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BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

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Federal Communications Commission  
Office of Secretary

In the Matter of

Amendment of Section 73.202(b) )  
FM Table of Allotments, )  
FM Broadcast Stations )  
(Grosbeck and Tennessee Colony, TX )  
)

MB Docket No. 05-47  
RM-11157  
RM-11179

To: Office of the Secretary  
Attn: Assistant Chief, Audio Division  
Media Bureau

COMMENTS OF ACCESS.1 LOUISIANA HOLDING COMPANY, LLC

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April 27, 2005

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## SUMMARY

Access.1 Louisiana Holding Company, LLC ("Access.1"), licensee of commercial broadcast radio stations operating in the Shreveport Urbanized Area, pursuant to the Commission's Public Notice, Report No. 2702, released April 12, 2005, hereby submits its Comments in response to the Counterproposal submitted March 31, 2005 by Cumulus Licensing LLC ("Cumulus"), in this proceeding.

The Counterproposal fails to demonstrate that the Waskom Channel 247 C2 and Oil City Channel 300C2 allotments are mutually exclusive. Therefore, the Counterproposal should be dismissed or denied. The Counterproposal creates large areas and populations that will lose service. The Counterproposal also may still result in interference to air navigation and will cause the loss of KLBK-LP's low power FM service to the minority community of Shreveport. Moreover, the Declarations of the Modifying Licensees require further scrutiny. Finally, the Counterproposal fails to demonstrate the need for the various requests for extraordinary relief it seeks.

In its Counterproposal, Cumulus purports to offer a permanent solution to the interference problem it created with KQHN. However, the purported solution is nothing more than an elaborate scheme to allow Cumulus to operate on an STA -- an STA that provides no 70 dBu service to Oil City -- its community of license -- for the next year, and possibly for several years. Moreover, the new scheme proposes that Cumulus will abandon the Channel 300C2 Oil City allotment to seek an allotment for a new frequency at Waskom, Texas. The result of this new allotment will be same. Cumulus will cover 100% of the Shreveport Urbanized Area. Thus, Cumulus seeks in its purported "permanent solution" the same result it seeks in its STA Request -- an abandonment of the Channel

300C2 allotment at Oil City, which Cumulus moved from Magnolia, Arkansas, and the coverage of 100% of the Shreveport Urbanized Area. Therefore, the Counterproposal should be dismissed or denied.

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

In the Matter of

Amendment of Section 73.202(b)	)	
FM Table of Allotments,	)	
FM Broadcast Stations	)	MB Docket No. 05-47
	)	RM-11157
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Media Bureau

**COMMENTS OF ACCESS.1 LOUISIANA HOLDING COMPANY, LLC**

Access.1 Louisiana Holding Company, LLC ("Access.1"), licensee of commercial broadcast radio stations operating in the Shreveport Urbanized Area, pursuant to the Commission's Public Notice, Report No. 2702, released April 12, 2005, hereby submits its Comments in response to the Counterproposal submitted March 31, 2005 by Cumulus Licensing LLC ("Cumulus"), in the above-captioned proceeding. As Access.1 shall demonstrate below, the proposed Counterproposal will not serve the public interest and should be denied.

**I. BACKGROUND**

The issues presented in the Counterproposal arise from the filing of a Petition for Rule Making by Columbia Broadcasting Company, Inc. ("Columbia")<sup>1</sup> on February 2, 2002, seeking the

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<sup>1</sup> Subsequently Cumulus received a transfer of control of Columbia and became the licensee of KVMA-FM.

reallotment of Channel 300C1, licensed to KVMA-FM,<sup>2</sup> from Magnolia, Arkansas to Channel 300C2 at Oil City, Louisiana.<sup>3</sup> On September 23, 2002, Access.1 became involved in that proceeding by filing Comments. (“RM-10514 Comments”).

In its RM-10514 Comments, Access.1 pointed out that the proposal before the Commission directly implicated the policy established by the Commission in *Community of License*.<sup>4</sup> Access.1 explained that Columbia proposed to move the allotment of KVMA-FM 65 kilometers (40.4 miles) from Magnolia, Arkansas, a very small rural community, to Oil City, Louisiana, which is only 39 kilometers (24.2 miles) from Shreveport, Louisiana, an Urbanized Area, having a population of 274,445.<sup>5</sup> In addition, the closest point in Oil City to the closest point in Shreveport is less than 22 kilometers (13.7 miles).<sup>6</sup> KVMA-FM was the only FM radio station licensed to Magnolia. The reallotment of KVMA-FM would leave KVMA(AM), a Class D station with no protected night time service, as the only station licensed to Magnolia.<sup>7</sup> Access.1 demonstrated that the requested reallotment was the first step in a plan by which Columbia would have the station allotted to Oil City, sell control of Columbia to Cumulus, and Cumulus would then move the antenna to cover

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<sup>2</sup> Cumulus has recently changed the call sign twice, first to KBED and more recently to KQHN.

