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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

May 30, 2000

Magalie Roman Salas, Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

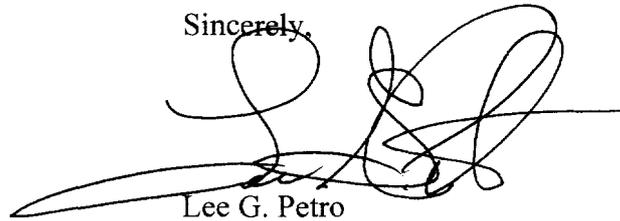
**Re: Comments of Dana R. Withers  
Amendment of Section 73.202(b)-Table of Allotments-FM Broadcast  
Stations (Bethel Springs, Tennessee, et. al.)  
MM Docket No. 99-196, RM-9619, RM-9874**

Dear Ms. Salas:

Transmitted herewith, on behalf of Dana R. Withers, is an original and four (4) copies of her Comments in the above-referenced rulemaking proceeding.

Should there be any questions, please contact undersigned counsel.

Sincerely,



Lee G. Petro

Enclosures

DC01/334497.1

No. of Copies rec'd 0+4  
List A B C D E

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

In the Matter of	)	
	)	MM Docket No. 99-166
	)	RM-9619
Amendment of Section 73.202(b), Table of	)	
Allotments, FM Broadcast Stations (Bethel Springs	)	RM-9874
Martin, South Fulton, Tiptonville, Trenton,	)	
<u>Tennessee, Marble Hill and Scott City, Missouri</u>	)	

To: Chief, Allocations Branch  
Mass Media Bureau

**COMMENTS OF**

**DANA R. WITHERS**

Pursuant to Section 1.415 of the Commission's rules, 47 C.F.R. § 1.415 (1999), Dana R. Withers ("Withers"), the licensee of Station KREZ, Marble Hill, Tennessee, by and through its attorneys, hereby submits the following Comments in opposition to the "*Comments and Counterproposal*" of Thunderbolt Broadcasting Company ("Thunderbolt"), filed on July 12, 1999, regarding the above-referenced proceeding. The instant Comments are submitted pursuant to the *Public Notice* released on May 15, 2000 (Rpt. 2411), providing a period of 15 days for comments on Thunderbolt's Counterproposal.

As discussed more fully below, Option #2 of Thunderbolt's Counterproposal must be denied, as the proposal for substitution of Channel 228A for KREZ at Marble Hill in lieu of the present operating channel 247A would create prohibited short-spacing to Station KGKS, Scott City, Missouri. In this respect, Option #2 would require the modification of the license for Station KGKS to specify a new transmitter site less than one year after the Commission issued a

license authorization for its current transmitter site, and that licensee has not consented to such a move.

As discussed in Withers' Comments filed on July 27, 1999, the contents of which are incorporated herein, under applicable FCC precedent, the Commission will not grant an allocation proposal that contains a transmitter site change to which the licensee has not consented. Further, even assuming that Thunderbolt *did* obtain consent from Zimmer, the proposal must fail as Station KREZ would suffer intolerable interference from the first-adjacent channel Station WKYQ, Paducah, Kentucky.

On the basis of both of these considerations, Option #2 of the Counterproposal must be denied.

## **I. BACKGROUND**

On April 5, 1999, Sherry A. Brown filed a Petition for Rulemaking in this proceeding to allocate Channel 249A at Bethel Springs as that community's first local aural transmission service. The Commission released a *Notice of Proposed Rulemaking*, DA 99-973 proposing the allocation, and requesting comments.

On July 12, 1999, Thunderbolt filed its Comments and Counterproposal proposing two options. Option #1 proposed to substitute Channel 267C3 for Channel 269A at Martin, TN, and the reallocation of Channel 267C3 to South Fulton, Tennessee, at the substitution of Channel 247A for vacant Channel 267C3 at Tiptonville, Tennessee; and the substitution of Channel 249C3 for Channel 248C3 at Trenton, Tennessee. Withers does not object to the Option #1 proposal.

