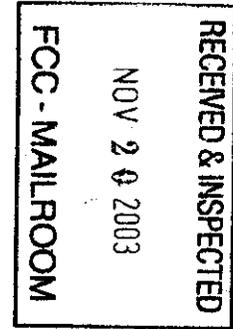


CC203
Imagylabs

Federal Communications Commission
Washington, D.C. 20554

November 5, 2003

Ms. Carmine Tutera
c/o Barry Magrill
6809 Medellin Court
Jacksonville, Florida 32210



Dear Ms. Tutera:

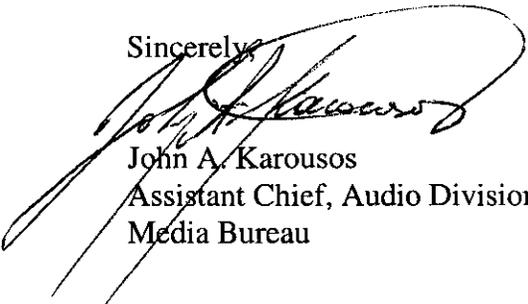
This is in response to a petition for rule making that you filed proposing the allotment of Channel 258A at Daytona Beach Shores, Florida, as a first local service.

We have reviewed your proposal and find that it is unacceptable for consideration as filed. Although there are no specific forms for filing a rule making petition, the Commission does require that the petition for a new FM channel allotment contain the following information: (1) name of the petitioner; (2) channel number and class of channel requested; (3) community of interest; (4) reason for the requested amendment as specified in Section 1.401 of the Commission's Rules; and (5) a statement of the petitioner's intent to apply for the channel, if allotted and made available for application. The petition must also include a technical showing to demonstrate that the proposed amendment will comply with the minimum distance separation requirements of Section 73.207 of the Commission's Rules. Where necessary, all foreign and domestic allotments must also be considered in the showing.

Additionally, Section 1.52 of the Commission's Rules requires that the original of any document filed with the Commission by a party not represented by counsel, be signed and verified by the party and his/her address stated. Although your request was signed, you did not provide your address and you did not include an affidavit verifying that the statements contained in your request are accurate to the best of your knowledge and belief. Section 1.401(b) of the Commission's Rules concerning rule making proceedings places petitioners on notice that their proposal must conform to the requirements of Section 1.52 regarding subscription and verification. *See also Amendment of Sections 1.420 and 73.3584 of the Commission's Rules Concerning Abuses of the Commission's Processes*, 5 FCC Rcd 3911, N.41 (1990).

Based on the above discussion, we are returning your petition for Daytona Beach Shores, Florida. You may refile the petition, provided you correct these deficiencies.

Sincerely,

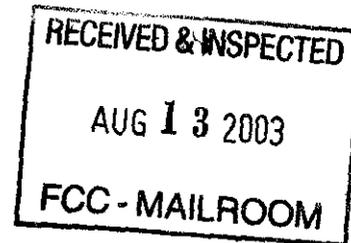


John A. Karousos
Assistant Chief, Audio Division
Media Bureau

Enclosure

1 August 2003

Audio Division (MB)
c/o Office of the Secretary TW B204
Federal Communications Commission
445 12th Street SW
Washington, DC 20554



Re: Petition to modify the FM Table of Allotments, Section 73.202(b)

Dear Sirs:

A - stated on engineering

I respectfully request that the FCC add Channel 258 in Daytona Beach Shores Fla. to its Table of Allotments as its first local aural service. The reference coordinates for the allocation site are: 29 degrees 15 minutes 6 seconds North Latitude, 81 degrees 2 minutes 29 seconds West Longitude.

These coordinates are based on the North American Datum 1927(NAD27). This request is supported with an attached engineering study. The study shows that the allocation point will serve the City of license in its entirety with a seventy dBu signal. It further shows that there are adequate separation distances (based on 47CFR73.207) to the allocation point with the exception of the present WGNE-FM transmitter site.

WGNE (BLH-RB1104MG) is in the process of moving. They have applied and the Commission has granted a change in its City of License. It was changed from Palatka, Fla. to Middleburg, Fla. The Middleburg allocation point is clear fo the proposed Daytona Beach Shores allocation point as is the pending application for CP (BPH-200030417ABW) in downtown Jacksonville, Fla. The site in Jacksonville will provide a city grade over Middleburg with the new antenna located on a tall tower WGNE owns. A recent check of the application status reveals that the WGNE CP request was #20 on the unblocked application list. Approval of the CP is expected in late August or early September.

