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CYC 203
Imaging to

Federal Communications Commission
Washington, D.C. 20554

October 16, 2003

Mark N. Lipp, Esq.
J. Thomas Nolan, Esq.
Vinson & Elkins, L.L.P.
The Willard Office Building
1455 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-1008

Dear Mr. Lipp:

This is in response to the Petition for Partial Reconsideration of the dismissal of the Petition for Rule Making filed on behalf of On-Air Family, licensee of Station KBRU-FM, Fort Morgan, Colorado, and Salisbury Broadcasting Colorado, LLC, licensee of Station KTUN-FM, Eagle, Colorado ("Joint Petitioners"), which requests the substitution of Channel 268C for Channel 269A at Fort Morgan, Colorado, and the reallocation of Channel 268C from Fort Morgan to Hudson, Colorado, the substitution of Channel 269C1 for Channel 268C at Eagle, Colorado; and the substitution of Channel 277C for Channel 267C at Bridgeport, Nebraska.

On March 25, 2003, you filed a Withdrawal of Petition for Partial Reconsideration that requested to withdraw the partial reconsideration filed in connection with the staff's dismissal letter of the Petition for Rule Making. In accordance with the requirements of Section 1.420(j) of the Commission's rules, you have provided a settlement agreement and affidavits certifying that the Joint Petitioners have not received any compensation in exchange for the withdrawal of the Petition for Rule Making filed on July 19, 2002, except for the consent of Tracy Broadcasting Corporation, licensee of Station KOLT-FM, Bridgeport Nebraska to downgrade its channel to Class CO. Consistent with the Commission's policy to refrain from considering rule making proposals absent *bona fide* expressions of interest, we shall approve the settlement agreement and grant the Withdrawal of Petition for Partial Reconsideration.

For reasons discussed above, we are returning your Petition for Partial Reconsideration.

Sincerely,

John A. Karousos
Assistant Chief, Audio Division
Media Bureau

Enclosures

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

RECEIVED

MAR 10 2003

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Amendment of Section 73.202(b))	
Table of Allotments)	MB Docket No. _____
F M 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 PARTIAL RECONSIDERATION

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 partial reconsideration pursuant to Section 1.429 of the Commission's Rules, of the dismissal of their Petition for Rule Making. See Letter from John A. Karousos to Mark N. Lipp et al. (February 6, 2003) ("Dismissal Letter") (copy attached)

In their Petition for Rule Making, the Joint Petitioners proposed that the Commission amend the FM Table of Allotments to (1) delete Channel 269A from Fort Morgan, Colorado 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. These changes require a channel change at Bridgeport, Nebraska. The Joint Petitioners also requested the allotment of two new services, at Bayard, Nebraska and Fort Laramie, Wyoming, with a channel change at Douglas, Wyoming. In the Dismissal Letter, the Staff stated that the Petition was defective in three respects: (i) lack of city-grade coverage to Eagle, Colorado from the proposed reference

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site, (ii) lack of city grade coverage to Fort Laramie, Wyoming from the proposed reference site, and (iii) a short spacing between the proposed Douglas, Wyoming allotment and a vacant channel at Casper, Wyoming

2 The Commission erred with respect to the first of these three issues, *i.e.*, the city-grade coverage of Eagle, Colorado. As will be demonstrated herein, the proposed allotment at Eagle satisfies all applicable rules. With respect to the other two issues, the allotments at Bayard, Nebraska, Fort Laramie, Wyoming, and Douglas, Wyoming are not necessary elements of the Petition for Rule Making, and the Joint Petitioners will no longer pursue those allotments. Accordingly, the Joint Petitioners seek reconsideration of the Staff's determination with respect to Eagle, Colorado and amend their Petition to remove the other contested elements.

I. Preliminary Matters

3 This Petition for Partial Reconsideration is filed pursuant to Section 1.429 of the Commission's Rules, 47 C.F.R. § 1.429. It is timely filed within 30 days of the Letter Determination.¹ The Joint Petitioners are an "interested person" under Section 1.429(a), since they are adversely affected by the dismissal of their Petition for Rule Making.

