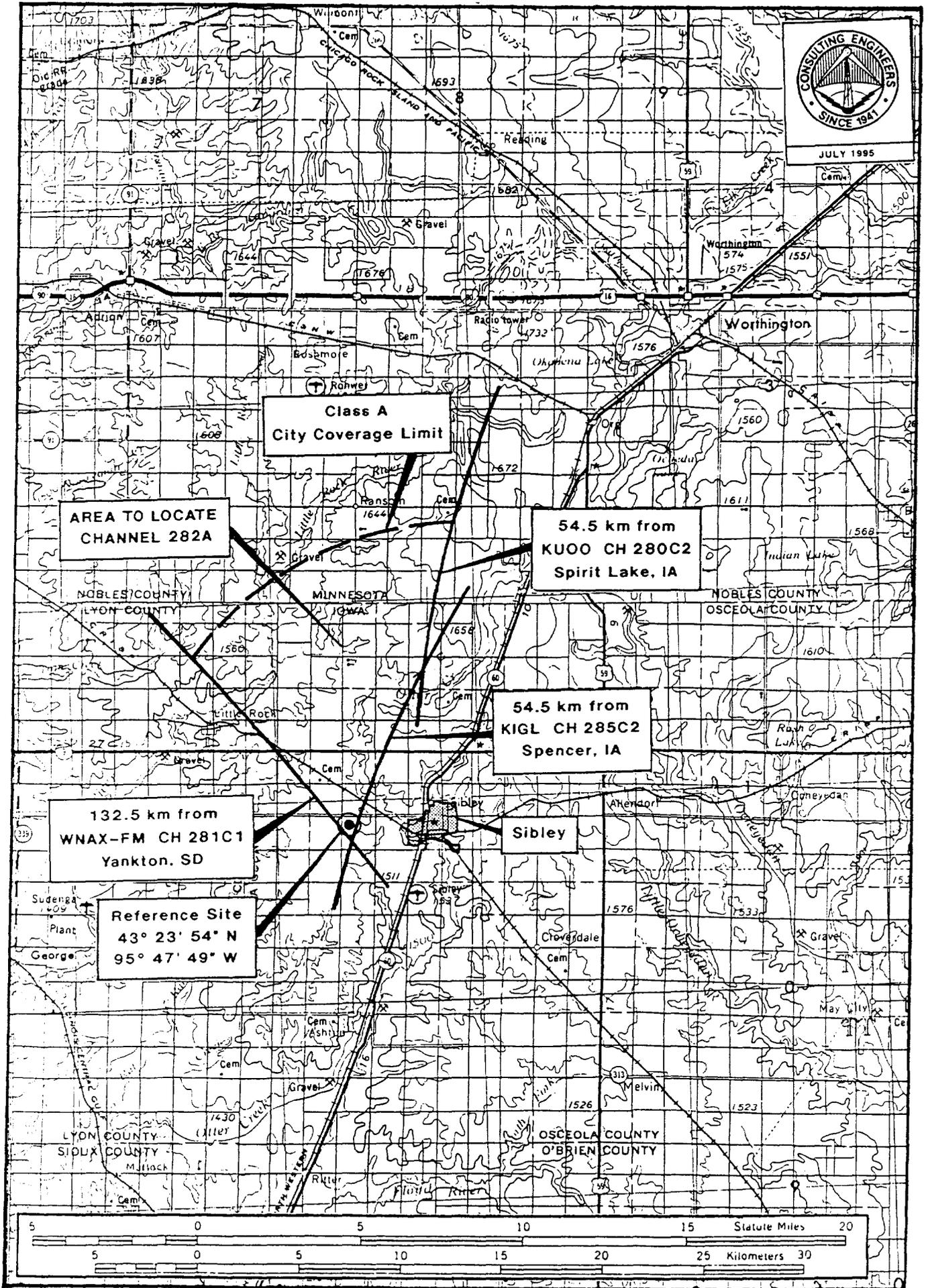
