

BEFORE THE ORIGINAL
Federal Communications Commission

WASHINGTON, D.C.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Amendment of Section 73.202(b),)
Table of Allotments, FM)
Broadcast Stations.)
(Cheboygan, Rogers City, Bear Lake,)
Bellaire, Rapid River, Manistique,)
Ludington, Walhalla and Onaway,)
Michigan))

MM Docket No 00-69
RM-9850
RM-9945
RM-9946

To the Chief, Allocations Branch

RESPONSE TO ORDER TO SHOW CAUSE

LAKE MICHIGAN BROADCASTING, INC.

Scott R. Flick
Brendan Holland

Its Attorneys

SHAW PITTMAN
2300 N Street, NW
Washington, DC 20037
(202) 663-8000

Date: July 2, 2001

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SUMMARY

The modification of WKLA(FM)'s operating channel proposed by Fort Bend Broadcasting Company ("Fort Bend") is not in the public interest. WKLA(FM) is a well-established and vital radio station that provides substantial service to its Ludington, Michigan community of license. Because of its long-standing service to the community and its unique continuous operation, especially in times of emergency, listeners in the Ludington area have come to rely on WKLA(FM). A change of the station's operating channel would be disruptive and potentially dangerous in the event of an emergency. Further, a modification of WKLA(FM)'s channel may be financially detrimental to the station and result in a reduction of the substantial service that WKLA(FM) currently provides, as well as increasing the potential for harmful interference. The counterproposal advocated by Fort Bend would require numerous changes and modifications to the Table of Allotments, including changes to other existing facilities, and contrary to established Commission policy, will remove the sole existing local service from Bear Lake and replace it with a vacant allotment. Ultimately, Fort Bend's counterproposal does not result in a preferential arrangement of allotments and the Commission should reject the proposed modification of WKLA(FM)'s operating channel.

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To the Chief, Allocations Branch

RESPONSE TO ORDER TO SHOW CAUSE

Lake Michigan Broadcasting, Inc. ("Lake Michigan"), licensee of broadcast radio station WKLA(FM), Ludington, Michigan, hereby responds to the Commission's Order to Show Cause, released May 11, 2001, in the above referenced proceeding.¹ By that Order, the Commission indicated that it had a Petition for Rulemaking and two counterproposals under consideration which involve various channel substitutions and changes to the FM Table of Allotments. Among the changes proposed in the counterproposal filed by one party was the modification of WKLA(FM)'s operating frequency by substituting Channel 254A for Channel 292A at Ludington, Michigan. Accordingly, the Commission issued an Order to Show Cause to Lake

¹ In the Matter of Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Cheboygan, Rogers City, Bear Lake, Bellaire, Rapid River, Manistique,

Footnote continued on next page

Michigan requesting that it demonstrate why its license should not be modified to specify operation on Channel 254A in lieu of Channel 292A. For the reasons articulated below, Lake Michigan opposes the proposed modification of WKLA(FM)'s established operating channel as it would not be in the public interest.

BACKGROUND

On December 3, 1999, Escanaba License Corp. ("Escanaba") filed a Petition for Rule Making with the Commission seeking the allotment of FM Channel 260C2 at Cheboygan, Michigan as its second local FM service. In order to allot that channel, Escanaba proposed the substitution of Channel 292C2, currently occupied by WHAK-FM, for Channel 260C2 at Rogers City, Michigan. On April 25, 2000, the Commission issued a Notice of Proposed Rule Making ("NPRM") in response to Escanaba's Petition.² As the proposal involved the modification of an existing station, the NPRM also included an Order to Show Cause asking WHAK-FM to demonstrate why its license should not be modified to specify operation on Channel 292C2 at Rogers City.

In response to that NPRM and Order to Show Cause, three sets of comments were filed:

- (1) Escanaba reiterated its interest in the proposal and its intention to file an application;
- (2) Northern Radio Network Corporation ("Northern"), licensee of station WHAK-FM, filed comments stating that a change in its frequency would be confusing and disruptive to the public, and counterproposing the allotment of Channel 292C2 to Onaway, Michigan as its first

Footnote continued from previous page

Ludington, Walhalla and Onaway, Michigan) Order to Show Cause, MM Docket No. 00-69, DA 01-1184, released May 11, 2001.

² In the Matter of Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Cheboygan and Rogers City Michigan), Notice of Proposed Rule Making and Order to Show Cause, MM Docket No. 00-69, DA 00-916, released April 25, 2000.

local service and 249C3 at Cheboygan as its second local FM service; and (3) D&B Broadcasting L.L.C. and Fort Bend Broadcasting Company (hereinafter "Fort Bend") submitted a counterproposal that involved the modification of its own station, WSRQ-FM, from Channel 261A, Bear Lake, Michigan to 260C1 at Bellaire, Michigan, the allocation of Channel 291A to Bear Lake, and the addition of Channel 259A to Rapid River, Michigan as its first local service. Fort Bend's counterproposal suggested that these changes would result in a first local service to Bellaire, improvement of service to Bear Lake, and a first local service to Rapid River. In order to achieve these changes to the FM Table of Allotments, however, Fort Bend's proposal required the modification of existing station WHAK-FM from Channel 260C2 to 292C2 at Rogers City, as well as the modification of existing station WKLA-FM from Channel 292A to 254A at Ludington, Michigan, the substitution of 265A for Channel 260A at Manistique, Michigan (for which an application for construction permit has been filed), and the substitution of Channel 293A for the vacant allotment on Channel 255A at Walhalla, Michigan.

Following the submission of various comments and reply comments in response to the initial NPRM and Order to Show Cause, the Commission subsequently issued a second Order to Show Cause, this time directed at WKLA-FM. As Fort Bend's counterproposal advocated the modification of WKLA-FM's channel of operation, WKLA-FM is afforded an opportunity to respond. Therefore, by the instant pleading, Lake Michigan, licensee of WKLA-FM, hereby responds to the Commission's Order to Show Cause.

