

ORIGINAL

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of

Amendment of Section 73.202(b) )  
Table of Allotments ) MB Docket No. \_\_\_\_\_  
FM Broadcast Stations ) RM - \_\_\_\_\_  
(Eagle, Fort Morgan, and Hudson, Colorado, )  
Bayard and Bridgeport, Nebraska, and )  
Douglas and Fort Laramie, Wyoming) )

To: Assistant Chief, Audio Division  
Media Bureau

**PETITION FOR RULE MAKING**

On-Air Family, LLC ("On-Air"), licensee of KBRU-FM, Fort Morgan, Colorado, and Salisbury Broadcasting Colorado, LLC ("Salisbury"), licensee of KTUN(FM), Eagle, Colorado (together, "Joint Petitioners"), by their counsel, hereby request that the Commission amend the FM Table of Allotments to (1) delete Channel 269A from Fort Morgan, CO and allot Channel 268C to Hudson, Colorado as that community's first local service, and (2) substitute Channel 269C1 for Channel 268C at Eagle, Colorado. If this Petition is granted, the Joint Petitioners will file applications for Channel 268C at Hudson Channel 269C1 at Eagle, and the parties will construct their respective facilities if their applications are granted. The effectuation of these changes will require one additional change at Bridgeport, Nebraska. These changes will also enable the allotment of two new services, at Bayard, Nebraska and Fort Laramie, Wyoming, for which the Joint Petitioners (or either one of them) will file an application and construct the facilities if authorized. The following table summarizes the changes requested in this Petition:

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City	Channel	
	Existing	Proposed
Eagle, Colorado	268C	269C1
Fort Morgan, Colorado	269A	---
Hudson, Colorado	---	268C
Bayard, Nebraska	---	267C1
Bridgeport, Nebraska	267C	277C
Douglas, Wyoming	265A	229A
Fort Laramie, Wyoming	---	265C2

**I. Station KBRU-FM, Fort Morgan to Hudson, Colorado**

**A. Technical Analysis**

1. As demonstrated in the Technical Narrative, Channel 268C can be allotted to Hudson, Colorado at coordinates 39-55-27 North Latitude, 103-58-25 West Longitude consistent with Section 73.207 of the Commission's Rules, provided that changes are made at Eagle, Colorado and Bridgeport, Nebraska, as described more fully below. *See* Exhibit H1. A 70 dBu signal can be provided to Hudson from the proposed reference point. *See* Exhibit H2. The relocation of KBRU-FM from Fort Morgan to Hudson will result in a predicted net gain in population of 1,379,272 persons within the 60 dBu signal from the station. *See* Technical Narrative. There is no loss area. *See* Exhibit H3.

**B. Change in Community of License**

2. The Joint Petitioners desire to change the community of license for Station KBRU-FM from Fort Morgan to Hudson under the guidelines set forth in *Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 3870 (1989), *recons. granted in part*, 5 FCC Rcd 7094 (1990) ("*Community of License*"). There, the Commission stated that a station may change its community of license without subjecting the licensee to competing expressions of interest if (1) the proposed allotment is mutually exclusive with the current allotment; (2) the current

community of license will not be deprived of its only local service; and (3) the proposed arrangement of allotments is preferred under the Commission's allotment priorities. These criteria are met here. First, the proposed use of Channel 268C at Hudson is mutually exclusive with the current use of Channel 269A at Fort Morgan. *See* Exhibit H1. Second, Fort Morgan will not be deprived of its only local service because it is currently served by one other station, KFTM(AM). Third, the provision of a first local service at Hudson (population 1,565) under Priority 3 will result in a preferential arrangement of allotments over the retention of a second local service at Fort Morgan (pop. 11,034) under Priority 4 (all population figures taken from the 2000 U.S. Census). *See Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982).

3. Hudson is not located in an Urbanized Area and the proposed 70 dBu contour of KBRU-FM will not cover 50 percent of any Urbanized Area. Thus, this relocation does not raise concerns with the relocation of stations from rural to urbanized areas. *See Headland, Alabama and Chattahoochee, Florida*, 10 FCC Rcd 10352 (1995).

4. Hudson is a community deserving of a first local service preference. Hudson is a growing community located in Weld County, Colorado, off U.S. Interstate Highway 76. Hudson is listed in the U.S. Census 2000 with a population of 1,565. The U.S. Post Office associates ZIP Code 80642 with Hudson and operates the Hudson Main Post Office at 738 Cedar Street in Hudson. *See* Exhibit A. Hudson's government functions independently of any other governmental units. According to Judy McGill, the deputy town clerk for Hudson, Hudson has an elected mayor and six member Board of Trustees who serve four year terms. The town government has a town clerk, town treasurer and town administrator. Among the services provided by the town government include water, sewer, maintenance, and animal control. The

town's website <[www.hudsoncolorado.org](http://www.hudsoncolorado.org)> is under construction and will provide information on the town government and services. Police protection is provided by the Weld County Sheriff which operates a substation in Hudson. *See Exhibit A.*