4 The issue on reconsideration is whether the Commission erred in finding that the proposed allotment of Channel 269C1 at Eagle, Colorado violated the community coverage rule (Section 73.315 of the Commission's Rules, 47 C.F.R. § 73.315). The Commission should accept and consider the information presented herein under Section 1.429(b)(3), which permits reconsideration on the basis of facts whose consideration is required in the public interest. *See Mountain Home and Marshall, Arkansas; Thayer, Missouri*, 48 Rad. Reg. 2d 1601 (1981).

¹ See 47 C.F.R. § 1.4(b).

(reconsideration granted under Section 1429(b)(3) on the basis of engineering showings). The engineering exhibit submitted herewith clearly demonstrates the Commission's error

II. The Eagle Allotment Complies with the Commission's Rules

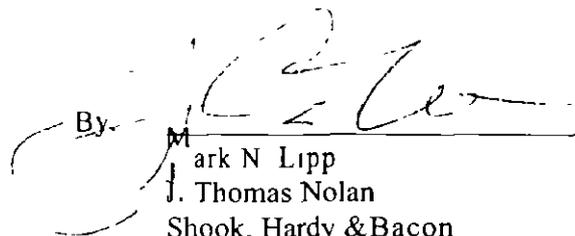
5 The Joint Petitioners proposed the allotment of Channel 269C1 at Eagle, Colorado at coordinates 39-14-15 North Latitude, 106-54-13 West Longitude. The Staff found this allotment to be defective, stating that "[t]here is a major obstruction six kilometers from the site of about 430 meters in height, in the direction towards the community." Letter Determination at unnumbered paragraph 2. However, the facts are otherwise. The attached engineering exhibit consists of four terrain profiles between the allotment coordinates and the community of Eagle. These profiles do not evidence any terrain obstruction at six kilometers from the site. Indeed, they demonstrate that the proposed transmitter has line-of-sight to the entire community. Accordingly, the Staff's determination with respect to the Eagle allotment was clearly erroneous and should be reversed.

6. WHEREFORE, the Commission should reconsider its dismissal and reinstate the Joint Parties' Petition for Rule Making as amended herein. Grant of the petition is in the public interest because Hudson, Colorado will receive its first local service. The Joint Petitioners restate their interest in applying for and constructing facilities at Hudson, Colorado. The Commission should promptly issue a Notice of Proposed Rule Making and an Order to Show Cause as described in the Joint Parties' Petition for Rule Making. The following table summarizes the changes requested in the amended Petition.

City	Channel	
	Existing	Proposed
Eagle, Colorado	268C	269C1
Fort Morgan, Colorado	269A	---
Hudson, Colorado	---	268C
Bridgeport, Nebraska	267C	277C

Respectfully submitted,

ON-AJR 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

March 10, 2003



Federal Communications Commission
Washington, D.C. 20554

February 6, 2003

Mark N Lipp, Esq
J Thomas Nolan, Esq.
Shook, Hardy & Bacon
600 14th Street, N W
Suite 800
Washington, DC 20005-2004

