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BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, DC 20554

JUL 24 2001

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of

Amendment of Section 73.202(b)	)	
Table of Allotments	)	MM Docket No. 00-31
FM Broadcast Stations	)	RM - 9815
(Nogales, Vail and Patagonia, AZ)	)	RM - 10014
	)	RM - 10095

To: Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau

**REPLY TO OPPOSITION TO MOTION TO STRIKE**

Desert West Air Ranchers Corporation ("Desert West"), by its counsel, hereby replies to the "Opposition to Motion to Strike" filed jointly by Arizona Lotus Corp. ("Lotus") and McMurray Communications, Inc. ("McMurray"), (jointly "Lotus/McMurray") on July 6, 2001. The Lotus/McMurray filing accepts the availability of Channel 283A as an alternate channel at Vail. Since this channel will solve all conflicts and enable all parties' proposals to be granted, Desert West urges the Commission to allot Channel 283A to Vail as a second FM channel in response to the interest expressed by Big Broadcasting of Arizona, LLC. In support hereof, Desert West states as follows:

1. On June 20, 2001, Desert West filed a "Motion to Strike" the comments of Lotus/McMurray in this proceeding because the Comments were not needed to be considered in order to resolve the two proposals before the Commission: (1) the substitution of Channel 253A at Vail, Arizona for Channel 252A at Nogales, Arizona and modification of the license of Station KZNO(FM) accordingly and (2) the allotment of Channel 272A or Channel 283A to Vail as a second FM channel. In a late filed pleading, Lotus/McMurray objected to the allotment of Channel 272A

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to Vail or offered instead Channel 267A. To the extent Lotus/McMurray's interests are affected by this proceeding, the allotment of Channel 283A at Vail provides the solution. In fact, Lotus/McMurray have stated that the allotment of Channel 283A to Vail is an acceptable solution (Opp. at para 4 and Comments at note 4). Lotus/McMurray have clarified their comments to state that only if Channel 283A is not allotted to Vail, should the Commission consider Channel 267A instead of Channel 272A at Vail.

2. Desert West noted in its Motion to Strike that the application for Channel 269C2 at Sierra Vista and the Petition for Channel 267C3 at Saint David, Arizona would be adversely affected by the allotment of Channel 267A at Vail. In its Opposition, Lotus/McMurray claim that the allotment of Channel 267C3 at St. David is technically defective and that the case of Pinewood, South Carolina, 5 FCC Rcd 7609 (1990) requires that MM Docket No. 00-31 must be resolved before the St. David prior filed petition is considered. In addition, Lotus/McMurray propose alternate allotment coordinates for Channel 267A at Vail which eliminate the short spacing to the Channel 269C2 application.

3. As indicated in the attached Technical Analysis, the restricted site suggested by Lotus/McMurray for Channel 267A will not provide a 70 dBu signal to Vail. In fact, when the necessary reduction in power to protect Channel 267B at Agua Prieta is factored in, the required 70 dBu coverage to Vail is not even close.<sup>1</sup> See Exhibits 1-3.

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1. This analysis is the same as that used by Lotus/McMurray with regard to the protection that Channel 267C3 proposed at St. David must achieve with respect to Agua Prieta. In order to be consistent, the licensee of Station KKYZ, Cochise Broadcasting, LLC, intends to modify its petition for Channel 267A at Vail. However, as noted, the Sierra Vista application, not the St. David petition bars the use of Channel 267A at Vail.

4. Since Channel 267A at Vail has coverage problems whether or not the proposal for Channel 267C3 at St. David is considered, the Pinewood analysis is irrelevant. Nevertheless, Desert West does not agree that Pinewood would allow that the Commission to consider Channel 267A at Vail.

5. On the other hand Channel 283A can be allotted to Vail without a site restriction and with adequate protection to all Mexican allotments. See Exhibit 4. Lotus/McMurray have stated that the channel is acceptable. No party has submitted adverse comments to Channel 283A as an alternate. If the Commission wants to serve the public interest by providing a first local service to Vail on Channel 253A to serve more people and thereby allot Channel 251A to Patagonia, as requested by Desert West, provide a second local service to Vail on Channel 283A for which there is interest, and allow Lotus to provide increased service by its one-step upgrade, then Channel 283A should be allotted to Vail as a second FM Channel.<sup>2</sup>

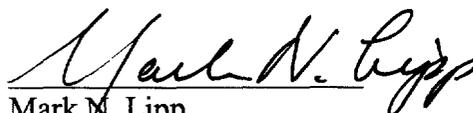
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2. Desert West noticed that Channel 267A and Channel 272A are listed in the FCC's data base as alternate channels under consideration in this proceeding. Channel 283A is not listed for Vail. The Commission should correct this omission.

