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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

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

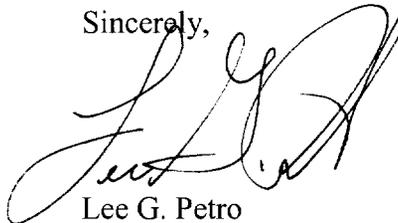
**Re: Comments and Counter Proposal of Keystone Broadcasting Corporation  
MM Docket No. 01-254/RM-10264  
Amendment of Section 73.202(b), Table of Allotments – Atoka, Oklahoma**

Dear Ms. Salas:

Transmitted herewith, on behalf of Keystone Broadcasting Corporation, is an original and four (4) copies of its Comments and Counter Proposal in the above-referenced proceeding.

Should there be any questions, please contact undersigned counsel.

Sincerely,



Lee G. Petro

Enclosures

cc: Ms. Nancy Joyner, 3-A267  
Federal Communications Commission

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

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In re: }  
 }  
Maurice Salsa } MM Docket No. 01-254  
 } RM – 10264  
 }  
 }  
Amendment of Section 73.202(b), Table }  
of Allotments, FM Radio Broadcasting }  
(Atoka, Oklahoma) }

TO: CHIEF, ALLOCATIONS BRANCH

**COMMENTS AND COUNTERPROPOSAL OF  
KEYSTONE BROADCASTING CORPORATION**

Pursuant to Section 1.420 of the Commission's rules, 47 C.F.R. §1.420 (2000), Keystone Broadcasting Corporation ("Keystone"), hereby submits its "Comments and Counterproposal" to the Petition for Rulemaking filed by Maurice Salsa ("Salsa") on July 30, 2001 (the "Petition"). Salsa's Petition seeks to amend Section 73.202(b) of the Commission's rules, 47 C.F.R. § 73.202(b) to provide a third local service at Atoka, Oklahoma. The Commission released a Notice of Proposed Rulemaking on September 19, 2001 seeking comment on the Petition. DA 01-2236.

As discussed in more detail below, the Commission should decline to allocate Channel 290A as an additional second FM allotment to Atoka, but rather allocate Channel 290A to Haileyville, Oklahoma, as the first local service to Haileyville, an incorporated city with approximately 900 citizens. As the Commission's record reflect, Atoka already has two full-service radio stations, KEOR(AM) and KHKC-FM.<sup>1</sup> Under established Commission FM allotment criteria, the allocation of Channel 290A to Haileyville would be preferred and would better serve the public interest.

<sup>1</sup> Keystone is the licensee of Station KEOR(AM) and KHKC-FM, Atoka, Oklahoma.

## DISCUSSION

When comparing mutually exclusive allocations for a new allotment, the Commission utilizes the FM Allotment priorities established in the *Revision of FM Assignment Policies and Procedures*, 4 FCC 2d 88 (1988). The priorities are: (1) First full-time aural service; (2) Second full-time aural service; (3) First local service; and (4) Other public interest matters. Co-equal weight is given to priorities (2) and (3). The first priority, e.g., provision of the first full-time aural service to a community, is not relevant to this proceeding since both communities already receive more than five aural services. As such, the Commission will consider the proposed allotments under the remaining criteria to determine whether the competing allotments will provide either the second “full-time aural” or “first local service” (co-equal in priority), or if under the last criteria, there are other public interest matters that should be taken into consideration.

In its petition, Salsa proposes to allot Channel 290A to Atoka, Oklahoma. Currently, Atoka, Oklahoma is allotted Channel 276 (Station KHKC-FM). Station KEOR(AM), 1110 kHz is also licensed to Atoka. Accordingly, Salsa’s proposal would add a second local FM allotment representing the third local aural service at Atoka, a community with a population of 2,988 (2000 Census). Accordingly, at best, Salsa’s proposal falls under Priority four “other public interest matters” of the Commission’s priorities.

