

Before the
FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

RECEIVED

MAR 12 2001

In the Matter of)
)
Amendment of Section 73.202(b))
Table of Allotments)
FM Broadcast Stations.)
(Murrieta, California))

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

MM Docket No. 01-11 /
RM-10027

To: Chief, Allocations Branch

COMMENTS AND COUNTERPROPOSAL

Big City Radio-LA, L.L.C., the licensee of KLYY(FM), Channel 296A, Arcadia, California, and KSYF(FM), Channel 296A, Fallbrook, California, by its attorneys, and with the consent of Morris Communications Corporation, the licensee of KYOR(FM), Channel 295B, Yucca Valley, California, hereby submits these Comments and Counterproposal to the Notice of Proposed Rule Making (the "NPRM") on the proposed amendment of the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, to allot Channel 281A to Murrieta, California (the "NPRM Proposal"). See NPRM, DA 01-132 (released January 19, 2001) 1/ These Comments and Counterproposal request that, instead of the NPRM Proposal, the Commission adopt the following changes to the FM Table of Allotments and modification of licenses (collectively, the "Counterproposal"):

1/ The NPRM set March 12, 2001, as the date by which interested parties may file comments.

File of Secretary's Office 014
DATE

- (a) replace Channel 296A, Arcadia, California, with Channel 296B1;
- (b) replace Channel 296A, Fallbrook, California, with Channel 281A;
- (c) delete Channel 295B for Yucca Valley, California;
- (d) add Channel 295B1 for Desert Hot Springs, California;
- (e) add Channel 245A for Murrieta, California;
- (f) modify the license of KLYY(FM) to specify operations on Channel 296B1 in lieu of operation on Channel 296A;
- (g) modify the license of KSYY(FM) to specify operations on Channel 281A in lieu of operation on Channel 296A; and
- (h) modify the license of KYOR(FM) to specify operations on Channel 295B1 in Desert Hot Springs, California, in lieu of operation on Channel 295B in Yucca Valley, California.

Grant of the Counterproposal would provide first local aural transmission service to Desert Hot Springs, California, a census designated and independent community of 11,668 persons, according to the 1990 Census, 2/ as well as first local aural transmission service to Murrieta, California, a census designated community of 18,723 persons. See NPRM at ¶ 2. The attached Technical Statement demonstrates that the Counterproposal is consistent with the Commission's technical rules and precedent, and in addition to fostering two new local services, will allow 2,673,525 persons to receive new primary service coverage, and will result in the reduction or elimination of existing short spacings. Consequently, the Counterproposal not only accommodates the NPRM's proposal to

2/ See 1990 Census of Population & Housing, California, at 35.

allot a first local aural transmission service to Murrieta, it also provides significant, additional public service benefits.

Moreover, the Counterproposal would not deprive any current community of license of its sole local transmission service. Arcadia and Fallbrook would retain their current radio stations, Desert Hot Springs and Murrieta will each gain a new local aural transmission service, and Yucca Valley will continued to be served by the full-time radio station KYVU(AM), 1420 kHz, Yucca Valley.

Desert Hot Springs, which is not part of any Urbanized Area, clearly merits its own transmission station, pursuant to the Commission's allotment priorities. ^{3/} The community of Desert Hot Springs has its own mayor and city council (housed in the Desert Hot Springs City Hall), several Desert Hot Springs Commissions and Departments (Desert Hot Springs Planning Commission, Desert Hot Springs Parks & Recreation Commission, Desert Hot Springs Economic Development Commission, Desert Hot Springs Police Commission, Desert Hot Springs Fire Department, Office of the City Clerk), six schools (including a brand-new high school), its own library branch, more than a dozen churches, its own health clinics and urgent care center, a wide selection of hotels and restaurants, and other retail and community outlets. ^{4/}

^{3/} See *id.* at G-42. Also, the service area of the Desert Hot Springs allotment, as proposed, would cover less than 50 percent of any urbanized area. See Technical Statement at 9.

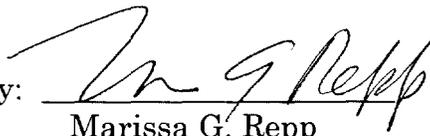
^{4/} See, e.g., <http://deserthotsprings.org>, which is the official public web site for the community. See also <http://yp.yahoo.com> (location: Desert Hot Springs, CA) (demonstrating the number of organizations and entities located in the community).

Statements from Big City Radio-LA, L.L.C. and Morris
Communications Corporation affirming that they will apply for the revised
allotments if changed as proposed herein are attached.

Accordingly, the Commission should adopt the Counterproposal and
approve the proposed modifications under Section 1.420(i) of the Commission's
Rules and related Commission precedent, as described in the Technical Statement.

Respectfully submitted,

BIG CITY RADIO-LA, L.L.C.