Should this request be granted I will personally apply for Channel 258 when the window opens.

If you have any questions, contact me at 386-615-6815. If you have any questions concerning the engeering protion of this request you may contact my engineer, Barry Magrill, directly at 904-908-0119. Thank you.

Respectfully,


Carmine Tutera

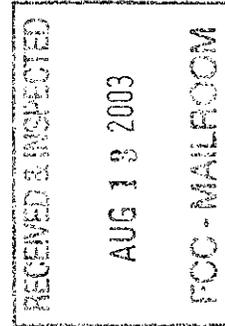
BARRY MAGRILL, P.E.

6809 Medellin Court Jacksonville, FL 32210
(Tel)904-908-0119 barry@rfengineers.com

**Engineering Comments in Support of Modification of Section 73.202(b) to add
Daytona Beach Shores, FL on Channel 258**

1 August 2003

Audio Division (MB)
c/o Office of the Secretary TW B204
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554



Re: Petition to modify the FM Table of Allotments, Section 73.202(b)

Dear Sirs:

The attached engineering exhibits support the request that the FCC add Channel 258 in Daytona Beach Shores, FL, to its Table of Allotments as its first local aural service. The reference coordinates for the allocation site are:

29 degrees 15 minutes 6 seconds North Latitude,

81 degrees 2 minutes 29 seconds West Longitude.

These coordinates are based on the North American Datum 1927 (NAD27). This report includes an "Area to Locate" map, a table of local stations affecting the allocation and a map showing the city grade contour from the proposed allocation point. The Study shows that the allocation point will serve the City of license in its entirety with a "City Grade" seventy dBu signal. It further shows that there are adequate separation distances (based on 47CFR73.207) to the allocation point with the exception of the present WGNE-FM transmitter site.

WGNE (BLH-RB1104MG) is in the process of moving. They have applied and the Commission has granted a change in its City of License. It was changed from Palatka, FL to Middleburg, FL. The Middleburg allocation point is clear of the proposed Daytona Beach, Shores allocation point as is the pending application for CP (BPH-20030417ABW) in downtown Jacksonville, FL. The site in Jacksonville will provide a

city grade signal over Middleburg with the new antenna located on a tall tower WGNE owns. A recent check of the application status reveals that the WGNE CP request was #20 on the unblocked application list. Approval of the CP is expected in August or early September.

If you have any questions concerning the engineering you may contact me directly at: 904.908.0119. Thank you.

Respectfully,

A handwritten signature in cursive script that reads "Barry Magrill".

Barry Magrill, P.E.

August 4, 2003

Output from NADCON for station Daytona Beach Shores

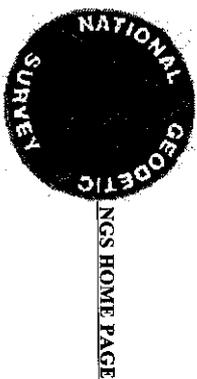
North American Datum Conversion

NAD 83 to NAD 27

NADCON Program Version 2.11

Transformation #: 1 Region: Conus

	Latitude	Longitude
NAD 27 datum values:	29 15 6.07099	81 02 28.79989
NAD 83 datum values:	29 15 7.00000	81 02 28.00000
NAD 27 - NAD 83 shift values:	-0.92901	0.79989(secs.)
	-28.603	21.597 (meters)
Magnitude of total shift:		35.841(meters)



Barry Magrill
 Job: Daytona Beach Shores.fmj
 Master Database: 2003_Jul_31.fmd
 Lat: N29:15:07 Lon: W081:02:28 NAD-83
 Channel: 258 Class: A
 Status: Licensed, Construction Permit, Application, Addition, Vacant/Reserved
 Channels: Co-Channel, 1st Adj, 2nd Adj, 3rd Adj, IF, TV6
 Range: 93 km
 Comments: No Comments
 Description:

Page 1 of 2
 Date: 7/31/2003 10:28:01 PM
 rfInvestigator-FM Version 2.0.70
 by rfSoftware, Inc.