I. The Proposed Modification of WKLA(FM)'s Channel of Operation is Not in the Public Interest as It Would Be Disruptive and Threaten the Substantial Service That the Station Provides to Its Community

Pursuant to Section 316 of the Communications Act of 1934, as amended, the Commission may only modify a license or construction permit if such action is in the public

interest.³ In the instant situation, forcing WKLA(FM) to change its operating channel from 254A to 292A is clearly not in the public interest. Modification of WKLA(FM) would cause confusion to the listening audience, as well as causing financial harm to WKLA(FM), raising the possibility of a reduction in the substantial service that WKLA(FM) currently provides to its community. Furthermore, WKLA(FM) holds an established and unique position in its community as the source of local news, weather, and information, especially in times of emergency, thereby increasing the harm to the public of the proposed channel change.

A. Listeners in the Ludington Area Rely on WKLA(FM) Because of Its Long-Standing Service to the Community and Its Continuous Operation, Especially in Times of Emergency

WKLA(FM) is a long-standing pillar of its community, serving the Ludington area for nearly two and a half decades. WKLA(FM) is the primary source of weather, cancellations, news, sports and general community information for the residents and listeners in the Ludington community. Even more importantly, WKLA(FM) is the only station in the area with emergency generators at both its studio and its transmitter locations. Thus, not only have listeners come to rely on the operation of WKLA(FM) for vital news and information on a day-to-day basis, but its ability to operate under all circumstances has made it the place people tune for emergency information. The proposed modification of WKLA(FM)'s operating frequency would not be in the public interest as it would cause confusion among the listening audience. While in the normal course of operations this confusion may be disruptive and a nuisance, it could have potentially severe implications in times of emergency.

WKLA(FM)'s well-established position on the radio dial and in the community's minds makes it an indispensable resource for Ludington. Were the station to move from its current

³ 47 U.S.C. § 316.

position of 106.3 to 98.7 on the radio dial, it would invariably result in a loss of listeners, no matter how well the change was advertised. This loss becomes critical when WKLA(FM)'s role as the station the public relies on for emergency information is considered. Battery-powered radios kept for emergencies are tuned to 106.3 and if the Fort Bend counterproposal is adopted, listeners will find only static there when an emergency occurs. WKLA(FM) has spent decades serving the public and building a relationship with its listeners at its current position. A modification of the station's operating channel would have a far-reaching and negative impact on the Ludington community.

In addition, during the summer months, Ludington, Michigan has a sizable tourist population, which at times increases the local population by 40,000 to 50,000 people. Many of these people are annual visitors who rely on WKLA(FM) for local weather and boating information year after year. If WKLA(FM) were required to change its operating channel, it would be impossible to notify these part-time residents of the change. While local newspaper advertisements might reach year-round residents, there would no way to reach the annual visitors to Ludington.

B. The Proposed Modification of WKLA(FM)'s Channel May Be Financially Detrimental to the Station, Which Could Result in a Reduction of the Substantial Service That WKLA(FM) Currently Provides to Its Community

Currently, WKLA(FM) is a "full service" broadcast radio station providing a wide array of locally-produced programming to its listeners. WKLA(FM) has a full-time News Director, Sports Director, and live announcers, as well as remote broadcast operations and live coverage of high school sports. Because of the service WKLA(FM) provides, it is an integral and valuable resource for the Ludington community. However, if WKLA(FM) were to be financially damaged by the forced modification of its frequency, some of these "full service" features might

have to be discontinued in the future. The economic realities of small market broadcasting could force a reduction in programming in order to offset any losses from the proposed modification. Such a result would clearly not be in the public interest, as WKLA(FM) currently provides substantial and reliable service to the public.

C. Modification of WKLA(FM)'s Operating Channel Would Increase the Potential for Harmful Interference

The proposed modification of WKLA(FM) to Channel 254A would increase the likelihood of intermittent interference to the station due to the "lake effect" experienced in the area, and thus is not in the public interest. Several FM broadcast radio stations located along Lake Michigan experience interference from stations broadcasting from across the lake. On average, the interference occurs a few times a month, depending on atmospheric conditions. Currently, WKLA(FM) does not experience any interference from FM stations that operate across the lake on adjacent channels. However, as detailed in the attached engineering report, substitution of Channel 254A would expose WKLA(FM) to the increased possibility of harmful interference due to an allotment on Channel 255A located across the lake from WKLA(FM) at Two Rivers, Wisconsin. *See Exhibit 1.* The facility allotted on Channel 255A at Two Rivers is located only 99.8 kilometers from WKLA(FM). As the normal required separation between the channels is 72 kilometers, the clearance afforded to WKLA(FM) by the Two Rivers allotment is 27.9 kilometers. This is substantially less than the clearance WKLA(FM) now has from stations located across the lake that are first adjacent to WKLA(FM)'s current Channel 292A. This reduction in the clearance from a first adjacent station located across the lake could cause an increase in "lake effect" interference to WKLA(FM), and lead to a disruption of service to WKLA(FM)'s listening audience. In particular, the risk of such interference to WKLA(FM)'s emergency operations is worrisome. As a change in WKLA(FM)'s operating frequency would

increase the potential for this harmful interference, the proposed modification is not in the public interest.

II. Fort Bend's Counterproposal Does Not Comply with Established Commission Policy

A. The Modification of Existing Stations Is Disruptive and Should Be Avoided

The modification of an existing station's operating channel, and hence the relocation of the station's position on the radio dial, is an invasive and disruptive event. The Commission has stated in the past its "concerns with respect to proposals involving multiple FM or television channel substitutions."⁴ In addition to the time consuming problem of agreeing on an appropriate amount of reimbursement for the channel changes, the Commission has stated that

[t]here can also be a significant amount of confusion to the public from stations changing frequencies. Even though stations do attempt to inform the public of their change in frequency, these efforts are not often immediately successful and can result in disruptions to listening and viewing habits and losses of audience. ...[C]hanging a station's frequency is a significant action which can cause substantial disruptions to a station's business.⁵

This is clearly the case in the instant proceeding, as Fort Bend's proposal would require not only the modification of WKLA(FM)'s operating channel, but the modification of WHAK-FM's operating channel, and the modification of the pending application for construction permit for Channel 260A, Manistique, Michigan as well. These changes will cause substantial disruption to the listening audiences of these stations and will invariably result in the loss of listeners and revenue.