By: 
Marissa G. Repp
F. William LeBeau

HOGAN & HARTSON L.L.P.
555 13th Street, N.W.
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Its Attorneys

March 12, 2001

TECHNICAL STATEMENT

CARL T. JONES
CORPORATION

**STATEMENT OF HERMAN E. HURST, JR.
IN SUPPORT OF
COMMENTS AND COUNTERPROPOSAL
IN MM DOCKET NO. 01-11, RM-10027**

I am a Radio Engineer, an employee in the firm of Carl T. Jones Corporation with offices located in Springfield, Virginia. My education and experience are a matter of record with the Federal Communications Commission.

This office has been authorized by Big City Radio-LA, L.L.C. ("Big City"), licensee of KLYY(FM), Arcadia, California, and KSYY(FM), Fallbrook, California, to prepare this statement and the supporting technical exhibits in support of a counterproposal and Comments in MM Docket No. 01-11. On January 10, 2001, the Allocations Branch adopted a *Notice of Proposed Rulemaking* ("NPRM") in response to a Petition for Rulemaking filed by Helen Jones ("lead petitioner"). The NPRM set forth the lead petitioner's request to modify Section 73.202(b) of the FCC Rules by adding Channel 281A at Murrieta, California and established a Comment date of March 12, 2001.

Big City herein submits a counterproposal to the lead petitioner's request by proposing Channel 281A as a substituted channel at Fallbrook, California, to accommodate a new first local service at Desert Hot Springs, California, and an upgrade at Arcadia, California. Big City's counterproposal will also allow for the lead petitioner's proposed first local service at Murrieta, California, on Channel 245A (in lieu of Channel

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281A). Accordingly, the counterproposal requests that Section 73.202(b) of the FCC Rules be modified in the following manner:

	<u>Present</u>	<u>Proposed</u>
Arcadia, California	296A	296B1
Fallbrook, California	296A	281A
Yucca Valley, California	295B	-----
Desert Hot Springs, California	-----	295B1
Murrieta, California	-----	245A

In accordance with the requested modifications to the FM Table of Allotments, Big City requests that the licenses of stations KLYY(FM), KSYU(FM) and KYOR(FM) be modified to specify operation on channels 296B1 at Arcadia, 281A at Fallbrook and 295B1 at Desert Hot Springs, respectively.

ALLOCATION CONSIDERATIONS

Channel 296B1, Arcadia, California, in lieu of Channel 296A, Arcadia, California

An engineering study of all pertinent allotments, assignments and applications revealed that Channel 296B1 can be allotted to Arcadia, California, with a site restriction 23 km east. The allotment reference coordinates for Channel 296B1 at Arcadia, California,

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are 34° 04' 18" N.L. and 117° 48' 46" W.L. An existing tower (FCC Tower Registration Number 1015932) is located at the Arcadia reference coordinates.

From this existing 35 meter above ground level (AGL) tower KLYY(FM) would be able to achieve an antenna height AGL of 32 meters and a radiation centerline height of 410 meters above mean sea level with no change in the authorized overall height of the existing tower. The resulting antenna Height Above Average Terrain (HAAT) is 91 meters. With this antenna height, the Class B1 reference facility would be permitted the maximum Class B1 ERP of 25 kW.

Exhibit 1 shows the predicted 70 dBu contour using actual terrain and the standard F(50,50) signal propagation methodology.¹ Exhibit 1 also shows the maximum Class B1 city-grade circle (radius = 23.2 km) using uniform terrain. The city-grade circle encompasses 80% of Arcadia, while the city-grade contour encompasses all of Arcadia. Because this is an existing site and the Big City has reasonable assurance of the availability of the FAA-approved existing tower site, use of actual terrain in demonstrating city-grade service compliance is appropriate in this instance (See Woodstock and Broadway, Virginia, 3 FCC Rcd 6398 (1988)).

In addition to satisfying the applicable city-grade service requirements, the proposed Channel 296B1 in Arcadia, California, also satisfies allocation spacing

¹ The average terrain data from 3.2 kilometers to 16.1 kilometers from the reference site was determined using the National Geophysical Data Center Thirty Second Point Database (TGP-0050), as prescribed in Section 73.312(d) of the Rules. Exhibit 5 is a full showing as to the terrain toward Arcadia and the predicted distances to the reference Class B1 70 dBu city-grade contour.

considerations. The proposed Channel 296B1 reference site improves on longstanding, grandfathered short-spacings with respect to second-adjacent channel stations KROQ-FM, Los Angeles, California, [Channel 294B] and KLVE(FM), Los Angeles, California [Channel 298B]. With respect to KROQ-FM, the existing 47.6 kilometer short-spacing is reduced to 27.6 km. Similarly, with respect to KLVE(FM), the existing 62.5 kilometer short-spacing is reduced to 41.8 km.

