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Before the
Federal Communications Commission
Washington, DC 20554

APR 19 2004

In Re Petition of)	
)	
SOUTHERN CALIFORNIA PUBLIC RADIO)	RM No. _____
)	
For Amendment of § 73.202(b))	MM Docket No. _____
Table of FM Allotments to Reserve)	
Channel 273A at Hemet, California)	
for Noncommercial Educational Use)	

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

PETITION FOR RECONSIDERATION

Southern California Public Radio ("SCPR"), by its attorneys, hereby petitions for reconsideration of the letter order ("*Dismissal Letter*"), dated March 18, 2004, dismissing the petition for rulemaking referenced above to amend the Commission's Table of FM Allotments to reserve Channel 273A at Hemet, California, for noncommercial educational ("NCE") use pursuant to the Commission's Public Notice, DA 03-2990 (September 30, 2003). SCPR requests that its Petition for Rulemaking be reinstated *nunc pro tunc*.

The *Dismissal Letter* returned SCPR's petition for rulemaking because reservation of the allotment allegedly "would not provide a first or second NCE radio service to at least 10 percent of the population within the proposed service area."¹ SCPR respectfully disagrees. As shown in the original petition for rulemaking, and confirmed by the attached engineering statement of Doug Vernier Telecommunications Consultants, approximately 16 percent of the service area would, in fact, receive a first or second NCE radio service.²

¹ *Dismissal Letter* at 1 The *Dismissal Letter* did not contain any technical details or engineering analysis supporting its conclusion

² The engineering showing attached to the original petition for rulemaking found that 15.9 percent of the service area would receive a first or second noncommercial educational radio service. SCPR Petition for Rulemaking, Engineering Statement at 1 (Nov. 20, 2003). The attached statement in support of this petition for

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SCPR's consultant found that 637,324 people reside within the 1 mV/m contour of the proposed Hemet station, assuming maximum facilities. To determine the number of these people who reside in a NCE white or gray area, SCPR looked for all full-power FM (1 mV/m) and AM (0.5 mV/m), and LPFM facilities that overlap with the Hemet proposal.³ There are no overlapping LPFM stations. SCPR then examined the FCC's ownership and licensing records to determine which overlapping stations, if any, in addition to the eleven FM stations licensed in the reserved band, provide NCE service. As detailed in the attached Engineering Statement, none of the overlapping FM stations in the non-reserved band are licensed to operate on a NCE basis.⁴ Three of the overlapping AM stations are licensed to operate on a NCE basis. Consequently, the eleven stations licensed in the reserve band and the three AM stations licensed to operate on a NCE basis are the sole sources of NCE service for consideration in this petition.

Taking into account the available NCE services, the Engineering Statement demonstrates that 100,649 people, or 15.8% of the population within the service contour of the proposed Hemet station, reside in a NCE white or gray area.⁵ As a result, SCPR's proposal complies with the "10 percent" rule for reserving an allotment for NCE use.

(Continued .)

reconsideration finds that 15.8 percent of the service area would receive such benefits. Petition for Reconsideration, Engineering Statement at 2

³ A "white area" is "an area outside the coverage contour of any full-time aural broadcast service." *Peninsula Communications, Inc.*, 18 FCC Rcd 4027, 4028 (2003). Moreover, in allotment proceedings, "FM translator stations are not considered in a determination of reception services as they are secondary services." *Amendment of Section 73.202(b), Table of Allotments, Nogales and Vail, AZ*, 15 FCC Rcd 4323, 4325 (NPRM) (Alloc Br 2000). Accordingly, FM translator service is excluded from this analysis.

⁴ KWVE(FM), San Clemente, California, is operated by Calvary Chapel of Costa Mesa, Inc., a not-for-profit organization. See FCC File No. BOA - 20030801BMY. However, KWVE's license specifies operation on a commercial basis, as requested by Calvary Chapel in its most recent application for a license to cover a construction permit. See BLH - 20000711AAY. As a result, KWVE is properly treated as a commercial station for purposes of this petition.