Option #2 is a far more dramatic, proposing:

- the substitution of Channel 267C3 for Channel 269A at Martin, Tennessee;
- the reallocation of Channel 267C3 from Martin to South Fulton, Tennessee;
- the substitution of Channel 247C3 for vacant Channel 267C3 at Tiptonville, Tennessee;
- the substitution of Channel 249C3 for Channel 248C3 at Trenton, Tennessee;
- the substitution of Channel 228A for Channel 247A at Marble Hill, Missouri; and
- the modification of Station KGKS's transmitter site for Channel 230C3 at Scott City, Missouri.

Of special interest to Withers is the proposed reassignment of Station KREZ to operate on Channel 247A. In doing so, as noted above, Station KREZ would be short-spaced to Station KGKS, Scott City, Missouri. Thunderbolt intends to rectify this short-spacing through the relocation of the licensed transmitter site for Station KGKS. However, as noted in Withers previously-filed Comments, Zimmer has not consented to the relocation of its transmitter site. Counsel for Withers has spoken with counsel for Zimmer today, and has been advised that the situation remains unchanged.

## **II. DISCUSSION**

It is a central tenant of the Commission's rules and policies that an authorized facility will not be required to relocate its transmitter site without its prior consent. Except in the most persuasive cases, the Commission has stated that it:

would not sanction a new FM assignment requiring move of an existing station in order to meet spacing requirements...absent an unusually strong and compelling showing that the public gains achievable are sufficient to overcome concern with the ensuing impact upon the affected station and the public.

*Asheville, North Carolina*, 36 Rad Reg. (P&F) 810 ¶ 10. Indeed, even where a licensee initially consented to the reallocation, the Commission has dismissed a proposal where the licensee has changed its position, and withdrew its consent to the transmitter location. *North Charleston*,

*South Carolina, et. al.*, 51 Rad Reg. (P&F) 25, ¶ 37 (1982). The Commission has denied such forced relocations where the proposed service area received a “plethora of other broadcast services, and each station will be able to discharge its principal service obligation to its city of license.” *Claremore, Oklahoma et. al.*, 3 FCC Rcd 4037, ¶ 9 (1988). See also *Mt. Morris, Illinois, et. al.*, 4 FCC Rcd 5485 (1989). Accordingly, as Thunderbolt has failed to obtain consent from Zimmer for the relocation of the transmitter site for Station KGKS, Option #2 must be rejected.

However, even if Zimmer should consent to the relocation of its transmitter site, Option #2 should be rejected as the proposed modifications would result in Station KREZ receiving impermissible interference from Station WKYQ, Paducah, Kentucky. As demonstrated in the attached Engineering Statement of T.Z. Sawyer Technical Consultants, as compared to the current 1<sup>st</sup> adjacent channel interference received from KOEA, Doniphan Missouri, the 1<sup>st</sup> adjacent channel interference caused by Station WKYQ would affect an area 300% (334 to 1,005 square kilometers) greater than by Station KOEA, and would affect 540% more persons (1,358 to 7,376 persons). In light of this substantial interference that would be caused by the reallocation of Station KREZ from Channel 247 to Channel 228, Option #2 must be rejected.<sup>1</sup>

### **III. CONCLUSIONS**

Under circumstances present here as to Option #2, *i.e.*, where the proponent has failed to obtain the consent of a licensed operator to relocate its transmitter site, and additionally, where the proposal would cause impermissible interference to an additional 671 square kilometers and

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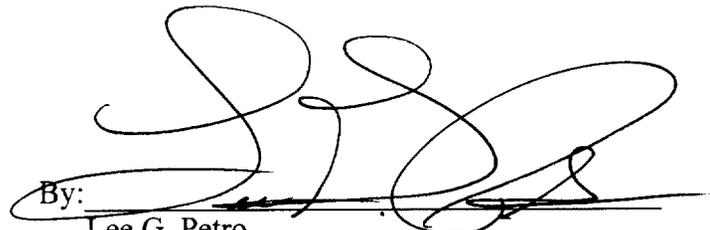
<sup>1</sup> Additionally, as discussed in Withers’ July 1999 Comments, Thunderbolt has failed to address the issue of whether KGKS can be moved to a different location, in light of its use of directional antenna and its current short-spacing to two other facilities.