<sup>3</sup> The Commission released the *Notice of Proposed Rule Making*, DA 02-1812, on July 17, 2002, MB Docket No. 02-199, RM-10514.

<sup>4</sup> *Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989), recon. granted in part, 5 FCC Rcd 7094 (1990) (“*Community of License*”).

<sup>5</sup> Access.1 RM-10514 Comments, Exhibit A.

<sup>6</sup> Access.1 RM-10514 Comments, Exhibit A at 3.

<sup>7</sup> Access.1 RM-10514 Comments, Exhibit A.

100% of the Shreveport Urbanized Area, to be operated as a part of the cluster of stations already owned and operated by Cumulus in the Shreveport Urbanized Area.<sup>8</sup> On April 30, 2003, the Bureau released its *Report and Order* allotting Channel 300C2 to Oil City.<sup>9</sup> On March 25, 2004, Access.1 filed an Application for Review. That Application for Review is still pending.

After the allotment of Channel 300C2 to Oil City, Cumulus constructed the station and began operating pursuant to automatic program test authority. On January 12, 2005, the Deputy Chief, Audio Division, ordered Cumulus to cease operation of KQHN, because the station was causing interference to Instrument Landing System frequencies at Barksdale Air Force Base.<sup>10</sup> On January 13, 2005, Cumulus filed a Request for Temporary Authority to operate on Channel 263 at its current site.

In an Informal Objection to the Request for Temporary Authority, filed February 9, 2005, Access.1 demonstrated that the STA Request provided additional evidence of Cumulus's intention to provide service to the Shreveport Urbanized Area, not Oil City. The Request for Temporary Authority stated that the proposed STA operation would provide service to Shreveport, but only "deficient" service to Oil City.<sup>11</sup> Access.1 pointed out that, if the objective of Cumulus is to serve Oil City, Cumulus should consider participation in the Commission's current rulemaking proceeding

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<sup>8</sup> Access.1 RM-10514 Comments at 5-8.

<sup>9</sup> 18 FCC Rcd 8542, (MB 2003), *affd.* on recon. 19 FCC Rcd 1553 (MB 2004). Each of these predictions has since been accomplished by Cumulus. See Access.1 Application for Review filed March 25, 2004 at 5-7.

<sup>10</sup> Letter from James Bradshaw, Deputy Chief, Audio Division, Media Bureau, to Cumulus Licensing LLC, c/o Mark Lipp, January 12, 2005.

<sup>11</sup> Cumulus later acknowledged that it would not provide 70 dBu service to any portion of Oil City. Letter to Marlene H. Dortch, Esq., Secretary, FCC, from Mark N. Lipp, March 10, 2005.

proposing the allotment of Channel 285A as a new frequency for Oil City.<sup>12</sup>

In a Supplement to its Informal Objection, filed by Access.1 on February 25, 2005, Access.1 demonstrated that the inability of Cumulus to provide service to the people of Oil City is due to Cumulus's failure to notify the Federal Aviation Administration ("FAA") of its intention to operate at its proposed antenna site. Had Cumulus advised the FAA of its intent, Cumulus would have been advised prior to construction at the site that the operation on 107.9 MHz at that site would be a hazard to air navigation. Access.1 showed that Cumulus should not be granted any extraordinary relief, because the problem is completely of its own making.

