

BEFORE THE
Federal Communications Commission

WASHINGTON, D.C.

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IN THE MATTER OF:)
)
Amendment of 47 C.F.R. §73.202(b))
Table of Allotments)
FM Broadcast Stations)
(Alberta, Virginia and)
Whitakers, North Carolina))
To: The Chief, Allocations Branch)

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

PETITION FOR RULE MAKING

Broomfield Broadcasting, Inc. ("Broomfield"), through counsel, hereby respectfully requests the Commission to institute a rulemaking to amend Section 73.202(b) of the Commission's rules, the Table of FM Allotments, to substitute Channel 276C3 for Channel 276A at Alberta, Virginia, reallocate Channel 276C3 from Alberta, Virginia to Whitakers, North Carolina, modify the license of WAQD(FM) to specify operation on Channel 276C3 at Whitakers, North Carolina and allot Channel 299A to Alberta, Virginia.¹ In support of this proposal, Broomfield states as follows:

Broomfield is the permittee of WAQD(FM). WAQD(FM)'s community of license is Alberta, Virginia. WAQD(FM), which is presently unconstructed and is not providing service to Alberta, would operate on Channel 276A in Alberta. Broomfield seeks to change WAQD(FM)'s community of license from Alberta, Virginia to Whitakers, North Carolina because Whitakers, North Carolina has a need for first local service--a need that can be fulfilled without depriving Alberta of its local transmission service and which will result in a significant expansion of service

¹ Because the requested allocation of Channel 276 to Whitakers is mutually exclusive with the WAQD(FM) construction permit, the proposal qualifies for treatment under Section 1.420(i) of the Commission's rules

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as described more fully below. *See Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989), *recon. granted in part*, 5 FCC Rcd 7094 (1990).

I. Whitakers is a Community in Need of Local Aural Transmission Service.

Whitakers is a distinct community of 860 people, according to 1990 census figures. Whitakers is an incorporated community. It has a mayor and its own five-member town council. It also has its own police service, volunteer fire department, a public library and post office. Its businesses include, among others, Whitakers Auto Supply, Whitakers Food Center, Whitakers Gin Company, Whitakers Medical Center, Whitakers Pharmacy and Whitakers Used Tires. In short, Whitakers is a community deserving of first local service.

II. The Reallocation of Channel 276 to Whitakers can Be Accomplished Without a Loss of Service to Alberta.

The substitution of Channel 276C3 for Channel 276A at Alberta and reallocation of Channel 276C3 from Alberta to Whitakers need not, and should not, result in Alberta's loss of transmission service. Because the current WAQD(FM) facility has not yet been constructed, there would be no interruption of service to the community of Alberta resulting from the reallocation of Channel 276 from Alberta to Whitakers. *See, e.g., Genoa, Mt. Morris and Oregon, Illinois*, 14 FCC Rcd 2930, 2931-32 (1999). In addition, however, Broomfield hereby requests that Channel 299A be allocated to Alberta as a replacement for Channel 276A and commits to apply for the facilities on Channel 299A at Alberta if the Commission grants this rulemaking proposal and to promptly construct those facilities if authorized to do so by the Commission. Allocating Channel 299A to Alberta, coupled with Broomfield's commitment to apply for and construct the Channel 299 facilities, ensures that Alberta will sustain no withdrawal of local service.²

²

Because Broomfield is proposing to allocate Channel 299 to Alberta, and to apply for that

(continued...)

III. The Substitution of Channel 276C3 for Channel 276A at Alberta, Reallocation of Channel 276C3 From Alberta to Whitakers and the Allocation of Channel 299A to Alberta Can be Accomplished in Full Compliance With the Commission's Engineering Criteria.