5. Accordingly, it is not necessary for the Commission to accept the Comments of Lotus/McMurray in order to resolve this proceeding.

Respectfully Submitted,

DESERT WEST AIR RANCHERS CORPORATION

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Its Counsel

Date: July 24, 2001

**TECHNICAL ANALYSIS**  
**OF**  
**CHANNELS 267A AND 283A**  
**VAIL, ARIZONA**

Desert West Air Ranchers Corporation (“Desert West”) proposed to change community of license of KZNO from Channel 252A at Nogales, Arizona to Channel 253A at Vail, Arizona. Big Broadcast of Arizona, LLC (“Big Broadcast”) has counterproposed that Channel 253A be added to Vail without Desert West moving from Nogales. Desert West proposed that if it were allowed to allot 252A to Vail, Patagonia would then be able to receive its first local service on Channel 251A. Desert West also proposed that if Big Broadcast wanted an additional channel at Vail then either Channel 272A (placed in the database by the Commission) or Channel 283A (missing from the database) could be added to Vail to satisfy Big Broadcast’s request for an additional Channel at Vail. Arizona Lotus Corporation and McMurray Communications, Inc. (the “Joint Parties”) wish to modify their respective facilities at Oro Valley and Safford, both in Arizona. The addition of Channel 272A at Vail would block their desired modifications. They have stated that Channel 283A would be an acceptable channel for addition to Vail and, in an abundance of caution so as to protect their prospect of modifying their facilities, have proposed yet another channel, Channel 267A, as a possible addition at Vail to satisfy Big Broadcast’s request for an additional channel at Vail.

The Commission has before it three channels proffered by petitioners to be added to Vail to satisfy Big Broadcast’s request for an additional channel there. Either Channel 272A or Channel 283A could be allotted to Vail. Both channels meet all technical specifications including domestic and international spacing requirements and principal community coverage requirements. However, Channel 267A is defective because it cannot provide principal community coverage of Vail while maintaining necessary international protections.

Since Channel 272A is opposed by the Joint Parties and Channel 267A is defective, then that leaves Channel 283A as the only alternative that is neither opposed by any party nor technically deficient. A technical discussion follows:

**CHANNEL 267A AT VAIL (AMENDED COORDINATES)**

Channel 267A, at the Joint Parties amended coordinates, cannot provide principal community coverage at Vail while maintaining necessary international protections. The allocation reference point in the Commission’s database and proposed by the Joint Parties in its opposition is located approximate 5 km northwest of the Commission’s coordinates for Vail, Arizona. The community boundaries for Vail as shown in Desert West original petition (a copy of which is attached hereto as Exhibit 1) are nearly 14 kilometers to the southeast of the reference point.

While uniform terrain or circular coverage of a Class A facility will provide a 16 km principal community contour, it will also provide a 112 km 34 dBu (50,10) interfering contour. The Joint Parties’ proposed site for Channel 267A at Vail is only 141 km from the co-channel allocation of Channel 267B in Agua Prieta, Sonora, Mexico. The protected contour for the Agua Prieta

allotment is 65 km. Therefore, the Joint Parties' proposal has a prohibited overlap of 36 km. See Exhibit 2.

If protection to the Agua Prieta allotment is provided by a restricted facility, then principal community coverage cannot be provided. Agua Prieta is located on the 127 degree radial from the Joint Parties' proposed allotment of Channel 267A at Vail. The interpolated HAAT (calculated in accordance with the US/Mexican Treaty) along this radial is 46 meters. The proposed allotment of 6kW at 100 meters would have to reduce its power to 1.6 kW on this radial in order to limit its interfering contour to the 76 km necessary to prevent overlap with protected contour of the Agua Prieta allotment. This same power limitation shortens the principal community contour to only 9.1 km using US method with the 127 degree radial (not interpolated) HAAT of 60 meters. Since the 127 degree radial traverses Vail from the proposed site northwest of Vail through Vail to its southeastern boundary nearly 14 km from the Joint Parties' proposed site, Vail cannot be covered. See Exhibit 3.

Even if the Joint Parties' proposal of Channel 267A at Vail did not require any protection to Mexico, it still could not provide a principal community contour over Vail due to its site restriction to the north. The 70 dBu contour (73.313) for full 6kW at 100 meters facilities at the Joint Parties's restricted site, without any consideration of Mexico, does not provide the required principal community coverage. Factoring in the required protection of the Agua Prieta allotment only further reduces the already inadequate coverage.