6,018 persons, the Commission must deny the proposal. Thunderbolt has failed to offer any compelling justification for the requested actions, and such modifications clearly would not result in a preferential arrangement of the Table of FM Allotments. Therefore, Dana R. Withers respectfully requests that the Commission dismiss Thunderbolt's proposal.

Respectfully submitted

**DANA R. WITHERS**

By:   
M. Scott Johnson

By:   
Lee G. Petro

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(202) 289-1504

Her Attorneys

May 30, 2000  
DC01/334448.1

## **ENGINEERING STATEMENT**

**PREPARED FOR**

**DANA R. WITHERS  
KREZ, MARBLE HILL, MISSOURI**

**MAY 2000**

**NARRATIVE**

This Engineering Statement, of which this narrative is part, was prepared on behalf of Dana R. Withers ("Withers"), licensee of FM Broadcast Station KREZ, Marble Hill, Missouri. Ms. Withers has retained this firm to analyze the proposed operation of KREZ on FM Channel 228A, and to compare the impact of such reallocation with its existing operation on FM Channel 247A.

As noted in Withers' July 27, 1999 Comments, the reallocation of Station KREZ to Channel 228A would result in the impermissible short-spacing of Station KREZ to Station KGKS(FM), Scott Hill, Missouri. On this basis alone, Option #2 proposed by Thunderbolt must be rejected.

However, there is an additional basis for the rejection of Option #2. We have compared the two channels based upon the protect contour signal level of 60 dBu (1.0 mV/m) from KREZ, which is equal in size and shape on either channel.

Based upon our analysis of the channels, it can be clearly seen that the station's current operation on Channel 247A is the preferred channel.

Operation on Channel 228A will subject the listening audience of KREZ to an increase in interference from 1<sup>st</sup> adjacent station WKYQ, Paducah, Kentucky.

The predicted protected contour (60 dBu) of KREZ was calculated in accordance with the provisions of 47 C.F.R. §73.313. In accordance with current FCC practice, no consideration was given to terrain roughness correction factors.

The average terrain elevations from 3 to 16 kilometers from the transmitter site were obtained from the N.G.D.C. 3-second terrain database. The 360 radials evenly spaced at 1-degree intervals were used for determining the average terrain elevations and the distance to the protected contour.

The antenna radiation center heights above average terrain in the individual radial directions and the effective radiated power in the appropriate directions were used in conjunction with the F(50,50) curves of 47 C.F.R. §73.333 to determine the distances to the 60 dBu contour.

#### **SUPPLEMENTAL METHOD FOR INTERFERENCE CONTOUR PREDICTION**

A Longley-Rice propagation analysis (based upon N.B.S. Technical Note 101) was used to determine the location of the 54 dBu interference contour from 1<sup>st</sup> adjacent channel stations in each case. Basic program set-up parameters are noted in the data tabulations.

#### **EXHIBITS E-1 & E-2**

The map exhibit in E-1 and the companion data tabulation in E-2, shows the protected 60 dBu (F50,50) protected service contour of Station KREZ as proposed on FM Channel 228A.

As can be seen from the exhibit, interference within the protected contour of KREZ is predicted to occur from 1<sup>st</sup> adjacent channel Station WKYQ, Channel 227C1, Paducah, Kentucky. The area within the protected contour subject to possible interference is

approximately 1,005 square kilometers in size in which 7,376 persons reside. The 1990 U.S. Census (at the block level) was used to determine the population within the interference area.

#### **EXHIBITS E-3 & E-4**

The map exhibit in E-3 and the data tabulation in E-4, shows the protected 60 dBu (F50,50) protected service contour of Station KREZ as licensed on FM Channel 247A.

As can be seen from the exhibit, interference within the protected contour is predicted to occur from 1<sup>st</sup> adjacent channel Station KOEA, Channel 248C2, Doniphan, Missouri. The area within the protected contour subject to possible interference is approximately 334 square kilometers in size in which 1,358 persons reside.

