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NOV 10 1998

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November 10, 1998

**BY HAND DELIVERY**

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

RM-9413

Re: Petition for Rulemaking  
FM Table of Allotments  
Florence, Montana

Dear Ms. Salas:

Transmitted herewith on behalf of Florence Broadcasting Company are an original and four copies of its Petition for Rulemaking requesting the Commission to institute a rulemaking proceeding to amend the FM Table of Allotments and allot Channel 278A to Florence, Montana, as that community's first local broadcast service.

Should any questions arise concerning this matter, please communicate directly with this office.

Very truly yours,  
FLETCHER, HEALD & HILDRETH, P.L.C.



Andrew S. Kersting  
Counsel for Florence Broadcasting Company

Enclosure

cc (w/ encl.): Certificate of Service (by hand)

No. of Copies rec'd  
List A B C D E

0+4

BEFORE THE

**Federal Communications Commission**

WASHINGTON, D.C. 20554

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	MM Docket No. _____
Table of Allotments,	)	RM No. <u>9413</u>
FM Broadcast Stations,	)	
(Florence, Montana)	)	

To: Chief, Allocations Branch

**PETITION FOR RULEMAKING**

Florence Broadcasting Company ("FBC"), by counsel, and pursuant to Section 1.401 of the Commission's rules, hereby requests the Commission to institute a rulemaking proceeding for the purpose of amending the FM Table of Allotments to allot Channel 278A to Florence, Montana, as that community's first local broadcast service. Thus, FBC proposes to amend Section 73.202(b) of the Commission's rules as follows:

	<u>Channel No.</u>	
<u>City</u>	<u>Present</u>	<u>Proposed</u>
Florence, Montana	----	278A

In support of this request, the following is stated:

The city of Florence, Montana, is located in Ravalli County, and has a 1990 U.S. Census population of 250.<sup>1</sup> The Bitterroot Valley Chamber of Commerce estimates, however, that the

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<sup>1</sup> Source: *Rand McNally Commercial Atlas & Marketing Guide*, p. 410 (127th ed.) (1996).

current population of Florence is approximately 1,200.<sup>2</sup> Florence has its own post office, zip code, and local volunteer fire department.<sup>3</sup> Local educational facilities include the Florence Elementary School, the Florence-Carlton High School, and the Florence-Carlton School District.<sup>4</sup>

The Florence community also is served by Farmers State Bank, an investment services company, a CPA firm, three practicing attorneys, and two real estate companies.<sup>5</sup> Florence also is home to three churches, a grocery store, three restaurants, a bed & breakfast, and two local bars. Local health care services are provided by two dentists and two chiropractors. Local animal and pet care services are provided by two veterinarians.

The Florence yellow pages also contain listings for 27 other commercial establishments which are located within the local community, a representative sample of which includes an upholstery shop, a bookkeeping service, a used truck company, a specialty coffee shop, four insurance companies, three hair salons, a pony farm, a taxidermist, a floor covering store, a sporting goods store, a construction company, an office supply company, three antique and collectible stores, two galleries, and two alternative health care providers.

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<sup>2</sup> The community of Florence is located in an area known as the Bitterroot Valley, or the "Banana Belt" of Montana. See The Bitterroot Valley Chamber of Commerce, Climate & Demographic Information (Internet Site: <http://www.bvchamber.com/bvclimate.html>).

<sup>3</sup> The Florence Rural Fire District responded to a total of 205 calls during 1997. See Internet Site: <http://www.florence.k12.mt.us/town/cgroups/fire/index.htm>.

<sup>4</sup> See Internet Sites: <http://www.bvchamber.com/bvservices.html>; search engine: *Yahoo Yellow Pages*: Florence, Montana 59833.

<sup>5</sup> Unless otherwise indicated, all of the information contained herein regarding the community of Florence has been obtained off the Internet through the search engine *Yahoo Yellow Pages* - Florence, Montana 59833.