⁵ Engineering Statement at 1-2, Attachment A

By complying with the Commission's rules for reserving allotments for NCE use, SCPR "demonstrates a greater need for NCE service than for commercial service."⁶ As a result, reinstating SCPR's petition for reconsideration would serve the public interest by ensuring Hemet and the surrounding area will receive a much needed, and valuable, NCE service.

Therefore, SCPR respectfully requests that the Commission grant this petition for reconsideration and reinstate the petition for rulemaking *nunc pro tunc*.

Respectfully submitted,

SOUTHERN CALIFORNIA PUBLIC RADIO

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April 19, 2004

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⁶ *Reexamination of the Comparative Standards for Noncommercial Educational Applicants*, 15 FCC Rcd 7386, 7435 (2000)

ENGINEERING STATEMENT Petition for Reconsideration

At the request of Southern California Public Radio, the firm of Doug Vernier Telecommunications Consultants has examined the proposed Class A FM allocation on Channel 273 in Hemet, California to determine whether a request for reservation as a non-commercial educational frequency is appropriate. Adhering to the conditions set forth by the FCC¹, we have been able to determine that the above reference allotment does meet the criteria for NCE reservation.

The proposed Class A allotment would provide first and/or second NCE radio service to at least 10% of the population within the proposed one mV/m contour. The maximum Class A facility at the allotment reference coordinates operates with 6 kW ERP at an antenna HAAT of 100 meters (695.6m AMSL). The reference allotment's one mV/m contour was calculated using 360 evenly spaced radials, using the NGDC 30 arc-second terrain database. Attachment A is a map depicting the proposed one mV/m service contour and the first (white area) and second (gray area) NCE radio service pursuant to 47 U.S.C. Section 307(b). The area within the reference allotment's one mV/m contour amounts to 2,761 square kilometers. The population within the contour was determined to be 637,324.²

The service contours of all existing NCE FM, NCE AM and LPFM stations that overlap the proposed facility were then added to the map. Attachment B is a list of all **AM stations** that have a 0.5 mV/m service contour overlapping the reference. Research using the Ownership Reports and licenses on the FCC's website proved that only three of these AM stations are licensed to operate non-commercially and provide NCE service to the reference area. There are no cities with populations of greater than 2,499 people in the overlap area, so only the 0.5 mV/m contour was used. Attachment C is a list of all **commercial band FM stations** with one mV/m service contours overlapping the reference. The Ownership Reports and licenses for these stations were examined to show that none are licensed to operate as an NCE facility. One station, KWVE, is operated by a not-for-profit organization, however, the license for this facility clearly designates KWVE as a commercial station. Therefore, KWVE was not considered to be providing

¹ DA 03-2990, September 30, 2003

² The population figures above were obtained using V-Soft Communication's Probe 3 software with 2000 U.S. SF1 block level census information, using block centroid data and 360 equally spaced bearings. Distances for intermediate bearings are based upon linear interpolation of adjacent bearings. Population centroids were counted when the distance to the centroid was less than the distance to the 60 dBu contour along the same azimuth.

NCE service to the reference area. There are no LPFM stations with service contours overlapping the reference area. Attachment D is a list of the **NCE reserved band FM stations** with overlapping service contours. All of these stations were considered in determining the amount of white and gray area.

The population in each contour overlap area was calculated using the same method as above. The areas of third service or above were then subtracted from the whole, leaving 100,649, or 15.8% of the population within the proposed new second or better service area. Attachment E is a report of the population within each level of service.

Page #3 of this engineering statement is a declaration of the qualifications of its preparer, Kate Michler.