#### **CONCLUSION**

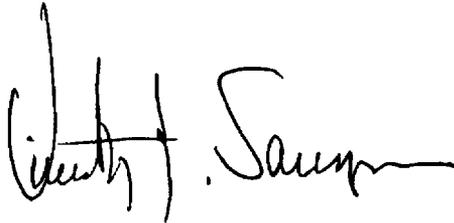
Based upon a Longley-Rice propagation analysis of the interference contours from 1<sup>st</sup> adjacent channel stations, continued operation on FM Channel 247A is preferred. Operation on Channel 228A increases the likelihood of interference within the service contour of KREZ by 671 square kilometers (300%) and an increase in the population within the predicted interference area from 1,358 persons to 7,376 persons, an increase of 540%.

Clearly, the public interest is served best by the continued operation of KREZ on its assigned Channel of 247A.

**CERTIFICATION**

I, Timothy Z. Sawyer, certify that I am the technical consultant/engineer for KREZ and that I have prepared this narrative and exhibits on its behalf. I believe the facts and statements contained herein to be true and accurate.

May 26, 2000

A handwritten signature in black ink, appearing to read "Timothy Z. Sawyer". The signature is fluid and cursive, with a long horizontal stroke at the end.

Digitized Signature - Original ON FILE - Timothy Z. Sawyer

Timothy Z. Sawyer

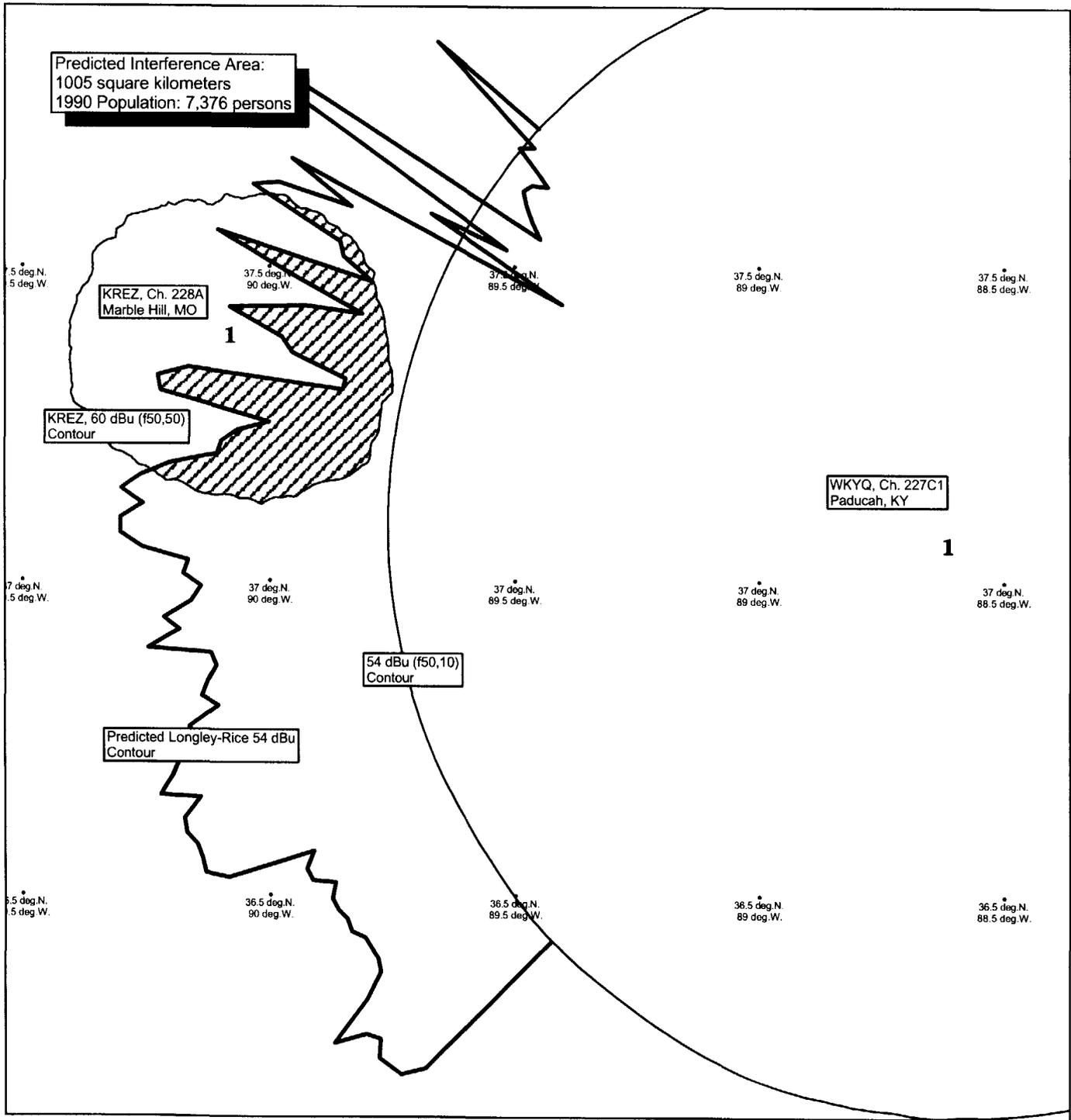
***T.Z. Sawyer Technical Consultants***

5272 River Road, Suite 460

Bethesda, MD 20816-1405

Tel.: (301) 913-9287

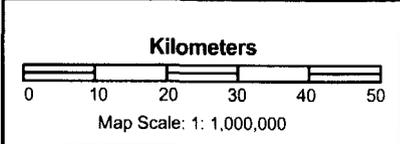
Internet E-mail: [tzsawyer@sawyer.com](mailto:tzsawyer@sawyer.com)



**KREZ, Marble Hill, MO**

**Channel 228A**

**Predicted Interference Area**



Map Source:  
U.S.G.S. Digital Line Graph - 100K Series  
Dept. of Commerce - TigerLine 95 Digital Data

**Map Legend - Exhibit E-1**

- Longley-Rice 54 dBu Contour
- Interference Area
- Protected & Interference Contours
- Lat.-Lon.Tics at 30' Intervals