Broomfield has determined that if the substitution of Channel 276C3 for Channel 276A at Alberta is granted, Channel 276C3 can be reallocated to Whitakers as its first local service. Tab A to the attached Engineering Statement (Exhibit 1) is an engineering study of the proposed reallocation demonstrating compliance of the proposal with the technical standards for reallocating a channel. The proposed allotment can be awarded to Whitakers in full compliance with the FM spacing rules. No other full service broadcasters are affected by this proposal and operation from the proposed reference coordinates of North Latitude 36° 11' 23" and West Longitude 77° 51' 09" would provide city grade service as set forth in Section 73.315 of the Commission's rules.³

Similarly, Broomfield has determined that Channel 299A can be allocated to Alberta, ensuring that it will receive first local service. Tab B to the attached Engineering Statement (Exhibit 1) is an engineering study of the proposed allocation demonstrating compliance of the proposal with the technical standards for allocating a new channel. The proposed Channel 299A allotment can be awarded to Alberta in full compliance with the FM spacing rules. No other full service broadcasters are affected by this proposal and operation from the proposed reference coordinates of North Latitude 36° 51' 53" and West Longitude 77° 52' 59" would provide city grade service as set forth in Section 73.315 of the Commission's rules.

(...continued)

channel if allocated, the instant rulemaking would not result in the creation of gain and loss areas.

³ The nearest urbanized area within proximity of Whitakers is the Rocky Mount urbanized area. A review of the Census Bureau map of that urbanized area indicates that, from the reference coordinates, the proposed Whitakers station would serve less than 50% of the urbanized area with its 70 dBu contour. As a result, there is no need to perform a *Tuck* analysis. See *Headland, Alabama and Chattahoochee, Florida*, 10 FCC Rcd 10352, 10354 (1995); *Faye and Richard Tuck*, 3 FCC Rcd 5374 (1988).

IV. Broomfield's Proposal Would Result in First Local Service to a Greater Population and Substantial Additional Reception Service.

Permitting Broomfield to change WAQD(FM)'s community of license from Alberta, Virginia to Whitakers, North Carolina, substituting Channel 276C3 for Channel 276A at Alberta and reallocating Channel 276C3 to Whitakers would permit first local service to a greater number of people than is currently the case. According to 1990 census figures, Whitakers has a population of 860 people while Alberta has a population of 337 people, less than half of that of Whitakers.

Further, as is explained in the attached Engineering Statement, Exhibit 1, a facility operating on Channel 276C3 from the reference coordinates for Whitakers would serve substantially more people than would be served by WAQD(FM) from its construction permit facilities at Alberta. The Channel 276A WAQD(FM) construction permit facilities at Alberta would provide reception service to 21,543 people over 1,426 square kilometers. By contrast, the Channel 276C3 facilities at Whitakers would provide service to a population of 172,026 people over 4,789 square kilometers--an increase of 150,483 people, or nearly 700%.

In addition, however, the proposal to also add Channel 299A at Alberta makes the above comparison superfluous inasmuch as this is not a case where the Commission is confronted with a situation where it must either add the channel at Whitakers *or* drop the channel at Alberta. It can both add a channel at Whitakers *and* maintain a channel at Alberta. Overall, the proposal would provide for first local service to 1,197 people in two communities. Additionally, the proposal would provide reception service reaching a total of 203,535 people over 7,270 square kilometers.

V. Substitution of Channel 276C3 for Channel 276A at Alberta, Reallocation of Channel 276C3 From Alberta to Whitakers and Allocation of Channel 299A to Alberta, Would Result in a Superior Arrangement of Allotments.

The instant proposal better fulfills the Commission's allotment priorities than does the present situation. As the Commission explained in *Revision of FM Assignment Policies and Procedures*, 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 (with co-equal weight being given to priorities (2) and (3)).⁴

Broomfield's proposal would permit two communities, Whitakers and Alberta, to receive or retain first local service, thus serving priority (3). A proposal to provide local service to two or more communities is to be preferred to a situation wherein only one community receives first local service. See *Archilla - Marcocci Spanish Radio Company*, 104 FCC 2d 405, 408 (1986).

Moreover, as noted above, the proposed Channel 276C3 facilities at Whitakers would provide additional received service to a population of 172,026 people, thus serving allocation priority (4). Balanced against such additional service is the fact that there would be no loss of service at Alberta as a result of the adoption of the Broomfield proposal.

