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

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AUG 21 2003

Federal Communication Commission  
Bureau / Office

MB Docket No 03-77  
RM- 10660

W7C

In the Matter of )  
)  
Amendment of Section 73 202(b) )  
Table of Allotments, )  
FM Broadcast Stations )  
(Ashland, Coaling, Cordova, Decatur, Dora )  
Hackleburg, Hobson City, Holly Pond, )  
Midfield, Sylacauga, and Tuscaloosa, )  
Alabama, and Atlanta, Georgia) )

RECEIVED

AUG 25 2003

Federal Communications Commission  
Office of the Secretary

To Assistant Chief, Audio Division  
Media Bureau

**RESPONSE TO SUPPLEMENTAL COMMENTS**

Cox Radio, Inc and its wholly owned subsidiary CXR Holdings, Inc (collectively "Cox"), by their attorneys, hereby respectfully submit this Response to Supplemental Comments dated July 18, 2003 that were filed by Kea Radio, Inc ("KRI") and Pulaski Broadcasting, Inc ("PBI") after the close of the comment period in the above-captioned proceeding.<sup>1</sup> KRI and PBI had timely-filed a counterproposal (the "KRI and PBI Counterproposal") that was in conflict with the interrelated allotments proposed by Cox that were described in the *Notice* (the "Cox Proposal")

Cox will not respond to the untimely and insufficient efforts of KRI and PBI to explain in their Supplemental Comments why the KRI and PBI Counterproposal is not technically and

<sup>1</sup> Amendment of Section 73 202(b), Table of Allotments, FM Broadcast Stations (Ashland, Coaling, Cordova, Decatur, Dora, Hackleburg, Hobson City, Holly Pond, Midfield, Sylacauga and Tuscaloosa, Alabama, and Atlanta, Georgia), *Notice of Proposed Rule Making*, DA 03-816, MB Docket No 03-77, RM-10660 (rel Mar 21, 2003) ("Notice")

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legally infirm. As Cox noted in its timely-filed Reply Comments, the KRI and PBI Counterproposal must be dismissed because it was not “technically correct and substantially complete” at the time it was filed.<sup>2</sup> However, in their Supplemental Comments, in addition to their untimely arguments, KRI and PBI also noted the existence of alternate reference coordinates at Ashland, Alabama, that would eliminate the conflict between the interrelated allotments in the Cox Proposal and the KRI and PBI Counterproposal. By this Response, Cox also proposes alternate reference coordinates for Channel 252A at Ashland, Alabama, as a means to eliminate the conflict between the Cox Proposal and the KRI and PBI Counterproposal, thereby allowing for grant of the Cox Proposal.

In its Proposal, Cox proposes to amend the FM Table of Allotments by (a) downgrading Channel 239C1, Station WBHJ(FM), to Channel 239C2 and moving Station WBHJ from Tuscaloosa, Alabama, to Midfield, Alabama, as Midfield’s first local aural transmission service, (b) reallocating Channel 238A, Station WFMH-FM, from Holly Pond, Alabama, to Hackleburg, Alabama, as Hackleburg’s first local service; (c) replacing the local service at Holly Pond by reallocating Channel 245C, Station WRSA(FM), from Decatur, Alabama, to Holly Pond; (d) reallocating Channel 237A, Station WFFN(FM), from Cordova, Alabama, to Coaling, Alabama, as Coaling’s first local service; (e) replacing the local service at Cordova by reallocating Channel 223A, Station WQOP-FM, from Dora, Alabama, to Cordova, (f) reallocating Channel 238A, Station WASZ(FM), from Ashland, Alabama, to Hobson City, Alabama, as its first local FM and first nighttime service, (g) replacing the local service at Ashland by reallocating Channel 252A, Station WTRB-FM, from Sylacauga, Alabama, to Ashland, and (h) reclassifying Channel 253C,

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<sup>2</sup> See Reply Comments of Cox Radio, Inc. and CXR Holdings, Inc. filed May 27, 2003 in MB Docket No. 03-77.

Station WSB-FM, Atlanta, Georgia, to Channel 253C0. As described in the Technical Exhibit included at Exhibit A, the adoption of an alternate reference point of 33° 13' 30" N and 85° 53' 40" W, rather than 33° 15' 45" N and 85° 54' 00" W, for Channel 252A at Ashland, Alabama, for WTRB-FM will eliminate the mutual exclusivity between the Cox proposal and the KRI and PBI Counterproposal. With the removal of the conflict, the two proposals become independent of each other and the Commission's consideration of the technical deficiencies of the KRI and PBI Counterproposal need not delay the grant of Cox's Proposal. Moreover, adoption of the alternate reference coordinates to resolve the conflict between the proposals would be consistent with the Commission's allotment policies<sup>3</sup> and expedite the provision of first local service to Midfield, Hackleburg and Coaling, Alabama and the achievement of a preferential arrangement of allotments.

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<sup>3</sup> See, e.g., *Detroit Lakes and Barnesville, Minnesota, and Enderlin, North Dakota*, 17 FCC Rcd 25055 (2002) at ¶ 7 (stating that adoption of alternate reference coordinates "is consistent with prior actions in which we have specified reference coordinates that would accommodate otherwise mutually exclusive proposals")

Accordingly, Cox respectfully urges the Commission to adopt the alternate reference point for Ashland, Alabama to resolve the conflict between the proposals and to proceed to a swift grant of the Cox Proposal

Respectfully submitted,

COX RADIO, INC  
CXR HOLDINGS, INC.