FBC respectfully submits that the local community services, organizations, and commercial establishments described above are sufficient to demonstrate that Florence is a community for allotment purposes.<sup>6</sup>

As demonstrated in the attached engineering materials, the proposed allotment meets the minimum distance separation requirements with respect to all known licenses, construction permits, open allotments, pending applications, and pending rulemaking petitions. *See* Attachment A, p. 1. The engineering exhibit also demonstrates that, from the specified reference coordinates, the proposed station would provide a coverage contour in excess of the required 70dBu over the entire community of license. *Id.* at 2.

As stated above, the allotment of Channel 278A will provide Florence with its first local transmission service, which will promote the objectives of Section 307(b) of the Communications Act of providing a fair, efficient and equitable distribution of broadcast stations among the various states and communities,<sup>7</sup> and promote the third allotment priority established in *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88, 91 (1982).<sup>8</sup>

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<sup>6</sup> *See, e.g., Westley, California*, 13 FCC Rcd 2470 (Allocations Branch 1998); *Yarnell, Arizona*, 13 FCC Rcd 2143 (Allocations Branch 1998); *Garrison, Kentucky*, 6 FCC Rcd 1428 (Allocations Branch 1991).

<sup>7</sup> 47 U.S.C. §307(b). *See National Broadcasting Co. v. U.S.*, 319 U.S. 190, 217 (1943) (describing a goal of the Communications Act to “secure the maximum benefits of radio to all the people of the United States”); *FCC v. Allentown Broadcasting Co.*, 349 U.S. 358, 359-62 (1955) (describing a goal of Section 307(b) to “secure local means of expression”).

<sup>8</sup> The criteria for determining the comparative preferability of a proposed FM allotment are (1) first full-time aural service; (2) second full-time aural service; (3) first local service; and (4) other public interest matters. 90 FCC 2d at 91.

In the event this petition requesting the allotment of Channel 278A at Florence, Montana, is granted, FBC will file comments in support of the proposed allotment. If the proposed allotment is adopted, FBC will file an application for a construction permit for the new station, and, if its application is granted, will promptly construct the new facility.

WHEREFORE, in light of the foregoing, Florence Broadcasting Company respectfully requests that the Commission GRANT this petition for rulemaking, issue a *Notice of Proposed Rule Making* proposing to AMEND the FM Table of Allotments in the manner set forth herein, and ALLOT Channel 278A to Florence, Montana, as that community's first local broadcast service.

Respectfully submitted,

FLORENCE BROADCASTING COMPANY

By: 

Frank R. Jazzo

Andrew S. Kersting

Its Counsel

Fletcher, Heald & Hildreth, P.L.C.  
1300 N. Seventeenth Street  
11th Floor  
Arlington, Virginia 22209  
(703) 812-0400