In contrast, there are no broadcast stations licensed to Haileyville, Oklahoma. The City of Haileyville is incorporated and listed in the U.S. Census with a population of 891. It has its own local government led by a mayor and city council. City municipal services are provided as well as police and fire services by Police Department and Volunteer Fire Department. Haileyville has its own local educational system, providing early childhood, kindergarten,

elementary, middle and high school facilities. Furthermore, various commercial businesses are located in Haileyville, along with a variety of churches, reflecting a number of denominations. Additionally, Haileyville has its own zip code (74546) and its own U.S. Post Office.

Thus, Haileyville fully satisfies the Commission's definition of a community and contains all the indicia of community status. The facts demonstrate that it is an established community, and its residents share common interests and an identity with their community. Haileyville is deserving of and merits a first local service preferred under Priority three of the above referenced Commission allotment priorities.<sup>2</sup> As such, Keystone requests that the Commission amend the Table of Allotments as follows:

<u>Community</u>	<u>Channel No.</u>
Haileyville, Oklahoma	290A

Attached as Exhibit A is an Engineering Statement prepared by Cohen, Dippel and Everist, P.C. The Engineering Statement demonstrates that Channel 290A can be allotted to Haileyville with a site restriction to the north. The 70 dBu contour will completely encompass Haileyville from the proposed reference site. Also attached as Exhibit B is a Certification by Robert S. Sullins, president of Keystone, affirming its interest in the allotment if assigned to Haileyville, and its intention to construct and operate the station if it acquires the construction permit.

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<sup>2</sup> It is also noted that Haileyville is not located in an Urbanized Area, and the principal community contour (70 dBu) will not cover more than 50% of any Urbanized Area.

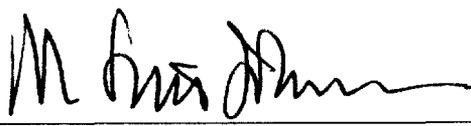
## CONCLUSION

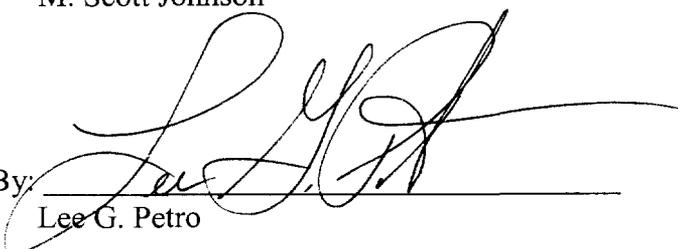
The allocation of Channel 290A to Haileyville, Oklahoma will provide that community its first local station and Haileyville is deserving of a decisive first local aural service preference over the proposal for Atoka. In contrast, Atoka already has two local broadcast stations.

Therefore, Keystone Broadcasting Corporation respectfully requests that the Commission decline the allocation of Channel 290A at Atoka, and instead, allocate Channel 290A to Haileyville, Oklahoma. The allocation of Channel 290A at Haileyville would better serve the public interest by providing the community its first local service.

Respectfully submitted,

### KEYSTONE BROADCASTING COMPANY

By:   
M. Scott Johnson

By:   
Lee G. Petro

GARDNER, CARTON & DOUGLAS  
1301 K Street, N.W., Suite 900  
Washington, D.C. 20005  
(202) 408-7100  
(202) 289-1504

Its Attorneys

November 19, 2001

**CERTIFICATION OF  
KEYSTONE BROADCASTING CORPORATION**

I, Robert S. Sullins, the President of Keystone Broadcasting Company, do hereby affirm and attest that I have reviewed the foregoing Counterproposal, and the supporting Engineering Exhibit prepared by Cohen, Dippell and Everist, P.C., and that, to my knowledge, the facts contained therein are true and correct.

In addition, I hereby affirm that, should the Commission amend the FM Table of Allotments to allocate Channel 290A at Haileyville, Keystone Broadcasting Corporation will file an application and timely construct the specified facilities.