Because the existing grandfathered short-spacings would be improved as a result of the proposed arrangement of allotments, and because the subsequent KLYY Class B1 application for construction permit will automatically satisfy 73.213 protection requirements to both KLVE(FM) and KROQ-FM (because Section 73.213 no longer requires protection of second-adjacent channel related grandfathered short-spaced stations) the instant proposal satisfies allotment standards with respect to both KLVE(FM) and KROQ-FM. This follows Allocations Branch precedent in evaluating the proposed relocation of grandfathered short-spaced stations. In 1995, the Allocations Branch considered an analogous case and adopted a proposed site change for a grandfathered short-spaced station because: (1) the proposal increased the distance between short-spaced stations; and (2) it would presumptively be in compliance with Section 73.213 at the application stage.²

² See Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (East Los Angeles, Long Beach, and Frazier Park, California), *Report and Order*, MM Docket No. 90-44, paragraph 15, 50 FR 15255 (1995).

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Because the proposed KLYY(FM) Channel 296B1 allocation reference site is within 320 kilometers of the common border between Mexico and the United States of America, the proposal must satisfy the terms and conditions of the *Agreement Between the Government of the United States of America and the Government of the United Mexican States relating to the FM Broadcasting Service in the Band 88-108 MHz* ("Mexican Agreement"). The Arcadia reference site satisfies the minimum distance separation requirements contained in Appendix A, Table 2, of the Agreement, with respect to all Mexican assignments, applications and allotments. The Arcadia, California, Channel 296 allotment was accepted by Mexico as a Class B1 FM allotment on June 26, 1997.

The proposed Arcadia, California, Channel 296B1 reference site satisfies the minimum distance spacing requirements contained in Section 73.207 of the FCC Rules with all other pertinent allocations, assignments and applications with the exception of Channel 296A at Fallbrook, CA, and Channel 295B at Yucca Valley, California. To accommodate the proposed upgrade at Arcadia, Big City requests the following consensual changes at Fallbrook and Yucca Valley and an alternate channel at Murrieta.³

³ As demonstrated elsewhere in this Petition, the licensee of KYOR(FM), Yucca Valley, CA (Channel 295B) supports the proposed arrangement of allotments. In addition to being the licensee of KLYY(FM), Arcadia, California, (Channel 296A) Big City is also the licensee of KSYF(FM), Fallbrook, California (Channel 296A).

Channel 281A, Fallbrook, California, in lieu of Channel 296A, Fallbrook, California

To accommodate the upgrade at Arcadia, California, the proponent requests a channel change and relocation for KSYF(FM), Fallbrook, California. Radio station KSYF(FM) currently operates on channel 296A. The proponent requests channel 281A in lieu of channel 296A at Fallbrook, California. The allocation reference coordinates for Channel 281A are 33° 27' 30" N.L. and 117° 13' 26" W.L. The Fallbrook allotment reference site meets the allotment standards, the minimum spacing requirements of §73.207 and the city-grade coverage requirements of §73.315 of the FCC Rules.

Because the proposed KSYF(FM) Channel 281A allocation reference site is within 320 kilometers of the common border between Mexico and the United States of America, the proposal must satisfy the terms and conditions of the Mexican Agreement. The allocation reference site for the proposed channel 281A at Fallbrook, California, is 33.3 kilometers short-spaced to the 226 km minimum distance spacing requirement to cochannel Mexican assignment, XHBA-FM, Mexicali, BN [Channel 281C]. As shown in Exhibit 2, contour protection in accordance with the terms and conditions of the Mexican Agreement is afforded to a maximum Class C circle (92 kilometer radius) at the XHBA-FM notified coordinates. Because contour protection in accordance with the Mexican Agreement is afforded to XHBA-FM, referral of the proposed Channel 281A to the Mexican Government is not necessary.⁴

⁴ See Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Nogales and Vail, Arizona), Notice of Proposed Rulemaking, MM Docket No. 00-31, paragraph 4, Adopted February 16, 2000, Released February 25, 2000.

Although the counterproposal requests a non-adjacent channel substitution for Fallbrook, California, as discussed below, the proposed Channel 281A should not be subject to competing expressions of interest. This is because the use of the requested higher class channel (296B1 at Arcadia) is incompatible with the use of the existing Channel 296A at Fallbrook.

In adopting the rules for upgrading FM stations the Commission indicated that, in addition to not considering competing expressions of interest to upgrade on adjacent channels, it also would not consider competing expressions of interest where use of the requested higher class channel is incompatible with the use of an existing channel.⁵

It is submitted that competing expressions of interest for Channel 281A at Fallbrook, California should not be entertained because: Channel 296 is the only available channel for the proposed upgrade at Arcadia; the upgrade at Arcadia requires KSYF(FM), Fallbrook, California, to vacate Channel 296A; and, the only channel KSYF can move to is Channel 281A.

In light of the above, the proposed Fallbrook allotment reference site meets the applicable allotment standards and city-grade coverage requirements.

⁵ See Modification of FM Broadcast Licenses to Higher Class Co-channel or Adjacent Channels, 60 RR 2d 114, 120 (1986). See Also, Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Beverly Hills, Chiefland, Holiday, Micanopy, and Sarasota, Florida), Memorandum Opinion and Order, MM Docket No. 92-195, at footnote 1, Adopted February 7, 2000, Released February 14, 2000.