## **II. A GRANT OF THE COUNTERPROPOSAL WILL NOT SERVE THE PUBLIC INTEREST**

In its Counterproposal, Cumulus purports to offer a permanent solution to the interference problem it created with KBED. However, the purported solution is nothing more than an elaborate scheme to allow Cumulus to operate on an STA – an STA that does not provide adequate service its community of license -- for the next year, and possibly for several years. Moreover, the new scheme proposes that Cumulus will abandon the Channel 300C2 Oil City allotment to seek an allotment for a new frequency at Waskom, Texas. Of course, the result of this new allotment will be same. Cumulus will cover 100% of the Shreveport Urbanized Area. Thus, Cumulus seeks in its purported "permanent solution" the same result it seeks in its STA Request -- an abandonment of the Channel 300C2 allotment at Oil City and the coverage of 100% of the Shreveport Urbanized Area. As Access.1 shall demonstrate below, there is nothing about this proposal that serves the

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<sup>12</sup> *Amendment of Section 73.202(b), FM Table of Allotments, Lovelady, Texas and Oil City, Louisiana*, MB Docket Nos. 05-36 and 05-37, DA 05-291, released February 4, 2005.

public interest.

**A. The Allotment of Channel 247C2 at Waskom is not Mutually Exclusive with the Allotment of Channel 300C2 at Oil City**

The series of reallocations proposed by Cumulus are asserted by Cumulus to be necessary, because the allotment of Channel 247C2 to Waskom is mutually exclusive with the allotment of Channel 300C2 at Oil City. As Cumulus acknowledges, the Commission will grant a change of community of license only if the proposed use of the channel is mutually exclusive with its current use.<sup>13</sup> However, as demonstrated in the attached engineering statement, Exhibit 1, submitted by Michael Rhodes, on behalf of Access.1, the Waskom and Oil City allotments are not mutually exclusive.

Attached to his Engineering Statement, Mr. Rhodes has provided a map of the area in which Channel 247 C2 could be allotted to Waskom where there would be no mutual exclusivity. Mr. Rhodes demonstrates that, if the reference coordinates for Waskom are used, there is no mutual exclusivity. Therefore, this entire Counterproposal is based solely upon a manufactured mutual exclusivity. The Commission should not permit this type of manipulation of its rules. The Commission should deny the Counterproposal.

**B. The Proposed Reallocations Create Large Areas and Populations of Lost Service**

The series of reallocations proposed in the Counterproposal will create large areas and populations of lost service. The Engineering Statement of Mr. Rhodes summarizes the amount of loss as follows:

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<sup>13</sup> *Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989), recon. granted in part, 5 FCC Rcd 7094 (1990) ("Community of License").

**Overall Loss in Service**

The population area gain and loss figures proposed by Cumulus and provided in their counterproposal are tabulated below:

<u>Location</u>	<u>Population</u>		<u>Area (sq km)</u>	
	<u>Gain</u>	<u>Loss</u>	<u>Gain</u>	<u>Loss</u>
Natchitoches, LA (Class C3 to A downgrade)	none	4,392	none	954.5
Nacogdoches, TX (Class C2 to C3 downgrade)	none	62,045	none	3,814.2
<u>Oil City, LA (Class C2 move)</u>	<u>5,903</u>	<u>62,206</u>	<u>884.1</u>	<u>873.7</u>
<b>Total</b>	5,903	128,643	884.1	5,642.4
<b>Net (Loss)</b>		<b>122,740</b>		<b>4758.3</b>

In addition, the loss of potential service from one of two mutually exclusive proposed allotments (Channel 248A at Center, Texas or Channel 248A at Logansport, Texas) must also be considered as both proposals are being withdrawn to accommodate Cumulus’s counterproposal. Assuming the Logansport, Louisiana proposal is ultimately adopted over the Center, Texas proposal as the first local service to Logansport, the 60 dBu contour of a maximum Class A facility at the allotment point would cover 28,449 people. A total of 57,173 persons will not receive new FM service from these two proposed facilities. Therefore, the grand total of service population lost in this counterproposal is 185,816 with a gain in service to only 5,903 persons, a net loss of 179,913 people.

Rhodes Engineering Statement, Exhibit 1.

These losses are substantial and Cumulus has failed to demonstrate that the creation of these loss areas is necessary or in the public interest.

**C. Cumulus has not Received a Determination of No Hazard to Air Navigation from the FAA**

Cumulus concedes that it was ordered off the air because its operation at its current site interfered with air navigation at Barksdale Air Force Base. Cumulus, however, denies that its negligent failure to advise the FAA of its proposal is the cause of the current interference problem.<sup>14</sup> The facts, however, demonstrate otherwise. Attached hereto as Exhibit 2 is a Determination of Hazard to Air Navigation letter issued January 10, 2005, from the FAA.<sup>15</sup> The letter, at page 4, concludes that the interference caused by KVMA-FM on frequency 107.9 MHz at 24.5 kW ERP “has a substantial adverse effect and constitutes a hazard to air navigation.” However, importantly, the 2005 FAA Letter points out that Cumulus was on notice of the potential problem as the result of an FAA determination in 1996.<sup>16</sup> The 2005 FAA Letter refers to the 1996 FAA Letter in which the FAA determined that the proposed operation on frequency 102.9 MHz at 44 kW did not pose a hazard to air navigation. The 2005 FAA Letter went on state:

The [1996 FAA Letter] issued on the existing antenna tower... applied only to the antenna tower and the use of frequency 102.9 at 44kW. [The 1996 FAA Letter] stated that use of other frequencies and power at the antenna tower would require separate notice to the FAA. No notice was filed with the FAA and research resulting from the occurrence of electromagnetic interference found the source to be the use of frequency 107.9 at 24.5 kW on the subject antenna tower.

2005 FAA Letter at page 3.

The above quote from the 2005 FAA Letter demonstrates that Cumulus was on notice

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<sup>14</sup> Counterproposal at 14.

<sup>15</sup> Federal Aviation Administration, Southwest Field Office, Aeronautical Study No. 2005-ASW-6-OE, issued January 10, 2005 (“2005 FAA Letter”).

<sup>16</sup> Aeronautical Study No. 1996-ASW-2512-OE (“1996 FAA Letter”).

prior to beginning construction that a filing with the FAA was required, because of the potential for interference to air navigation from the use of any frequency other than 102.9 MHz at the antenna site. However, Cumulus ignored the information in the 1996 FAA Letter, and did not file a notice with the FAA.

Now, Cumulus is setting forth an elaborate proposal in this proceeding, and once again has not received a determination of whether its new proposal will result in a hazard to air navigation. Attached hereto as Exhibit 3, is a list of FAA archived air hazard determinations through April 27, 2005. The only determination for the KQHN tower coordinates is the determination from January 10, 2005. Also included in Exhibit 3 is a list of circularized cases as of this date. There is no case for KQHN on the list. Thus, the Commission is at risk of expending a great deal of time and resources considering Cumulus's proposal, only to result in those efforts being rejected yet again by the FAA, or worse, having the facilities constructed and being forced to be shut down a second time. The Commission should direct Cumulus to file a request with the FAA before the Commission acts upon the Counterproposal.

**D. Cumulus has not Demonstrated the Need for the Extraordinary Relief Requested**

Cumulus requests various types of extraordinary relief in this proceeding but fails to demonstrate that such relief is required. First, Cumulus requests that the Commission allow it to submit its Counterproposal in this proceeding, even though its proposal is contingent on the dismissal of proposals in another proceeding.<sup>17</sup> Cumulus asserts that this relief is required to ensure that Oil City does not lose its first local service. As demonstrated above, there is no need for Oil

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<sup>17</sup> Counterproposal at 5.

City to lose its first local service.

Next, Cumulus requests that the Commission expedite this proceeding so that Cumulus will not be at risk of forfeiting its station authorization if it fails to return to the air by January 12, 2006. This is not an adequate justification for the requested expedited processing. Should Cumulus still be off the air as January 12, 2006 approaches, the Commission might, if it deems it appropriate, provide a limited 24 hour STA to allow Cumulus to retain its authorization. This is the relief provided by the Commission in *Pacific Broadcasting of Missouri LLC*, 18 FCC Rcd 2291, (2003) ("*Pacific*").

In *Pacific*, the facts were very similar to the situation before the Commission in this proceeding. A licensee, desiring to change its allotment, asserted that it required special temporary authority to operate at a new site. The Commission held that the extraordinary relief request was created by the licensee's own business decisions, and rejected the request for an STA. However, to avoid a loss of the licensee's authorization after one year, the Commission granted a 24 hour STA. Here, the extraordinary relief requested is due to the failure of Cumulus to obtain an air hazard determination from the FAA before constructing the station. As in *Pacific*, this is a circumstance of the licensee's own creation and is an inadequate basis for granting the requested extraordinary relief. If it becomes necessary, the Commission might grant a 24 hour STA as January 12, 2006 approaches.