By



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Dated August 21, 2003

## CERTIFICATE OF SERVICE

I, Sherene F McDougall, a secretary at Dow, Lohnes & Albertson, PLLC, hereby certify that a true and correct copy of the foregoing "Response to Supplemental Comments" was sent on this 21st day of August, 2003, via first-class United States mail, postage pre-paid, to the following

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\_\_\_\_\_  
Sherene F. McDougall

Exhibit A

Technical Exhibit  
by du Treil, Lundin & Rackley, Inc

TECHNICAL EXHIBIT  
ALTERNATE REFERENCE COORDINATES FOR  
PETITION FOR RULE MAKING

Technical Narrative

This Technical Exhibit, of which this Narrative is part, proposes alternate reference coordinates for Cox Radio, Inc. and CXR Holdings, Inc's (Cox's) Petition for Rule Making to modify the Commission's FM Table of Allotments contained within Section 73.202 within the Commission's Rules Cox's Petition for Rule Making filed March 18, 2002 and amended November 27, 2002 ("Petition") proposes filed to:

- Delete Channel 239C1 at Tuscaloosa, Alabama and allot Channel 239C2 at Midfield, Alabama.
- Delete Channel 237A at Cordova and allot Channel 237A at Coaling, Alabama
- Delete Channel 238A at Holly Pond and allot Channel 238A at Hackleburg, Alabama.
- Delete Channel 245C at Decatur, Alabama and allot Channel 245C at Holly Pond, Alabama.
- Delete Channel 223A at Dora and allot Channel 223A to Cordova
- Delete Channel 238A at Ashland, Alabama and allot Channel 238A to Hobson City, Alabama.
- Delete Channel 252A at Sylacauga, Alabama and allot Channel 525A to Ashland, Alabama
- Reclassify WSB-FM on Channel 253C at Atlanta, Georgia to a Class C0 facility.

The purpose of this instant submission is to propose an alternate reference point that would eliminate the mutual exclusivity between Cox's Petition and the Counterproposal filed by Kea Radio, Inc ("Kea") and Pulaski Broadcasting, Inc. ("Pulaski"), which among other

items, proposes to delete Channel 252A at Scottsboro, Alabama and allot Channel 252C3 to Scottsboro. Kea and Pulaski proposed Channel 252C3 allotment to Scottsboro is mutually exclusive with the proposed Channel 252A Ashland reference coordinates in Cox's Petition. By making a minor 4.2 kilometer move of Cox's proposed Channel 252A Ashland reference coordinates, Cox's entire Petition becomes non-mutually exclusive with Kea and Pulaski's counterproposal. No other changes are proposed.

For completeness, the Hobson City/Ashland component amendment is provided in its entirety, even though only the proposed reference point for Channel 252A at Ashland is being modified. The following describes the Hobson City/Ashland component of Cox's Petition with the use of the alternate reference point.

Proposed Channel 238A Hobson City, Alabama (No Change)

It is proposed to delete Channel 238A at Ashland, Alabama and allot Channel 238A to Hobson City, Alabama. The Hobson City proposal is mutually exclusive with the current Ashland allotment. There is one existing aural service in Hobson City, WHOG(AM) on 1120 kHz; however, this is a daytime only facility. The proposed Hobson City allotment will be the first full-time aural service assigned to Hobson City. It is proposed, as discussed below, to allot another channel to Ashland. Therefore, Ashland would maintain its two aural services, including a vacant allotment for Channel 264A.

The existing 70 dBu contour of Channel 238A at Ashland does not encompass any U S. Census defined urbanized area. The proposed 70 dBu contour of Channel 238A at Hobson City encompasses 56 square kilometers, or 28%, of the Anniston urbanized area and 19,000 persons, or 25%, of the Anniston urbanized area population.

The attached Sheet 1 of Figure 2 is a tabulation of the required separations pertinent to the use of Channel 238A at Hobson City. The proposed reference site complies with the Commission's minimum distance separation requirements contained in Section 73.207 to all existing, authorized and proposed stations and allotments, except for Channel WFMH-FM on Channel 238A at Holly Pond. It is proposed in this Rule Making petition to reallocate WFMH-FM to another city of license. Therefore, WFMH-FM is not an allocation issue. Operation from the reference site identified below will provide the requisite city grade signal to all of Hobson City. Sheet 2 of Figure 2 is a coverage map showing the 70 dBu contour and the city limits of Hobson City.

Below are the Channel 238A Hobson City reference site geographic coordinates:

33° 29' 30" North Latitude  
85° 52' 55" West Longitude

The town of Hobson City has a population of 878 persons. The Anniston urbanized area encompasses 33 percent of the Hobson City area and 70% of the Hobson City population.

The Channel 238A service gain area would contain 87,500 persons over an area of 1,130 square kilometers. The loss area would contain 6,300 persons over 1,130 square kilometers. The total proposed Channel 238A 60 dBu service area would contain 113,000 persons over 2,460

square kilometers as compared to the existing Channel 238A 60 dBu service area containing 31,800 persons over 2,460 square kilometers.

The other aural services that would serve the Channel 238A loss area are provided in Sheet 4 of Figure 2. A cumulative portion of the loss area of 410 square kilometers containing 3,400 persons would have three remaining aural services; a cumulative portion of the loss area of 330 square kilometers containing 1,800 persons would have four remaining aural services. No persons in the loss area will receive less than three aural services.<sup>1</sup>

Furthermore, the Ashland replacement Channel 252A facility (discussed below), will serve 1,000 square kilometers, or 88 percent, and 5,900 persons, or 93 percent, of the Channel 238A loss area. The replacement facility will serve 360 square kilometers, or 88 percent, and 3,200 persons, or 94 percent of the Channel 238A loss area that would have three remaining services. The replacement facility will serve 320 square kilometers, or 94 percent, and 1,700 persons, or 97 percent of the Channel 238A loss area that would have four remaining services.