⁴ Amendment of Section 73.303(B) Table of Allotments, FM Broadcast Stations. (Columbus, Central City, Crookston, Kearney, Lexington, McCook, and Valentine, Nebraska, and Hill City, Kansas), Report and Order, 59 RR 2d 1184, at ¶ 4 (1986).

⁵ Id. at ¶ 4.

B. Fort Bend's Counterproposal Advocates the Removal of the Sole Local Service from Bear Lake, Michigan

Fort Bend's proposal to modify WSRQ-FM from Channel 261A to 260C1 and to change the station's community of license from Bear Lake to Bellaire would remove the sole local radio station currently serving the community of Bear Lake. As the Commission's policies generally prohibit the removal of the sole existing service from a community,⁶ Fort Bend's proposal is contrary to the public interest. The Commission has stated that, the removal of an existing station representing a community's sole local broadcast service "presumptively diserves the public interest."⁷ While the Commission has stated that it will entertain requests for waiver of this prohibition, it has also indicated that circumstances where the public interest is better served by the removal of a sole existing local service are rare.⁸ Furthermore, the Commission has explicitly stated that it "do[es] 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."⁹ This is precisely what Fort Bend is seeking to do in the instant situation, and as such, it is contrary to the Commission's well-established allotment priorities and policies.

⁶ See Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License, 5 FCC 7094 (1990).

⁷ Id. at ¶ 17. See also Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Alva, Mooreland, Tishominog, Tuttle, and Woodward, Oklahoma, 2000 FCC Lexis 6810 (Allocations Branch 2000) (denying proposal seeking removal of sole local service in order to provide a larger population in an adjacent community with first local service); Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Sibley, Iowa and Brandon, South Dakota), 15 FCC Rcd 19130 (Allocations Branch 2000) (denying reconsideration of Commission's action rejecting proposed reallocation of an existing station that would remove sole local service).

⁸ 5 FCC 7094 at ¶ 17.

⁹ Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Llano and Marble Falls, Texas), 10 FCC Rcd 4913 at ¶ 4 (Allocations Branch 1997), *recon.*, 12 FCC Rcd 6809 (Allocations Branch 1997).

In addition, while Fort Bend’s counterproposal also includes the allotment of a new channel at Bear Lake, this is not a sufficient replacement for the loss of an existing service. As the Commission has specifically stated, “the replacement of an operating station with a vacant allotment does not adequately cure the disruption of existing service to the public.”¹⁰ In adopting the changes to its Rules that allow licensees to specify a new community of license for an existing station, the Commission found that

[t]he public has a legitimate expectation that existing service will continue, and this expectation is a factor we must weigh independently against the service benefits that may result from reallocating of a channel from one community to another, regardless of whether the service removed constitutes a transmission service, a reception service or both. Removal of service is warranted *only if there are sufficient public interest factors to offset the expectation of continued service*. We specifically wish to clarify that replacement of an operating station with a vacant allotment or unconstructed permit, although a factor to be considered in favor of the proposal, does not adequately cure the disruption to “existing service” occasioned by removal of an operating station. From the public’s perspective, the potential for service at some unspecified future date is a poor substitute for the signal of an operating station that can be accessed today simply by turning on a TV or radio set.¹¹

This is precisely what Fort Bend proposes in the instant situation by changing the community of license of WSRQ-FM from Bear Lake to Bellaire. Pursuant to the Commission’s Rules and policies, “ordinarily, allotment of a replacement channel is not sufficient to overcome

¹⁰ Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Llano and Marble Falls, Texas), 10 FCC Rcd 4913 ¶ 3 (Allocations Branch 1997), *recon.*, 12 FCC Rcd 6809 (Allocations Branch 1997). While the Commission in the *Llano and Marble Falls* case ultimately permitted the relocation of the existing station and the addition of a new allotment to replace the removed service, the Commission has distinguished this action based on the fact that the action “did not necessitate the denial of any competing proposal,” unlike the instant situation. *See also* Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Sibley, Iowa and Brandon, South Dakota), 15 FCC Rcd 19130 (Allocations Branch 2000).

¹¹ 5 FCC 7094 at ¶ 19 (emphasis added).

the concern pertaining to a disruption of local service.”¹² Fort Bend has failed to show that there are sufficient public interest factors warranting the removal of service from Bear Lake, even if it should turn out to be a temporary loss of service. Ultimately, as discussed further below, Fort Bend’s proposal will not result in the best arrangement of allotments.

III. Fort Bend’s Counterproposal Will Not Result in a Preferential Arrangement of Allotments, and the Service that It Suggests Will Be Achieved Is Inferior to the Service that Will Be Achieved by Northern’s Counterproposal

Fort Bend contends that its counterproposal should be granted over the proposals set forth by Escanaba and Northern. When the three proposals are compared though, it is less than clear that Fort Bend’s numerous changes and channel modifications will actually yield any greater service to the public than that advocated by the other parties. However, it is clear that Fort Bend’s counterproposal will yield far more disruptions. The Commission’s established priorities for FM allotments are as follows: (1) first aural service, (2) second aural service, (3) first local service, and (4) other public interest matters. Equal weight is given to the second and third priorities.¹³ Escanaba’s proposal would bring a second local FM station to Cheboygan, while requiring the modification of an existing station. Northern’s counterproposal would continue to bring a second local FM station to Cheboygan as well as add a first local service to Onaway, Michigan. Further, Northern’s counterproposal would not require either WKLA(FM) or WHAK-FM to modify its operating channel. Fort Bend’s counterproposal claims that it will bring a new local service to Bellaire, improved service to Bear Lake, and a new local service to Rapid River, although at the cost of requiring several other changes to the FM Table of Allotments, including the modification of two existing stations and a third station for which a

¹² Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Llano and Marble Falls, Texas), 12 FCC Rcd 6809 ¶ 7 (Allocations Branch 1997).

construction permit has been applied for. As described below, while Fort Bend's proposal claims to offer more than either Escanaba or Northern's proposal, in fact it does not.