The Commission has approved an almost identical plan wherein a channel was substituted for the community's only allocation so as to permit the creation of a first new local service in another community. See *Llano and Marble Falls, Texas*, 12 FCC Rcd 6809 (1997). In that case, Class C3 service was reallocated from Llano, Texas, to Marble Falls, Texas, and a new Class A channel was allocated to Llano to serve as that community's sole local channel. In the rulemaking proposed herein, Broomfield would replace the present Class A channel at Alberta with another Class A channel for which Broomfield would apply. Thus, the Broomfield proposal yields an even more favorable arrangement of allotments than that approved by the Commission in *Llano and Marble Falls, Texas* since there would be no downgrade in service. In addition,

⁴ 90 FCC2d 88, 91 (1982).

whereas Llano dealt with the relocation of a station that had been serving its community of license for many years, in the present case WAQD(FM) has not yet even begun serving Alberta.

VI. Broomfield Will Apply for and Construct the Requested Facilities.

Broomfield hereby commits that, if Channel 276C3 is allocated to Whitakers, it will apply for modified facilities for WAQD(FM) so as to permit the construction of a station operating on Channel 276C3 at Whitakers and will promptly build those facilities upon grant of the application. In accordance with *Llano and Marble Falls, Texas*, 12 FCC Rcd at 6812, in order to ensure that Alberta has service, if Channel 299A is allocated to Alberta, Broomfield will apply for new facilities to operate on Channel 299A at Alberta and will promptly construct those facilities upon grant of the application.

Conclusion

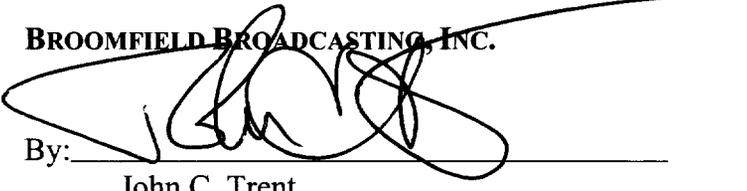
For the reasons stated above, the public interest would be served by the substitution of Channel 276C3 for Channel 276A at Alberta, Virginia and the reallocation of Channel 276C3 from Alberta, Virginia to Whitakers, North Carolina and the allotment of Channel 299A to Alberta, Virginia. Accordingly, Broomfield respectfully requests that the Commission institute a rulemaking proceeding that would amend the FM Table of Allotments as follows:

Community	Present	Proposed
Whitakers, North Carolina	-----	276C3
Alberta, Virginia	276A	299A

Broomfield also requests that the construction permit of WAQD(FM) be modified to specify Whitakers as the station's community of license.

Respectfully submitted,

BROOMFIELD BROADCASTING, INC.

By: 

John C. Trent

Its Attorney

July 26, 2000

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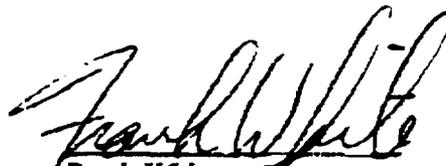
Engineering Statement

ENGINEERING STATEMENT

Attached are studies and maps in support of the petition for rulemaking of Broomfield Broadcasting, Inc. showing that the proposed substitution of Channel 276C3 for Channel 276A at Alberta, Virginia, reallocation of Channel 276C3 from Alberta, Virginia to Whitakers, North Carolina (Tab A) and allocation of Channel 299A to Alberta, Virginia (Tab B) would comply with the Commission's allocation and city-grade coverage requirements. Population studies for the outstanding construction permit for WAQD(FM), Alberta, VA, the proposed Whitakers facility on Channel 276C3 and the proposed Alberta facility on Channel 299A show the following:

1. Current Construction Permit for WAQD(FM), Alberta, VA:
50 dBu covers 21,543 people over 1,426 sq. km.
2. Whitakers Allocation on Channel 276C3:
50 dBu covers 172,026 people over 4,789 sq. km.
3. New Alberta Allocation on Channel 299A:
50 dBu covers 31,509 people over 2,481 sq. km.