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Channel 295B1, Desert Hot Springs, California, in lieu of Channel 295B, Yucca Valley, California

The proposed arrangement of allotments will allow KYOR(FM), Yucca Valley, California, [Channel 295B] to change class and relocate in order to provide a first local service to Desert Hot Springs, California [population 11,668 persons]. Full service commercial radio station KYVU(AM) will continue to provide full-time local service on 1420 kHz to Yucca Valley, California.

An engineering study of all pertinent allotments, assignments and applications revealed that Channel 295B1 can be allotted to Desert Hot Springs, California, with no site restriction. However, the proponent chooses to specify the allotment reference coordinates for Channel 295B1 at Desert Hot Springs, California, at 34° 01' 48" N.L. and 116° 31' 48" W.L. The Desert Hot Springs allotment reference site meets the allotment standards, the minimum spacing requirements of §73.207 and the city-grade coverage requirements of §73.315 of the FCC Rules.

Because the proposed KYOR(FM) Channel 295B1 allocation reference site is within 320 kilometers of the common border between Mexico and the United States of America, the proposal must satisfy the terms and conditions of the Mexican Agreement. The Desert Hot Springs reference site (Channel 295) satisfies the minimum distance separation requirements contained in Appendix A, Table 2, of the Agreement, with respect to all

Mexican assignments, applications and allotments. The KYOR(FM), Yucca Valley, allotment (Channel 295) is currently a Class B FM allotment with respect to Mexico.

As shown in Exhibit 3, from the Desert Hot Springs reference site specified herein, a full Class B1 facility produces a city-grade "circle" with a radius of 23.2 kilometers and covers 37.2 km² of the Palm Springs, California, census-designated Urbanized Area. According to U.S. Census data, the Palm Springs Urbanized area covers a total area of 233 km². Consequently, the proposed class change and relocation of KYOR(FM) will allow the proposed, Desert Hot Springs, Class B1 facility to cover 15.9% of the total Palm Springs Urbanized Area with a city-grade service circle from the proposed reference coordinates. Because the proposed reallocation would provide less than 50% city-grade coverage of the Palm Springs Urbanized Area (and 0% city-grade coverage of any other nearby census-designated urbanized area) a Tuck analysis is not necessary.⁶

In light of the above, the Desert Hot Springs allotment reference site meets the applicable allotment standards and city-grade coverage requirements.

Channel 245A at Murrieta, California, in lieu of Channel 281A

In MM Docket 01-11, the FCC's NPRM sets forth the lead petitioner's request to modify Section 73.202(b) of the FCC Rules by adding Channel 281A at Murrieta,

⁶ See Headland, Alabama and Chattahoochee, Florida, 10 FCC Rcd 10352 (1995); Huntington Broadcasting Co. v. FCC, 192 FCC 2d 33 (D.C. Cir. 1951), RKO General, Inc., 5 FCC Rcd 3222 (1990); and Faye and Richard Tuck, 3 FCC Rcd 5374 (1988).

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California. The lead petitioner's Channel 281A allotment reference site is separated from Big City's, Fallbrook, California, Channel 281A allotment reference site by 11.8 km. Because this distance is less than the required 115 kilometer, cochannel, Class A minimum distance separation specified in Section 73.207 of the FCC Rules, Big City's proposed use of Channel 281A is in conflict with the lead petitioner's proposal. Therefore, Big City's proposed arrangement of allotments is considered a counterproposal in MM Docket 01-11.

Big City has identified an alternate channel for use at Murrieta which would preserve the requested first local service and would be compatible with Big City's proposed arrangement of allotments. It is submitted that Channel 245A may be added in lieu of channel 281A at Murrieta, California. The allocation reference coordinates for Channel 245A are 33° 33' 04" N.L. and 117° 04' 31" W.L. The alternate Murrieta allotment reference site meets the allotment standards, the minimum spacing requirements of §73.207 and the city-grade coverage requirements of §73.315 of the FCC Rules.

Because the proposed Channel 245A allocation reference site is within 320 kilometers of the common border between Mexico and the United States of America, the proposal must satisfy the terms and conditions of the Mexican Agreement. The allocation reference site for the proposed channel 245A at Murrieta, California, is fully-spaced with all pertinent Mexican allotments and assignments in accordance with the terms and conditions of the Mexican Agreement. Unlike the original Channel 281A specified by the

lead petitioner, the channel proposed herein for Murrieta does not result in any short-spacings to Mexico and does not require concurrence of the Mexican government for a specially-negotiated short-spaced allotment.

In light of the above, the alternate Murrieta allotment reference site meets the applicable allotment standards and city-grade coverage requirements.

PUBLIC INTEREST BENEFITS

- Considered together, the proposed arrangement of allotments will allow 2,673,525 persons to receive new primary service coverage from KLYY(FM), KSYY(FM), KYOR(FM) and the new Murrieta facility;
- A first local service will be provided to Desert Hot Springs, California, from KYOR(FM);
- A first local service will be provided to Murrieta, California, from a new full service FM station;
- The proposed arrangement of allotments improves two existing short-spacings and eliminates one other existing short-spacing.