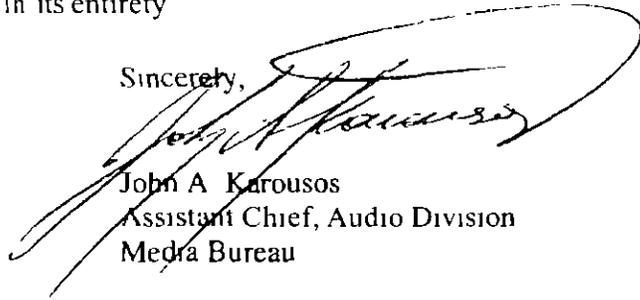
Dear Mr. Lipp

This is in response to the Petition for Rule Making you filed on behalf of On-Air Family, licensee of Station KBRU-FM, Fort Morgan, Colorado, and Salisbury Broadcasting Colorado, LLC, licensee of Station KTUN-FM, Eagle, Colorado, requesting the substitution of Channel 268C for Channel 269A at Fort Morgan, Colorado, and the reallocation of Channel 268C from Fort Morgan to Hudson, Colorado, and the substitution of Channel 269C1 for Channel 268C at Eagle, Colorado. The petition also proposes the substitution of Channel 277C for Channel 267C at Bridgeport, Nebraska, ~~Channel 229A for vacant Channel 265A at Douglas, Wyoming, and the allotments of Channel 267C1 at Bayard, Nebraska, and Channel 265C2 at Fort Laramie, Wyoming.~~

We have reviewed your proposal and find that it is unacceptable for consideration as filed. A staff engineering analysis indicates that the proposal to allot Channel 269C1 at Eagle, Colorado will not be able to provide city-grade coverage to the community from the proposed site. There is a major obstruction six kilometers from the site of about 430 meters in height, in the direction towards the community. In addition, the reference coordinates given for allotment of Channel 265C2 at Fort Laramie do not match the Commission's reference coordinates for the community. In any event, from the site you propose, there is a terrain obstruction that will prevent the station from providing city-grade service to the community. With respect to the proposed channel substitution of Channel 229A for Channel 265A at Douglas, Wyoming, our engineering analysis shows that the proposal will be short spaced to vacant Channel 228C1 at Casper, Wyoming, and cannot be site restricted. Available Channels 227A and 228A are similarly short-spaced to the Channel 228C1 allotment of Casper, Wyoming.

Based on the above, we are returning your proposal. You may resubmit the petition, provided you make a showing that fully spaced transmitter sites are available that provide city grade coverage to each community in its entirety.

Sincerely,

A handwritten signature in black ink, appearing to read "John A. Karousos", written over a large, light-colored oval scribble.

John A. Karousos
Assistant Chief, Audio Division
Media Bureau

Enclosure

Engineering Statement
In Support of a
Petition for Reconsideration
KBRU
On-Air Family, LLC. And Salisbury Broadcasting Colorado, LLC.

Methods

All path profile studies were calculated using USGS 3 second terrain data and RadioSoft's Comstudy ver. 2.2. Mapping was conducted using MapInfo ver. 7.0.

Statement of the Consultants

The engineering portion of the Petition for Reconsideration was prepared for On-Air Family, LLC and Salisbury Broadcasting Colorado, LLC. It was developed by American Media Services, LLC ("AMS") and may not be used for purposes other than submission to the Commission by On-Air Family, LLC and Salisbury Broadcasting Colorado, LLC. It may not be reproduced in its entirety, or in part, by anyone (other than from the Commission) without the written consent of AMS.

The information in this application is compiled from the most recent Commission and outside data. AMS is not responsible for errors resulting from incorrect data or unpublished rule and procedure changes.

I personally prepared the foregoing exhibits. I certify to the best of my knowledge, education, and belief the above information is true and correct.