Declaration:

I, Katherine A Michler, have received a Bachelor of Science degree from the University of Northern Iowa, and,

That, I declare that I have received training as a technical consultant as a member of the staff of Doug Vernier Telecommunications Consultants, and;

That, I have apprenticed under Douglas Vernier for over six years, and;

That, he has been active in broadcast consulting for over 25 years, and;

That, his qualifications are a matter of record with the Federal Communications Commission, and;

That, I am an Associate Member (#20792) of the Society of Broadcast Engineers, Indianapolis, Indiana, and,

That, the consulting firm of Doug Vernier Telecommunications Consultants has been retained by Southern California Public Radio ;

That, I have personally prepared these engineering showings, the technical information contained in same and the facts stated within are true to my knowledge, and;

That, under penalty of perjury, I declare that the foregoing is correct

Katherine A Michler Katherine A Michler

Executed on April 14, 2004

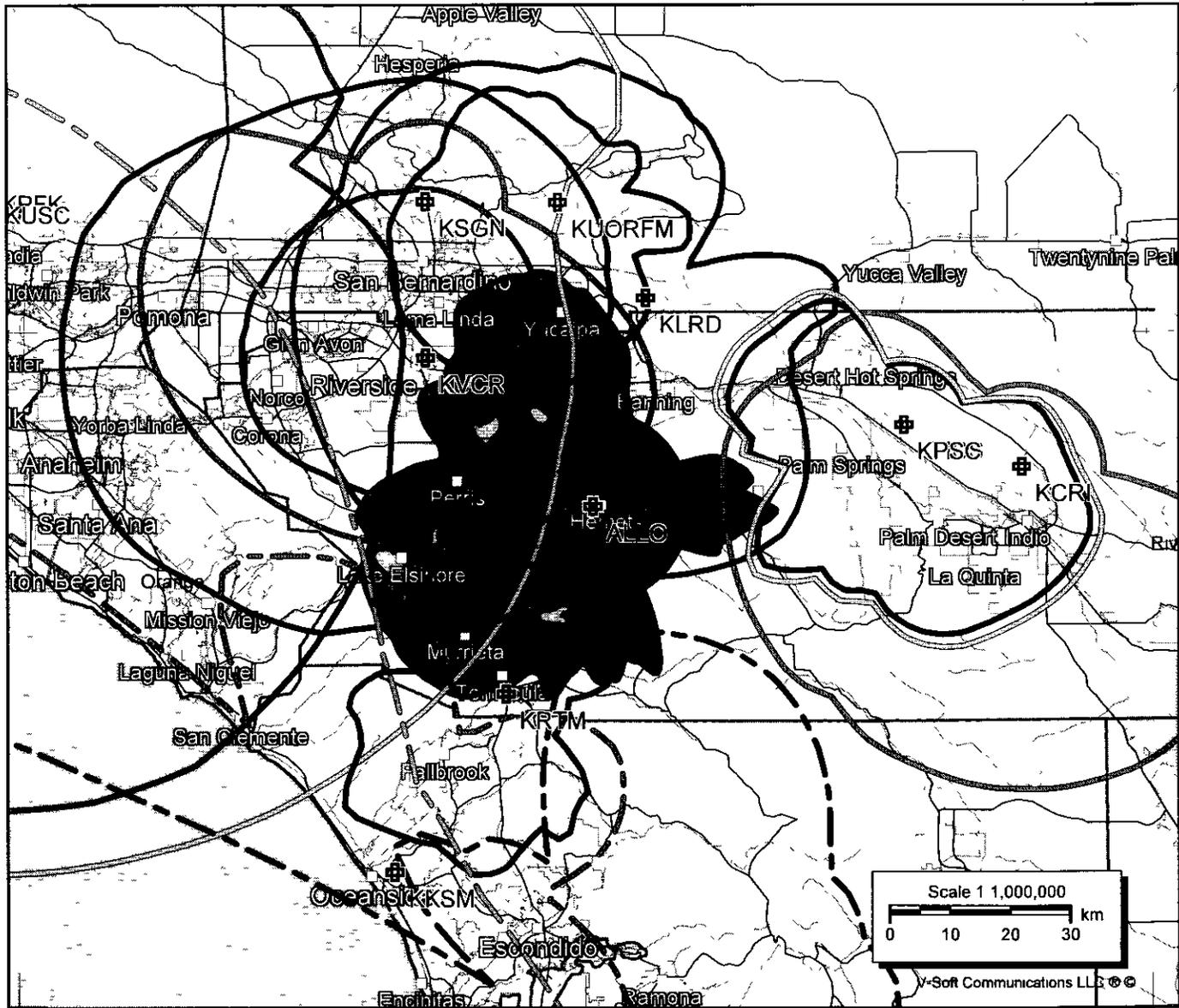
Fair Distribution of Service - Hemet, CA 273A