Furthermore, the Joint Parties's proposed addition of Channel 267 at Vail is short with a proposed rulemaking that requests the addition of Channel 267C3 at Saint David, Arizona. The Joint Parties' argue that the Saint David rulemaking should be ignored as it is technically defective stating that principal community coverage cannot be provided while providing protection to the allotment at Agua Prieta. The Joint Parties have neglected to apply the same standard to their proposal which is technically defective for the exact same reason.

#### CHANNEL 267A AT VAIL (ORIGINAL COORDINATES)

Channel 267A at the Joint Parties original coordinates also cannot provide principal community coverage at Vail while maintaining necessary international protections. The allocation reference point originally proposed by the Joint Parties in its opposition is located at the Commission's coordinates for Vail, Arizona. The community boundaries for Vail as shown in Desert West original petition (a copy of which is attached hereto as Exhibit 1) are nearly 10 kilometers to the southeast of the reference point.

While uniform terrain or circular coverage of a Class A facility will provide a 16 km principal community contour, it will also provide a 112 km 34 dBu (50,10) interfering contour. The Joint Parties' proposed site for Channel 267A at Vail is only 137 km from the co-channel allocation of Channel 267B in Agua Prieta, Sonora, Mexico. The protected contour for the Agua Prieta allotment is 65 km. Therefore, the Joint Parties's proposal has a prohibited overlap of 40 km. See Exhibit 4.

If protection to the Agua Prieta allotment is provided by a restricted facility, then principal

community coverage cannot be provided. Agua Prieta is located on the 127 degree radial from the Joint Parties' proposed allotment of Channel 267A at Vail. The interpolated HAAT (calculated in accordance with the US/Mexican Treaty) along this radial is 30 meters (minimum). The proposed allotment of 6kW at 100 meters would have to reduce its power to 1.7 kW on this radial in order to limit its interfering contour to the 72 km necessary to prevent overlap with protected contour of the Agua Prieta allotment. This same power limitation shortens the principal community contour to only 6.5 km using US method with the 127 degree radial (not interpolated) HAAT of 30 meters (minimum). Since the 127 degree radial transverses Vail from the proposed site on the northwest edge of Vail through Vail to its southeastern boundary nearly 10 km from the Joint Parties originally proposed site, Vail cannot be covered. See Exhibit 5.

Even if the Joint Parties' proposal of Channel 267A at Vail did not require any protection to Mexico, it still could not provide a principal community contour over Vail due to its site restriction to the north. The 70 dBu contour (73.313) for full 6kW at 100 meters facilities at the Joint Parties's restricted site, without any consideration of Mexico, does not provide the required principal community coverage. Factoring in the required protection of the Agua Prieta allotment only further reduces the already inadequate coverage.

#### CHANNEL 283A AT VAIL

As stated above, Desert West also proposed that Channel 283A could be added to Vail to satisfy Big Broadcast's request for an additional channel at Vail. The Joint Parties have also concurred that Channel 283A would be a suitable channel for addition to Vail. It is domestically fully spaced and unopposed by any party. Contour protection is provided to Mexico by restricted power on the 203 degree radial. The interpolated HAAT was negative so 30 meters was used with a power of 0.31 kW. The 48 dBu interfering contour extends 15 km towards the 282B facility 80 km distant. Thus the 65 km protected contour is not overlapped. Exhibit 6 clearly demonstrates that such contour protection, either on a uniform terrain method or more stringently as calculated under 73.313, would still provide principal community coverage of Vail as the contour protection to Mexico does not traverse the community.