I declare under penalty of perjury that the foregoing statements and the attached exhibits, which were prepared by me or under my immediate supervision, are true and correct to the best of my knowledge and belief.


Frank White

July 21 2000

mainquad technology
Weldon NC
Whitakers NC
103.1 C3

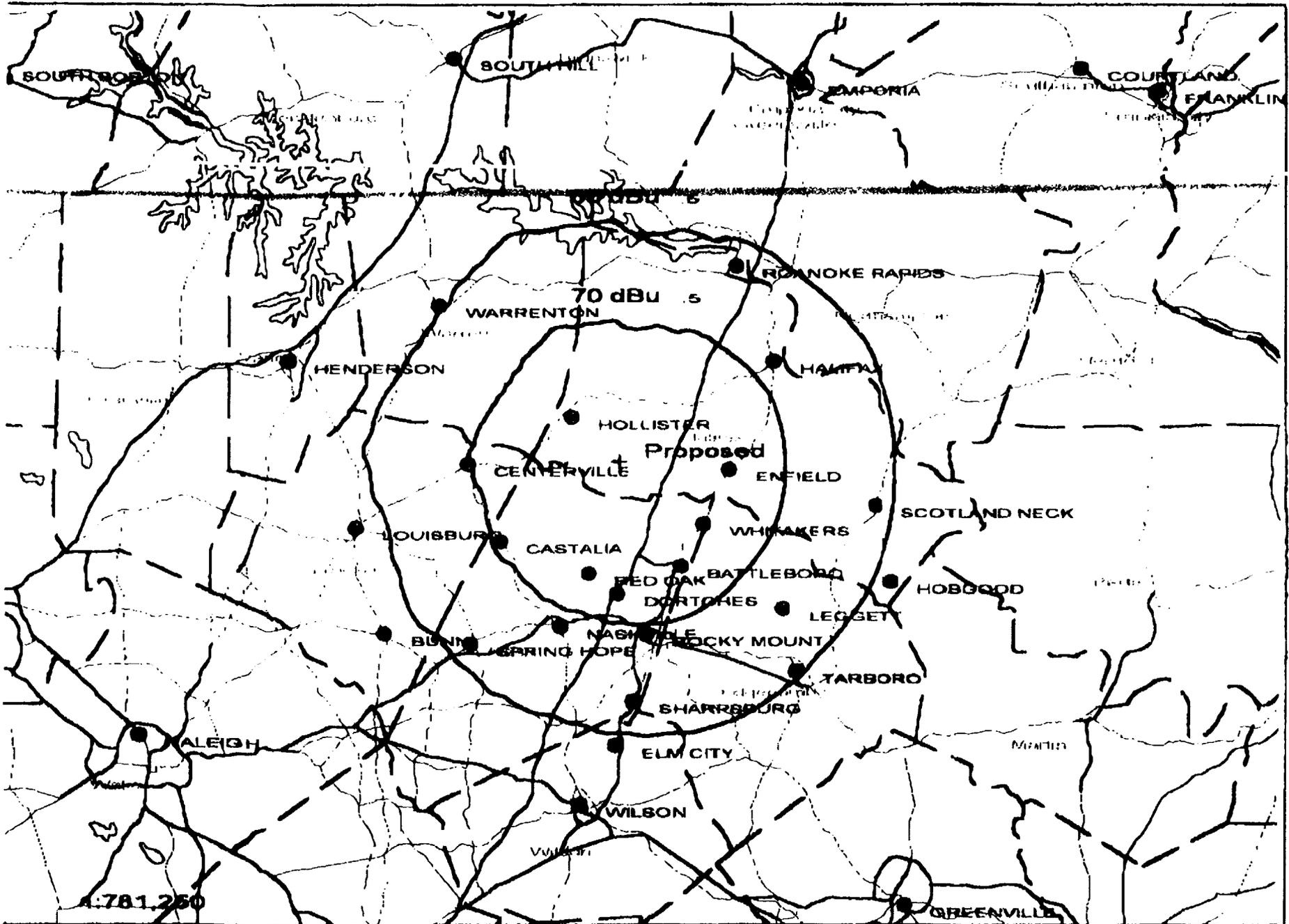
REFERENCE
36 11 23 N
77 51 09 W

CLASS = C3
Current Spacings

DISPLAY DATES
DATA 06-23-00
SEARCH 07-21-00

----- Channel 276 - 103.1 MHz -----

Call	Channel	Location	Dist	Azi	FCC	Margin	
WAQD.C CP	276A	Alberta	VA	70.47	354.0	142.0	-71.53
WYFL	LIC 223C	Henderson	NC	31.64	276.9	31.0	0.64
WOWI	LIC 275B	Norfolk	VA	145.79	63.9	145.0	0.79
WMGV	LIC 277C1	Newport	NC	146.95	142.8	144.0	2.95
WWND.C CP	275A	Raleigh	NC	92.98	242.0	89.0	3.98
WHLQ	LIC 273A	Louisburg	NC	48.09	260.9	42.0	6.09
WAKG	LIC 277C1	Danville	VA	150.36	294.6	144.0	6.36
WCBZ	LIC 279C1	Williamston	NC	84.86	112.4	76.0	8.86
WELSFM	LIC 275A	Kinston	NC	101.88	170.4	89.0	12.88
970327 APP	276A	Robbins	NC	164.27	241.0	142.0	22.27
970327 APP	276A	Robbins	NC	165.98	240.4	142.0	23.98
970326 APP	276A	Robbins	NC	167.93	240.7	142.0	25.93
970327 APP	276A	Robbins	NC	177.34	242.8	142.0	35.34
AVAC	VAC 276A	Robbins	NC	177.43	242.0	142.0	35.43
WERXFM	LIC 273C1	Columbia	NC	138.99	102.1	76.0	62.99