Proposed Channel 252A Ashland, Alabama  
(Reflects Alternate Reference Point)

It is proposed to delete Channel 252A at Sylacauga, Alabama and allot Channel 252A to Ashland, Alabama. This Ashland proposal is mutually exclusive with the current Sylacauga allotment. This allotment to Ashland will replace Channel 238A at Ashland, thus ensuring that Ashland retains its sole local FM operating

service. Sylacauga would have two aural services remaining, daytime station WYEA(AM) on 1290 kilohertz and full-time station WFEB(AM) on 1340 kilohertz

Neither the existing nor the proposed 70 dBu contour of Channel 252A at Sylacauga or Ashland encompasses any U S. Census defined urbanized area.

The attached Sheet 1 of Figure 3 is a tabulation of the required separations pertinent to the use of Channel 252A at Ashland. The proposed reference site complies with the Commission's minimum distance separation requirements contained in Section 73.207 to all existing, authorized and proposed stations and allotments, except for WSB-FM on Channel 253C at Atlanta, Georgia. It is proposed in this amended Rule Making petition to reclassify WSB-FM to a Class C0 from a Class C. Therefore, WSB-FM is not an allocation issue. Operation from the reference site identified below will provide the requisite city grade signal to all of Ashland. Sheet 2 of Figure 3 is a coverage map showing the 70 dBu contour and the city limits of Ashland.

Below are the Channel 252A Ashland alternate reference site geographic coordinates:

33° 13' 30" North Latitude  
85° 53' 40" West Longitude

The Channel 252A service gain area would contain 18,000 persons over an area of 1,640 square kilometers. The loss area would contain 49,200 persons over 1,640 kilometers. The total proposed Channel 252A 60 dBu service area would contain 26,000 persons over 2,460 square kilometers as compared to the existing Channel 252A

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A small portion of the Channel 238A loss area (less than 1 square kilometer) would have only 2 aural services. However, no populations centroids are located within this area.

60 dBu service area containing 57,200 persons over 2,460 square kilometers.

The other aural services that would serve the Channel 252A loss area are provided in Sheet 4 of Figure 3. A portion of the loss area of 14 square kilometers containing 140 persons would have only two remaining aural services, this is 1 percent and 0.5 percent of the Channel 252A loss area and population, respectively. No persons in the loss area will receive less than two aural services.<sup>2</sup>

Proposed Channel 253C0 Atlanta, Georgia (No Change)

It is proposed to reclassify WSB-FM on Channel 253C at Atlanta, Georgia to a Class C0 facility. Since WSB-FM's licensed antenna height above average terrain is less than 451 meters, it is eligible to be reclassified as a Class C0 with no facility modification necessary.

No change in site reference coordinates is proposed. Therefore, no loss or gain areas are created. The Class C0 facility will continue to provide the requisite 70 dBu coverage over its principal community. Also, Channel 253C0 would be fully-spaced to all pertinent allotments and stations at the reference site.

Below are the Channel 253C0 Atlanta, Georgia reference site geographic coordinates:

33° 45' 33" North Latitude  
84° 20' 05" West Longitude

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<sup>2</sup> For the other services analysis, the coverage of Class C and Class C0 facilities were determined based upon their operating HAAT. However, if the respective maximum Class C0 and new minimum Class C reference distances were used for the stations, in particular WHHY-FM, WLWI-FM and WMKS-FM in Montgomery, then the entire Channel 252A loss area could be considered as served by 5 or more services.

WSB-FM on Channel 253C0 will continue to serve 4,170,000 persons over 16,730 square kilometers.

Proposed Modifications to Table of Allotments

This proposal provides for the following allotment changes to Section 73.202, The Commission's Table of FM Allotments.

<u>City</u>	<u>Present</u>	<u>Proposed</u>
Midfield, AL	---	239C2
Tuscaloosa, AL	225C1, 239C1, 288A	225C1, 288A
Ashland, AL	<u>238A</u> , 264A	<u>252A</u> , 264A
Sylacauga, AL	252A	---
Hobson City, AL	---	238A
Atlanta, GA	225C1, 235C1, 241C <u>253C</u> , 259C, 277C	225C1, 235C1, 241C <u>253C0</u> , 259C, 277C
Cordova, AL	237A	223A
Coaling, AL	---	237A
Holly Pond, AL	238A	245C
Hackleburg, AL	---	238A
Decatur, AL	245C, 271C1	271C1
Dora, AL	223A	---



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August 20, 2003

TECHNICAL EXHIBIT  
PETITION FOR RULE MAKING

Summary of 60 dBu Service Gain/Loss Analysis

Allotment	Loss Area (km <sup>2</sup> )	Gain Area (km <sup>2</sup> )	Loss Population	Gain Population
Tuscaloosa, AL	9,600	---	202,000	---
Midfield, AL	---	1,800	---	203,000
Ashland, AL	1,130	1,640	6,300	18,000
Hobson City, AL	---	1,130	---	87,500
Sylacauga, AL	1,640	---	49,200	---
Cordova, AL	2,460	---	81,000	---
Coaling, AL	---	2,460	---	149,000
Holly Pond, AL	2,460	----	100,000	---
Hackleburg, AL	----	2,460	----	41,100
Total	17,290	9,490	438,500	498,600

The proposal would have a "net" gain of 60,100 persons and a "net" loss of 7,800 square kilometers.