#### AREA TO LOCATE

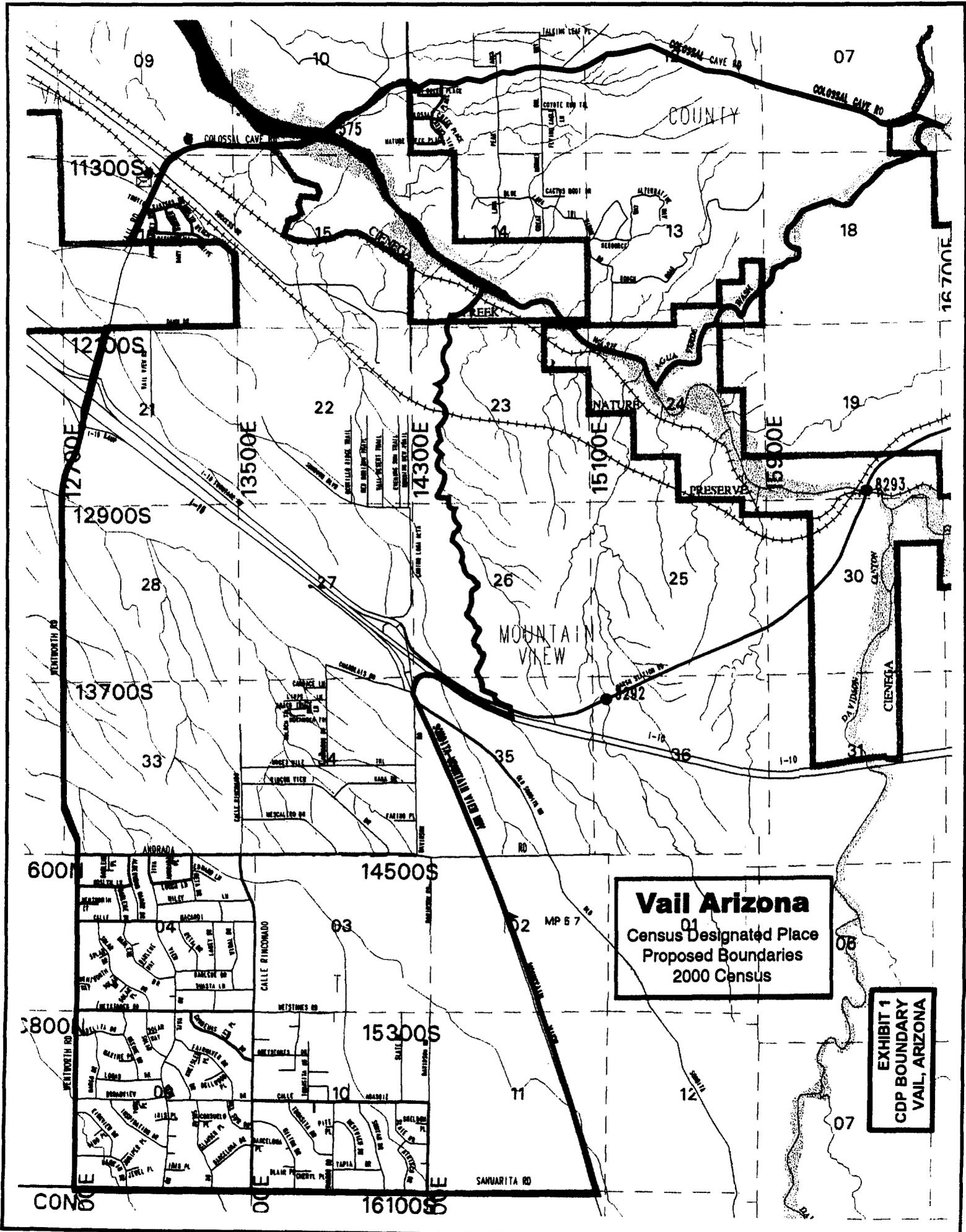
The community coordinates used in this proceeding for Vail are located at the very northwest edge for the community as described previously. Vail is nearly 10 km north to south and 5 kilometers east to west. A proposed site that only covers the reference point does not necessarily cover the community. Channel 267, as originally proposed, is located at the very northwestern edge of Vail with two southerly contour protections to co-channel Mexican stations required, one of them a very severe restriction. Moving the site almost 5 additional kilometers north to avoid a domestic short spacing, intensifies the problem making coverage of the community very improbable if not impossible. Furthermore, after the allocation phase, an application for Channel 267A will be required to provide 73.215 protection to the KKYZ application on Channel 269C2 with which they are already short spaced. Thus, Channel 267A is severely site restricted due to domestic and international spacing requirements. However, Channel 283A has no domestic

spacing problems and has only one minor protection to a first adjacent Mexican station. First adjacent protection using a 48 dBu (50,10) interfering contours provides much more latitude than the co-channel 34 dBu (50,10) interfering contours required of Channel 267A.

### CONCLUSION

The addition of Channel 267A at Vail as proposed by Joint Parties is technically defective. The Joint Parties oppose the addition of Channel 272A at Vail because it conflicts with the desired modifications of their facilities. On the other hand, Channel 283A is not only technically feasible at Vail, it is unopposed by any party and provides the most site latitude of any of the proposed channels.