Callsign	Latitude (NAD83)	Longitude (NAD83)	City	State	Service	Channel	Class	Intl	Class	Status	73 207 Min Separatio	73 215 Min Separatio	73 207 Clearance	73 215 Clear
WGNE-FM	N29:31:09	W081:19:01	PALATKA	FL	FM	260	: 99. C		LIC	95	89		-55.07	-49.07
WQYK-FM	N27:56:52	W082:27:32	ST. PETERSBUR	FL	FM	258	: 99. C1		LIC	200	178		0.32	22.32
STAT:RSV	N29:59:41	W081:19:38	MIDDLEBURG	FL	FM	260	: 99. C0		RSV	86	80		0.87	6.87
NEW	N29:17:33	W081:02:27	ORMOND BEACH	FL	FM	255	: 98. L1		APP	0	0		4.49	4.49
NEW	N29:12:05	W081:02:00	DAYTONA BEAC	FL	FM	256	: 99. L1		APP	0	0		5.66	5.66
NEW	N29:11:45	W081:02:58	DAYTONA BEAC	FL	FM	256	: 99. L1		APP	0	0		6.28	6.28
WLRQ-FM	N28:16:43	W080:42:02	COCOA	FL	FM	257	: 99. C2		LIC	106	89		6.89	23.89
WKTO	N29:01:38	W081:07:17	EDGEWATER	FL	FM	205	: 88. C2		APP	15	0		11.11	26.11
WKTO	N29:02:30	W081:03:22	EDGEWATER	FL	FM	204	: 88. A		LIC	10	0		13.36	23.36
NEW	N29:07:18	W081:01:03	PORT ORANGE	FL	FM	256	: 99. L1		APP	0	0		14.63	14.63
WBXY	N29:44:23	W082:23:08	LA CROSSE	FL	FM	258	: 99. A		LIC	115	92		26.15	49.15
WQIK-FM	N30:16:35	W081:33:52	JACKSONVILLE	FL	FM	256	: 99. C		LIC	95	89		29.31	35.31
WMMO	N28:34:28	W081:27:45	ORLANDO	FL	FM	255	: 98. C2		LIC	55	49		30.61	36.61
WQIK-FM	N30:16:52	W081:34:11	JACKSONVILLE	FL	FM	256	: 99. C0		LIC	86	80		39.00	45.00
NEW	N29:33:39	W081:16:06	PALM COAST	FL	FM	258	: 99. DX		APP	0	0		40.72	40.72
NEW	N29:17:11	W081:29:36	PIERSON	FL	FM	258	: 99. DX		APP	0	0		44.12	44.12
WGNE-FM	N30:19:23	W081:38:33	MIDDLEBURG	FL	FM	260	: 99. C1		APP	75	69		57.19	63.19
NEW	N29:37:52	W081:35:25	PALATKA	FL	FM	258	: 99. DX		APP	0	0		67.87	67.87
WGNX	N27:44:08	W080:27:26	VERO BEACH	FL	FM	259	: 99. C2		LIC	106	89		71.51	88.51
NEW	N29:51:35	W081:20:02	ST. AUGUSTINE	FL	FM	258	: 99. DX		APP	0	0		73.10	73.10
WGNX	N27:37:33	W080:33:56	VERO BEACH	FL	FM	259	: 99. C2		CP M	106	89		80.14	97.14
WWKQ	N28:38:57	W081:43:55	CLERMONT	FL	FM	204	: 88. C3		CP	12	0		82.87	94.87
WWKQ	N28:37:37	W081:43:49	CLERMONT	FL	FM	204	: 88. A		LIC	10	0		86.51	96.51
STAT:VAC	N29:07:50	W082:41:18	INGLIS	FL	FM	257	: 99. A		VAC	72	49		88.79	111.79
980519MD	N28:27:35	W080:31:36	CAPE CANAVER	FL	FM	204	: 88. A		APP	10	0		91.14	101.14

Barry Magrill
 Job: Daytona Beach Shores.fmj
 Master Database: 2003_Jul_31.fmd
 Lat: N29:15:07 Lon: W081:02:28 NAD-83
 Channel: 258 Class: A

Page 2 of 2
 Date: 7/31/2003 10:28:03 PM
 rfInvestigator-FM Version 2.0.70
 by rfSoftware, Inc.