- Transmitter Sites

*T.Z. Sawyer Technical Consultants  
Bethesda, Maryland, U.S.A.*

COMPUTED CONTOUR DISTANCE - LONGLEY-RICE MODEL (VER 1.2.2)

WKYQ  
 PADUCAH KY; WKYQ  
 Transmitter Latitude: 37:02:56.0N Longitude: 88:36:52.0W  
 Transmitter center of radiation: 388.0 m AMSL  
 Frequency: 93.3000 MHz; Power: 100.000 kW  
 Receiver antenna: 9.1 m AGL; 1.333 earth curvature  
 Mode of variability: 11 (Individual mode)  
 Confidence: 50.0% Reliability: 50.0%  
 Polarization: Horizontal  
 Relative permittivity: 15. Conductivity: .005  
 Climate: 5 (Continental temperate)  
 Sea level refractivity: 0. Surface refractivity: 301.

Azimuth (Deg.)	54.0 dBu Contour (km)
225.0	135.499
226.0	133.499
227.0	137.499
228.0	137.999
229.0	138.499
230.0	135.999
231.0	137.499
232.0	143.000
233.0	133.499
234.0	128.499
235.0	127.499
236.0	127.499
237.0	127.499
238.0	128.999
239.0	128.499
240.0	128.999
241.0	128.999
242.0	126.999
243.0	130.499
244.0	130.499
245.0	127.999
246.0	144.000
247.0	147.500
248.0	147.000
249.0	147.000
250.0	148.000
251.0	147.500
252.0	143.500
253.0	150.000
254.0	147.000
255.0	145.000
256.0	140.999
257.0	141.999
258.0	135.999
259.0	138.499
260.0	136.999

COMPUTED CONTOUR DISTANCE - LONGLEY-RICE MODEL (VER 1.2.2)

WKYQ  
 PADUCAH KY; WKYQ  
 Transmitter Latitude: 37:02:56.0N Longitude: 88:36:52.0W  
 Transmitter center of radiation: 388.0 m AMSL  
 Frequency: 93.3000 MHz; Power: 100.000 kW  
 Receiver antenna: 9.1 m AGL; 1.333 earth curvature  
 Mode of variability: 11 (Individual mode)  
 Confidence: 50.0% Reliability: 50.0%  
 Polarization: Horizontal  
 Relative permittivity: 15. Conductivity: .005  
 Climate: 5 (Continental temperate)  
 Sea level refractivity: 0. Surface refractivity: 301.