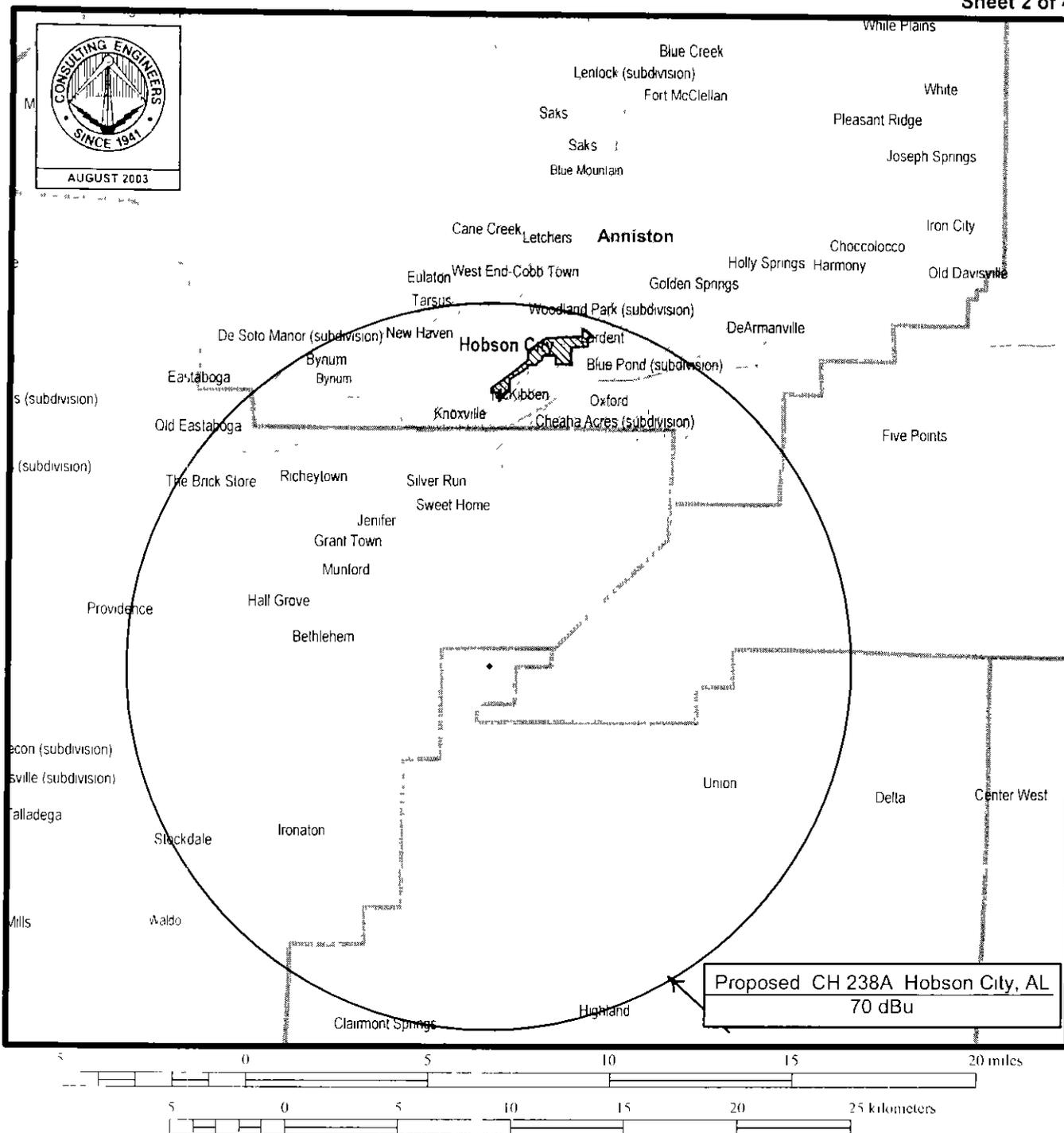
Note: Population based upon 2000 Census.