**KEYSTONE BROADCASTING COMPANY**

By: Robert S. Sullins  
Robert S. Sullins  
Its President

ENGINEERING STATEMENT  
ON BEHALF OF  
KEYSTONE BROADCASTING CORPORATION  
IN SUPPORT OF ITS COUNTER-PROPOSAL IN  
MM DOCKET NO. 01-254 RM-10264  
RE AMENDMENT OF SECTION 73.202(b)

NOVEMBER 2001

COHEN, DIPPELL AND EVERIST, P.C.  
CONSULTING ENGINEERS  
RADIO AND TELEVISION  
WASHINGTON, D.C.

COHEN, DIPPELL AND EVERIST, P. C.

City of Washington )  
 ) ss  
District of Columbia )

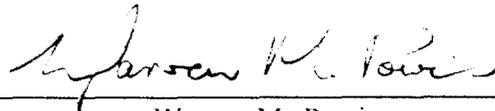
Warren M. Powis, being duly sworn upon his oath, deposes and states that:

He is a graduate electrical engineer of the University of Canterbury, New Zealand, a Registered Professional Engineer in the District of Columbia, the State of Virginia, the State of South Carolina, and Vice President of Cohen, Dippell and Everist, P.C., Consulting Engineers, Radio - Television, with offices at 1300 L Street, N.W., Suite 1100, Washington, D.C. 20005; previously employed for 15 years with the New Zealand Broadcasting Corporation; a member of the Institution of Professional Engineers New Zealand (IPENZ), the Association of Federal Communications Consulting Engineers (AFCCCE), and the National Society of Professional Engineers (NSPE).

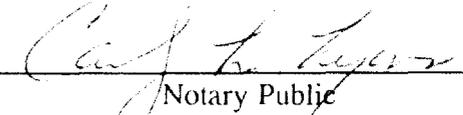
That his qualifications are a matter of record in the Federal Communications Commission;

That the attached engineering report was prepared by him or under his supervision and direction and,

That the facts stated herein are true of his own knowledge, except such facts as are stated to be on information and belief, and as to such facts he believes them to be true.

  
\_\_\_\_\_  
Warren M. Powis  
District of Columbia  
Professional Engineer  
Registration No. 8339

Subscribed and sworn to before me this 16<sup>th</sup> day of November, 2001.

  
\_\_\_\_\_  
Notary Public

My Commission Expires: 2/28/2003

This engineering report has been prepared on behalf of Keystone Broadcasting Corporation in support of its counter-proposal to the Notice of Proposed Rule Making, MM Docket No. 01-254, RM-10264. In the Notice Maurice Salsa proposed to allot Channel 290A to Atoka, Oklahoma, as that community's second local FM transmission service and that community's third local aural service.

This counter-proposal requests the allotment of Channel 290A to Haileyville, Oklahoma, as that community's first local aural transmission service. Table I is a channel study which demonstrates that Channel 290A can be allotted to Haileyville, Oklahoma, with a site restriction of 11.7 km north. Also attached as Exhibits E-1 and E-1A is a topographic quadrangle map showing the proposed site and Exhibit E-2 is a city coverage map which demonstrates complete 3.16 mV/m contour coverage across Haileyville, Oklahoma, from the proposed reference site.

The NAD-27 geographic coordinates for the reference allotment site at Haileyville, Oklahoma, are as follows:

North Latitude: 34° 57' 23"

West Longitude: 95° 32' 55"

#### Reasons for Counter-Proposal

The proposed Channel 290A FM allotment will provide the first local aural service to Haileyville, Oklahoma. Based on the 2000 census of population, Haileyville has a population of 891.

Based on the 2000 Census, Atoka has a population of 2,988, not 3,500 as stated by Maurice Salsa in the Petition for Rule Making. Atoka is already served by two local service stations, KHKC-FM and KEOR(AM).

TABLE I  
CHANNEL 290A STUDY  
FOR THE PROPOSED  
REFERENCE ALLOTMENT SITE AT  
HAILEYVILLE, OKLAHOMA  
NOVEMBER 2001

<u>Channel</u>	<u>Call</u>	<u>City/State</u>	<u>Azimuth</u> N °E, T	<u>Distance</u>	
				<u>Actual</u> km	<u>Required</u> km
290A	Prop.	Haileyville, OK	—	—	—
290C1	KLAZ	Hot Springs, AR	105.1	238.2	200
290A	KIRC	Seminole, OK	290.0	116.7	115
291C2	KKBI	Broken Bow, OK	138.2	105.6	106
291C	KQLL	Owasso, OK	356.9	174.5	165

Note: This proposal is mutually exclusive with RM-10264, MM Docket No. 01-254 which requests Channel 290A at Atoka, Oklahoma.