Azimuth (Deg.)	54.0 dBu Contour (km)
261.0	134.999
262.0	135.499
263.0	146.500
264.0	140.499
265.0	143.000
266.0	137.999
267.0	135.999
268.0	138.999
269.0	137.999
270.0	146.000
271.0	150.000
272.0	150.000
273.0	146.000
274.0	150.000
275.0	146.500
276.0	141.499
277.0	133.499
278.0	132.999
279.0	130.499
280.0	124.999
281.0	145.000
282.0	146.000
283.0	140.999
284.0	112.999
285.0	112.999
286.0	123.499
287.0	125.999
288.0	136.499
289.0	129.999
290.0	123.499
291.0	113.499
292.0	127.999
293.0	143.000
294.0	113.999
295.0	120.499
296.0	121.999

COMPUTED CONTOUR DISTANCE - LONGLEY-RICE MODEL (VER 1.2.2)

WKYQ

PADUCAH KY; WKYQ

Transmitter Latitude: 37:02:56.0N Longitude: 88:36:52.0W

Transmitter center of radiation: 388.0 m AMSL

Frequency: 93.3000 MHz; Power: 100.000 kW

Receiver antenna: 9.1 m AGL; 1.333 earth curvature

Mode of variability: 11 (Individual mode)

Confidence: 50.0% Reliability: 50.0%

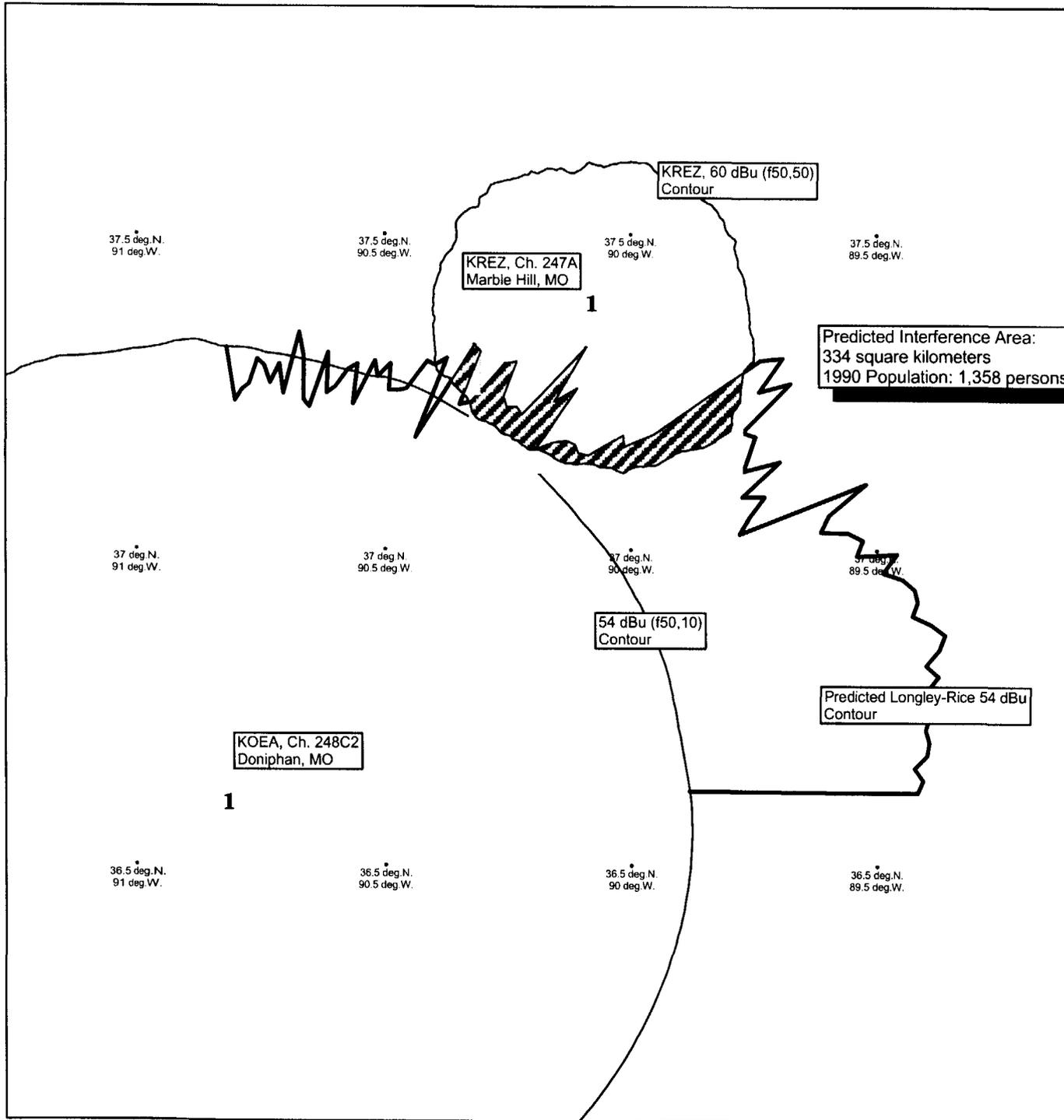
Polarization: Horizontal

Relative permittivity: 15. Conductivity: .005

Climate: 5 (Continental temperate)

Sea level refractivity: 0. Surface refractivity: 301.

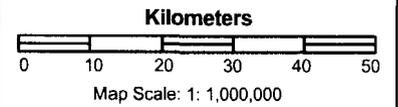
Azimuth (Deg.)	54.0 dBu Contour (km)
297.0	140.499
298.0	136.499
299.0	122.999
300.0	136.499
301.0	81.499
302.0	109.999
303.0	94.999
304.0	138.999
305.0	144.000
306.0	90.999
307.0	93.999
308.0	96.499
309.0	98.499
310.0	97.999
311.0	95.499
312.0	103.999
313.0	101.999
314.0	127.499