TECHNICAL EXHIBIT  
PETITION FOR RULE MAKING

Channel 238A Hobson City, Alabama Allocation Study

33° 29' 30" North Latitude  
85° 52' 55" West Longitude

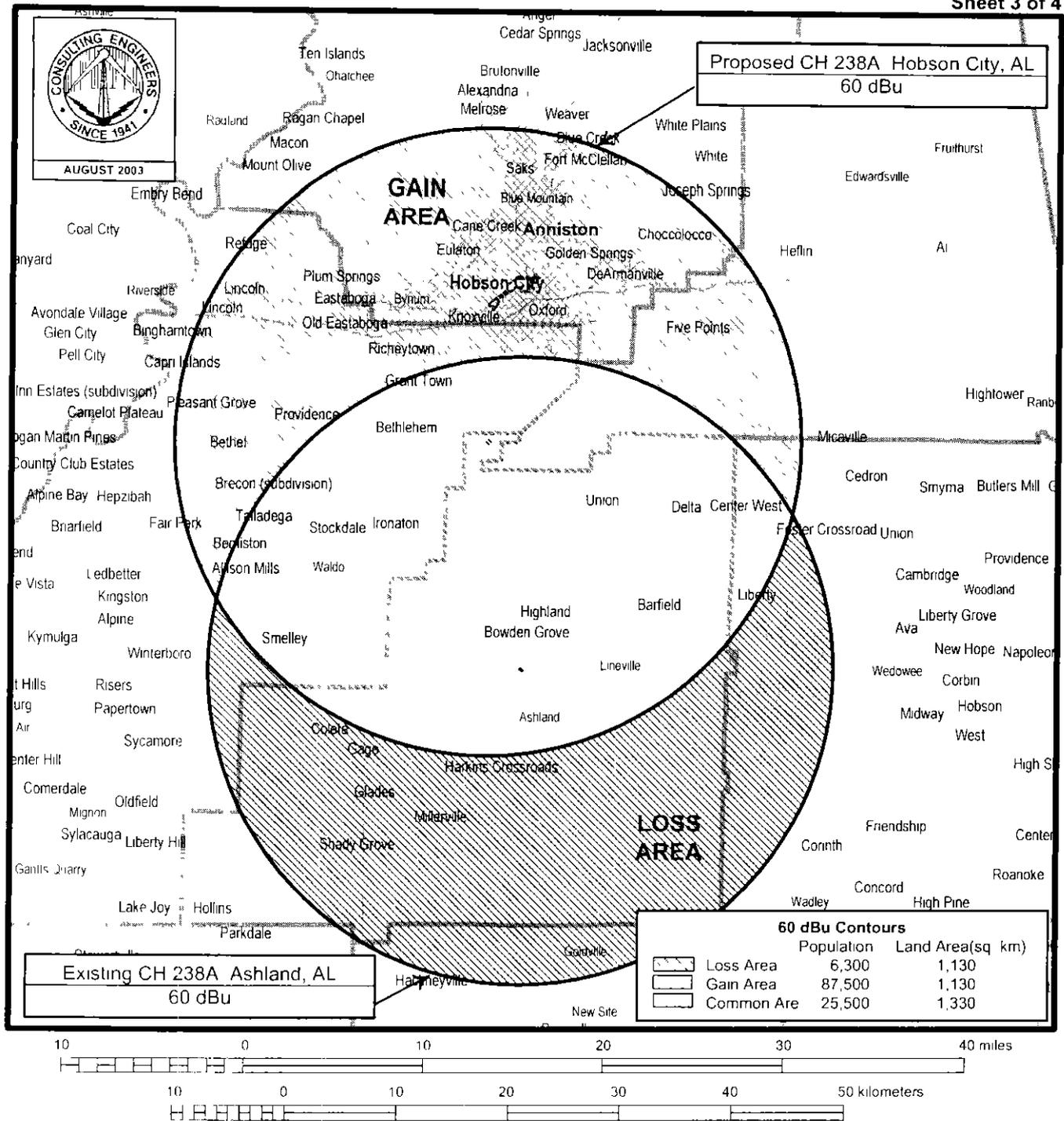
Call Status	City State	FCC File No.	Channel Freq.	ERP(kW) HAAT(m)	Latitude Longitude	Bearing deg-True	Dist. (km)	Req. (km)
DWSRM 30623	COOSA GA CP C	BPH 19900226MD	237A 95 3	3 100	N 34-11-41 085-20-55	N 55 6	71.98	72 0
WASZ 52320	ASHLAND AL LIC C	BLH 19950621KA	238A 95 5	1 7 188	N 33-18-30 085-50-58	N 167 0	59.45	115 0
<i>[Subject station of amendment No allocation concern]</i>								
WFMH-F 24578	HOLLY POND AL LIC C	BLH 19991109ACC	238A 95 5	6 100 28292	Y 34-06-16 086-41-47	N 295 4	71 71	115 0
<i>Proposed to delete Channel 238A at Holly Pond No allocation concern ]</i>								
WBTS 11710	ATHENS GA LIC C	BLH 20011016AAF	238C1 95 5	74 340	N 34-07-32 083-51-32	N 79 9	199 97	200 0
WATG 67769	TRION GA LIC C	BLH 19961009KB	239A 95 7	1 3 213	N 34-28-10 085-17-48	Y 41 9	95 67	72 0
0	MIDFIELD AL ADD C	RM bg-99	239C2 95 7		33-24-50 087-01-05	244 3	105 70	106 0
WBHJ 730	TUSCALOOSA AL LIC C	BLH 19950411KA	239C1 95 7	100 299	N 33-05-38 087-15-15	Y 235 3	142 86	133 0
WTWX-F 25674	CUNTERS VILL AL LIC C	BLH 19950712KC	240C3 95 9	10 157	N 34-20-14 086-16-46	N 335 0	62 08	42 0