ALLO
 Hemet, CA - Class A
 Latitude 33-44-41 N
 Longitude 116-59-13 W
 ERP 6 00 kW
 Channel 273
 AMSL Height 695 62 m
 HAAT Height 100 m
 Horiz Pattern Omni

- ALLO
- KCRI
- KHCS
- KLRD
- KPFK
- KPSC
- KRTM
- KSGN
- KUCR
- KUORFM
- KUSC
- KVCR
- KECR
- KKSM
- KFRN

- 1st Service (White)
- 2nd Service (Gray)
- 3rd or above

April 14, 2004



AM .5 mV/m Service Contours (Dashed) FM 1 mV/m Service Contours (Solid) NGDC 30 arc sec terrain

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AM Service Contours

Center = 33 44 41 N, 116 59 13 W

04-14-2004

Call	Coordinates	Dist	Bear	Chan	Pwr(kW)	City	State	File #
1	>*ALLO	334441N 1165913		273A	6.00	User Reference		
2	KABC.L	340141N 1182222W	132	284	790	5	LOS ANGELES	CA BLRC1104TV
3	KAVL.L	344222N 1181036W	152.9	314	610	4 9	LANCASTER	CA BL19970612AA
4	KBLA.L	340508N 1181524W	123.4	288	1580	50	SANTA MONICA	CA BL19911119AB
5	KBRT.L	332136N 1182218W	135.5	251	740	10	AVALON	CA BL
6	KCAA.L	335922N 1171110W	32 8	326	1050	1 4	LOMA LINDA	CA BL20030523AIL
7	KCAL.L	340408N 1171206W	41 1	331	1410	5	REDLANDS	CA BL19890501AD
8	KCBQ.C	325429N 1165434W	93 1	175	1170	50	SAN DIEGO	CA BP20000804AAN
9	KCBQ.L	325022N 1165931W	100 4	180	1170	50	SAN DIEGO	CA BL19850314AC
10	KCEO.L	331359N 1171609W	62 5	204	1000	2 5	VISTA	CA BL19830331AA
11	KDIF.L	340137N 1172127W	46 4	312	1440	1	RIVERSIDE	CA BL
12	KDIS.L	340650N 1175951W	102	294	1110	50	PASADENA	CA BL19820514AU
13	KECR.L	325338N 1165535W	94 5	176	910	5	EL CAJON	CA BML20000519AEB*
14	KEZY.L	340455N 1171817W	47 6	322	1240	1	SAN BERNARDIN	CA BL19870629AE
15	KFI.L	335247N 1180047W	96 2	279	640	50	LOS ANGELES	CA BL19950216AC
16	KFMB.L	325033N 1170130W	100 1	182	760	5	SAN DIEGO	CA BL19920526AE
17	KFRN.L	334754N 1181447W	116.8	273	1280	1	LONG BEACH	CA BML20000519AED*
18	KFSD.L	330711N 1170707W	70 4	190	1450	1	ESCONDIDO	CA BL
19	KFWB.L	340411N 1181136W	117 3	288	980	5	LOS ANGELES	CA BL
20	KGAM.L	334807N 1162744W	49	82	1450	0 96	PALM SPRINGS	CA BL20001023AGE
21	KHJ.C	340226N 1182214W	132 1	284	930	5	LOS ANGELES	CA BP20010808AAH
22	KHJ.L	340226N 1182218W	132 2	284	930	5	LOS ANGELES	CA BL19890112AB
23	KHPY.L	340042N 1171103W	34 8	328	1670	10	MORENO VALLEY	CA BL20021220AEP
24	KIRN.C	344109N 1181726W	159 2	311	670	35	SIMI VALLEY	CA BP20001027ABC
25	KIRN.L	341910N 1184256W	171 9	292	670	5	SIMI VALLEY	CA BL20000612AAO