Although there are 2,843,612 persons in the KLYY(FM) and KSYY(FM) primary service loss area, both the KLYY(FM) and KSYY(FM) loss areas remain well served by 5 or more existing aural services. For the FM stations considered in the gain/loss studies,

the primary service coverage is the maximum Class circles computed without considering terrain effects.⁷

The overwhelming majority of the KYOR(FM) loss area associated with the proposed relocation and class change (the total KYOR(FM) loss area encompasses 7,037 km² and a population 117,703 persons) remains well served by five or more aural services. As illustrated in Exhibit 4, the proposed modification of KYOR(FM) will create five new gray areas where four aural services will remain. The total gray area created covers 481 km² and contains only 145 persons.⁸ No white areas will be created by the proposed arrangement of allotments.

As stated above, the proposed arrangement of allotments improves two existing short-spacings and eliminates one other existing short-spacing. The Arcadia, Channel 296B1, reference site improves on KLYY(FM)'s longstanding, grandfathered short-spacings with respect to second-adjacent channel stations KROQ-FM, Los Angeles, California, [Channel 294B] and KLVE(FM), Los Angeles, California [Channel 298B]. With respect to KROQ-FM, the existing 47.6 kilometer short-spacing to KLYY(FM) is reduced to 27.6 km. Similarly, with respect to KLVE(FM), the existing 62.5 kilometer short-spacing

⁷ For the Class A, Class B and Class B1 FM stations considered herein, the primary service circles represented on the attached exhibit are the 60 dBu contour (28.3 km radius circle), the 54 dBu contour (65.0 km radius circle) and the 57 dBu contour (44.7 km radius circle), respectively. For AM stations, the daytime 0.5 mV/m groundwave primary service contour, predicted using the ground conductivities in FCC Figure M-3, are represented in Exhibit 4.

⁸ In sum, such new gray areas are *de minimis*. See WSET, Incorporated, 80 FCC 2d 233, at paragraph 28 (1980) ("white" area loss sector containing approximately 500 persons is *de minimis*).

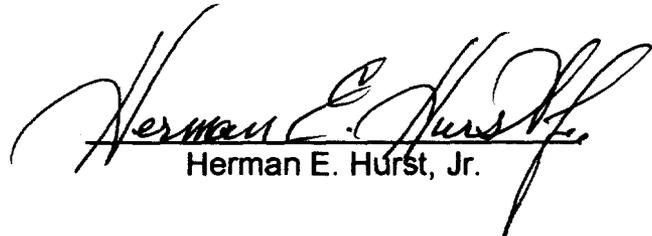
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PAGE 13

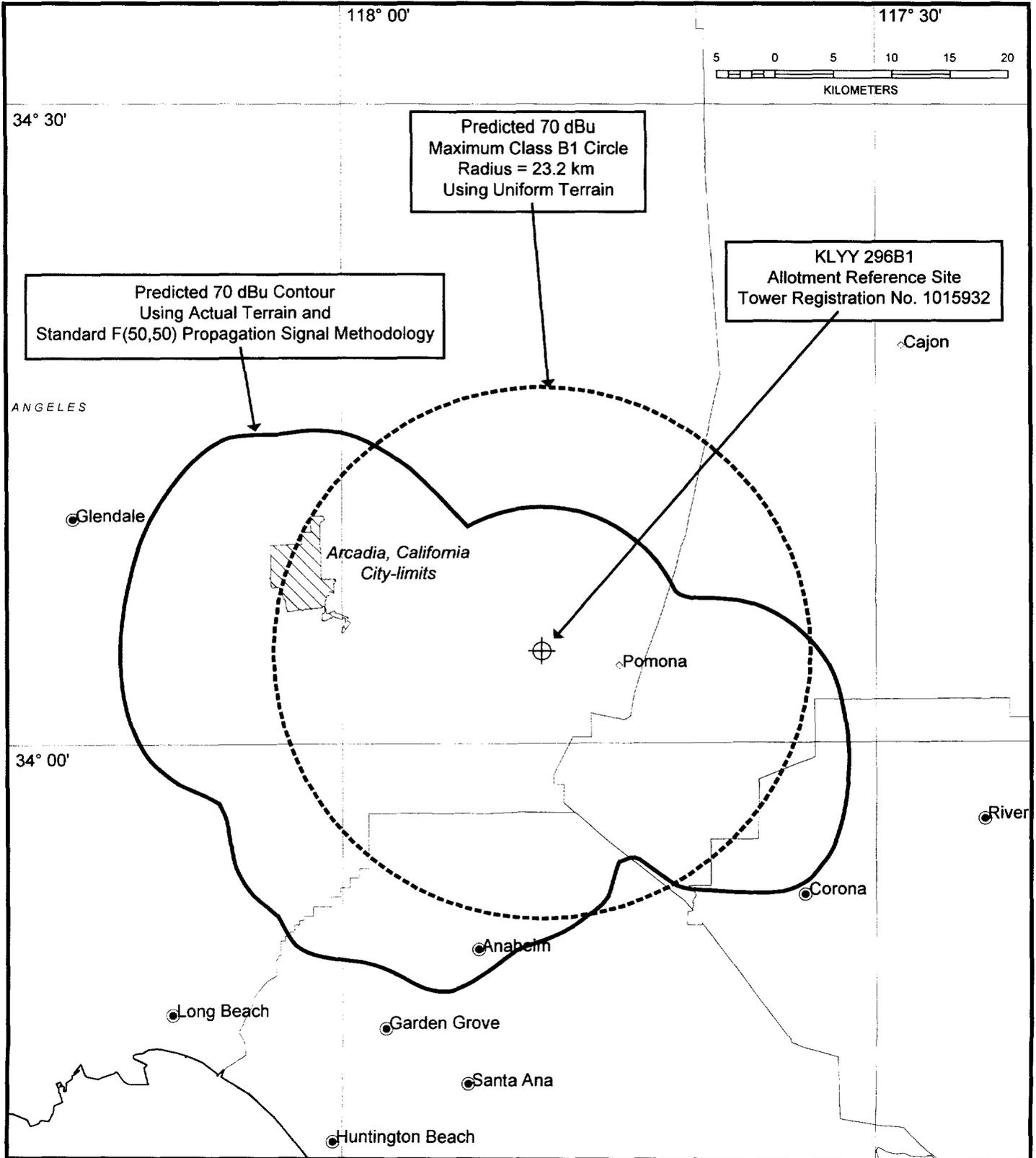
to KLYY(FM) is reduced to 41.8 km. Finally, the substitute channel at Fallbrook, California, eliminates KSYY(FM)'s existing 2.8 km short-spacing to KYOR(FM).