5. According to Ms. McGill, the Hudson Fire Protection District operates two stations in Hudson offering fire, rescue, EMS and other services to the citizens of Hudson. According to Ms. McGill, the Town of Hudson was founded in 1887 as a water stop for the Burlington & Missouri Railroad. The Town was incorporated in 1914. A few businesses identify themselves by using "Hudson" in their names, for example, Hudson Bookkeeping, Hudson Lockers, Hudson Nursery, Hudson Radiator, Hudson Welding and Fabrication, Hudson Pet & Feed Supply, and Hudson Greenhouse. In addition, Hudson businesses include a wide variety of companies such as Active Truck Sales & Parts, Inc., Wisecrack Windshield Repair, Denver Plastics Co., Anderson Star Market, Barn Store, Creekside Landscaping, Inc., Farm & Home Lumber Co., Phil's Mechanical Service, Inc., Adam's Locksmith, Eagle Wireless, Inc., Al's Gift & Thrift, and Valley Bank & Trust. Dining establishments in Hudson include Longhorn & Co. and Pepper Pod. *See Exhibit A.*

6. The Weld County School District provides public education for children in Hudson. Hudson Elementary School is located in Hudson. *See Exhibit A.* The town operates the Hudson Public Library, which is open six days a week offering internet services, juvenile and audio sections and other services. *See Exhibit A.* There are several houses of worship located in Hudson including First Southern Baptist Church, Grace Lutheran Church, James Memorial and United Methodist Church. *See Exhibit A.*

7. On-Air reiterates that as the licensee of KBRU-FM, it will apply for Channel 268C at Hudson and construct the facilities.

**II. Station KTUN, Eagle, Colorado**

8. To permit the allotment of Channel 268C at Hudson, Salisbury hereby agrees to the substitution of Channel 269C1 for Channel 268C at Eagle, Colorado for use by Station KTUN(FM) and relocate the station's transmitter site. Channel 269C1 can be allotted to Eagle at coordinates 39-45-15 North Latitude, 106-54-13 West Longitude in compliance with the Commission's spacing rules. *See* Exhibit E1. From the new transmitter site, the station will place a 70 dBu contour over all of Eagle, Colorado. *See* Exhibit E2. Although there will be a small net loss in population served by the station (21,738 persons) this loss is more than made up by the gains in service overall as a result of this petition.

**III. Station KOLT, Bridgeport, Nebraska**

9. In order to allot Channel 268C to Hudson, Colorado, Channel 267C must be deleted at Bridgeport, Nebraska. In a previous application, *See* FCC File No. BPH-20011009ABZ, as amended, Jan. 22, 2002, On-Air requested that the Commission issue an Order to Show Cause to Tracy Broadcasting Corporation, licensee of Station KOLT(FM), Bridgeport, Nebraska under the Commission's C0 downgrade procedures.<sup>1</sup> In this petition, the Joint Petitioners offer an alternative. Channel 277C may be substituted for Channel 267C at Bridgeport in compliance with the Commission's spacing rules. *See* Exhibit BR1. The Joint Petitioners hereby request that the Commission issue a separate Order to Show Cause to Tracy Broadcasting Corporation to demonstrate why KOLT should not have its channel changed from 267C to 277C.

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<sup>1</sup> This application has been refiled (BPH-20020719AAU).

**IV. New Channel 267C1, Bayard, Nebraska**

10. The substitution of Channel 277C for Channel 267C at Bridgeport, Nebraska described above makes possible the allotment of Channel 267C1 at Bayard, Nebraska as that community's first local service. Channel 267C1 can be allotted to Bayard in compliance with the Commission's spacing rules, as shown in Exhibits B1 and B2.

11. The City of Bayard, Nebraska, is a community deserving of a first local service. Bayard is a bustling agricultural community located in the west central Morrill County, Nebraska, off U.S. Highway 26 near the historic landmark Chimney Rock. Bayard is listed in the U.S. Census 2000 with a population of 1,247. The U.S. Post Office associates ZIP Code 69334 with Bayard and operates the Bayard Post Office at 517 Main Street in Bayard. *See* Exhibit B. Bayard's government functions independently of any other governmental units. According to the city website <[www.bayardne.net](http://www.bayardne.net)>, Bayard has an elected mayor and six city council members who meet the second Tuesday of the month. The mayor and council members serve four year terms. According to Joyce Mick, Bayard City Clerk, the city government has a city clerk, city treasurer, police chief, utility superintendent, and nursing home administrator. Among the services provided by the city government are garbage removal, municipal sanitary system, electrical distribution system, housing authority, water, road maintenance, animal control and park and recreation. The city operates the Chimney Rock Golf Course, Bayard City Swimming Pool, Chimney Rock Villa (nursing home) and Senior Citizen Center. Police protection is provided by the Bayard Police Department. *See* Exhibit B.

12. The Bayard Volunteer Fire and Rescue Department operates in Bayard offering fire, rescue, EMS and other services to the citizens of Bayard. The City of Bayard has its own unique identity and history. According to Ms. Mick, the City takes its name from a community in

Iowa where a homesteading family originated who settled in present day Bayard. The City of Bayard was incorporated July 1888. A few businesses identify themselves by using "Bayard" in their names, for example, Bayard Meat Processing, Bayard Diner and Bayard Pharmacy. Bayard businesses include a wide variety of companies such as Ensser Chevrolet, Sweet Basil Restaurant, Panhandle Real Estate, Valley Bank & Trust, Landmark, Inn, Reifschneider Texaco, Oregon Trail Wagon Trail, A&J Trucking, Simplot Fertilizer and Kienzle's Jack & Jill. Bayard Transcript-Newspaper is the local hometown newspaper. It is published every Wednesday, offering local news and information. The City of Bayard's economy is based on its agricultural products and tourism. The Chimney Rock National Historic Site is located in Bayard. The site is open daily. *See Exhibit B.*