A. The Removal of a Sole Existing Local Service From Bear Lake to Provide a First Local Service to Bellaire Is Not a Net Gain

Fort Bend's proposal to take away the only existing local service from one community to provide a first local service to another community does not serve the public interest. As mentioned above, the fact that Fort Bend is removing WSRQ-FM from the community of Bear Lake in order to provide a first local service to Bellaire is not a gain in service under the Commission's Rules. As the Commission has found in the past, the removal of a community's sole local transmission service merely to provide a first local transmission to another community is not in the public interest.¹⁴ In adopting the prohibition on removing the sole existing service, the Commission stated that

[t]he prohibition on the removal of an existing station representing a community's sole local broadcast service furthers our statutory mandate. Although this prohibition might, as a theoretical matter, appear to elevate the provision of local (i.e. transmission) service to our highest priority, there are virtually no populated areas of the country where our higher allotment priorities, such as first reception service, have not been attained. Therefore, as a practical matter, provision of first local service is the highest of our allotment priorities which remains in any significant degree unsatisfied. Under these circumstances, we believe a prohibition against the removal of local service is warranted, since such an action could result in diminishment rather than enhancement of local service.¹⁵

Footnote continued from previous page

¹³ See Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1982).

¹⁴ Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Llano and Marble Falls, Texas), 10 FCC Rcd 4913 (Allocations Branch 1997), *recon.*, 12 FCC Rcd 6809 (Allocations Branch 1997).

¹⁵ Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License, 5 FCC 7094 at ¶ 16 (1990).

Accordingly, Fort Bend's proposed removal of the sole existing service simply to allot a first local service to Bellaire is not in the public interest, and Fort Bend has failed to make the substantial showing necessary to demonstrate that the removal of the local service from Bear Lake is justified.

B. There Is an Alternate Channel Available at Rapid River, Michigan That Would Allow First Local Service to That Community Without the Disruption Proposed by Fort Bend

Fort Bend's counterproposal claims to allow the allotment of a first local service to Rapid River, Michigan. However, the reference site that Fort Bend has proposed for Channel 259A at Rapid River is located in the middle of a National Forest. In fact, as Exhibit 1 indicates, the entire area in which a Channel 259A antenna site could be located is within the Hiawatha National Forest. While Fort Bend contends in its comments that the location of the proposed site in the National Forest does not pose a problem, Commission precedent shows otherwise. As the Commission has stated, "examples of unsuitable allotment reference sites include those which are offshore, in a national or state park in which tower construction is prohibited..."¹⁶ As the attached engineering statement indicates, there appear to be no broadcast towers registered in the Hiawatha National Forest. Further, when a party specifies a reference point that is within a national forest, it must demonstrate that the site is in fact available for use.¹⁷ No such showing has been made in this proceeding.

¹⁶ Amendment of the Commission's Rules To Permit FM Channel and Class Modifications by Application, 8 FCC Rcd 4735 at note 19 (1993).

¹⁷ *See, e.g.*, Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Harrietta, Michigan) 12 FCC Rcd 6058 (Allocations Branch 1997); Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Cassville and Kimberling, Missouri), 10 FCC Rcd 13782 (Allocations Branch 1995).

Moreover, as Exhibit 1 notes, Channel 259A does not constitute the only opportunity for a first local service at Rapid River. Channel 224A is available for allotment at Rapid River and would require no other changes to the Table of Allotments. Further, as detailed in the attached engineering report, a Channel 224A allotment would be superior to Fort Bend's proposed Channel 259A allotment, as the transmitter site would not need to be located in the Hiawatha National Forest and a Channel 224A allotment would not require the numerous, complicated channel changes by other stations that Fort Bend advocates. *See* Exhibit 1.

C. It Is Questionable Whether the Allotment Proposed for Bear Lake to Replace WSRQ-FM Would in Fact Result in Better Service to That Community, Particularly Given the Uncertainty That a New Station Will Actually Be Built at Bear Lake

Fort Bend contends that although it is removing the sole existing local service to Bear Lake by changing WSRQ-FM's channel and community of license to Bellaire, the Bear Lake community will nonetheless still be served as Fort Bend proposes to add a new allotment at Bear Lake. However, as discussed above, the Commission has found that the substitution of a vacant allotment for the removal of an existing service is not a fair trade and is not in the public interest. As the Commission has specifically stated, "the public has a legitimate expectation that existing service will continue."¹⁸ Furthermore, "replacement of an operating station with a vacant allotment or unconstructed permit... does not adequately cure the disruption to 'existing service' occasioned by removal of an operating station. From the public's perspective, the potential for service at some unspecified future date is a poor substitute for the signal of an operating station

¹⁸ 5 FCC 7094 at ¶ 19.

that can be accessed today simply by turning on a TV or radio set.”¹⁹ This is precisely what Fort Bend proposes in the instant situation by changing the community of license of WSRQ-FM from Bear Lake to Bellaire. Accordingly, Fort Bend’s proposal does not result in a preferential arrangement of allotments, but rather is contrary to the public interest.

Even assuming the new Bear Lake allotment is actually utilized, there will be a substantial period of time in which Bear Lake does not have any local service. The allocation of a new FM channel to Bear Lake to replace WSRQ-FM does not actually bring service to the public. It could be a matter of years before a replacement service is actually initiated and the community of Bear Lake realizes a replacement for what is currently its sole existing station.

¹⁹ Id. See also Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Llano and Marble Falls, Texas), 12 FCC Rcd 6809 ¶ 7 (Allocations Branch 1997).

CONCLUSION

For the reasons stated above, the proposed modification of WKLA(FM) advanced in the counterproposal submitted by Fort Bend is clearly not in the public interest, and the Commission should reject that counterproposal.

Respectfully submitted,

LAKE MICHIGAN BROADCASTING, INC.

By: 

Scott R. Flick
Brendan Holland

Its Attorneys

SHAW PITTMAN
2300 N Street, NW
Washington, DC 20037
(202) 663-8000

Date: July 2, 2001

DECLARATION

I, Roger K. Baerwolf, President and CEO of Lake Michigan Broadcasting, Inc., the licensee of WKLA(FM), Ludington, Michigan, have read the foregoing "Response to Order to Show Cause," and hereby attest under penalty of perjury that the facts stated therein, except those of which the Commission can take official notice, are true and correct to the best of my knowledge and belief.

LAKE MICHIGAN BROADCASTING, INC.