**SITE COORDINATES  
NAD 27**

NORTH LATITUDE: 34° 57' 23"  
WEST LONGITUDE: 95° 32' 55"

**SITE**

95°35'00"

D O W

95°32'30"

34°57'30"

B U F

34°55'00"

E U F

Hickory Point  
Recreation Area

CREEK

Adamson

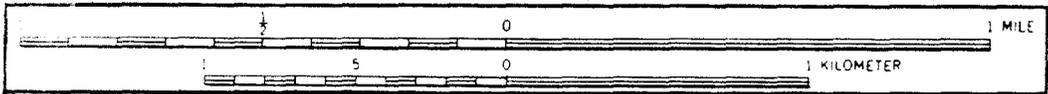
THIS MAP COMPLEES WITH NATIONAL MAP ACCURACY STANDARDS  
FOR SALE BY U.S. GEOLOGICAL SURVEY, DENVER, COLORADO 80225, OR RESTON, VIRGINIA 22092  
AND BY THE OKLAHOMA GEOLOGICAL SURVEY, NORMAN, OKLAHOMA 73069  
A FOLDER DESCRIBING TOPOGRAPHIC MAPS AND SYMBOLS IS AVAILABLE ON REQUEST

ADAMSON, OKLA.  
1952 5' W. 100' 1:25,000  
96-  
MULTIREVISION  
GEOGRAPHIC NAME SERVICE, 1987

VERTICAL INTERVAL: 10 FEET  
NATIONAL MEAN SEA LEVEL DATUM 1929

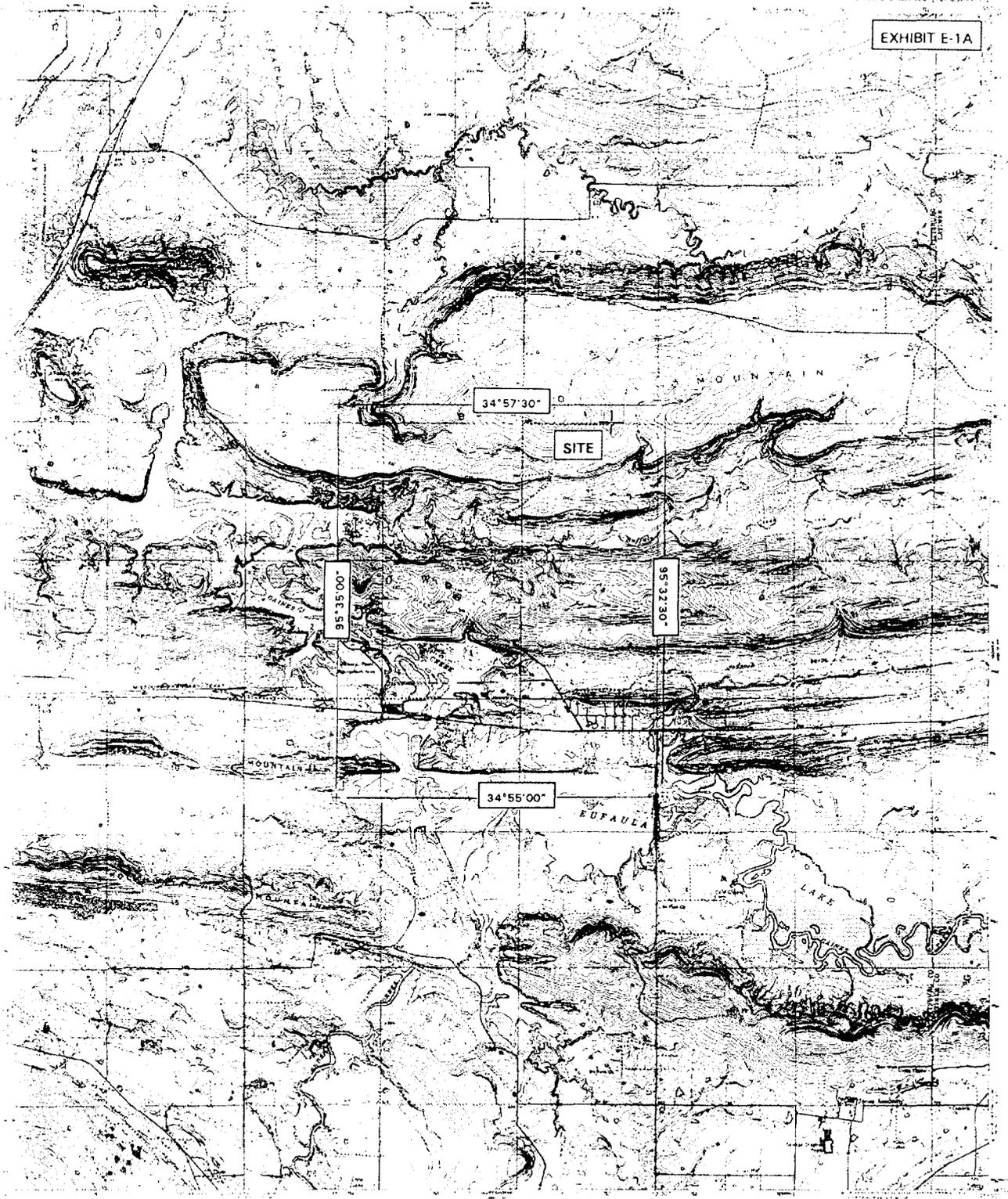
**EXHIBIT E-1**  
**CHANNEL 290A REFERENCE ALLOTMENT SITE**  
**HAILEYVILLE, OKLAHOMA**  
NOVEMBER 2001