13. The Hill School District #44 provides public education for children in Bayard. Bayard Elementary School and Bayard High School are located in Bayard. *See Exhibit B.* The city operates the Bayard City Library which is open six days a week offering Internet services, juvenile and audio sections and other services. *See Exhibit B.* There are several houses of worship located in Bayard including Sacred Heart Catholic Church, Spanish Assembly Church, Good News Church and Greek Orthodox Church. Among the events that are held in Bayard is the Chimney Rock Pioneer Days. Among the organizations located in Bayard are American Legion Club, Bayard Tiger Booster Club, Bayard Lions Club, Chimney Rock Jaycees and VFW. *See Exhibit B.*

14. The proposed facility at Bayard will provide new 60 dBu service to 62,490 persons in an area of 16,422 sq. km. *See Exhibit B2.* If the Commission grants this petition, the Joint Petitioners will apply for Channel 267C1 at Bayard, and construct the facility if the application is granted.

**V. New Channel 265C2, Fort Laramie, Wyoming**

15. The substitution of Channel 277C for Channel 267C at Bridgeport, Nebraska also makes possible the allotment of Channel 265C2 at Fort Laramie, Wyoming, as that community's first local service. Channel 265C2 can be allotted to Fort Laramie in compliance with the Commission's spacing rules, provided that vacant Channel 265A is deleted at Douglas, Wyoming. *See* Exhibits F1 and F2. Channel 229A can be substituted for the vacant Channel 265A at Douglas. *See* Exhibit D1.

16. The Town of Fort Laramie, Wyoming, is a community deserving of a first local service. Fort Laramie is a historically significant community located in southeastern Wyoming off U.S. Highway 26. Fort Laramie is listed in the U.S. Census 2000 with a population of 243. The U.S. Post Office associates ZIP Code 82212 with Fort Laramie and operates the Fort Laramie Main Post Office at 105 East Merriam Street in Fort Laramie. *See* Exhibit C. Fort Laramie's government functions independently of any other governmental units. According to Fort Laramie Town Clerk, Ms. Vicki Dowscher, Fort Laramie has an elected mayor and four town council members. The mayor and council members serve two and four year terms respectively. The town government has a town clerk, police chief, and fire chief. Among the services provided by the town government are electricity, garbage, sewage, road maintenance, animal control and park and recreation. Police protection is provided the Fort Laramie Police Department.

17. The Fort Laramie Volunteer Fire Department operates in Fort Laramie offering fire, rescue, EMS and other services to the citizens of Fort Laramie. The Town of Fort Laramie has its own unique identity and history. The Town takes its name from the old western fort of Fort Laramie. The Town was incorporated in 1925. A few businesses identify themselves by

using "Fort Laramie" in their names, for example, Fort Laramie Conoco, Fort Laramie Historical Association Bookstore, Fort Laramie Saloon, and Fort Laramie Motel. Other Fort Laramie businesses include a wide variety of companies such as Ostrander Training Stables, Garhart's Pioneers Inn, Chuck Wagon RV Park & Gift Shop and Studio B Hair Saloon. Fort Laramie's economy is based on its history and tourism. The Fort Laramie National Historic Site is located in Fort Laramie. The site is open daily. *See Exhibit C.*

18. The Goshen County School District provides public education for children in Fort Laramie. Fort Laramie Middle School, located in Fort Laramie, offers schooling from grades 6 through 8. *See Exhibit C.* The Fort Laramie Community Presbyterian Church is located in the town. Among the events that are held in Fort Laramie are the Fort Laramie Bat Festival, Frontier 4th of July 4th of July Fireworks, Town Celebration Day, Living History Weekend and Evening Program, Fort Laramie Holiday Open House and Holiday Building Illumination. Founded in 1956, the Fort Laramie Historical Association is a nonprofit organization supporting the interpretive educational and preservation efforts at the Fort Laramie National Site. *See Exhibit C.*

19. The proposed facility at Fort Laramie will provide new 60 dBu service to 14,151 persons in an area of 8,560 sq. km. *See Exhibit F2.* If the Commission grants this petition, the Joint Petitioners will apply for Channel 265C2 at Fort Laramie, and construct the facility if the application is granted.

#### **VI. CONCLUSION**

Grant of this petition is in the public interest because Hudson, Colorado, Bayard, Nebraska, and Fort Laramie, Wyoming will each receive their first local service. Grant of the petition will produce a total net increase in service to nearly 1.5 million people in an area of

approximately 50,000 sq. km. The Joint Petitioners reiterate that if the Commission grants this petition, they will file applications and construct their respective facilities. The Commission should promptly issue a Notice of Proposed Rule Making and an Order to Show Cause as described herein.

Respectfully submitted,

ON-AIR FAMILY, LLC.  
SALISBURY BROADCASTING  
COLORADO, LLC

By: 

Mark N. Lipp  
J. Thomas Nolan  
Shook, Hardy & Bacon  
600 14th Street, NW  
Suite 800  
Washington, DC 20005-2004  
(202) 783-8400

Their counsel

July 19, 2002

## Technical Narrative

### 1. KBRU, 268C, Hudson, Colorado

This petition seeks the re-allotment and upgrade KBRU-FM, presently licensed with 269A facilities to the community of Fort Morgan, Colorado. KBRU also has a pending application, filed simultaneously on forms 301 with station KTUN, Eagle, Colorado, to upgrade to 268C. This petition seeks essentially the same technical upgrade, but with the added benefit of First Local Service to Hudson, Colorado and two other Communities.