By: *Roger K. Baerwolf*
Roger K. Baerwolf, President/CEO

Date: 6/29/01

EXHIBIT 1

TECHNICAL EXHIBIT
PREPARED ON BEHALF OF LAKE MICHIGAN BROADCASTING, INC.
IN REPOSE TO THE ORDER TO SHOW CAUSE
IN MM DOCKET NO. 00-69

Technical Narrative

The technical exhibit of which this narrative is part was prepared on behalf of Lake Michigan Broadcasting, Inc., licensee of WKLA-FM on channel 254A in Ludington, Michigan, in response to the Order to Show Cause in MM Docket No. 00-69. The Order to Show Cause was issued as a result of the counterproposal in MM Docket No. 00-69 filed by Fort Bend Broadcasting Company ("Fort Bend") which requested numerous channel substitutions including the substitution of channel 254A for channel 292A at Ludington, Michigan. The purpose of this technical exhibit is to provide information demonstrating the following:

- The substitution of channel 254A will result in an increase in the potential for "lake effect" (ducting) interference to the WKLA-FM operation.
- Channel 224A is available at Rapid River without the need for channel changes by other stations or allotments. Furthermore, the potential site location area for channel 224A is located outside of any National Forest and there are several registered towers available for operation on channel 224A.

Lake Effect Interference to WKLA-FM

The potential for FM co-channel and adjacent channel interference is exacerbated by anomalous propagation resulting from the proximity of the protected and potential interfering stations to large bodies of water such as Lake Michigan. The WKLA-FM transmitter site is located on the eastern shore of Lake Michigan. Potential interfering stations located on the western shore of Lake Michigan could cause "lake effect" interference to WKLA-FM. As such, it is believed that there is a greater potential for "lake effect" interference to the WKLA-FM signal on proposed channel 254A than on current channel 290A.

Under normal conditions, the refractive index of air normally decreases with increasing height and is, on average, equivalent to an effective radius of the earth by a factor of approximately 1.33. However, under abnormal meteorological conditions, especially over water, the variation of the dielectric constant of air departs considerably from the standard condition. The most common abnormal conditions exist in the form of a much higher than normal variation in the refractive index. This condition is brought about by warmer air over a body of cooler water, resulting in a high density of water vapor in the air immediately adjacent to the water surface. When the operating frequency is sufficiently high, the region where the refractive index is unusually great will actually trap the energy, causing it to propagate along the surface as if it were in a wave guide. This "ducting", or "lake effect" propagation may extend the useful range to two or three times the normal line-of-sight range.¹

Figure 1 is a separation study for WKLA-FM's current operation on channel 292A at Ludington with a 32 kilometer (20 mile) buffer. There are no known co-channel or adjacent channels stations contained on Figure 1 that are located along the western shore of Lake Michigan and which could potentially cause "lake effect" interference to WKLA-FM.

Figure 2 is a separation study for the proposed channel 254A operation at Ludington as specified by Fort Bend at Ludington with a 32 kilometer (20 mile) buffer. The vacant, first adjacent channel 255A operation at Two Rivers is located along the western shore of Lake Michigan. It is also noted that there are five (5) applications pending for this allotment so it appears that this allotment will ultimately be activated. Thus, activation of the Two Rivers channel 255A operation has the potential to cause lake effect interference to the proposed WKLA-FM operation on channel 254A.

¹ See Frederick Emmons Terman, Sc.D., "Radio Engineering", pages 621-622, McGraw-Hill Book Company, Inc., 1947. See also, George W. Bartlett, Editor, "National Association of Broadcasters Engineering Handbook", pages 134-135, National Association of Broadcasters, 1975.

Rapid River FM Allotment

As part of its counterproposal, Fort Bend has proposed the allotment of channel 259A at Rapid River as a first local aural (AM/FM) service. Figure 3 is a separation study for channel 259A from the allotment reference point specified by Fort Bend. As indicated, the allotment of channel 259A at Rapid River requires the substitution of an alternate channel (channel 265A has been proposed by Fort Bend) for the vacant channel 260A allotment at Manistique, Michigan. It is noted that there are three (3) pending applications for channel 260A at Manistique. Figure 4 is a map depicting the fully-spaced area-to-locate for channel 259A at Rapid River. As pointed out in this proceeding, the Rapid River allotment site specified by Fort Bend is located in the Hiawatha National Forest. Furthermore, it appears that the entire fully-spaced area-to-locate is located within the Hiawatha National Forest. Finally, there are no known registered towers located within the channel 259A fully-spaced area-to-locate depicted on Figure 4.

As also pointed out previously in this proceeding, channel 224A is available for allotment to Rapid River from the Rapid City reference point (N45-55-37/W86-58-01) without the need for channel changes by other stations or allotments. Figure 5 is a separation study for channel 224A from the Rapid River reference point and, as indicated, there are no short-spacings. Figure 6 is a map depicting the fully-spaced area-to-locate for channel 224A at Rapid River. It has been determined that there are at least 7 registered towers that are located within the fully-spaced area-to-locate for channel 224A and potentially available for a channel 224A operation.²

This Technical Exhibit has been prepared by or under the direct supervision of W. Jeffrey Reynolds, technical consultant with the firm of du Treil, Lundin and Rackley, Inc., a telecommunications consulting firm located in Sarasota, Florida, who states that his qualifications are a matter of

²The following registered towers are located within the channel 224A fully-spaced area-to-locate: 1200100, 1039343, 1000791, 1219933, 1208409, 1010766 and 1006774.

du Treil, Lundin & Rackley, Inc.

Consulting Engineers

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record with the Federal Communications Commission, having been presented on previous occasions. All data and statements contained herein are true and correct to the best of his knowledge and belief.