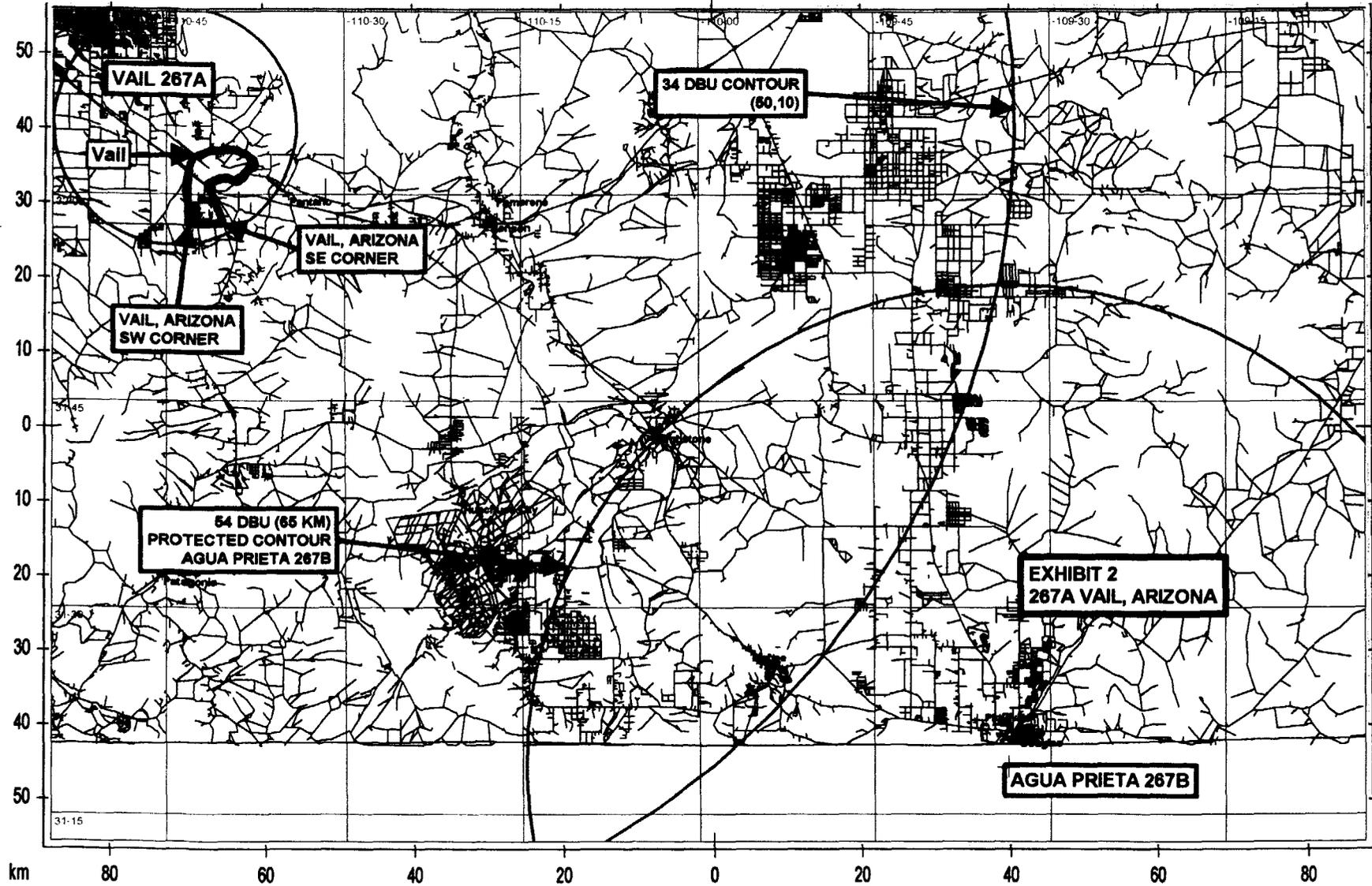
Therefore, if the Commission were desirous of allowing Desert West to allot Channel 253A for KZNO at Vail, then (i) Patagonia could receive its first local service on Channel 251A; (ii) Big Broadcast could be accommodated with Channel 283A as an additional Channel at Vail; (iii) the Joint Parties could be accommodated by not allotting Channel 272A to Vail thus allowing the modification of their facilities; and (iv) the petition to add 267C3 at Saint David could proceed on its own merits separate from this proceeding. Thus, all parties could be satisfied.