KBRU-FM can be reallocated and upgraded in full compliance with the spacing requirements of 47 CFR 73.207 at 39-55-27 North 103-58-25 West, provided the requested changes are made to stations KTUN-FM and KOLT-FM. Please refer to Exhibit H1. Hudson, Colorado lies completely within the hypothetical City Grade contour of KTUN at the proposed site. Please refer to Exhibit H2.

Hudson, Colorado is a U.S. Census Town with an area of 6 Sq. KM and a 2000 Census population of 1,565 persons. At present, the licensed Class A facility of KBRU provides interference-free service to 26,427 persons in an area of 2,516 Sq. KM. The requested upgrade will allow KBRU to serve 1,405,699 persons in an area of 26,475 Sq. KM., according to the U.S. Census. This is a net gain of 1,379,272 persons and an increase of coverage area of 23,959 Sq. KM.

### 2. KTUN 269C1, Eagle, Colorado

KTUN-FM is presently licensed with 268C facilities which are short spaced to the proposed 268C facilities for KBRU-FM. KTUN operates with slightly less than maximum facilities, but in excess of that which would be classified as C0. With an antenna height of 674 Meters Above Average Terrain and Effective Radiated Power of 36 KW (License BLH-19840427DO) the interference free coverage extends 84 KM. To allow the upgrade of KBRU-FM as requested, KTUN-FM seeks to downgrade slightly, change channel to 269C1 and to move to a different site.

KTUN-FM can be reallocated in full compliance with the spacing requirements of 47 CFR 73.207 at coordinates 39-45-15 North 106-54-13 West. Please see Exhibit E1. The Community of Eagle, Colorado lies entirely within the hypothetical City Grade coverage contour of the proposed KTUN-FM facility. Please see Exhibit E2

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Presently KTUN, with the licensed 268C facility, provides interference free coverage to 136,428 persons in an area of 22,167 Sq. KM. The proposed downgraded and moved facility will provide interference free coverage to 114,690 persons in an area of 16,422.1 Sq. KM. This is a loss of service to 21,738 persons in an area of 5,745 Sq. KM.

### **3. KOLT, 267C, Bridgeport, Nebraska**

This petition seeks a change of channel for station KOLT-FM from the present 267C to 277C. Station KOZY-FM, formerly 280C3, was ordered to 239C3 in Docket 97-106. As such, there is no conflict and KOLT can be assigned 277C at the present licensed site in full compliance with the requirements of 47 CFR 73.207. Please see Exhibit BR1.

### **4. NEW, 267C1, Bayard, Nebraska**

This petition seeks the allotment of channel 267C1 to the Community of Bayard, Nebraska. Bayard, Nebraska is a U.S. Census City with population 1,247 persons in an area of 1.8 Sq. KM. Bayard presently has no local aural service.

267C1 can be allotted without a site restriction at coordinates 41-45-22 North, 103-19-26 West in full compliance with the spacing requirements of 47 CFR 73.207, provided KOLT is reassigned to operate on channel 277C. Please refer to Exhibit B1. The Community boundaries of Bayard lie completely within the hypothetical City Grade contour of the proposed new facility. Please see Exhibit B2.

The proposed new facility at Bayard will provide an additional interference free service to 62,490 persons in an area of 16,422.1 Sq. KM.

## **5. NEW, 265C2, Fort Laramie, Wyoming**

This petition seeks the allotment of channel 265C2 to the Community of Fort Laramie, Wyoming. Fort Laramie, Wyoming is a U.S. Census Town with a population of 243 persons in an area of 0.7 Sq. KM. Fort Laramie presently has no local aural service.

265C2 can be allotted without a site restriction at coordinates 42-27-37 North 104-27-10 West in full compliance with the spacing requirements of 47 CFR 73.207, provided KOLT is reassigned to operate on channel 277C and the channel of the 265A facility at Douglas, Wyoming is substituted.. Please refer to Exhibit F1. The Community boundaries of Fort Laramie lie completely within the hypothetical City Grade contour of the proposed new facility. Please see Exhibit F2.

The proposed new facility at Fort Laramie will provide an additional interference free service to 14,151 persons in an area of 8,560.4 Sq. KM.

## **6. VACANT, 265A, Douglas, Wyoming**

Compliance with 47 CFR 73.207 for the new allotment at Fort Laramie, Wyoming requires a substitution of the channel for the 265A allotment at Douglas, Wyoming. This petition proposes 229A as the replacement, which can be substituted at the present site reference for the 265A allotment. 227A or 228A also appear suitable.

## **7. Summary**

This petition, if adopted in the entirety, will provide first local service for three Communities in three adjoining states. A total of over 3,000 persons would be benefited in this way. Additionally, almost one and one-half million persons would receive an additional interference free service over an area of almost 50,000 square kilometers, while only 21,738 persons in an area of 5,745 square kilometers would lose a interference free service. No person would be underserved by this proposal.

For these reasons, this petition should be granted.