Cumulus next asserts that, because both the proposed Waskom and current Oil City allotments provide 70 dBu contours over more than 50% of the Shreveport Urbanized Area, the proposed allotment does not implicate the Commission's policy concerning the migration of stations from underserved rural areas to well-served urban areas. This assertion conveniently ignores the

pending Application for Review filed by Access.1 that demonstrates that the Oil City allotment does implicate the Commission's migration policy. The proposed Waskom allotment, therefore, merely further exacerbates the migration situation created in the Oil City allotment proceeding. Moreover, the effort by Cumulus to cherry-pick small communities around Shreveport – first Oil City and now Waskom – highlights the extent to which the purpose of the policy against migration to urbanized areas is being improperly manipulated by Cumulus.

**E. The Agreements by the Licensees of KTBQ, KPCH(FM) and KDBH to Accept the Modifications of Their Allotments Require Further Scrutiny by the Commission**

Cumulus submits with its Counterproposal the Declaration of Tedd W. Dumas, on behalf of Baldrige-Dumas Communications, Inc., licensee of KDBH-FM, Natchitoches, Louisiana; the Declaration of Richard A. Helmick, counsel for Communications Capital Company II of Louisiana, LLC, licensee of KPCH(FM), Dubach, Louisiana, and the Declaration of Jerome Kersting on behalf of Capstar TX Limited Partnership, licensee of KTBQ(FM), Nacogdoches, Texas (the "Declarations of the Modifying Licensees"). The Declarations of the Modifying Licensees each assert that the licensees will accept the changes to their authorizations proposed in the Counterproposal. However, none of the Declarations of the Modifying Licensees describes what consideration will be (or even acknowledges that there will be consideration) provided by Cumulus in exchange for these agreements. In addition, the withdrawals of interest in the rule making proceedings from Team Broadcasting Company, Inc.;<sup>18</sup> Noalmark Broadcasting Corporation; Logansport Broadcasting, and Charles Crawford are silent or ambiguous as to whether they will receive compensation from

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<sup>18</sup> Team Broadcasting Company, Inc. and Cumulus have the same counsel.

another party, such as one of the licensees agreeing to accept modification of their authorizations.

Cumulus describes this far reaching array of agreements as evidence of “an extraordinary show of support for a fellow broadcaster.”<sup>19</sup> However, given the very competitive nature of this industry, it is unusual for such cooperation not to be tied to significant financial consideration. Given the lack of information in the Declarations of the Modifying Licensees, Access.1 submits that the Commission should take a closer look at the underlying arrangements between Cumulus and the Modifying Licensees.

**F. The Counterproposal Will Cause the Loss of Service to the Minority Community of Shreveport being Provided by KBLK-LP, a Minority Controlled Permittee**

KBLK-LP is a low power FM station with a construction permit for Channel 247 at Shreveport.<sup>20</sup> The station permittee is Blacks United for Lasting Leadership, Inc. The station has been constructed and is providing programming pursuant to equipment test authority. The programming service is designed to serve the minority community of Shreveport. If the Counterproposal is granted, KBLK-LP will be forced to vacate Channel 247, and the minority community of Shreveport will lose the service provided by KBLK-LP. Cumulus has failed to demonstrate that its Counterproposal serves the public interest. On the other hand, given the under-representation of minorities in broadcast station ownership, the loss of the KBLK-LP operation would be a detriment to the public interest.

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<sup>19</sup> Counterproposal at 7.

<sup>20</sup> File No. BNPL-20000605ALU,

### **III. CONCLUSION**

The Counterproposal fails to demonstrate that the Waskom Channel 247 C2 and Oil City Channel 300C2 allotments are mutually exclusive. Therefore, the Counterproposal should be dismissed or denied. The Counterproposal creates large areas and populations that will lose service. The Counterproposal also may still result in interference to air navigation, and will cause the loss of KLBK-LP's low power FM service to the minority community of Shreveport. Moreover, the Declarations of the Modifying Licensees require further scrutiny. Finally, the Counterproposal fails to demonstrate the need for the various requests for extraordinary relief it seeks.

Cumulus has proposed a new scheme that formally abandons the Channel 300C2 allotment at Oil City and purports to propose service to Waskom, Texas. This is yet another cynical move to evade the Commission's policy against migration in order to cover the Shreveport Urbanized Area. Indeed, this whole new scheme merely underlines the hypocrisy of the original reallocation proposal for Oil City. The new scheme exposes clearly that the objective all along was to cover the Shreveport Urbanized Area. Allowing Cumulus to effectuate this new scheme would merely serve to alert future petitioners to the fact that any effort to circumvent the Commission's policy against migration of rural frequencies to urban areas will be allowed, and extraordinary relief is available when such schemes result in a lack of ability to serve the purported new community. This is not the message the Commission should be conveying. Therefore, the Counterproposal should be dismissed or denied.