**Vail Arizona**  
 Census Designated Place  
 Proposed Boundaries  
 2000 Census

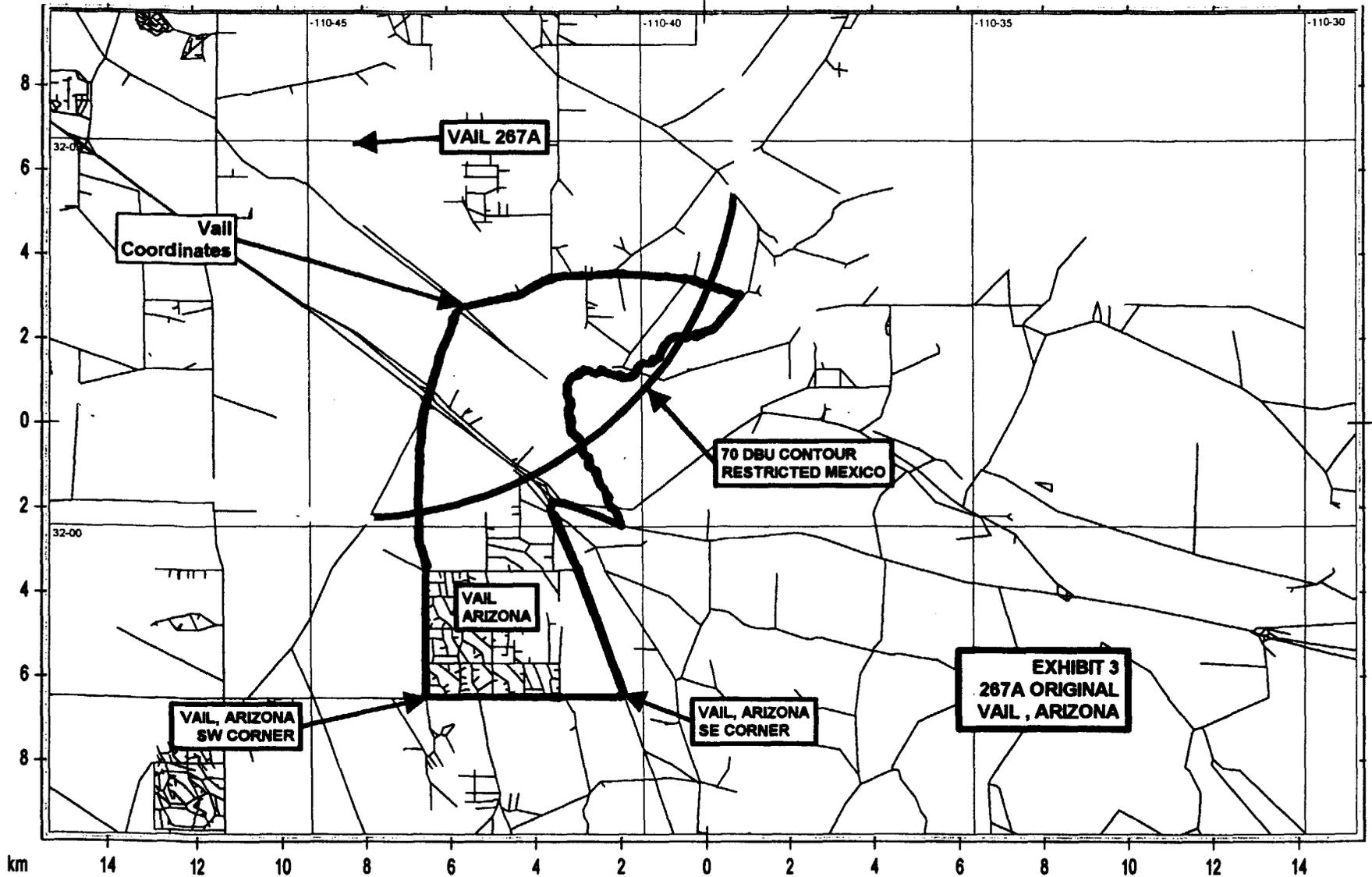
**EXHIBIT 1**  
 CDP BOUNDARY  
 VAIL, ARIZONA