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## Affidavit and Qualifications of Technical Consultant

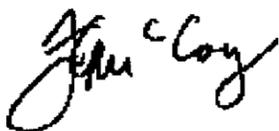
State of Illinois                    )  
Community of Forest Lake        ) ss:  
County of Lake                    )

**Frank G. McCoy**, being duly sworn, deposes and says that he is an employee of American Media Services which firm has been engaged to provide technical and other consulting in connection with the preparation of the attached.

He attended Illinois Institute of Technology in Chicago and has been active in broadcast engineering for over 25 years as an employee of and consultant to numerous FCC licensees.

The attached *Technical Narrative* and the associated exhibits were either prepared by him or under his direction and are believed to be true and correct.

Dated: June 6, 2002

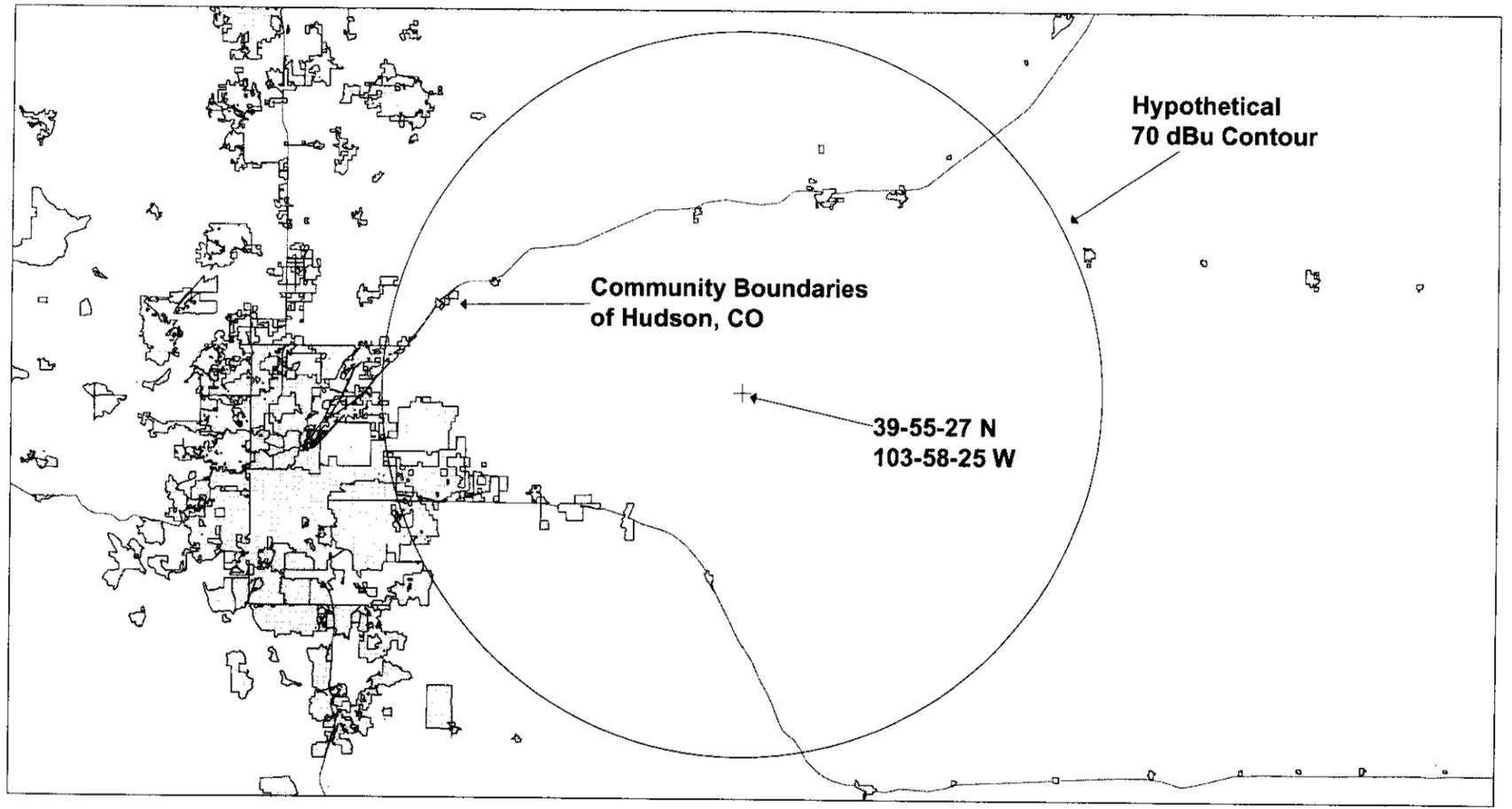


Frank G. McCoy  
*Affiant*

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**Exhibit H2 Hypothetical Coverage Map  
KBRU 268C Hudson, CO**