This statement and the supporting exhibits were prepared by me or under my direct supervision and are believed to be true and correct.

DATED:

March 5, 2001

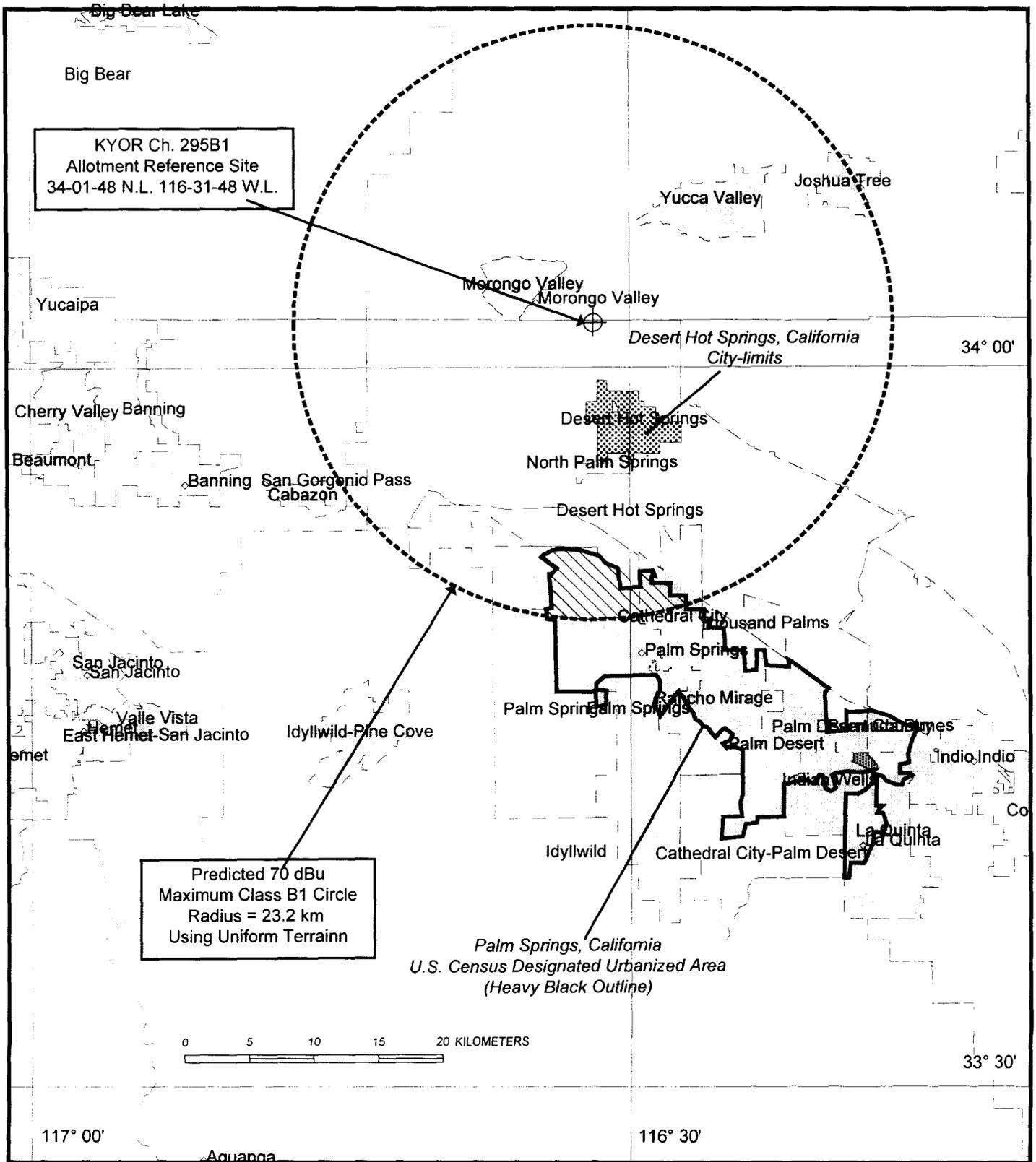

Herman E. Hurst, Jr.



PREDICTED CITY-GRADE COVERAGE