26	KIXW.L	343100N 1171335W	88.4	345	960	5	APPLE VALLEY	CA BL
27	KKDD.L	340727N 1171414W	48	331	1290	5	SAN BERNARDIN	CA BL19830114AB
28	KKSM.L	331208N 1172017W	68.5	208	1320	0.5	OCEANSIDE	CA BL*
29	KLAC.L	340411N 1181136W	117 3	288	570	5	LOS ANGELES	CA BL
30	KLTX.L	335330N 1181103W	112	278	1390	5	LONG BEACH	CA BL19880902AE
31	KMET.L	335549N 1165520W	21.4	16	1490	1	BANNING	CA BL19810914AM
32	KMNY.L	340148N 1174335W	75.4	295	1600	5	POMONA	CA BL19850228AH
33	KMXE.L	335543N 1173657W	61.7	289	830	50	ORANGE	CA BL20011213ABQ
34	KNWQ.L	335139N 1162820W	49 4	74	1140	10	PALM SPRINGS	CA BL19851018AB
35	KNWT.L	335104N 1162336W	56 2	77	1270	5	THOUSAND PALM	CA BL19900427AH
36	KNWZ.L	334112N 1160934W	77	94	970	5	COACHELLA	CA BL
37	KNX.L	335135N 1182056W	126.8	276	1070	50	LOS ANGELES	CA BL
38	KOGO.L	324317N 1170411W	113.8	183	600	5	SAN DIEGO	CA BL
39	KPOP.L	324349N 1170501W	112.9	184	1360	5	SAN DIEGO	CA BL
40	KPRO.L	335554N 1172347W	43 2	298	1570	5	RIVERSIDE	CA BL
41	KPRZ.L	330410N 1171135W	77 3	194	1210	20	SAN MARCOS	CA BL20000515ACU
42	KPSI.L	335129N 1162939W	47 3	74	920	5	PALM SPRINGS	CA BL
43	KRLA.L	340813N 1181334W	122 5	291	870	20	GLENDALE	CA BL19980109KA
44	KSDG.C	330522N 1163449W	81 9	152	890	3	JULIAN	CA BMP19990624AC
45	KSDO.L	325104N 1165751W	99 1	178	1130	10	SAN DIEGO	CA BL19910620AB
46	KSDT.L	334459N 1165953W	1.2	298	1320	0 5	HEMET	CA BL19900912AH
47	KSPA.L	340541N 1173646W	69 7	304	1510	10	ONTARIO	CA BL
48	KSPN.L	341026N 1182435W	139 9	290	710	50	LOS ANGELES	CA BL
49	KTDD.L	340537N 1171757W	48.3	323	1350	5	SAN BERNARDIN	CA BL19970325AE
50	KTIE.C	340420N 1171752W	46.3	321	590	2	SAN BERNARDIN	CA BP20020708AAI
51	KTIE.L	340418N 1171750W	46 2	321	590	1	SAN BERNARDIN	CA BML20010621AAQ
52	KTNQ.L	340200N 1175900W	97 6	289	1020	50	LOS ANGELES	CA BL19911104AD
53	KVNR.L	334506N 1175438W	85 6	270	1480	5	SANTA ANA	CA BL19840917AL
54	KWKW.L	340110N 1182042W	129.3	284	1330	5	LOS ANGELES	CA BL
55	KWRM.L	335252N 1173233W	53.6	286	1370	5	CORONA	CA BL19811218AD
56	KWRN.L	343212N 1170922W	89.2	350	1550	5	APPLE VALLEY	CA BL19901113AC
57	KWXY.L	334807N 1162744W	49	82	1340	1	CATHEDRAL CIT	CA BL19850812AE
58	KXXM.L	335642N 1175144W	84	285	1190	20	ANAHEIM	CA BL19990202DC
59	KXPS.L	335035N 1162539W	52 9	77	1010	3 6	THOUSAND PALM	CA BL19911009AC
60	KXTA.L	340200N 1175900W	97 6	289	1150	50	LOS ANGELES	CA BL20000621AFF