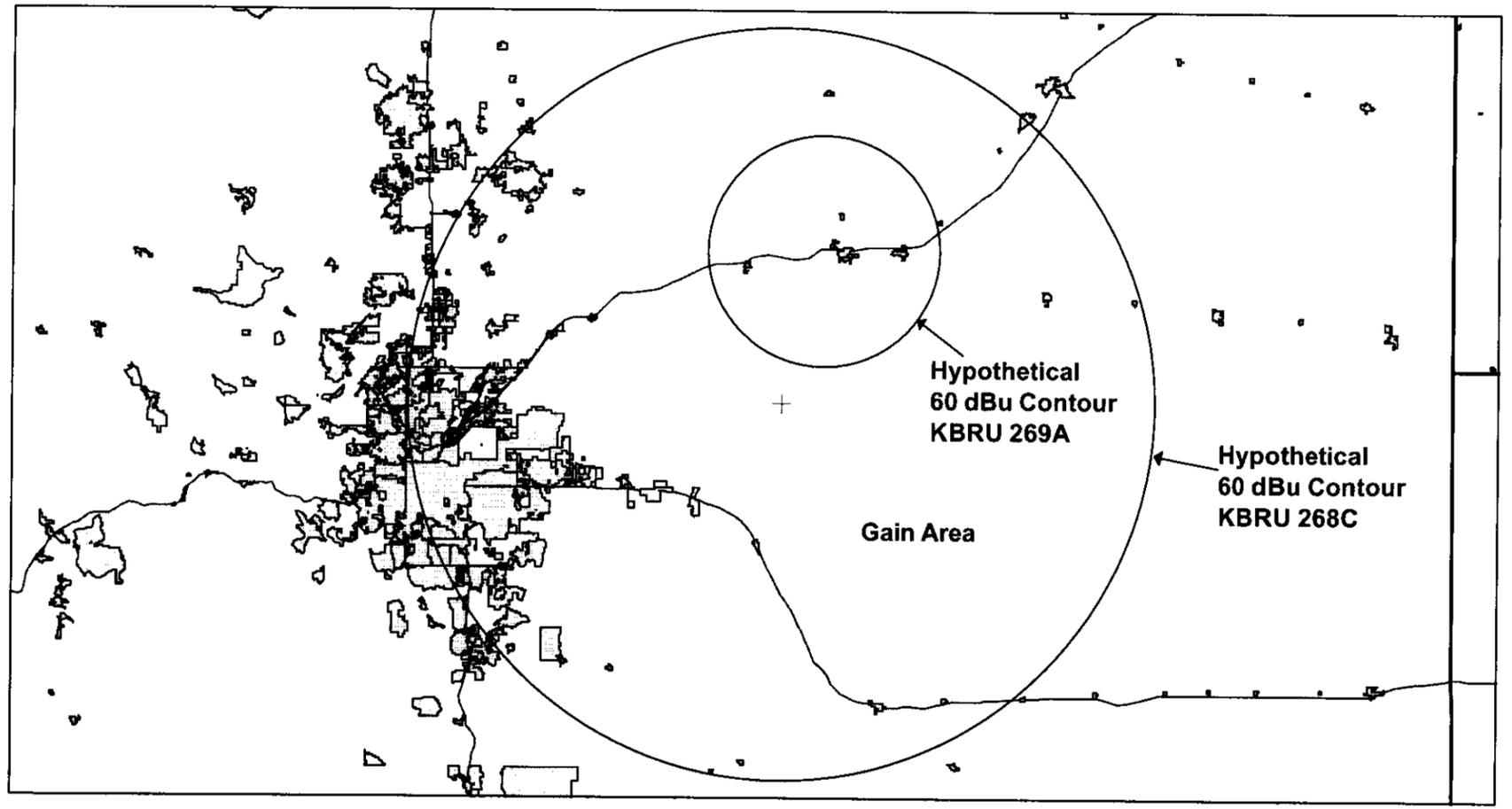
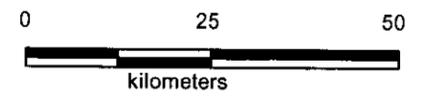
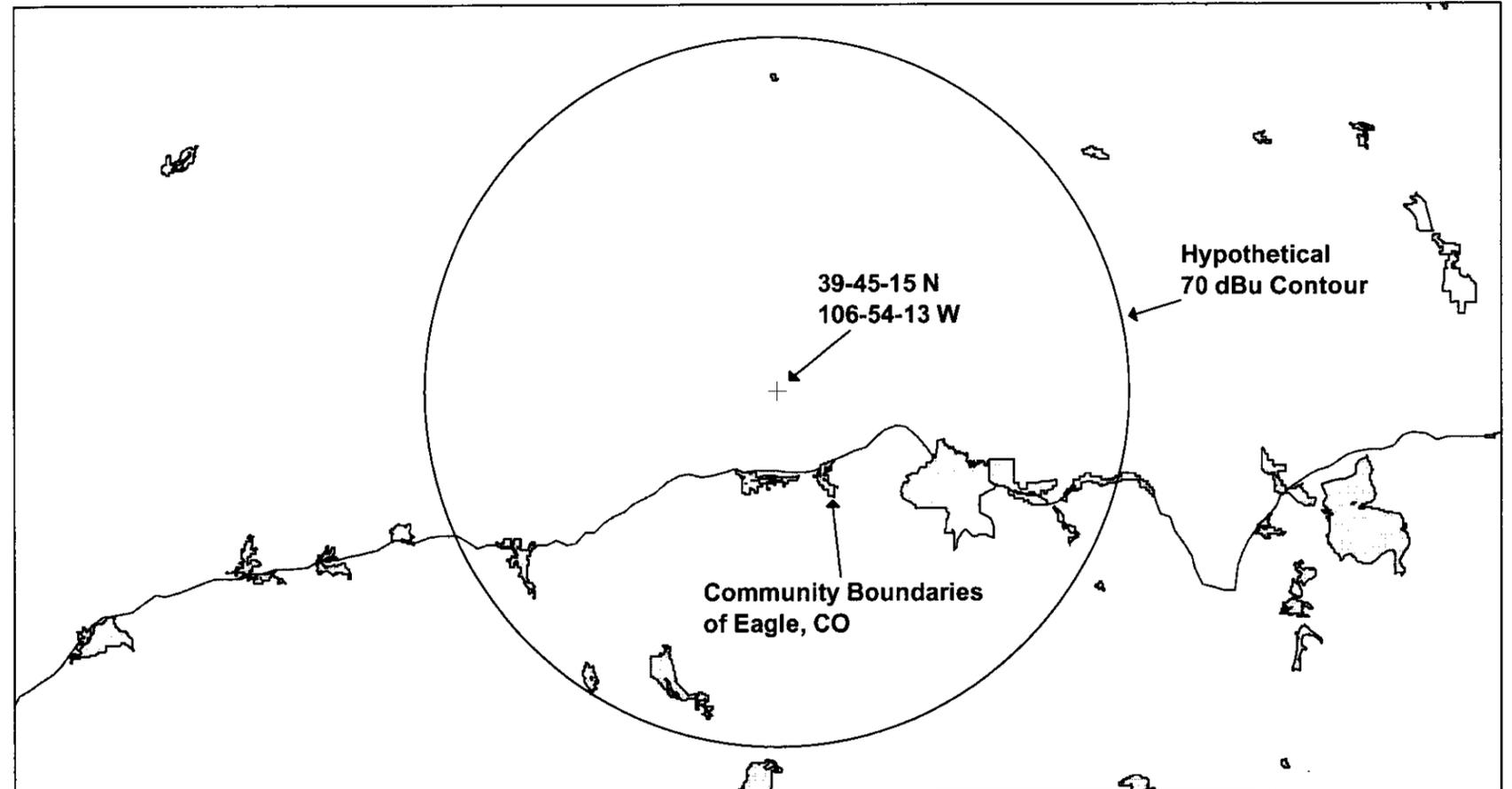