KLYY(FM), ARCADIA, CALIFORNIA
CH. 296B1, 25.0 kW ERP, 91 m HAAT
FEBRUARY, 2001

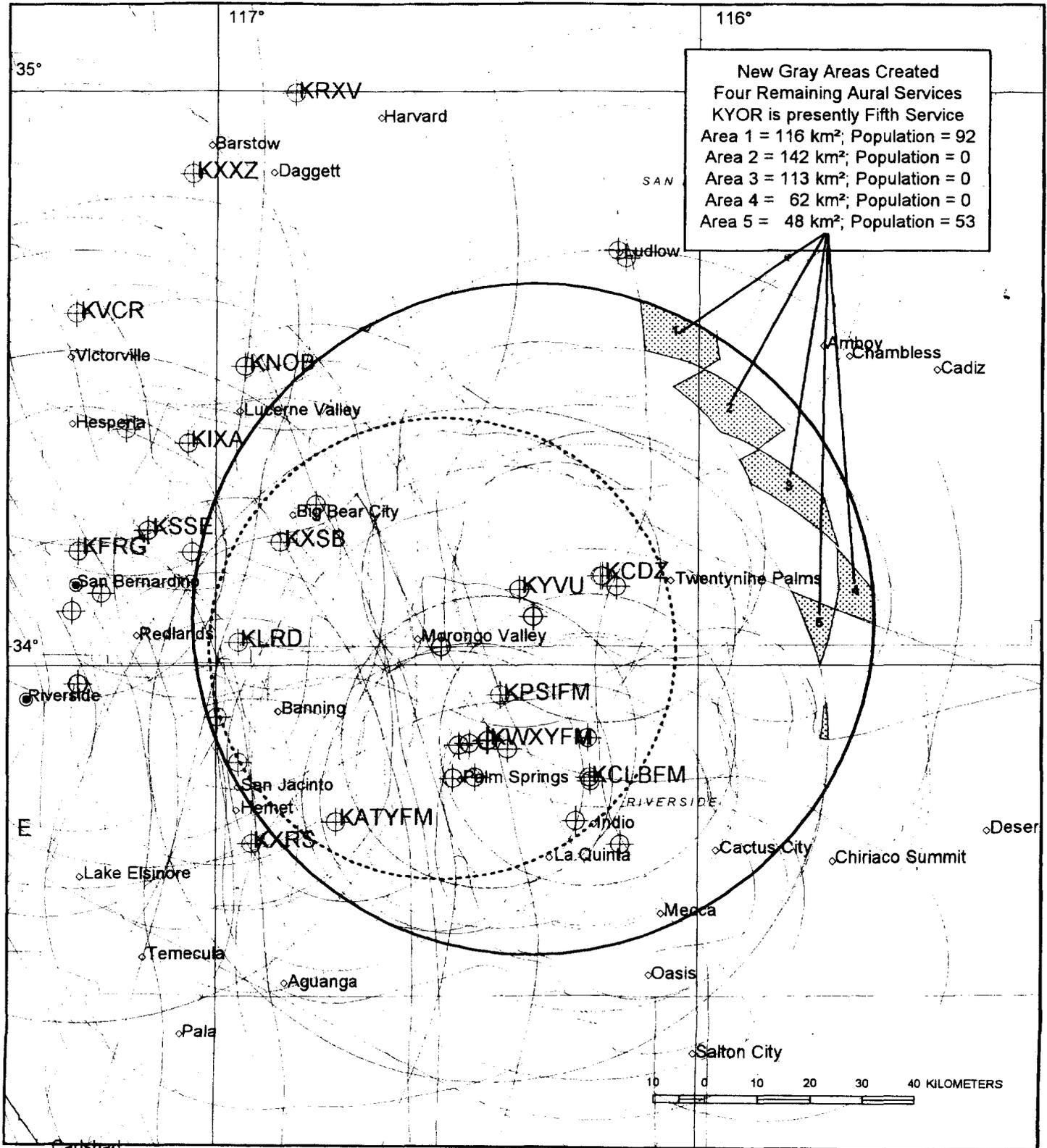
Palm Springs Urbanized Area = 233 km²

City-Grade Coverage of Palm Springs
Urbanized Area = 37.2 km² (15.9%)