Status: Licensed, Construction Permit, Application, Addition, Vacant/Reserved
 Channels: Co-Channel, 1st Adj, 2nd Adj, 3rd Adj, IF, TV6
 Range: 93 km
 Comments: No Comments
 Description:

ERP	HAAT	Adjacency	Distance	Bearing	Owner	Latitude (NAD27)	Longitude (NAD27)
100.00	366	2nd Adj	39.93	318	RENDA BROADCASTING CORP. OF NN	N29:31:08	W081:19:02
100.00	168	Co-Chan	200.32	224	INFINITY BROADCASTING CORPORAN	N27:56:51	W082:27:33
0.00	0	2nd Adj	86.87	341		N29:59:40	W081:19:39
0.00	0	3rd Adj	4.49	000	STEVEN M. SCIOTTO	N29:17:32	W081:02:28
0.00	29	2nd Adj	5.66	172	BETHUNE-COOKMAN COLLEGE, INC.	N29:12:04	W081:02:01
0.00	28	2nd Adj	6.28	188	EMBRY-RIDDLE AERONAUTICAL UNI	N29:11:44	W081:02:59
50.00	150	1st Adj	112.89	163	CAPSTAR TX LIMITED PARTNERSHI	N28:16:42	W080:42:03
25.00	108	IF	26.11	197	MIMS COMMUNITY RADIO, INC.	N29:01:37	W081:07:18
5.00	91	IF	23.36	184	MIMS COMMUNITY RADIO, INC.	N29:02:29	W081:03:23
0.00	30	2nd Adj	14.63	171	CITY OF PORT ORANGE	N29:07:17	W081:01:04
2.20	144	Co-Chan	141.15	293	ASTERISK COMMUNICATIONS, INC.	N29:44:22	W082:23:09
98.00	309	2nd Adj	124.31	336	CITICASTERS LICENSES, L.P.	N30:16:34	W081:33:53
44.00	159	3rd Adj	85.61	209	COX RADIO, INC.	N28:34:27	W081:27:46
100.00	302	2nd Adj	125.00	336	CITICASTERS LICENSES, L.P.	N30:16:51	W081:34:12
0.04	0	Co-Chan	40.72	327	EDGEWATER BROADCASTING INC.	N29:33:38	W081:16:07
0.01	0	Co-Chan	44.12	275	EDGEWATER BROADCASTING INC.	N29:17:10	W081:29:37
48.00	300	2nd Adj	132.19	334	RENDA BROADCASTING CORP. OF NN	N30:19:22	W081:38:34
0.04	0	Co-Chan	67.87	308	EDGEWATER BROADCASTING INC.	N29:37:51	W081:35:26
26.00	134	1st Adj	177.51	161	VERO BEACH FM RADIO PARTNERS	N27:44:07	W080:27:27
0.01	0	Co-Chan	73.10	337	EDGEWATER BROADCASTING INC.	N29:51:34	W081:20:03
50.00	83	1st Adj	186.14	166	VERO BEACH FM RADIO PARTNERS	N27:37:32	W080:33:57
5.50	117	IF	94.87	225	HISPANIC BROADCAST SYSTEM, INC	N28:38:56	W081:43:56
1.00	154	IF	96.51	224	HISPANIC BROADCAST SYSTEM, INC	N28:37:36	W081:43:50
0.00	0	1st Adj	160.79	265		N29:07:49	W082:41:19
2.00	59	IF	101.14	150	CSN INTERNATIONAL	N28:27:34	W080:31:37

73.207 Analysis

Barry Magrill

Job: Daytona Beach Shores-2.fmj

Master Database: 2003_Jul_31.fmd

Lat: N29:15:07 Lon: W081:02:28 NAD-83

Scale: 1:250000

Channel: 258 Class: A

Status: Licensed, Construction Permit, Application, Addition, Vacant/Reserved

Channels: Co-Channel, 1st Adj, 2nd Adj, 3rd Adj, IF, TV6

Range: 93 km, Clearance: FCC

Comments: No Comments

Description: Daytona Beach Shores, FL Area-to-locate

rfInvestigator-FM Version 2.0.70

by rfSoftware, Inc.