315.0	95.999



**KREZ, Marble Hill, MO**

**Channel 247A**

**Predicted Interference Area**



Map Source:  
 U.S.G.S. Digital Line Graph - 100K Series  
 Dept. of Commerce - TigerLine 95 Digital Data

**Map Legend - Exhibit E-3**

- Protected & Interference Contours
- Longley-Rice 54 dBu Contour
- 1** Transmitter Sites
- Interference Area
- Lat.-Lon.Tics at 30' Intervals

*T.Z. Sawyer Technical Consultants  
 Bethesda, Maryland, U.S.A.*

COMPUTED CONTOUR DISTANCE - LONGLEY-RICE MODEL (VER 1.2.2)

KOEA

DONIPHAN MO; KOEA

Transmitter Latitude: 36:35:20.0N Longitude: 90:49:10.0W

Transmitter center of radiation: 341.0 m AMSL

Frequency: 97.5000 MHz; Power: 40.000 kW

Receiver antenna: 9.1 m AGL; 1.333 earth curvature

Mode of variability: 11 (Individual mode)

Confidence: 50.0% Reliability: 50.0%

Polarization: Horizontal

Relative permittivity: 15. Conductivity: .005

Climate: 5 (Continental temperate)

Sea level refractivity: 0. Surface refractivity: 301.

Azimuth (Deg.)	54.0 dBu Contour (km)
0.0	76.999
1.0	70.000
2.0	71.999
3.0	73.000
4.0	77.499
5.0	76.499
6.0	73.499
7.0	76.999
8.0	71.999
9.0	82.999
10.0	78.999
11.0	71.499
12.0	70.500
13.0	80.499
14.0	73.499
15.0	74.999
16.0	78.499
17.0	79.999
18.0	73.000
19.0	81.499
20.0	78.999
21.0	81.999
22.0	77.499
23.0	77.999
24.0	78.999
25.0	84.999
26.0	84.999
27.0	86.999
28.0	71.999
29.0	91.499
30.0	90.999
31.0	80.999
32.0	82.499
33.0	91.499
34.0	92.999
35.0	86.499