For American Media Services, LLC

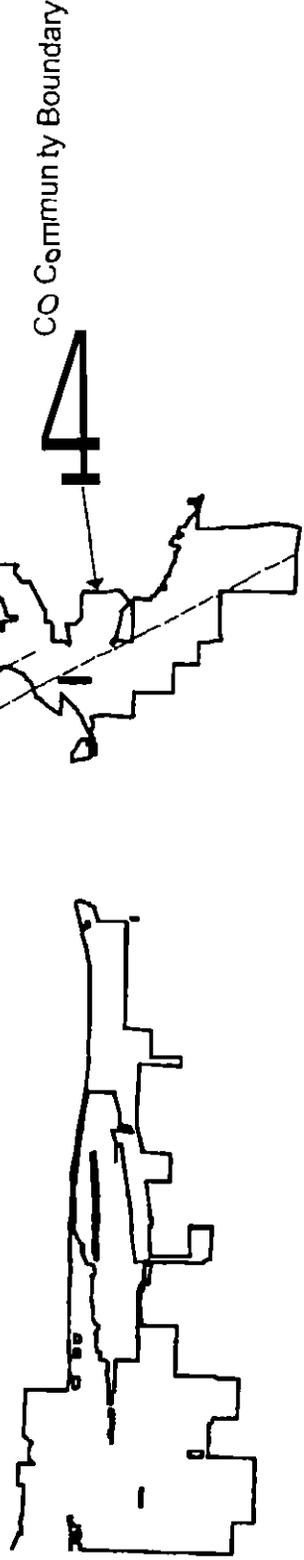

Laramie Guest

March 10, 2003

1311 Chuck Dawley Blvd Suite 202
Mount Pleasant, SC 29464
(843)972-2200

Proposed

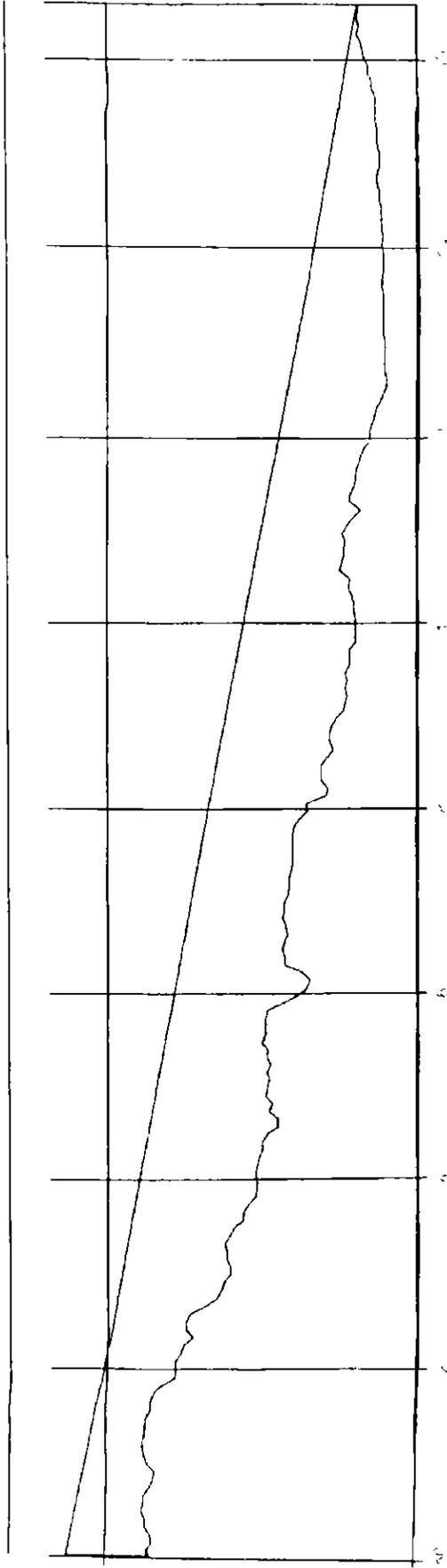
39-45-15~106-54-13



KTUN - Path Profile Study
Exhibit E4



CemStudy 2 Path Profile



Proposed

Job: Road Trip
 CO: 2000000
 WkSI: 205100
 Total ACI: 20000

Path-#1

Job: 995720000
 CO: 2000000
 WkSI: 205100
 Total ACI: 20000