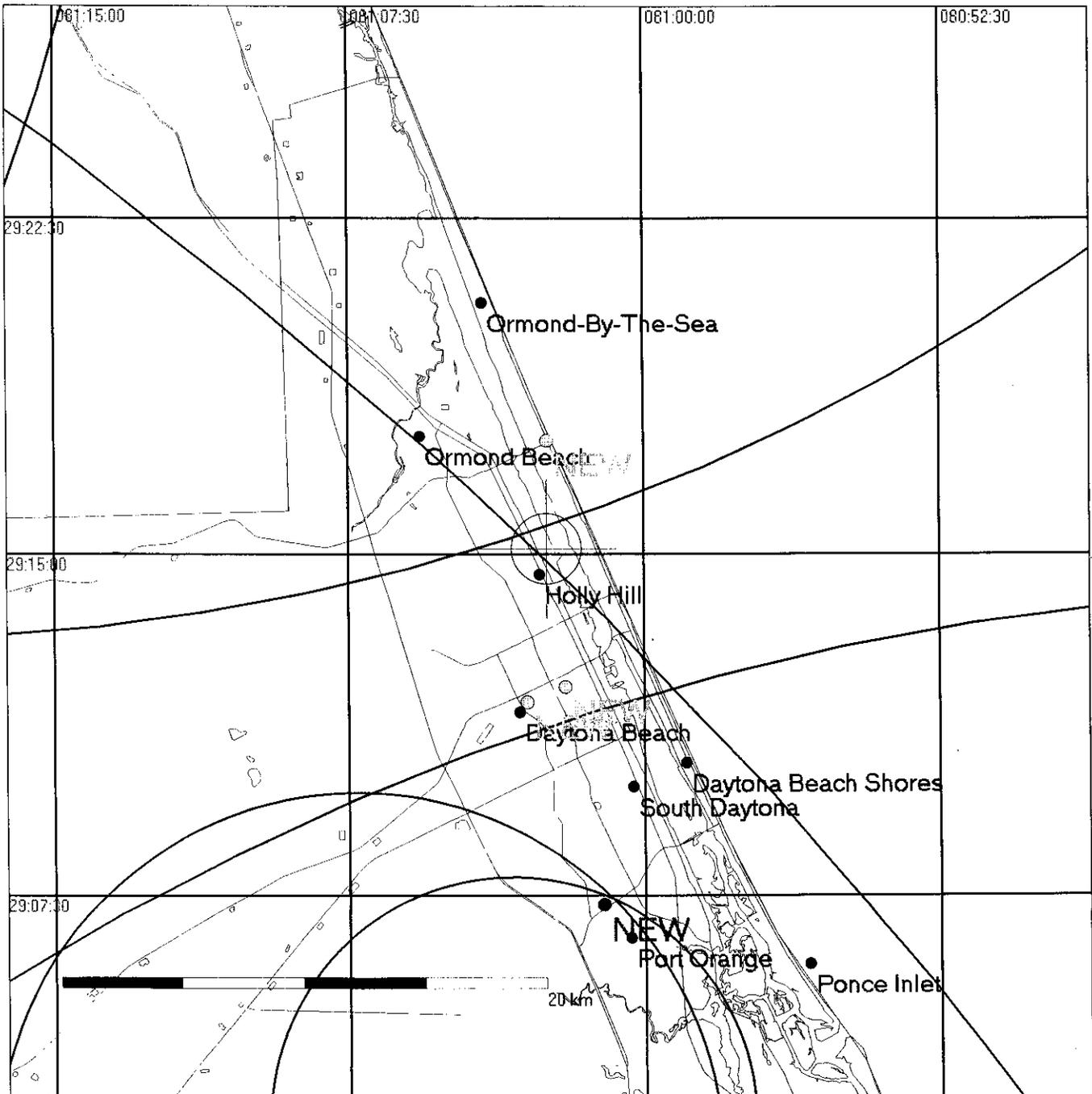
Date: 8/4/2003 12:34:03 PM

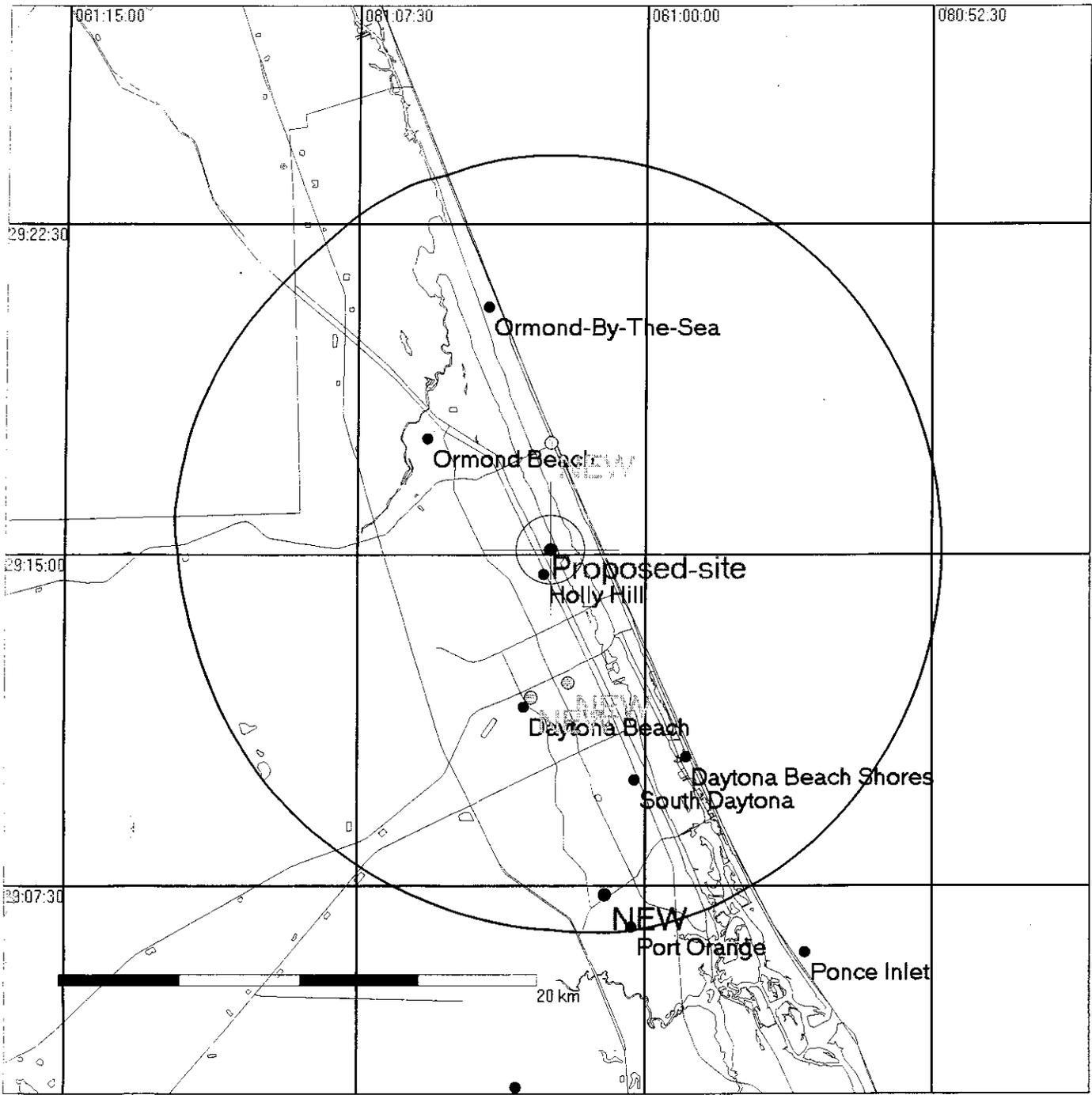
Key:

Short

Close

Clear





Contour Analysis

Date: 7/31/2003 10:39:23 PM
 Barry Magrill
 rfInvestigator-FM Version 2.0.70
 by rfSoftware, Inc.
 Job: Daytona Beach Shores.fmj
 Master Database: 2003_Jul_31.fmd
 Lat: N29:15:07 Lon: W081:02:28 NA
 D-83
 Scale: 1:250000
 Channel: 258 Class: A
 Status: Licensed, Construction Permit,
 Application, Addition, Vacant/Reserve
 d
 Channels: Co-Channel, 1st Adj, 2nd A
 dj, 3rd Adj, IF, TV6
 Range: 93 km, Clearance: FCC
 Comments: No Comments
 Description: 70 dBu Contour shown
 with city of license

- Key:
- Service
 - Protected
 - Co-Channel
 - 1st Adj
 - 2nd/3rd Adj