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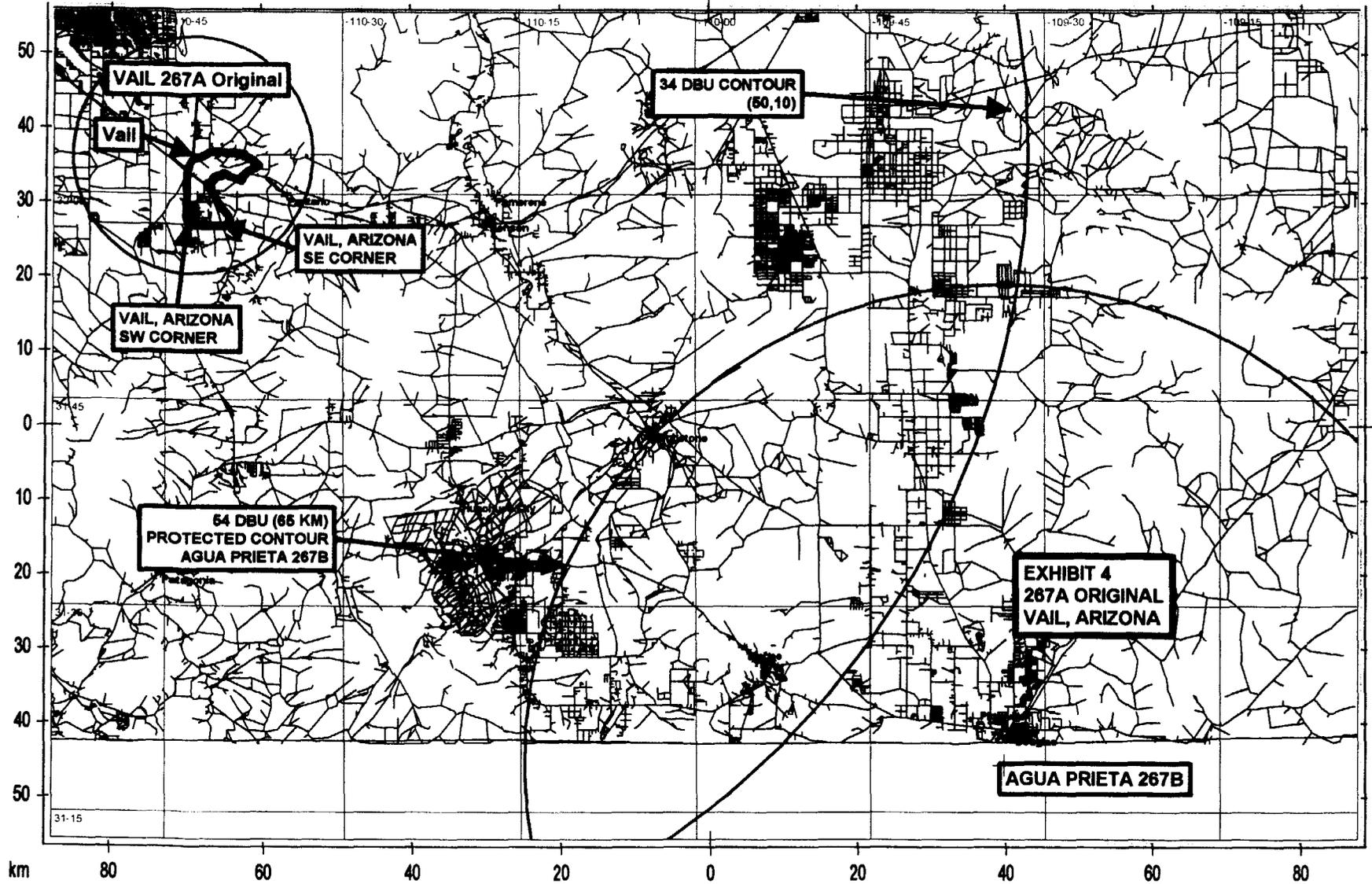
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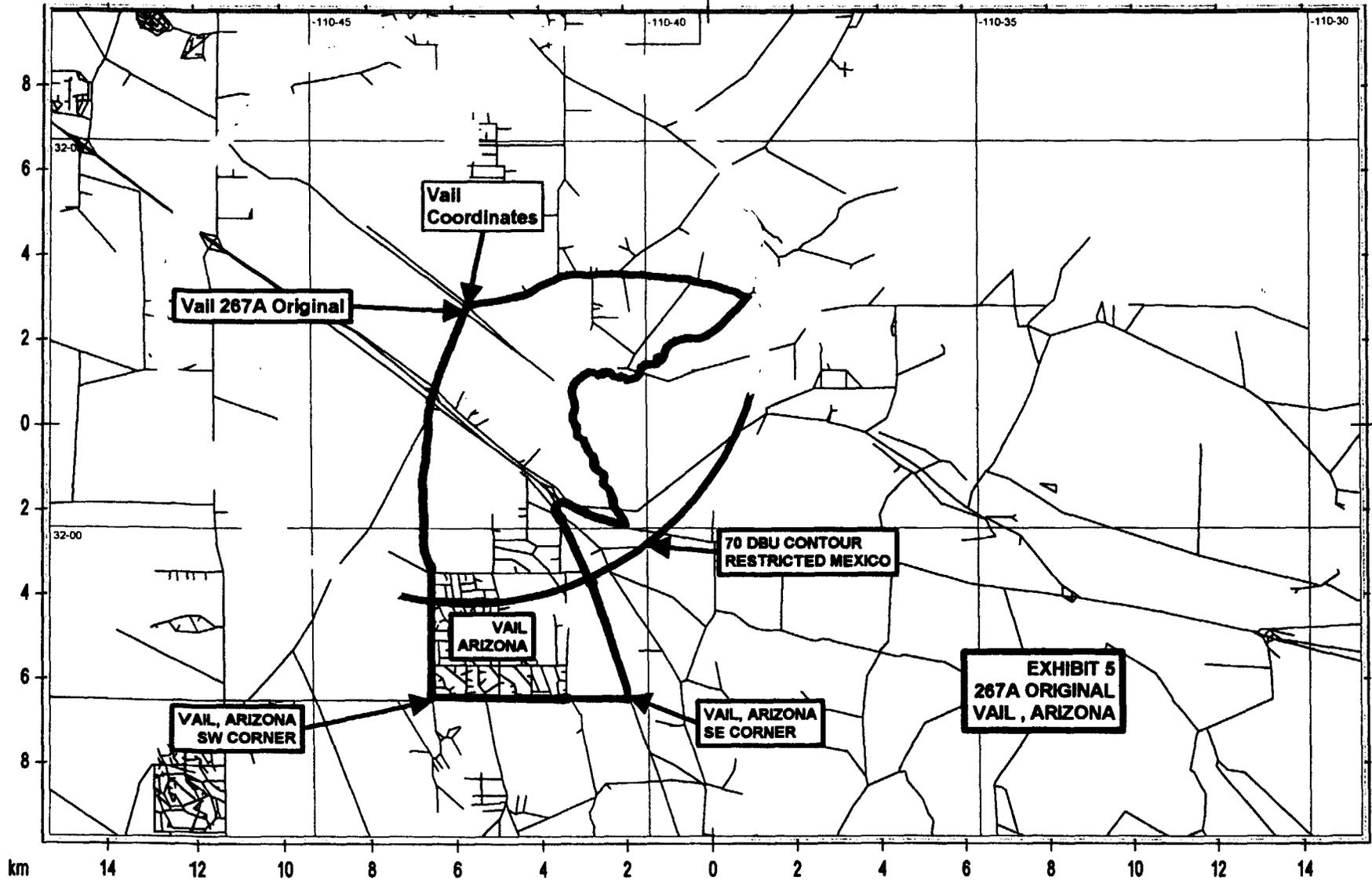
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## **ENGINEER CERTIFICATION**