## PROPOSED HOBSON CITY 70 dBu COVERAGE CONTOUR

### PETITION FOR RULE MAKING

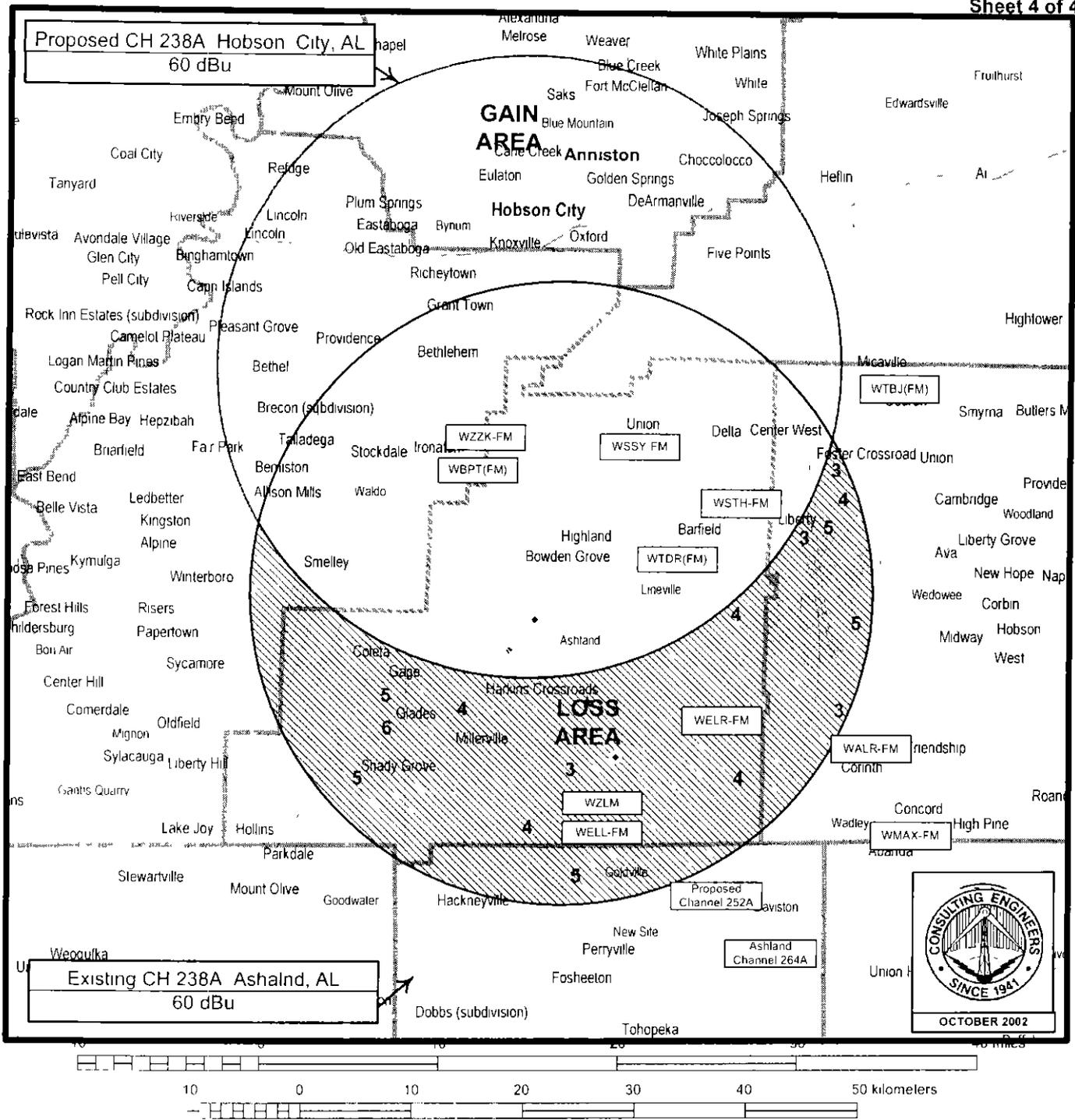
du Treil, Lundin & Rackley, Inc., Sarasota, Florida



## ASHLAND/HOBSON CITY GAIN/LOSS AREA

### PETITION FOR RULE MAKING

du Treil, Lundin & Rackley, Inc., Sarasota, Florida



# ASHLAND/HOBSON CITY LOSS AREA OTHER SERVICES

## PETITION FOR RULE MAKING

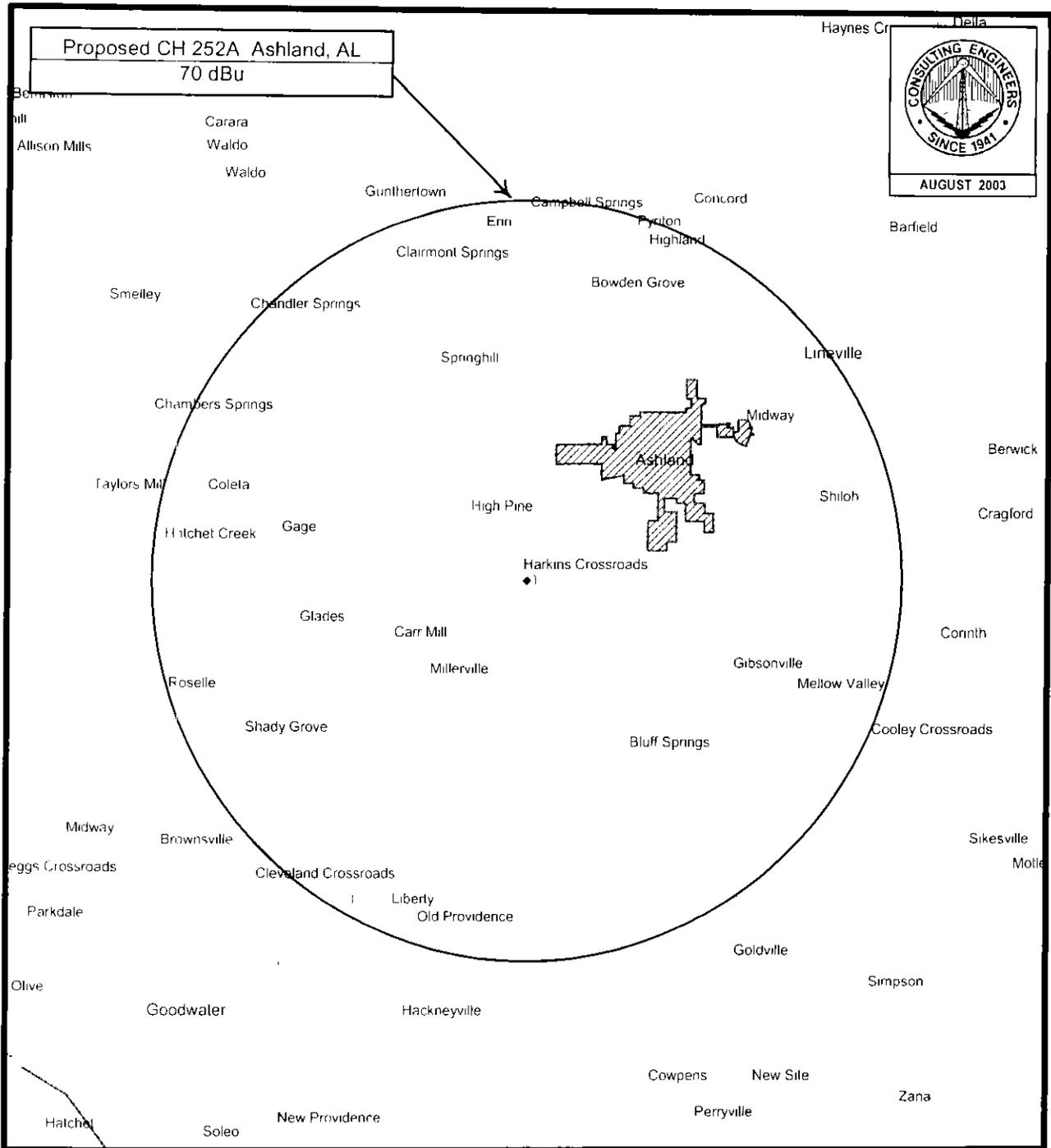
du Treil, Lundin & Rackley, Inc., Sarasota, Florida