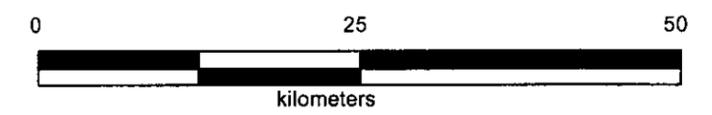
Exhibit H3 KBRU Gain Area (No Loss Area)





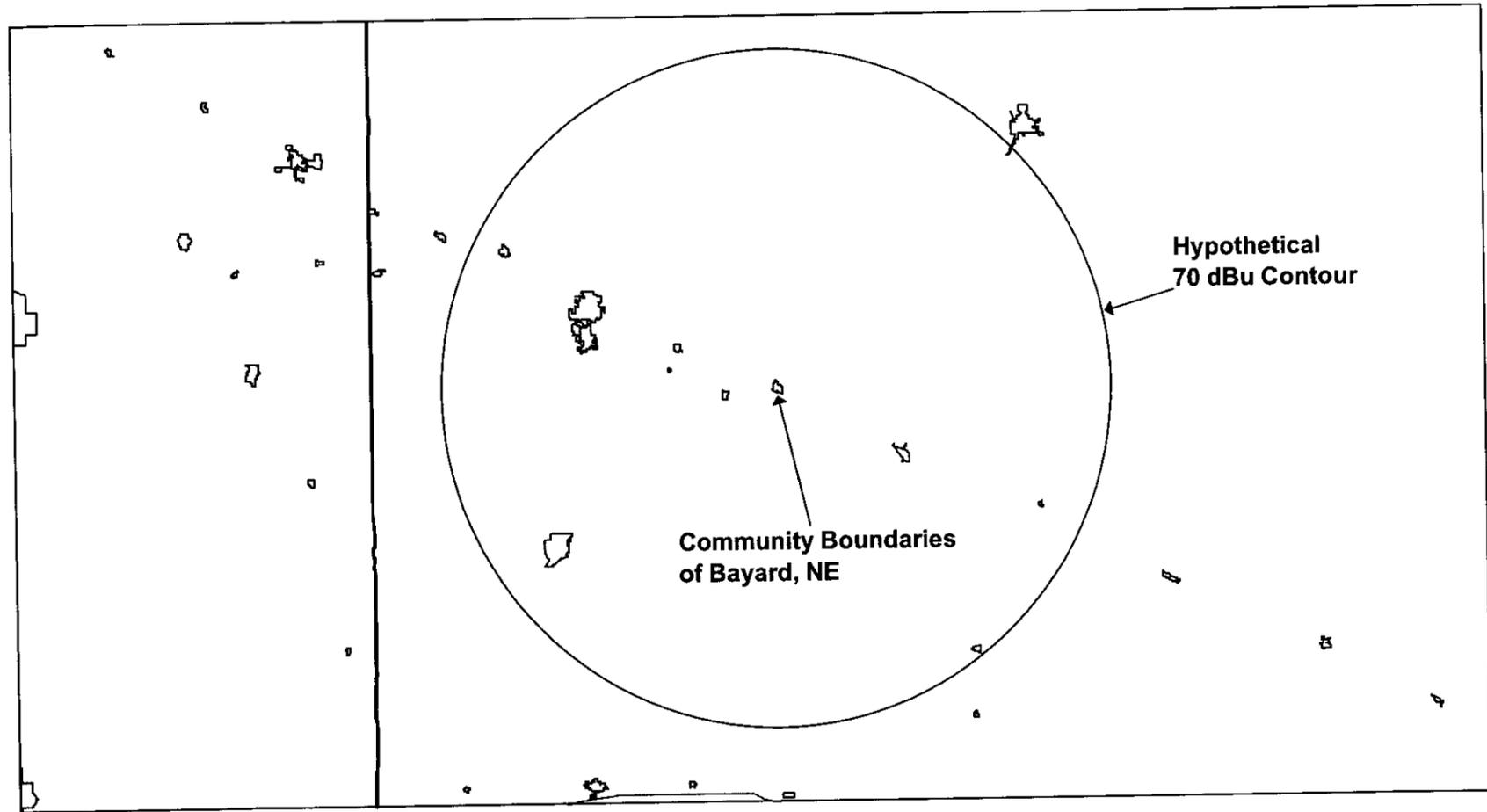


**Exhibit E2 Hypothetical Coverage Map  
269C1 Eagle, CO**