COMPUTED CONTOUR DISTANCE - LONGLEY-RICE MODEL (VER 1.2.2)

KOEA

DONIPHAN MO; KOEA

Transmitter Latitude: 36:35:20.0N Longitude: 90:49:10.0W

Transmitter center of radiation: 341.0 m AMSL

Frequency: 97.5000 MHz; Power: 40.000 kW

Receiver antenna: 9.1 m AGL; 1.333 earth curvature

Mode of variability: 11 (Individual mode)

Confidence: 50.0% Reliability: 50.0%

Polarization: Horizontal

Relative permittivity: 15. Conductivity: .005

Climate: 5 (Continental temperate)

Sea level refractivity: 0. Surface refractivity: 301.

Azimuth (Deg.)	54.0 dBu Contour (km)
36.0	85.499
37.0	86.499
38.0	85.999
39.0	102.499
40.0	91.499
41.0	95.999
42.0	82.999
43.0	85.999
44.0	87.999
45.0	88.499
46.0	87.999
47.0	88.999
48.0	95.999
49.0	94.999
50.0	100.499
51.0	123.499
52.0	126.999
53.0	119.999
54.0	125.499
55.0	113.499
56.0	114.999
57.0	112.499
58.0	109.999
59.0	116.499
60.0	107.499
61.0	110.999
62.0	106.999
63.0	103.999
64.0	128.499
65.0	119.999
66.0	117.499
67.0	121.999
68.0	123.999
69.0	121.999
70.0	128.999
71.0	125.499

COMPUTED CONTOUR DISTANCE - LONGLEY-RICE MODEL (VER 1.2.2)

KOEA

DONIPHAN MO; KOEA

Transmitter Latitude: 36:35:20.0N Longitude: 90:49:10.0W

Transmitter center of radiation: 341.0 m AMSL

Frequency: 97.5000 MHz; Power: 40.000 kW

Receiver antenna: 9.1 m AGL; 1.333 earth curvature

Mode of variability: 11 (Individual mode)

Confidence: 50.0% Reliability: 50.0%

Polarization: Horizontal

Relative permittivity: 15. Conductivity: .005

Climate: 5 (Continental temperate)

Sea level refractivity: 0. Surface refractivity: 301.

Azimuth (Deg.)	54.0 dBu Contour (km)
72.0	128.499
73.0	129.999
74.0	129.999
75.0	128.499
76.0	131.499
77.0	133.499
78.0	131.999
79.0	128.999
80.0	130.999
81.0	128.499
82.0	128.499
83.0	128.499
84.0	127.499
85.0	127.999
86.0	127.499
87.0	124.999
88.0	126.499
89.0	125.499
90.0	124.999

CERTIFICATE OF SERVICE

I, Donna Fleming, a secretary in the law firm of Gardner, Carton & Douglas, certify that I have this 30<sup>th</sup> day of May, 2000 caused to be sent by first-class U.S. mail, postage-prepaid, or by hand delivery (as shown), a copy of the foregoing "Comments of Dana R. Withers" to the following:

Mr. John A. Karousos\*  
Mass Media Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW – Suite 3-A266  
Washington, D.C. 20554

Sherry A. Brown  
c/o Jimmy D. Brown  
3668 Kimball Avenue  
Memphis, TN 38111

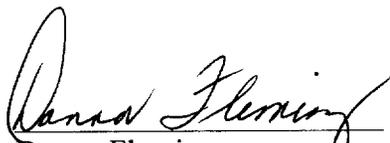
Frank R. Jazzo, Esquire  
Fletcher, Heald & Hildreth, P.L.C.  
11<sup>th</sup> Floor, 1300 17<sup>th</sup> Street North  
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Philip R. Hochberg, Esquire  
Verner Liipfert Bernhard McPherson & Hand  
901 Fifteenth Street, N.W., Suite 700  
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Radiocorp of Jackson, Inc.  
P.O. Box 198  
Brownsville, TN 38012

  
Donna Fleming

\*Hand Delivery