**COHEN, DIPPELL AND EVERIST, P.C. Consulting Engineers Washington, D.C.**

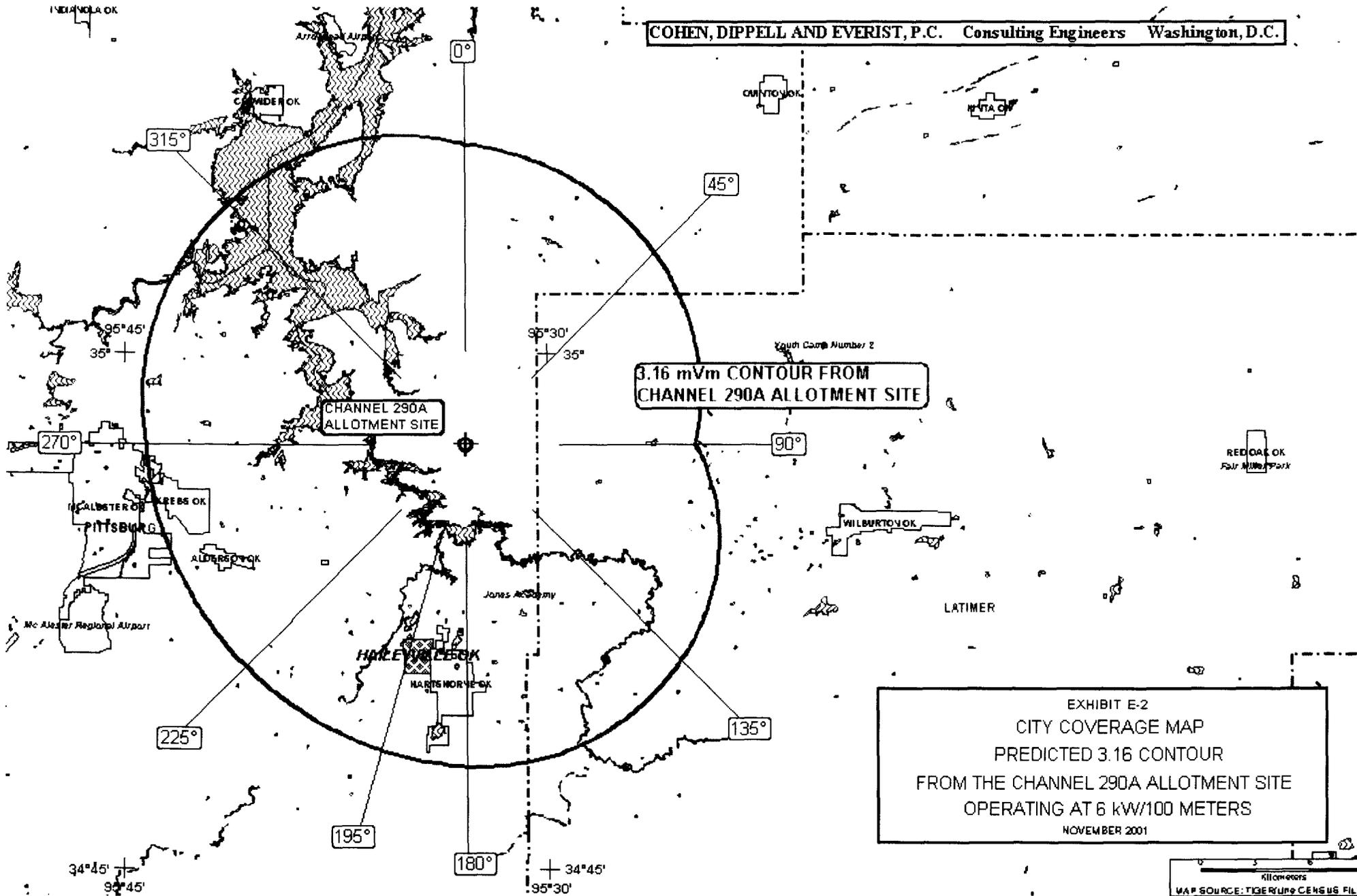


St Paul Ch

EXHIBIT E-1A



ADAMS & QUAIN  
ENGINEERS  
1000 WEST 10TH AVENUE  
OKLAHOMA CITY, OKLAHOMA 73106  
TELEPHONE (405) 521-1111  
FACSIMILE (405) 521-1112  
TELETYPE (405) 521-1113  
CABLE ADDRESS: A&Q  
ADAMS & QUAIN  
ENGINEERS  
1000 WEST 10TH AVENUE  
OKLAHOMA CITY, OKLAHOMA 73106  
TELEPHONE (405) 521-1111  
FACSIMILE (405) 521-1112  
TELETYPE (405) 521-1113  
CABLE ADDRESS: A&Q



3.16 mV/m CONTOUR FROM CHANNEL 290A ALLOTMENT SITE

EXHIBIT E-2  
CITY COVERAGE MAP  
PREDICTED 3.16 CONTOUR  
FROM THE CHANNEL 290A ALLOTMENT SITE  
OPERATING AT 6 KW/100 METERS  
NOVEMBER 2001

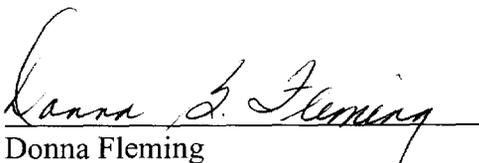
0 5 Kilometers  
MAP SOURCE: TIGERLINE CENSUS FILE

**CERTIFICATE OF SERVICE**

I, Donna Fleming, a secretary in the law firm of Gardner, Carton & Douglas, certify that I have this 19th day of November, 2001 caused a copy of the foregoing “**COMMENTS AND COUNTERPROPOSAL**” to be hand delivered (\*) or mailed via First Class mail (\*\*) to the following:

Ms. Nancy Joyner \*  
Allocations Branch  
Mass Media Bureau  
445 12<sup>th</sup> Street, S.W  
Washington, D.C. 20554

Maurice Salsa \*\*  
5616 Evergreen Valley Drive  
Kingwood, Texas 77345

By:   
Donna Fleming

DC01/370174.1