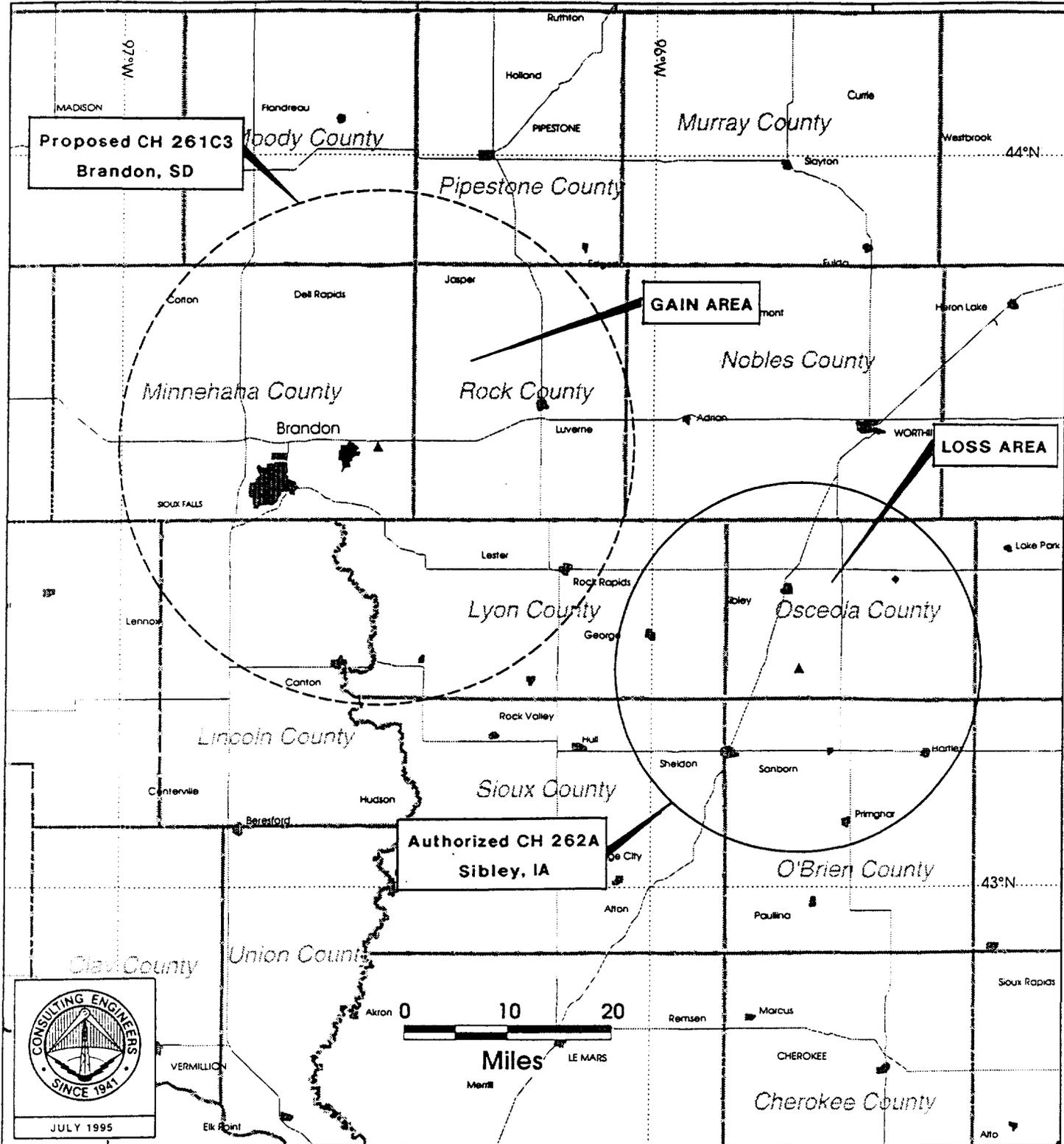