W. Jeffrey Reynolds

du Treil, Lundin & Rackley, Inc.
201 Fletcher Avenue
Sarasota, Florida 34237
(941) 329-6000
JEFF@DLR.COM

June 29, 2001

CDBS FM SEPARATION STUDY

Job Title: WKLA-FM, CH 292A, LUDINGTON, MI
 Channel: 292 A

Separation Buffer: 32 km
 Coordinates: 440327 862458

Call Id	City St	File Status Num	Channel Freq	ERP HAAT	DA Id	Latitude Longitude	73 215	Bear	Dist. (km)	Req. min
0	BEAR LAKE MI	RM ADD C 9976	291 A 106.1	0.000		44-17-30 086-13-30		30.3	30.18 -41.82	72.0 Short
0	BEAR LAKE MI	RM ADD C 9945	291 A 106.1	0.000		44-19-41 086-16-14		21.0	32.24 -39.76	72.0 Short
WKLA-F 10809	LUDINGTON MI	BLH LIC C 19931022KD	292 A 106.3	4.900 110	N	44-03-27 086-24-58	N	90.0	0.00	
0	LUDINGTON MI	RM DEL C	292 A 106.3	0.000	N	44-03-27 086-24-58	N	90.0	0.00	
0	LUDINGTON MI	RM DEL C 9945	292 A 106.3	0.000		44-03-27 086-24-58		90.0	0.00	
0	WALHALLA MI	RM DEL C 9945	292 A 106.3	0.000		44-00-19 086-08-54		105.1	22.24 -92.76	115.0 Short
0	HONOR MI	RM ADD C	292 A 106.3	0.000	N	44-39-41 085-48-52	N	35.3	82.48 -32.52	115.0 Short
WSCG-F 35422	LAKEVIEW MI	BLH LIC C 19890714KB	292 A 106.3	3.000 100	N	43-24-33 085-15-53	N	127.5	117.45 2.45	115.0 Close
WMXG 51159	STEPHENSON MI	BLH LIC C 19990721KD	292 C2 106.3	50.000 150	28551	45-38-36 087-22-37		337.1	191.90 25.90	166.0 Clear
0	WALHALLA MI	RM ADD C 9976	293 A 106.5	0.000		44-00-18 086-08-16		104.6	23.06 -48.94	72.0 Short
WMUS-F 25086	MUSKEGON MI	BLH LIC C 20000410ACJ	295 B 106.9	50.000 146	N	43-13-48 086-05-03	N	163.7	95.76 26.76	69.0 Clear
WMUS-F 25086	MUSKEGON MI	BPH CP C 20000410ACE	295B 106.9	50.000 146	N	43-13-48 086-05-03	N	163.7	95.76 26.76	69.0 Clear

CDBS FM SEPARATION STUDY

Job Title: WKLA-FM, PROPOSED CH 254A, LUDINGTON, MI Separation Buffer: 32 km
 Channel: 254 A Coordinates: 440327 862458

Call Id	City St	File Status Num	Channel Freq	ERP HAAT	DA Id	Latitude Longitude	73 215	Bear	Dist. (km)	Req. min
WUPS 49694	HOUGHTON MI	LA BLH LIC C 19881102KE	253 C1 98.5	100.000 299	N	44-17-18 084-44-30	N	78.5	136.35 3.35	133.0 Close
WQLH 25121	GREEN BAY WI	BMLH LIC C 19910422KJ	253 C1 98.5	100.000 152	N	44-38-41 088-08-13	N	296.1	151.93 18.93	133.0 Clear
0	LUDINGTON MI	RM ADD C 9945	254 A 98.7	0.000		44-03-27 086-24-58		90.0	0.00	
0	LUDINGTON MI	RM ADD C 9976	254 A 98.7	0.000		44-03-27 086-24-58		90.0	0.00	
WFGR 25837	GRAND RAPID MI	BLH LIC C 19920806KD	254 A 98.7	2.750 150	N	43-01-57 085-41-47	N	152.8	127.88 12.88	115.0 Close
990907 94197	WALHALLA MI	VAC C	255 A 98.9	0.000	N	43-54-08 086-10-13	N	131.2	26.21 -45.79	72.0 Short
970127 85300	TWO RIVERS WI	VAC C	255 A 98.9	0.000	N	44-03-00 087-39-42	N	270.0	99.82 27.82	72.0 Clear
970130 85340	TWO RIVERS WI	BPH APP C 19970130MD	255 A 98.9	6.000 100	N	44-03-43 087-39-45	N	270.7	99.87 27.87	72.0 Clear
970130 85301	TWO RIVERS WI	BPED APP C 19970130MB	255 A 98.9	6.000 85	N	44-02-25 087-40-22	N	269.3	100.73 28.73	72.0 Clear
970127 85300	TWO RIVERS WI	BPH APP C 19970127MB	255 A 98.9	6.000 85	N	44-02-25 087-40-22	N	269.3	100.73 28.73	72.0 Clear
970129 85422	TWO RIVERS WI	BPH APP C 19970129MH	255 A 98.9	6.000 85	N	44-02-25 087-40-22	Y	269.3	100.73 28.73	72.0 Clear
970130 85423	TWO RIVERS WI	BPH APP C 19970130MN	255 A 98.9	6.000 85	N	44-02-25 087-40-22	Y	269.3	100.73 28.73	72.0 Clear
WBNZ 14646	FRANKFORT MI	BLH LIC C 19920706KC	257 C2 99.3	50.000 125	N	44-36-38 086-09-38	N	18.2	64.75 9.75	55.0 Close