I, Ted Tucker, do hereby certify that I personally prepared the foregoing technical analysis for Desert West Air Ranchers Corporation and that I am qualified to do so.

My qualification as an FM engineer are a matter of record with the Commission. I have personally prepared and submitted nearly 100 applications, amendments, petitions, rulemaking proceedings, comments, replies, Special Temporary Authorizations, and other filings including domestic and international short spacing studies. I have personally installed and constructed numerous FM Stations, FM Translator Stations, Studio Transmitter Links, Low Power Televisions Stations and auxiliary transmitters. Many of these installations involved directional antenna systems.

I hold a valid General Class Radio Telephone License (formerly First Class) and have a Bachelor of Science degree from the University of Arizona.

Date: July 23, 2001

By: Ted Tucker  
Ted Tucker

**CERTIFICATE OF SERVICE**

I, Lisa M. Balzer, a secretary in the law firm of Shook, Hardy and Bacon, do hereby certify that I have on this 24th day of July, 2001 caused to be mailed by first class mail, postage prepaid, copies of the foregoing **REPLY TO OPPOSITION TO MOTION TO STRIKE** to the following:

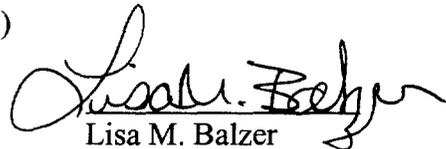
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\* HAND DELIVERED