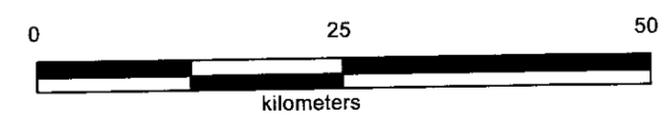








**Exhibit B2 Hypothetical Coverage  
267C1 Bayard, NE**





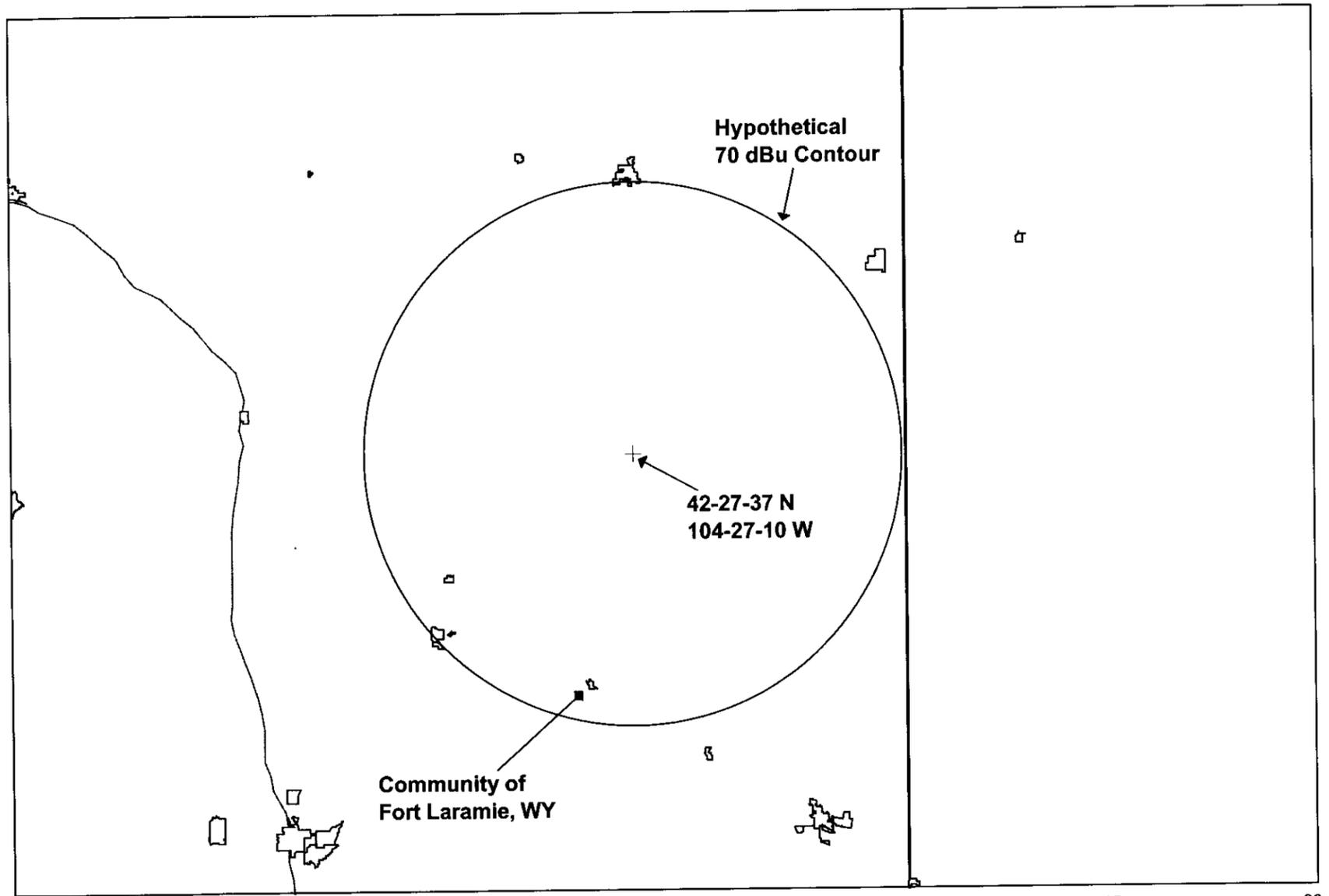


Exhibit F2 Hypothetical Coverage Map  
265C2 Fort Laramie, WY