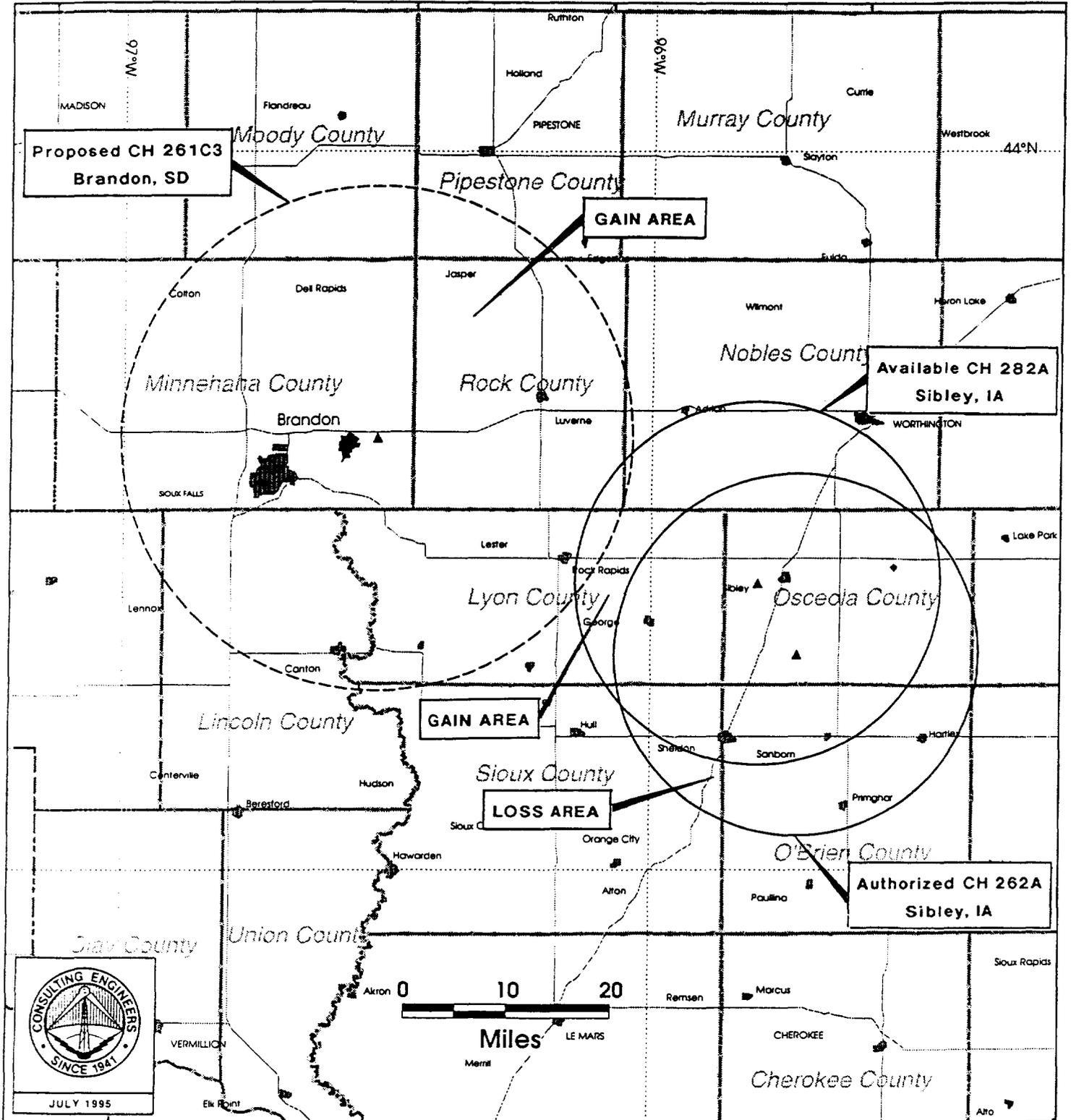
Figure 5A



1 mV/m PRIMARY SERVICE CONTOURS

du Treil, Lundin & Rackley, Inc. Sarasota, Florida

Figure 5B



1 mV/m PRIMARY SERVICE CONTOURS

du Treil, Lundin & Rackley, Inc. Sarasota, Florida

TECHNICAL STATEMENT
 IN SUPPORT OF
 A PETITION FOR RULE MAKING
 TO AMEND THE FM TABLE OF ALLOTMENTS
 SIBLEY, IOWA AND BRANDON, SOUTH DAKOTA