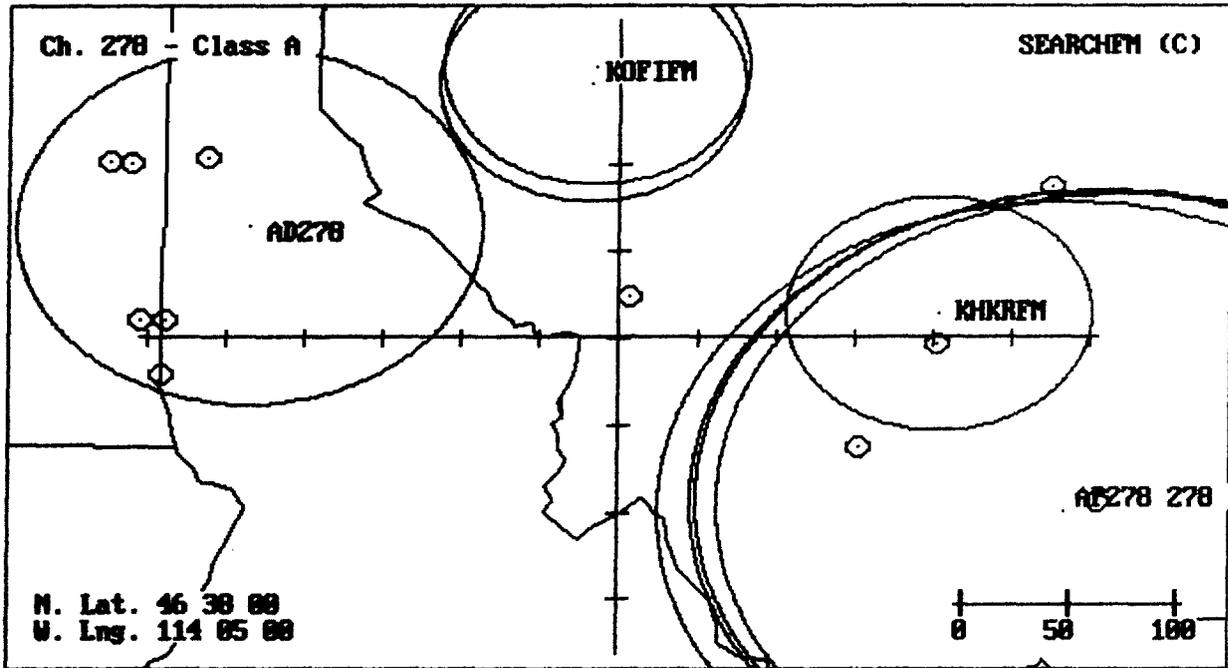
November 10, 1998

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**Attachment A**

**Engineering Materials**

Contours Inc.  
 Charleston SC (888)697-6630



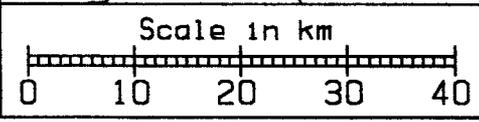
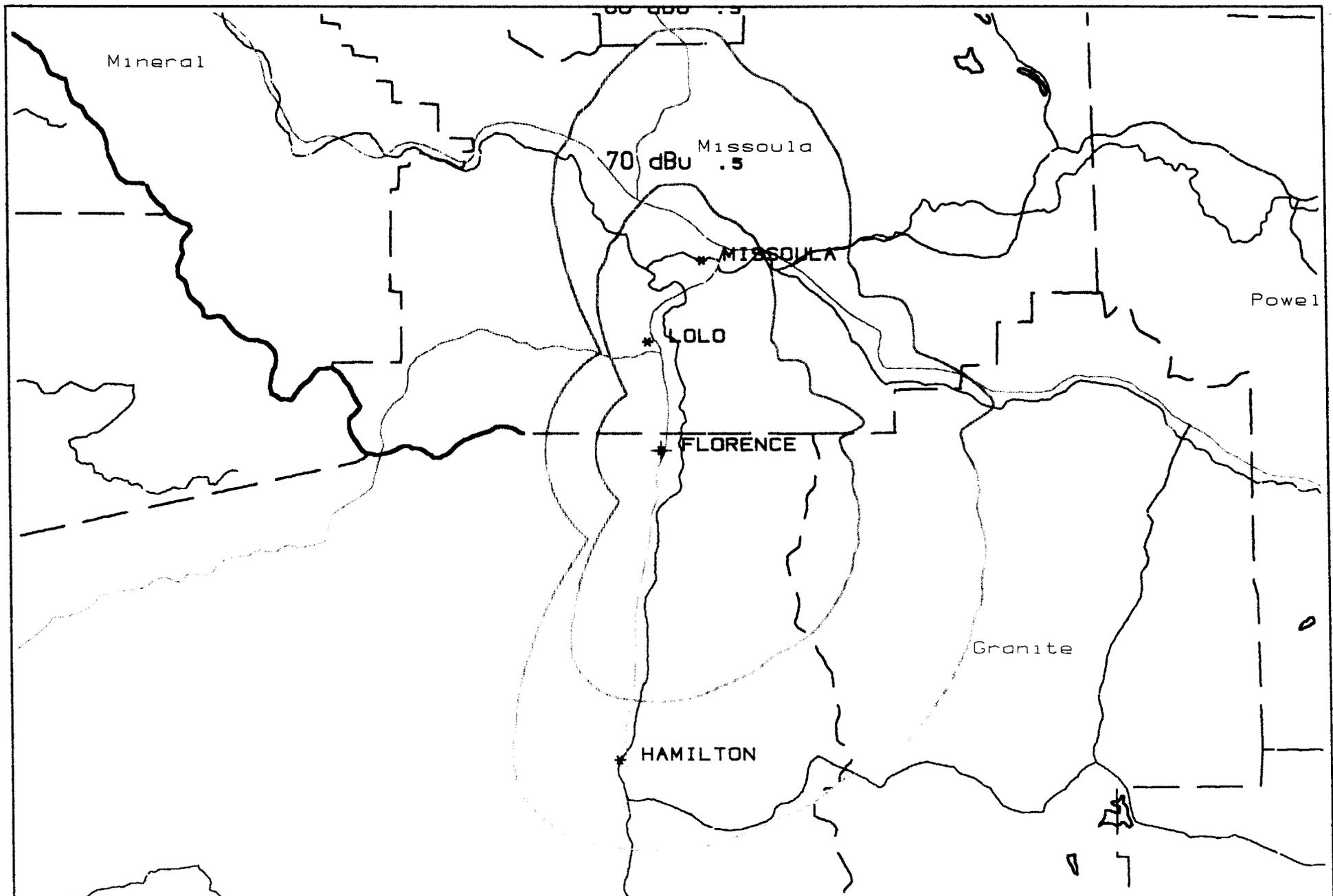
Florence MT  
 Using City Coordinates