*Non-commercial educational licenses

Number in list= 60

FM Service Contours

Center = 33 44 41 N, 116 59 13 W

04-14-2004

Call	Coordinates	Dist	Bear	Chan	Pwr (kW)	City	State	File #
1	>*ALLO	334441N 1165913		273A	6.00	User Reference		
2	KAEH L	335429N 1165945W	18.1	357	265A	1.5	Beaumont	CA BLH20000330ACC
3	KATYFM.L	334331N 1164458W	22.1	95	267A	1.55	Idyllwild	CA BLH20030115ABH
4	KBIGFM L	341336N 1180359W	113.2	298	282B	105	Los Angeles	CA BLH19960917KC
5	KALFM L	341151N 1171710W	57.3	331	244A	1.75	Redlands	CA BMLH19911205KA
6	KCBSFM L	341355N 1180418W	113.9	298	226B	28.5	Los Angeles	CA BLH19980505KC
7	KCLBFM L	334807N 1161327W	70.9	84	229B	26.5	Coachella	CA BLH19940317KA
8	KCXX L	341403N 1170825W	56.1	345	280A	0.18	Lake Arrowhea	CA BLH19960502KA
9	KDESFM L	335156N 1162604W	52.9	75	284B	41	Palm Springs	CA BLH20030124AEE
10	KDGL L	340455N 1162032W	70.4	57	295B	4	Yucca Valley	CA BMLH20021028AAA
11	KELT L	341151N 1171710W	57.3	331	224A	6	Riverside	CA BLH19970715KC
12	KEZN L	335158N 1162556W	53.1	75	276A	1.9	Palm Desert	CA BMLH19960426KB
13	KFRG.L	341151N 1171710W	57.3	331	236B	50	San Bernardino	CA BLH19900808KB
14	KGBB L	332851N 1171058W	34.5	211	277A	1.25	Temecula	CA BLH20010109AAA
15	KGGI.L	341404N 1170824W	56.1	345	256B	2.55	Riverside	CA BLH19910802KF
16	KHHT L	341336N 1180357W	113.1	298	222B	43	Los Angeles	CA BMLH19921021KA
17	KIISFM L	341336N 1180357W	113.1	298	274B	8	Los Angeles	CA BLH5361
18	KJUZ L	335214N 1161339W	71.7	78	272A	2.6	Indio	CA BLH19981124KE
19	KKUU L	335215N 1161337W	71.7	78	224A	4.2	Indio	CA BLH20021210ABQ
20	KLOS L	341337N 1180358W	113.2	298	238B	63	Los Angeles	CA BLH19840702CP
21	KLVE L	341344N 1180402W	113.3	298	298B	29.5	Los Angeles	CA BMLH19950612KB
22	KLYY.L	341404N 1170824W	56.1	345	248B	72	Riverside	CA BLH19951215KD
23	KMRJ.L	335215N 1161337W	71.7	78	258A	3	Rancho Mirage	CA BLH19980724KA
24	KMYT.L	332851N 1171058W	34.5	211	233A	0.32	Temecula	CA BLH20000626AFF
25	KMZTFM L	341345N 1180404W	113.4	298	286B	18	Los Angeles	CA BLH19870225KA
26	KOLA.L	335759N 1171716W	37.1	311	260B	29.5	San Bernardino	CA BLH19910926KB
27	KOST L	341332N 1180352W	112.9	298	278B	12.5	Los Angeles	CA BLH19930831KD
28	KPLM L	335214N 1161339W	71.7	78	291B	50	Palm Springs	CA BLH19981105KC
29	KPLMF2.L	334949N 1165711W	10	18	291D	0.25	San Jacinto	CA BLFTB20010109AAX
30	KPRI L	330640N 1171205W	73	195	271B	14.5	Encinitas	CA BLH19991101AFS
31	KPSIFM L	335644N 1162434W	57.9	67	263B1	25	Palm Springs	CA BLH19910314KA
32	KRTHFM L	341338N 1180400W	113.2	298	266B	51	Los Angeles	CA BLH19890112KG
33	KSSD L	332301N 1171120W	44.2	205	296A	3	Fallbrook	CA BLH19850508KA
34	KTWV.L	341329N 1180347W	112.8	298	234B	58	Los Angeles	CA BMLH20021104ADN
35	KWRP L	334945N 1165710W	9.9	18	241A	0.25	San Jacinto	CA BLH19940927KD
36	KWRPF1 L	334117N 1165532W	8.5	138	241D	0.1	San Jacinto	CA BLFTB20020520AAT
37	KWVE.L	334240N 1173155W	50.6	265	300B	0.53	San Clemente	CA BLH20000711AAY
38	KWXYFM L	335155N 1162610W	52.7	75	253B	50	Cathedral Cit	CA BMLH19890421KC
39	KXFG L	333536N 1170850W	22.4	221	225A	6	Sun City	CA BLH19970321KA
40	KXRS.L	334117N 1165532W	8.5	138	289A	0.17	Hemet	CA BLH19881116KE
41	KXSB L	341247N 1165159W	53.1	12	269A	0.3	Big Bear Lake	CA BLH19951010KB
42	KZBA L	341035N 1173427W	72.4	311	228A	6	Ontario	CA BLH19980611KE