CDBS FM SEPARATION STUDY

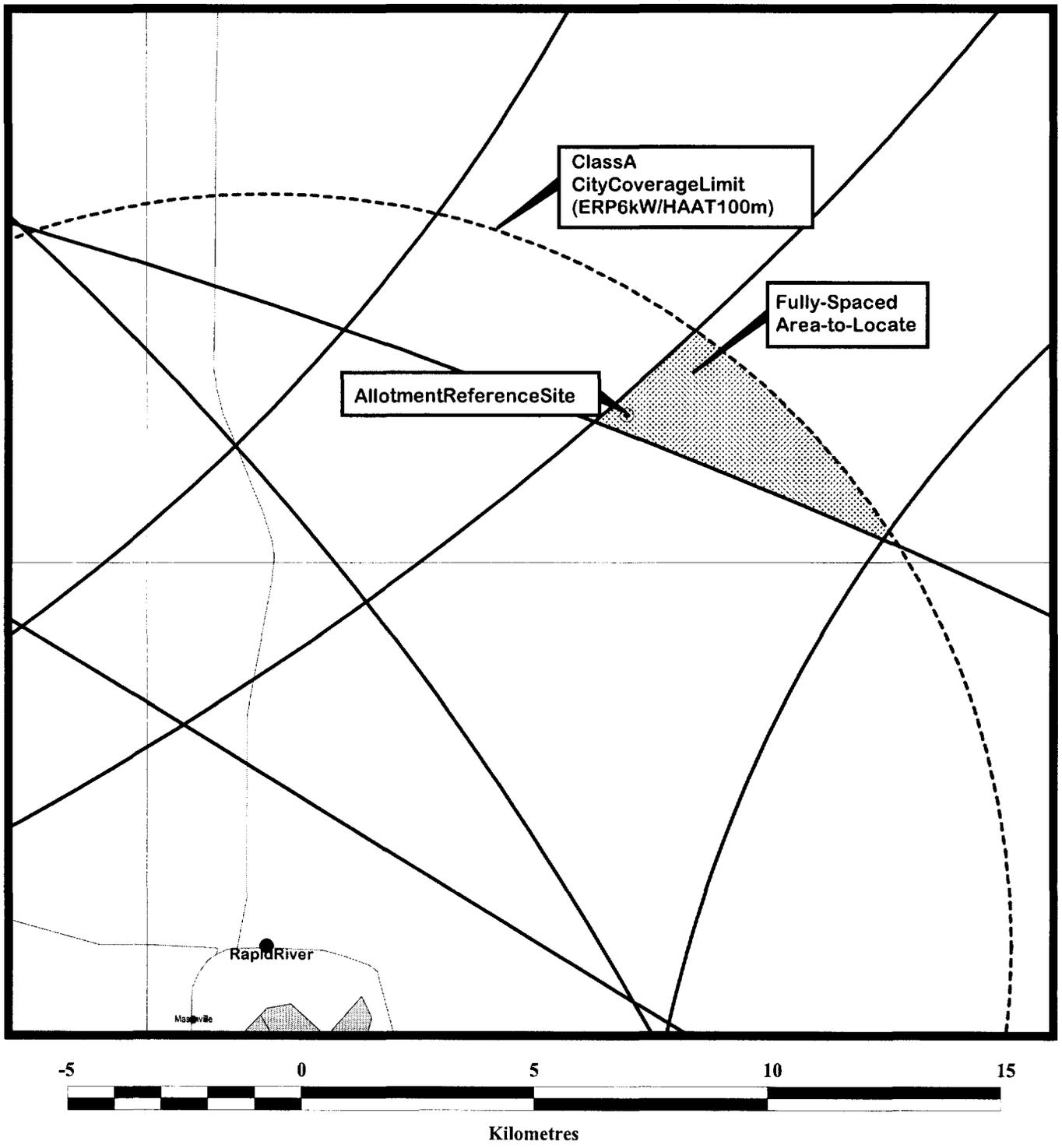
Job Title: PROPOSED CH 259A, RAPID RIVER, MI
 Channel: 259 A

Separation Buffer: 32 km
 Coordinates: 460142 865200

Call Id	City St	File Status	Channel Num	ERP Freq	HAAT	DA Id	Latitude Longitude	73 215	Bear	Dist. (km)	Req. min
None	ENSIGN TOWN	BNPED	205 C	100.000		N	45-51-20	N	123.7	34.58	29.0
122118	MI APP	C 19991227AAL	88.9	178	30613		086-29-45			5.58	Close
WNGE	NEGAUNEE	BPH	258 A	1.850		N	46-30-51	N	319.0	71.92	72.0
78159	MI CP	C 19951011MC	99.5	182			087-28-58			-0.08	Short
WNGE	NEGAUNEE	BMPH	258 A	3.600		N	46-30-51	N	319.0	71.92	72.0
78159	MI CP	C 20000809ABB	99.5	131			087-28-58			-0.08	Short
0	RAPID RIVER	RM	259 A	0.000			46-01-42		104.3	0.00	
	MI ADD	C 9945	99.7				086-52-00				
WLTM	STURGEON BA	BLH	259 C2	46.000		N	44-38-08	N	201.3	165.87	166.0
42090	WI LIC	C 19910211KD	99.7	156			087-37-37			-0.13	Close
970922	MANISTIQUE	BPH	260 A	6.000		N	45-57-51	N	98.7	46.24	72.0
88444	MI APP	C 19970922ME	99.9	52			086-16-37			-25.76	Short ¹
970925	MANISTIQUE	BPH	260 A	6.000		N	45-58-05	N	98.1	46.45	72.0
88453	MI APP	C 19970925MG	99.9	100			086-16-24			-25.55	Short ¹
970922	MANISTIQUE		260 A	0.000		N	45-57-24	N	99.2	48.69	72.0
88444	MI VAC	C	99.9				086-14-48			-23.31	Short ¹
970925	MANISTIQUE	BPH	260 A	6.000		N	45-58-09	N	96.9	53.13	72.0
88489	MI APP	C 19970925MY	99.9	63			086-11-10			-18.87	Short ¹
0	CARNEY	RM	260 A	0.000		N	45-35-30	N	232.0	78.49	72.0
	MI ADD	C 9772	99.9				087-39-37			6.49	Close
0	BELLAIRE	RM	260 C1	0.000			45-20-48		118.7	155.10	133.0
	MI ADD	C 9945	99.9				085-07-46			22.10	Clear
0	GWINN	RM	262 C3	0.000		N	46-17-20	N	307.9	47.42	42.0
	MI ADD	C 9776	100.3				087-21-10			5.42	Close

¹ Fort Bend has proposed to substitute channel 265A for channel 260A at Manistique to eliminate this short-spacing.