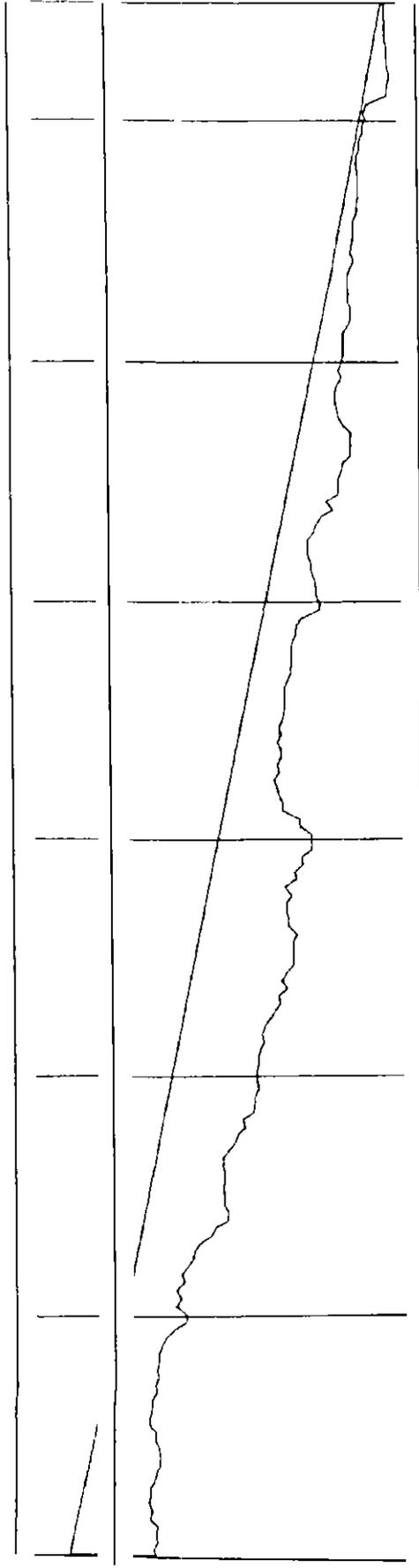
Profile Info

Distance: 10.00 km
 Bearing: 151.00 deg
 # of Points: 200
 K value: 4.00

Losses

Base Loss: 10.4 B

ComStudy 2 Path Profile

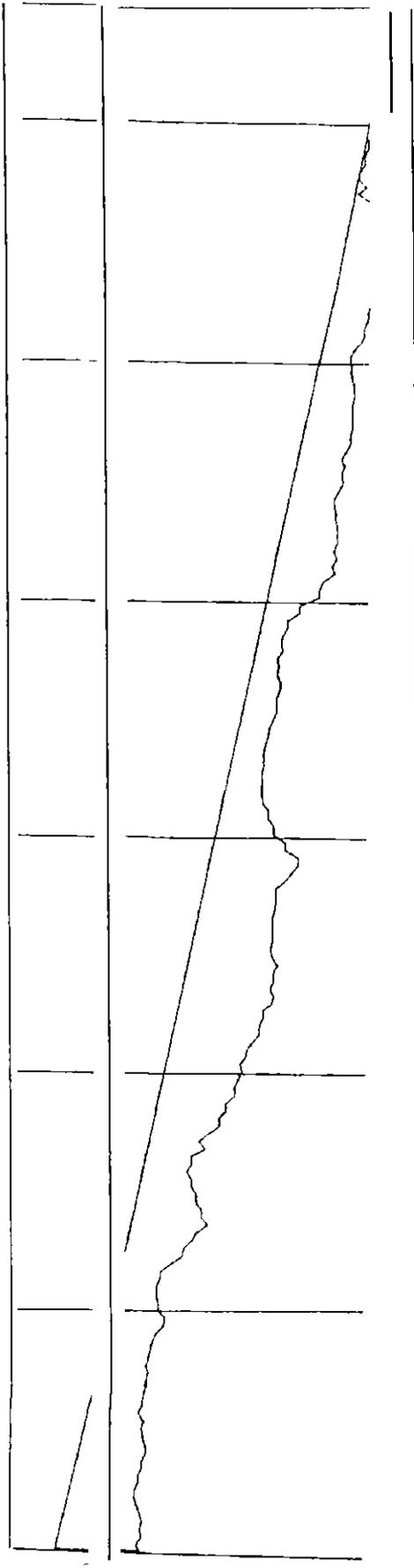


Proposed
 Path-#2
 Lat 31.59110N
 Lon 106.43407E
 Alt 2010 ft
 Time 06:00

Profile Info
 Height 12.96 Km
 Speed 140.00 Kts
 Fuel 2.00
 Altitude 1.33

Losses
 Base Loss 68.00

ComStudy 2 Path Profile



Proposed

Lot 25-20-15114
 20' x 120'
 4115 4811111
 100' x 200'