Respectfully Submitted,

**ACCESS.1 LOUISIANA HOLDING COMPANY, LLC**

By its Attorneys,



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April 27, 2005

**COMMENTS  
OF  
ACCESS.1 LOUISIANA HOLDING COMPANY, LLC  
APRIL 27, 2005  
MB DOCKET NO. 05-47**

**EXHIBIT 1**

**Engineering Statement  
In Support of Comments**  
prepared for  
**Access.1 Louisiana Holding Company, LLC**

**Introduction**

We have been asked to evaluate the counterproposal by Cumulus Licensing LLC (“Cumulus”) to MB Docket No. 05-47 filed March 31, 2005 which proposes reallocate Channel 300C2 at Oil City, Louisiana to Channel 247C2 at Waskom, Texas. It will be shown herein that the allocation of Channel 247A at Waskom, Texas proposed by Cumulus is not mutually exclusive with the Channel 300C2 allotment at Oil City, Louisiana. Further, the downgraded allotments proposed by Cumulus in this proceeding will result in a significant reduction in population served.

**Allocation Study**

The attached **Figure 1** is a map showing the area, outlined in yellow, in which a Channel 247C2 facility could be allocated while meeting the minimum distance spacing requirements of §73.207. This study was made with the assumption that the proposed allotments at Center, TX and Logansport, TX are withdrawn and that channel 248A would be substituted for Channel 247C3 at Natchitoches, LA. As shown therein, the reference coordinates for Waskom, Texas are clearly fully spaced to all pertinent facilities, including the authorized facilities of KQHN on Ch 300C2. **Table 1** contains the detailed allocation information for the pertinent stations based on the coordinates of Waskom, Texas found in the Census Bureau’s Gazetteer<sup>1</sup>.

**Overall Loss in Service**

The population area gain and loss figures proposed by Cumulus and provided in their counterproposal are tabulated below:

<u>Location</u>	<u>Population</u>		<u>Area (sq km)</u>	
	<u>Gain</u>	<u>Loss</u>	<u>Gain</u>	<u>Loss</u>
Natchitoches, LA (Class C3 to A downgrade)	none	4,392	none	954.5
Nacogdoches, TX (Class C2 to C3 downgrade)	none	62,045	none	3,814.2
<u>Oil City, LA (Class C2 move)</u>	<u>5,903</u>	<u>62,206</u>	<u>884.1</u>	<u>873.7</u>
<b>Total</b>	5,903	128,643	884.1	5,642.4
<b>Net (Loss)</b>		<b>122,740</b>		<b>4758.3</b>

<sup>1</sup> The coordinates of Waskom, Texas used in this study are 32° 28’ 43” North Latitude and 94° 03’ 34” West Longitude.

## Engineering Statement

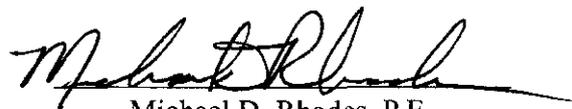
(Page 2 of 2)

In addition, the loss of potential service from one of two mutually exclusive proposed allotments Channel 248A at Center, Texas or Channel 248A at Logansport, Texas must also be considered as both proposals are being withdrawn to accommodate Cumulus' counterproposal. Assuming the Logansport, Louisiana proposal is ultimately adopted over the Center, Texas proposal as the first local service to Logansport, the 60 dBu contour of a maximum Class A facility at the allotment point would cover 28,449 people.

Therefore the grand total of service population lost in this counterproposal is 157,092 with a gain in service to only 5,903 persons this results in Cumulus proposing a net loss service to 151,189 people.

### Certification

Under the penalty of perjury, the undersigned hereby certifies that the foregoing statement was prepared by him or under his direction and that it is true and correct to the best of his knowledge and belief. Mr. Rhodes holds a Bachelor of Science degree in Electrical Engineering from Virginia Polytechnic Institute and State University (Virginia Tech) and is a registered Professional Engineer in the Commonwealth of Virginia. He is employed as a senior engineer with the firm of Cavell, Mertz & Davis, Inc. He has submitted numerous engineering exhibits to the Federal Communications Commission and his qualifications are a matter of record with that agency.



Michael D. Rhodes, P.E.