Radio Stations Considered for
Available Reception Services Analysis

I. FM STATIONS - 1 MV/M Contours

Call Letters	Location	Authorized Facilities ¹
KIWA-FM	Sheldon, IA	Ch. 287C2, 50 kW/89 m
KITN	Worthington, MN	Ch. 228C2, 50 kW/142 m
KWOA-FM	Worthington, MN	Ch. 236C1, 100 kW/198 m
KDCR	Sioux Center, IA	Ch. *203C1, 100 kW/91 m
KICD-FM	Spencer, IA	Ch. 299C1, 100 kW/94 m
KUOO	Spirit Lake, IA	Ch. 280C2, 50 kW/150 m
KRSW	Worthington, MN	Ch. *207C1, 100 kW/169 m
KISD	Pipestone, MN	Ch. 254C1, 100 kW/213 m
KNWS	Worthington-Marshall, MN	Ch. *219C1, 99 kW/243 m
KTFG	Sioux Rapids, IA	Ch. 275C2, 50 kW/146 m
KLQL	Luverne, MN	Ch. 266C1, 100 kW/162 m
KELO-FM	Sioux Fall, SD	Ch. 223C, 100 kW/564 m
KNWC-FM	Sioux Falls, SD	Ch. 243C, 100 kW/488 m
KMXC	Sioux Falls, SD	Ch. 247C1, 60 kW/67 m
KRRO	Sioux Falls, SD	Ch. 279C2, 50 kW/57 m
KIXK	Canton, SD	Ch. 274C2, 50 kW/148 m
ALC	Slayton, MN	Ch. 291C2, 50 kW/150 m
KKCK	Marshall, MN	Ch. 259C1, 100 kW/282 m

*Denotes noncommercial, educational FM facility

(Note: There are five or more other FM services available to the gain and loss areas.)

¹ Distances to FM 1 mV/m contours based on FCC's standard prediction method using maximum facilities for the class and presuming uniform terrain.

TECHNICAL STATEMENT
IN SUPPORT OF
A PETITION FOR RULE MAKING
TO AMEND THE FM TABLE OF ALLOTMENTS
SIBLEY, IOWA AND BRANDON, SOUTH DAKOTA

Tabulation of Areas and
Populations Within 1 mV/m Coverage Contours

I. POPULATION AND AREA WITHIN 1 MV/M CONTOURS

Facilities	Within 1 mV/m Contour ¹	
	Population (1990)	Area (km ²)
Authorized Ch. 262A, Sibley, IA	23,527	2,463
Proposed Ch. 261C3, Brandon, SD	151,891	4,778
Available Ch. 282A, Sibley, IA	22,859	2,463

II. POPULATION AND AREA WITHIN GAIN AND LOSS AREAS

- a. Available Ch. 282A allotment at Sibley, Iowa
Not Considered (See Figure 5A)

Area	Within 1 mV/m Contour ¹	
	Population (1990)	Area (km ²)
Gain Area	151,891	4,778
Loss Area	23,527	2,463
"Net" Gain Area	128,364	2,315

- b. Available Ch. 282A allotment at Sibley, Iowa
Considered (See Figure 5B)

Area	Within 1 mV/m Contour ¹	
	Population (1990)	Area (km ²)
Gain Area	156,090	5,332
Loss Area	5,475	696
"Net" Gain Area	150,615	4,636

¹ Distances to 1 mV/m contours based on maximum facilities for the class and uniform terrain. Population calculated using a computer program that utilizes the 1990 U.S. Census database of "population centroids". The program adds the populations of those U.S. Census designated areas whose centroid was within each service area. The land areas were calculated using a root mean square algorithm.



Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 96-66

In the Matter of

Amendment of Section 73.202(b), RM-8729
Table of Allotments,
FM Broadcast Stations.
(Sibley, Iowa and
Brandon, South Dakota)

NOTICE OF PROPOSED RULE MAKING

Adopted: March 11, 1996; Released: March 29, 1996

Comment Date: May 21, 1996

Reply Comment Date: June 5, 1996

By the Chief, Allocations Branch:

1. The Commission has before it the petition for rule making filed by 21st Century Radio Ventures, Inc. ("petitioner"), permittee of Station KAJQ(FM), Channel 262A, Sibley, Iowa, proposing the substitution of Channel 261C3 for Channel 262A, the reallocation of Channel 261C3 from Sibley, Iowa, to Brandon, South Dakota, and the modification of petitioner's construction permit to specify Brandon as Station KAJQ(FM)'s community of license. Petitioner also suggests the allotment of Channel 282A at Sibley, Iowa. Petitioner states it will apply for Channel 261C3 at Brandon, if allotted.