Figure4



**FULLY-SPACED AREA-TO-LOCATE
CHANNEL 259A
RAPID RIVER, MICHIGAN**

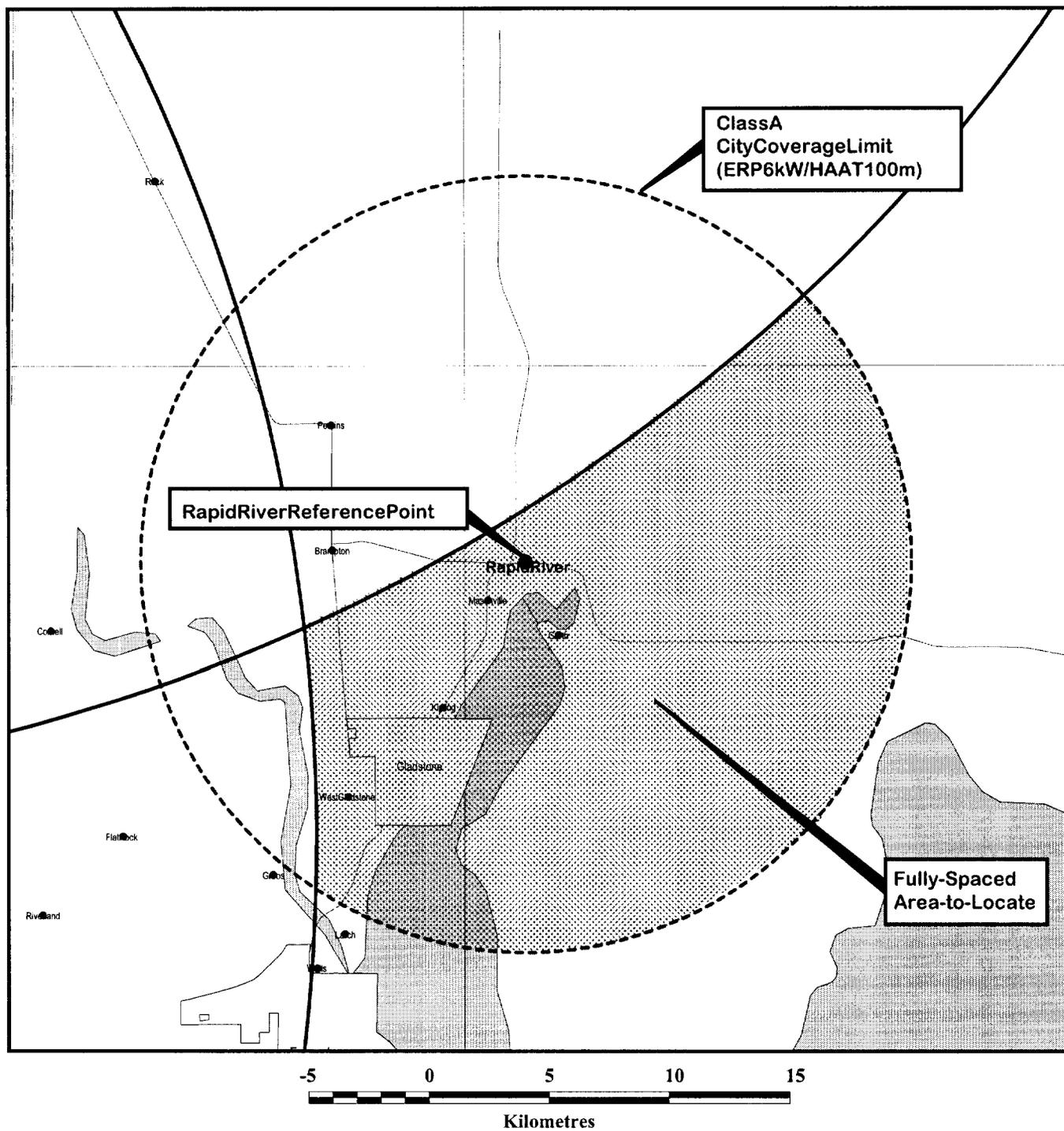
duTreil, Lundin & Rackley, Inc. Sarasota, Florida

CDBS FM SEPARATION STUDY

Job Title: PROPOSED CH 224A, RAPID RIVER, MI
 Channel: 224 A

Separation Buffer: 32 km
 Coordinates: 455537 865801

Call Id	City St	File Status	File Num	Channel Freq	ERP HAAT	DA Id	Latitude Longitude	73 215	Bear	Dist. (km)	Req. (km) min	max
WJPD 24449	ISHPEMING MI	BLH LIC C	6705	222 C1 92.3	100.000 143	N	46-30-51 087-28-54	N	329.0	76.41 1.41	75.0 Close	75.0
WIMK 64027	IRON MOUNTA MI	BLH LIC C	19820111AE	226 C1 93.1	100.000 180	N	45-49-16 088-02-28	N	262.3	84.23 9.23	75.0 Close	75.0
0	MANISTIQUE MI	RM ADD C	9336	227 A 93.3	0.000	N	45-57-51 086-16-37	N	85.3	53.66 22.66	31.0 Clear	31.0
0	MANISTIQUE MI	RM ADD C	9336	227 A 93.3	0.000	N	45-58-05 086-16-24	N	84.9	53.98 22.98	31.0 Clear	31.0
0	MANISTIQUE MI	RM ADD C	9336	227 A 93.3	0.000	N	45-57-24 086-14-48	N	86.3	55.95 24.95	31.0 Clear	31.0
0	MANISTIQUE MI	RM ADD C	9336	227 A 93.3	0.000	N	45-58-09 086-11-10	N	85.3	60.73 29.73	31.0 Clear	31.0



**FULLY-SPACED AREA-TO-LOCATE
CHANNEL 224A
RAPID RIVER, MICHIGAN**

duTreil, Lundin & Rackley, Inc. Sarasota, Florida

CERTIFICATE OF SERVICE

I, Rhea Lytle, a secretary in the law firm of Shaw Pittman LLP, do hereby certify that true copies of the foregoing **RESPONSE TO ORDER TO SHOW CAUSE** were sent via U.S.

Mail this 2nd day of July, 2001, to the following:

John A. Karousos, Esq.*
Mass Media Bureau
Federal Communications Commission
445 12th Street, S.W.
Room 3-A266
Washington, D.C. 20554

Kathleen Scheuerle, Esq.*
Mass Media Bureau
Federal Communications Commission
445 12th Street, S.W.
Room 3-A247
Washington, D.C. 20554

Denise B. Moline, Esq.
PMB #215
1212 South Naper Boulevard
Suite 119
Naperville, IL 60540

Matthew H. McCormick, Esq.
Reddy, Begley & McCormick
2175 K Street, N.W., Suite 350
Washington, D.C. 20037

Robert J. Buenzle, Esq.
Law Offices of Robert J. Buenzle
12110 Sunset Hills Road, Suite 450
Reston, VA 20190



Rhea Lytle

***Via Hand Delivery**