April 27, 2005

### Cavell, Mertz & Davis, Inc.

7839 Ashton Avenue  
Manassas, Virginia 20109  
(703) 392-9090

This map assumes Center, TX and Logansport, TX proposals are withdrawn and Ch. 248A is substituted for Ch. 247C3 at Natchitoches, LA.

**AREA TO LOCATE**  
WASKOM, TEXAS 247C2

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prepared April 2004 for  
**Access.1 Louisiana Holding Company, LLC**

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Cavell, Mertz & Davis, Inc.  
Manassas, Virginia

166.0 km from  
Ch. 247A Fort Towson, OK

130.0 km from  
KAMD-FM Camden, AR

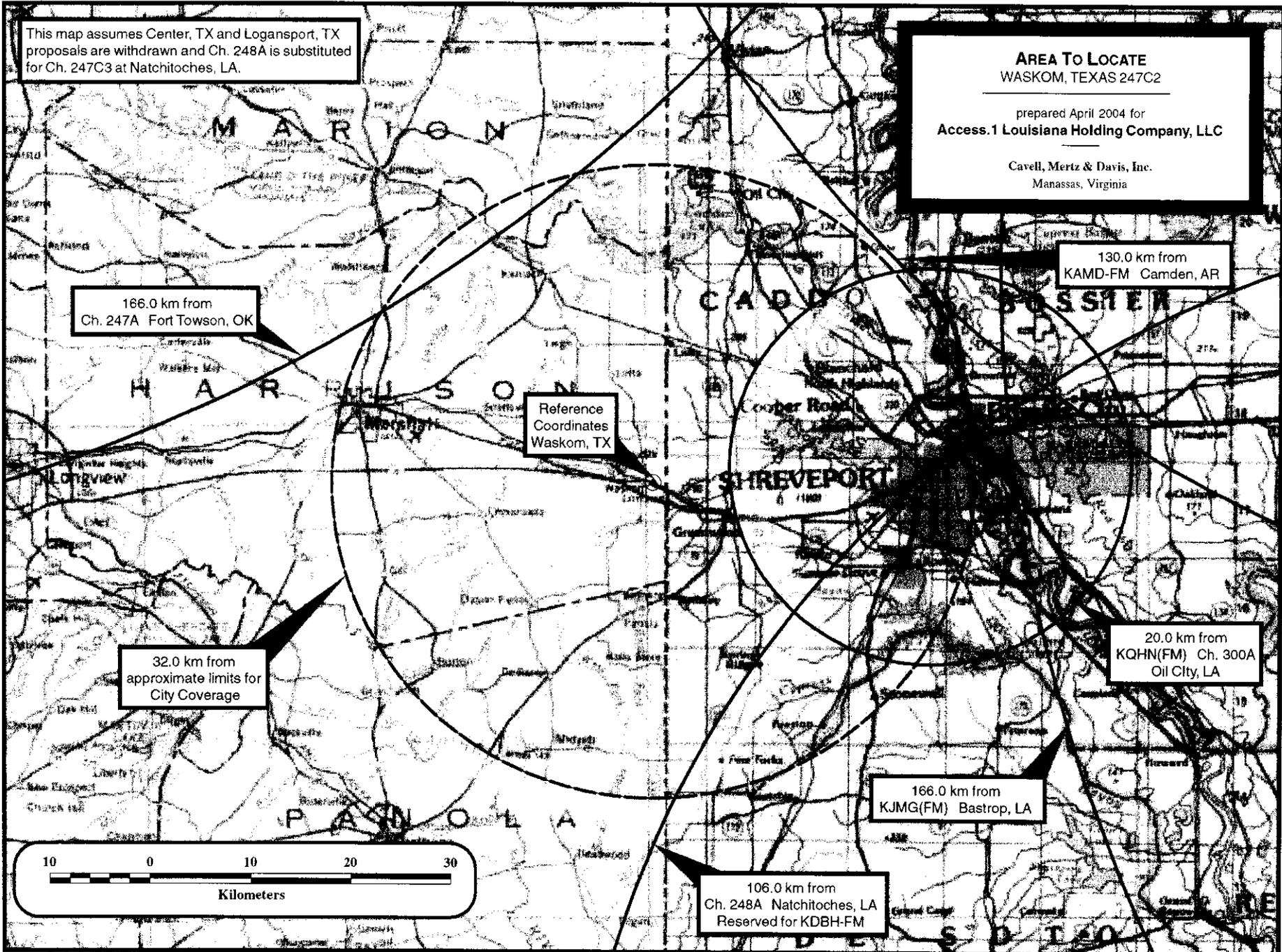
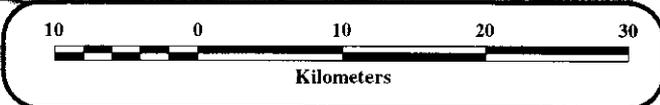
Reference  
Coordinates  
Waskom, TX