2. Petitioner seeks modification of Station KAJQ(FM)'s authorization pursuant to the provisions of Section 1.420(i) of the Commission's Rules, which permits the modification of a station's license to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest.¹ Petitioner contends that adoption of its proposal will result in a preferential arrangement of allotments since Brandon will receive its first local aural transmission service. In support of its proposal, petitioner states that Brandon is incorporated community and is governed by elected officials. Petitioner notes that Brandon has its own police department, separate tax base, school system and a twenty-six member volunteer fire department.

3. Based on the information before us, we are unable to determine whether petitioner's proposal would result in a preferential arrangement of allotments. Our initial analysis indicates that while petitioner's proposal would provide a

first local aural transmission service to Brandon, it also would deprive Sibley of its sole local service, since Station KAJQ(FM) is the only station licensed to serve the community. Although, petitioner suggests that Channel 282A is an equivalent substitute for Channel 262A at Sibley, it failed to express an interest in applying for the channel, if allotted. In order for the Commission to propose a change to the FM Table of Allotments, the proponent of an allotment proposal must cite a clear intention to apply for the channel and indicate a willingness to construct a station. Absent such an expression of interest, the Commission will not propose the allotment of a channel. Since we will not propose the allotment of Channel 282A to Sibley, we find that petitioner's proposal represents a request to remove the sole local commercial FM service from Sibley.

4. Although the *Community of License MO&O* restricts the removal of a community's sole local broadcast service, that document also states that a waiver of the prohibition will be considered "in the rare circumstances where removal of a local service might serve the public interest." *Id.*, 5 FCC Rcd 7096. However, we do not believe that the public interest is served by removing a community's sole local transmission service merely to provide a first local transmission to another community. The reallocation proposal must serve the Commission's allotment priorities and policies.² In this case, petitioner maintains that the reallocation of the channel from Sibley (population 2,815) to Brandon (population 3,543)³ will permit the number of persons served to increase from 23,527 people to 141,891 people with a "net increase" in 1 mV/m (60 dBu) coverage of 128,364 people. Petitioner argues that the theoretical loss of 23,527 people, the loss is noted as theoretical since the station is unbuilt, is justified because of the fact that the loss occurs in areas already well served by radio. However, our engineering analysis indicates that the proposed gain in number of persons to be served is attributable to the fact that the petitioner is proposing to move its station closer to the Sioux Falls, South Dakota Urbanized Area. In this regard, the Commission recently ruled that if a station seeks to move from rural communities to suburban communities located outside but proximate to Urbanized Areas, the proponent will be required to make the same showing that is currently require of stations seeking to move into Urbanized Areas if they would place a city-grade (70dBu) signal over 50% or more of the Urbanized Area. See *Headland, Alabama and Chattahoochee, Florida*, 10 FCC Rcd 10352 (1995). In this case, if Channel 261C3 is allotted to Brandon, Station KAJQ(FM) will provide a 70 dBu signal to 90% of the Sioux Falls, South Urbanized Area. Based on our engineering findings, we request that petitioner submit information sufficient to show that Brandon is deserving of a first local service preference using the Commission's three factors enumerated in *RKO General (KFRC)*, 5 FCC Rcd 3222 (1990), and *Faye and Richard Tuck*, 3 FCC Rcd 5374, (1988).

5. Channel 261C3 can be allotted to Brandon in compliance with the Commission's minimum distance separation requirements with a site of 5.4 kilometers (3.4 miles) east to accommodate petitioner's desired site.⁴ In accordance

¹ See *Modification of FM and TV Authorizations to Specify a New Community of License ("Change of Community R&O")*, 4 FCC Rcd 4870 (1989), *recon. granted in part ("Change of Community MO&O")*, 5 FCC Rcd 7094 (1990).

² The FM allotment priorities are: (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 given to priorities (2) and (3)].