TECHNICAL EXHIBIT  
PETITION FOR RULE MAKING

Channel 252A Ashland, Alabama Allocation Study

33° 13' 30" North Latitude  
85° 53' 40" West Longitude

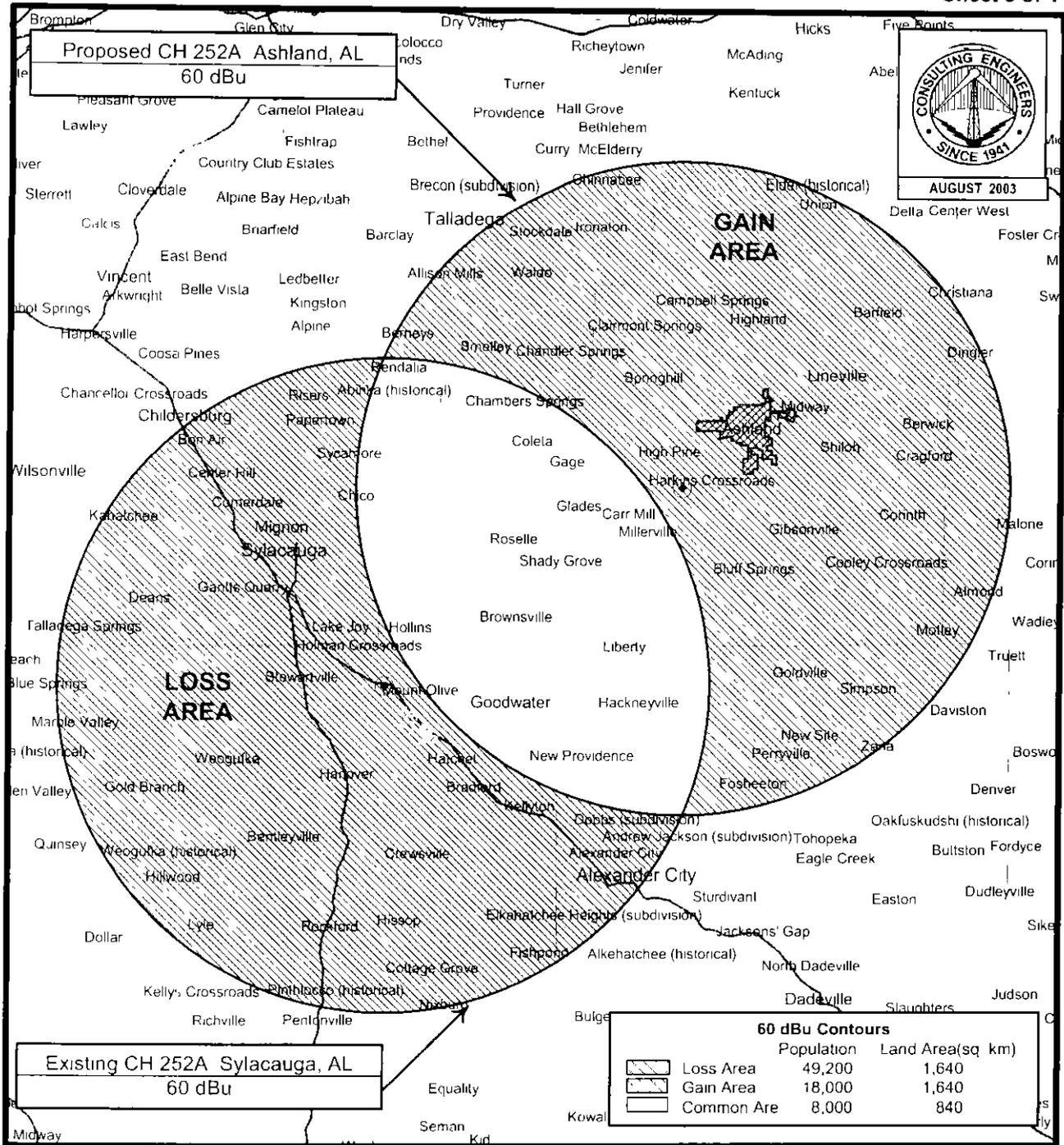
Call Status	City State	FCC File No.	Channel Freq.	ERP(kW) HAAT(m)	Latitude Longitude	Bearing deg-True	Dist. (km)	Req. (km)
WVOK-F 73609	OXFORD AL	BLH LIC C 20010406AAJ	250A 97 9	0.51 338	33-37-20 085-52-19	2 7	44 11	31 0
WMGP 39619	HOGANSVILLE GA	BLH LIC C 19990927AAJ	251C3 98 1	100	33-03-54 084-57-23	101 3	89 30	89 0
WTRB-F 704	SYLACAUGA AL	BLH LIC C 20020523AAM	252A 98 3	2 25 166	33-04-23 086-10-06	236 5	30 61	115 0
<i>[Subject station of amendment No allocation concern]</i>								
PADD	ASHLAND AL	RM ADD C 10660	252A 98 3		33-15-45 085-54-00	352 9	4.19	115 0
<i>(Initially proposed Channel 252A at Ashland )</i>								
PADD	SCOTTSBORO AL	RM ADD C bg-67	252C3 98 3		34-29-53 086-01-26	355 2	141.71	142 0
<i>(Counterproposal for Channel 252C3 at Scottsboro, Alabama )</i>								
WACH 43093	FORT MITCHELL AL	BLH LIC C 19930601KE	252A 98 3	6 100	32-21-48 085-03-06	140 3	23 95	115 0
WSB-FM 73978	ATLANTA GA	BLH LIC C 19980903KB	253C 98 5	100 313	33-45-33 084-20-05	67 2	156.59	165 0
<i>[WSB-FM is proposing Class C0 with no site change Therefore, no allocation issue ]</i>								