Number in list= 42

NCE FM Service Contours

Center = 33 44 41 N, 116 59 13 W

04-14-2004

Call	Coordinates	Dist	Bear	Chan	Pwr(kW)	City	State	File #
1	>*ALLO	334441N 1165913		273A	6 00	User Reference		
2	KCRI L	334807N 1161328W	70 9	84	207B1	3.3	Indio	CA BLED19980527KC
3	KHCS.L	335157N 1162556W	53.1	75	219A	0.96	Palm Desert	CA BLED19971112KI
4	KLRD.L	340318N 1165335W	35.5	14	211B	0.56	Yucaipa	CA BLED20011019AAO
5	KPFK L	341345N 1180403W	113.4	298	214B	110	Los Angeles	CA BMLED20020719AAH
6	KPSC L	335156N 1162604W	52 9	75	203A	1 25	Palm Springs	CA BLED20030812AAG
7	KRTM L	332759N 1170829W	34	204	205A	1.15	Temecula	CA BLED19901025KA
8	KSGN L	341151N 1171708W	57 3	331	209A	3	Riverside	CA BLED19890921KC
9	KUCR L	335758N 1171714W	37 1	311	202A	0 15	Riverside	CA BMLED20030818AEJ
10	KUORFM.L	341147N 1170256W	50.4	353	206A	0.035	Redlands	CA BLED19890501KA
11	KUSC.L	341248N 1180341W	112.1	298	218B	39	Los Angeles	CA BLED20000404ABH
12	KVCR.L	335757N 1171705W	36 9	311	220B	3 8	San Bernardin	CA BLED20010511AAG

Number in list= 12

Service Count Population Report

Attachment E

Population Database · 2000 US Census (SF1)

	Service Pop	Running Total	%
1st Service	1,460	1,460	0.2
2nd Service	99,189	100,649	15.8
3rd Service (or >)	536,675	637,324	100.0