Search 11-05-98

Data 10-23-98

Current rules spacings  
 CHANNEL 278 -103.5 MHz

CALL	CH#	CITY	STATE	BEAR'	D-KM	R-KM	MARGIN
AP278	278C1	Bozeman	MT	116.9	247.44	200.0	47.44
ALOPEN	278C1	Bozeman	MT	114.3	258.04	200.0	58.04
AP278	278C1	Bozeman	MT	113.6	261.29	200.0	61.29
AP278	278C1	Bozeman	MT	113.2	270.36	200.0	70.36
AD278	278A	St. Maries	ID	291.6	196.26	115.0	81.26
KVCM.A	276C1	Helena	MT	84.5	158.26	75.0	83.26
KVCM	276C1	Helena	MT	84.5	158.26	75.0	83.26
KHKRFM	281C1	East Helena	MT	84.5	158.26	75.0	83.26
KOFIFM	280C1	Kalispell	MT	355.0	163.02	75.0	88.02
KOFIFM	280C1	Kalispell	MT	355.8	174.39	75.0	99.39



FLOR 278 6kW  
N. Lat. 46 38 00 W. Lng. 114 05 00

FLORENCE MT  
CONTOURS INC. - 11/98

**CERTIFICATE OF SERVICE**

I, Barbara Lyle, a secretary in the law firm of Fletcher, Heald & Hildreth, P.L.C., hereby certify that on this 10th day of November, 1998, copies of the foregoing "Petition for Rulemaking" were hand delivered to the following:

John A. Karousos, Chief  
Allocations Branch  
Policy and Rules Division  
Mass Media Bureau  
Federal Communications Commission  
2000 M Street, N.W., Room 554  
Washington, DC 20554

Ms. Kathleen Scheuerle  
Allocations Branch  
Policy and Rules Division  
Mass Media Bureau  
Federal Communications Commission  
2000 M Street, N.W., Room 558-A  
Washington, DC 20554

  
\_\_\_\_\_  
Barbara Lyle