**PROPOSED ASHLAND CITY 70 dBu COVERAGE CONTOUR**

**PETITION FOR RULE MAKING**

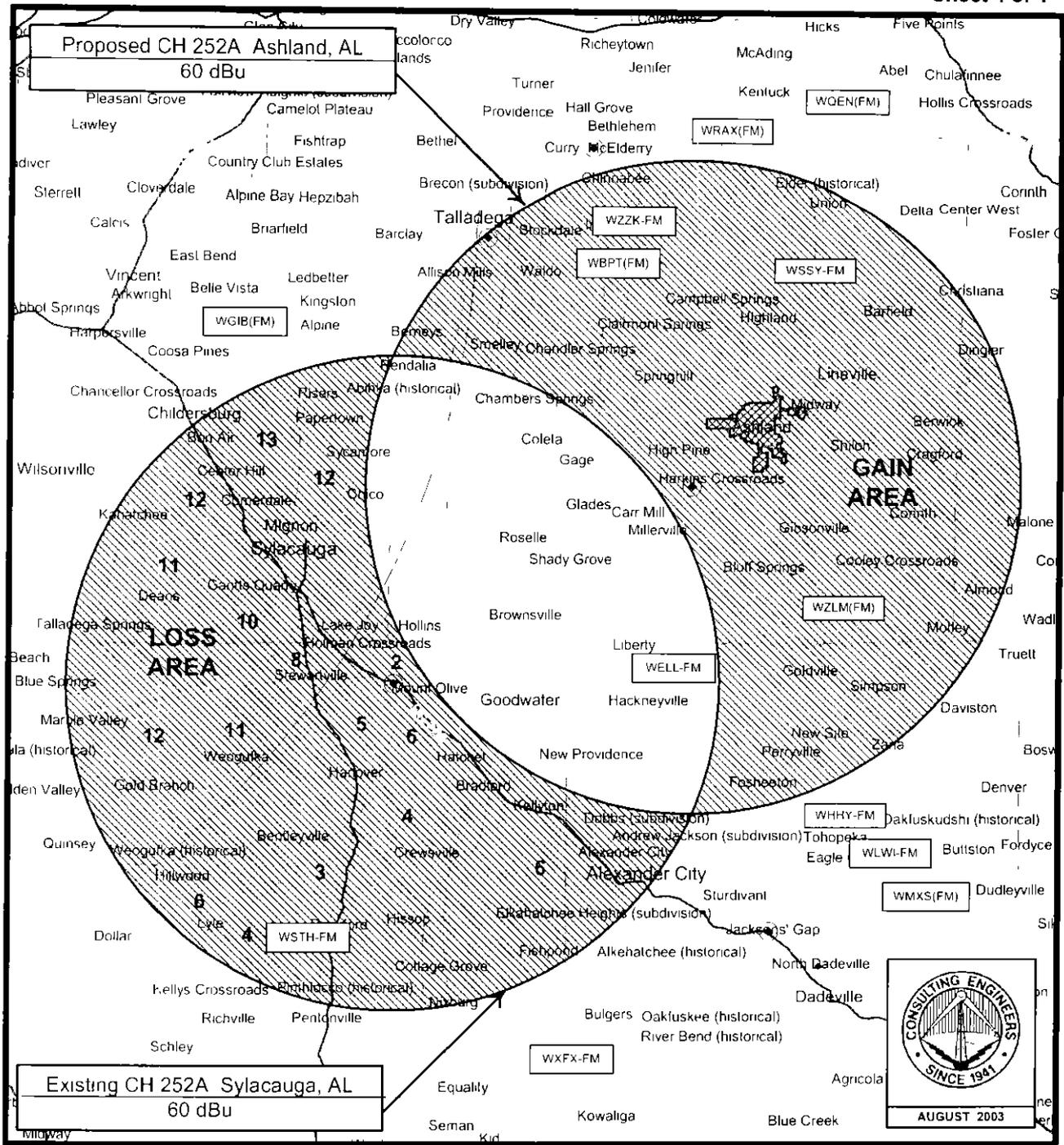
du Treil Lundin & Rackley, Inc., Sarasota, Florida



## SYLACAUGA/ASHLAND GAIN/LOSS AREA

### PETITION FOR RULE MAKING

du Treil, Lundin & Rackley, Inc . Sarasota, Florida



## SYLACAUGA LOSS AREA OTHER SERVICES

### PETITION FOR RULE MAKING

du Treil, Lundin & Rackley, Inc., Sarasota, Florida