³ Population figures were taken from the 1990 U.S. Census.

⁴ The coordinates for Channel 261C3 at Brandon are North

with the provisions of Section 1.420(i) of the Commission's Rules, we shall not accept competing expressions of interest in use of Channel 261C3 at Brandon or require the petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

6. Accordingly, we seek comments on the proposed amendment of the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, for the community listed below, to read as follows:

City	Channel No.	
	Present	Proposed
Sibley, Iowa	262A	
Brandon, South Dakota	--	261C3

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

8. Interested parties may file comments on or before May 21, 1996, and reply comments on or before June 5, 1996, and are advised to read the Appendix for the proper procedures. Comments should be filed with the Secretary, Federal Communications Commission, Washington, D.C. 20554. Additionally, a copy of such comments should be served on the petitioner, or its counsel or consultant, as follows:

James L. Primm, President
21st Century Radio Ventures, Inc.
530 Wilshire Boulevard
Suite 301
Santa Monica, California 90401
(Petitioner)

9. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. See *Certification That Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, February 9, 1981.

10. For further information concerning this proceeding, contact Pam Blumenthal, Mass Media Bureau, (202)418-2180. For purposes of this restricted notice and comment rule making proceeding, members of the public are advised that no *ex parte* presentations are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the proceeding has been decided and such decision is no longer subject to reconsideration by the Commission or review by any court. An *ex parte* presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a

request or a summary of any new oral information shall be served by the person making the presentation upon the other parties to the proceeding unless the Commission specifically waives this service requirement. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See Section 1.420(a), (b) and (c) of the Commission's Rules.) Comments should be filed with the Secretary, Federal Communications Commission, Washington, D.C. 20554.

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street N.W., Washington, D.C.



STAMP & RETURN

**21st Century Radio Ventures, Inc.
530 Wilshire Blvd. suite 301
Santa Monica, CA 90401
310-393-2741 (telephone)
310-393-4802 (fax)**

May 20, 1996

Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

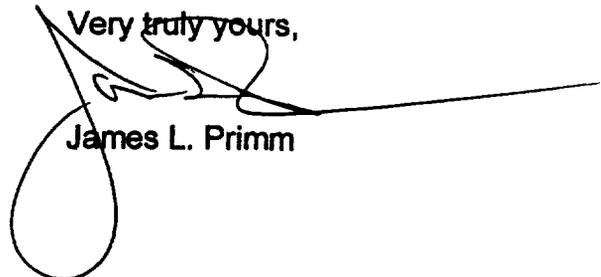
RECEIVED
MAY 21 1996
FCC MAIL ROOM

re: Petition for Rule Making to Allot Channel 282A to Sibley, Iowa

Please find enclosed the original and four copies of a Petition for Rule Making in the above entitled action. Also enclosed is a copy marked stamp and return. Please return that copy in the enclosed postage paid envelope.

Please contact the undersigned if you have any questions.

Very truly yours,


James L. Primm

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the matter of)	
)	MM Docket No.
Amendment of Section 73.202(b))	RM-
Table of Allotments)	
FM Broadcast Stations)	
Sibley, IA)	

MAY 21 1996
FCC

TO: Chief, Policy and Rules Division

PETITION FOR RULE MAKING

21st Century Radio Ventures, Inc. ("Petitioner") hereby requests the amendment of Section 73.202(b) of the Commission's Rules to add Channel 282A to Sibley, Iowa. In support hereof is an attached mileage separation study (Exhibit 1), showing that Channel 282A can be allotted to Sibley consistent with the Commission's minimum distance separation requirements (see Section 73.207 of the Commission's Rules).

If the Commission allots Channel 282A to Sibley, Petitioner will tender for filing an application seeking authority to construct the facility.

The statements in this Initial Comments are true, complete and correct to the best of my

knowledge and belief and are made in good faith.

Respectfully submitted,

21st Century Radio Ventures, Inc.

Dated: 5/20/96

By: 

James L. Primm
President and Counsel

21st Century Radio Ventures, Inc.
530 Wilshire Blvd., suite 301
Santa Monica, CA 90401
310-393-2741

EXHIBIT 1
MILEAGE SEPARATION STUDY

EXHIBIT 1A