Path-#3

Lot 25-25111
 20' x 100'
 4115 4811111
 100' x 200'

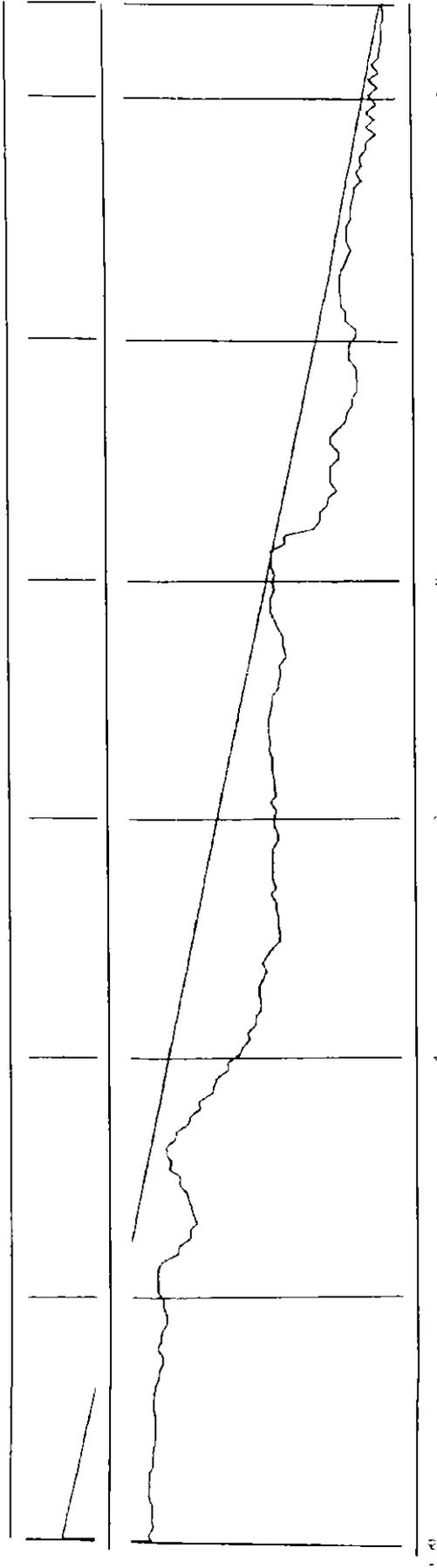
Profile Info

Distance 12.97 km
 Section 146.40 deg
 # of points 200
 K value 1.503

Losses

Base Loss 90.71 dB

ComStudy 2 Path Profile



Proposed

Call 35475000
 Alt 100
 MSL 2026m
 Tower Hgt 9m

Path-#4

Call 25350000
 Alt 100
 MSL 2026m
 Tower Hgt 9m

Profile Info

Cut-offs 12.50 km
 Bearing 141.84 deg
 # of points 200
 Elev 1.33

Losses

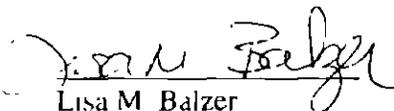
Base Loss 31.1 dB

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 10th day of March, 2003 caused to be mailed by first class mail, postage prepaid, copies of the foregoing "**PETITION FOR RECONSIDERATION**" to the following.

Tracy Broadcasting Corporation
P.O. Box S32
Scottsbluff, Nebraska 69363
(Licensee of KOLT-FM)

Audrey P. Rasmussen, Esq
Hall Estill Hardwick Gable Golden & Nelson, PC
1120 20th Street, NW, Suite 700
Washington, DC 20036-3406
(Counsel to Tracy Broadcasting Corporation)


Lisa M. Balzer