1:781,250

Scale in km



Proposed 276C3 25kW 155.35M AMSL

N. Lat. 38 11 23 W. Lng. 77 51 09

Population 172,026

Area 4,789 sq Km - 07/00

MainQuad technology
Weldon NC
WAQD
107.7 Mhz

REFERENCE

36 51 53 N
77 52 59 W

CLASS = A

Current Spacings

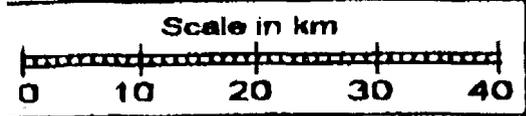
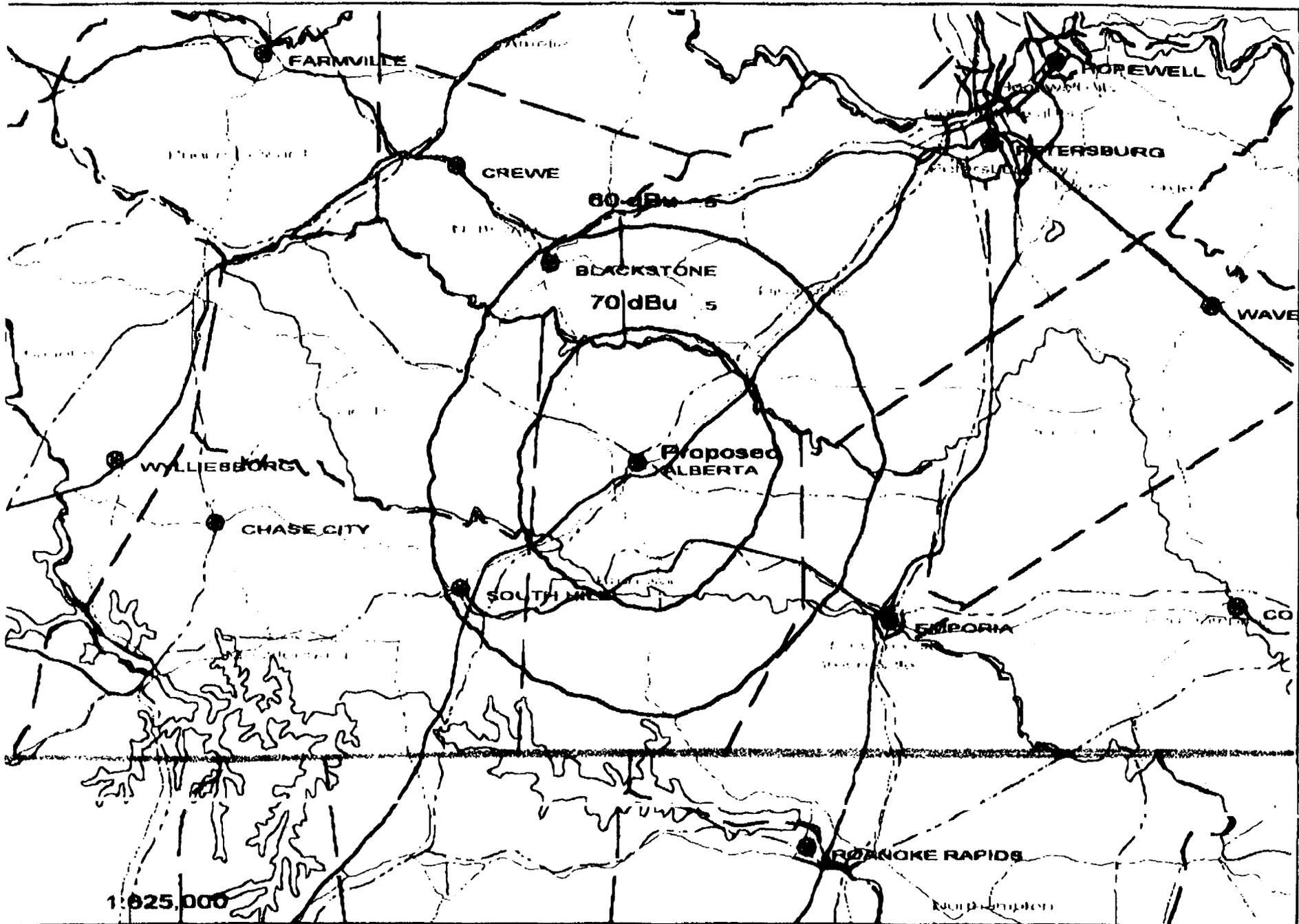
Channel 299 - 107.7 MHz

DISPLAY DATES

DATA 06-23-00

SEARCH 07-18-00

Call	Channel	Location	Dist	Azi	FCC	Margin
WYYD.A AUX	300C1	Amherst	VA 139.50	304.1	133.0	6.50
WNCTFM LIC	300C	Greenville	NC 172.11	165.1	165.0	7.11
WNCTFM LIC	300C	Greenville	NC 172.11	165.1	165.0	7.11
WSVYFM LIC	299A	Windsor	VA 123.21	92.5	115.0	8.21
WYYD LIC	300C1	Amherst	VA 148.58	297.4	133.0	15.58
WTOPEM LIC	299E	Warrenton	VA 208.40	1.1	178.0	30.40
WKZL LIC	298C	Winston-salem	NC 195.44	251.0	165.0	30.44
AVAC VAC	297A	Powhatan	NC 72.73	12.5	31.0	41.73
WBBTFM LIC	297A	Powhatan	VA 72.73	12.5	31.0	41.73
WNBR LIC	300A	West Point	VA 115.14	55.2	72.0	43.14
AVAC VAC	297A	Enfield	NC 77.20	167.4	31.0	46.20
WUMX LIC	298A	Charlottesville	VA 135.08	337.2	72.0	63.08
WTTXFM LIC	296A	Appomattox	VA 101.62	304.0	31.0	70.62



Proposed 299A 6kW 180.95M AMSL
 N. Lat. 36 51 53 W. Lng. 77 52 59

Population 31,509
Area 2,481 sq Km - 07/00