**PREDICTED CITY-GRADE COVERAGE
KYOR(FM), DESERT HOT SPRINGS, CALIFORNIA
CHANNEL 295B1
FEBRUARY, 2001**

Yucca Valley Primary Service 54 dBu (Black Solid Circle radius = 65 km)
 Desert Hot Springs Primary Service 57 dBu (Black Dashed Circle radius = 44.7 km)



FM Stations Primary Service (Green Circles)
 AM Stations Daytime 0.5 mV/m Primary Service (Red Circles)

OTHER SERVICES TO KYOR LOSS AREA
 YUCCA VALLEY, CALIFORNIA and
 DESERT HOT SPRINGS, CALIFORNIA
 FEBRUARY, 2001

CARL T. JONES
 CORPORATION

**DISTANCE GIVEN FIELD STRENGTH STUDY
KLYY, ARCADIA, CALIFORNIA
CLASS B1 REFERENCE SITE
TOWARD ARCADIA, CALIFORNIA**

Proposed Radiation Centerline Height Above Mean Sea Level (meters)	410
Effective Radiated Power	25 kW
Direct Azimuth from Reference Site to Arcadia	290.4°
Distance from Reference Site to Arcadia	21.8 km

<u>Azimuth</u>	<u>Average Terrain Elevation (meters)</u>	<u>HAAT (meters)</u>	<u>City-Grade Contour Distance 70 dBu F(50,50) (kilometers)</u>
280	147	263	36.2
281	147	263	36.2
282	148	262	36.2
283	148	262	36.1
284	149	261	36.1
285	149	261	36.1
286	150	260	36.0
287	151	259	36.0
288	152	258	35.9
289	153	257	35.8
290	155	255	35.7
291	157	253	35.6
292	159	251	35.5
293	161	249	35.4
294	163	247	35.2
295	165	245	35.1
296	168	242	34.9
297	170	240	34.8
298	172	238	34.6
299	174	236	34.5
300	177	233	34.3

DECLARATION

I, Charles M. Fernandez declare as follows:

1. I am President and Chief Executive Officer of Big City Radio, Inc., the Member Manager of Big City Radio-LA, L.L.C., the licensee of KLYY(FM), Channel 296A, Arcadia, California, and KSYY(FM), Channel 296A, Fallbrook, California (the "Stations").
2. Big City Radio-LA, L.L.C. intends to apply for construction permits for the Stations upon adoption of the foregoing counterproposal to implement facilities authorized by the Rule Making.
3. If awarded the construction permits for the Stations, Big City Radio-LA, L.L.C. promptly will construct and operate such facilities.

I hereby declare under penalty of perjury that the statements made in this declaration are true and accurate to the best of my knowledge, information and belief.


Charles M. Fernandez

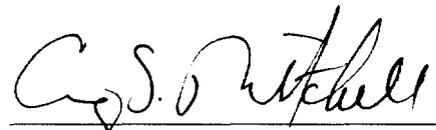
Date: March 9, 2001

DECLARATION

I, Craig S. Mitchell, declare as follows:

1. I am Vice President of Morris Communications Corporation, the licensee of KYOR(FM), Channel 2295B, Yucca Valley, California.
2. Morris Communications Corporation hereby consents to the filing of the foregoing comments and counterproposal (the "Counterproposal") by Big City Radio-LA, L.L.C.
3. Morris Communications Corporation intends to apply for a construction permit for KYOR(FM) at Desert Hot Springs, Channel 295B1, upon adoption of the Counterproposal.
4. If awarded the construction permit for KYOR(FM) at Desert Hot Springs, Channel 295B1, Morris Communications Corporation promptly will construct and operate such facilities.

I hereby declare under penalty of perjury that the statements made in this declaration are true and accurate to the best of my knowledge, information and belief.



Craig S Mitchell

Date: March 8, 2001

CERTIFICATE OF SERVICE

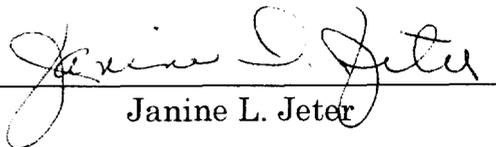
I, Janine L. Jeter, a legal secretary with the law firm of Hogan & Hartson L.L.P., hereby certify that on this 12th day of March, 2001, a copy of the foregoing Comments and Counterproposal, has been served by first class mail to:

David Tillotson, Esq.
4606 Charleston Terrace, N.W.
Washington, D.C. 20007
Counsel to Helen Jones

James R. Bayes, Esq.
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006
Counsel to Morris Communications Corporation

Sharon P. McDonald */
Allocations Branch
Mass Media Bureau
Federal Communications Commission
445 - 12th Street, S.W.
Washington, D.C. 20554

*/ By hand.



Janine L. Jeter