32.0 km from  
approximate limits of  
City Coverage

20.0 km from  
KQHN(FM) Ch. 300A  
Oil City, LA

166.0 km from  
KJMG(FM) Bastrop, LA

106.0 km from  
Ch. 248A Natchitoches, LA  
Reserved for KDBH-FM



**Table 1**

**Allocation Considerations**

prepared for

**Access.1 Louisiana Holding Company, LLC**

Channel Status	Call Sign Service	City of License File Number	State	Facility ID	Latitude Longitude	Power HAAT	Distance Bearing	Required Clear
246C2 L.C	KAMD-FM FM	CAMDEN BLH 20020806AAD	AR	8469	33 30 92 48	50.00 139.0	162.95 45.28	106.0 56.95
247A ADD	FR	FORT TOWSON RM 11100	OK	0	33 53 95 17	0.000 35.0	195.03 324.32	115.0 80.03
247A L.C	KJMG FM	BASTROP BLH 19960306KD	LA	15095	32 40 91 55	5.900 100.0	202.19 83.30	115.0 87.19
248A ADD	FR	NATCHITOCHEES RM 11232	LA	0	31 46 93 01	0.000 38.0	125.21 128.79	72.0 53.21
300C2 CP	KQHN FM	OLL CITY BPH 20030610ADI	LA	12414	32 29 93 45	24.50 162.5	27.70 86.53	15.0 12.7
300C2 ADD	FR	OLL CITY RM 10514	LA	0	32 54 93 44	0.000 41.0	55.43 31.97	15.0 40.43
300C2 ADD	FR	LONGVIEW RM 11232	TX	0	32 42 94 40	0.000 47.0	63.21 293.15	15.0 48.21

**COMMENTS  
OF  
ACCESS.1 LOUISIANA HOLDING COMPANY, LLC  
APRIL 27, 2005  
MB DOCKET NO. 05-47**

**EXHIBIT 2**



Federal Aviation Administration  
 Southwest Regional Office  
 2601 Meacham Blvd. -ASW-520  
 Fort Worth, TX 76137-0520

Aeronautical Study No  
 2005-ASW-6-0E  
 Prior Study No.  
 1996-ASW-2512-0E

Issued Date: 1/10/2005

PJ BALANGA                    ASR SPECTRUM MGMT  
 DOT/FAA  
 800 INDEPENDENCE AVENUE SW  
 WASHINGTON, DC 20591

**\*\* DETERMINATION OF HAZARD TO AIR NAVIGATION \*\***

The Federal Aviation Administration has completed an aeronautical study under the provisions of 49 U.S.C., Section 44716 and, if applicable, Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure Type: Antenna - Side Mount  
 Location: SHREVEPORT, LA  
 Latitude: 32-29-36.54 NAD 83  
 Longitude: 93-45-55.64  
 Heights: 499 feet above ground level (AGL)  
           739 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure as described above would have a substantial adverse effect on the safe and efficient utilization of the navigable airspace by aircraft and/or on the operation of air navigation facilities. Therefore, pursuant to the authority delegated to me, it is hereby determined that the structure would be a hazard to air navigation.

This determination is subject to review if an interested party files a petition on or before 2/9/2005. In the event a petition for review is filed, it must contain a full statement of the basis upon which it is made and be submitted in triplicate to the Manager, ATO-R Branch, Federal Aviation Administration, Washington, D.C. 20591.

This determination becomes final on 2/19/2005 unless a petition is timely filed in which case, this determination will not become final pending disposition of the petition. Interested parties will be notified of the grant of any review.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

This aeronautical study considered and analyzed the impact on existing and proposed arrival, departure, and en route procedures for aircraft operating under both visual flight rules and instrument flight rules; the impact on all existing and planned public-use airports, military airports and aeronautical facilities; and the cumulative impact resulting from the studied structure when combined with the impact of other existing or proposed structures. The study disclosed that the described structure would have a substantial adverse effect on air navigation.

An account of the study findings, aeronautical objections received by the FAA during the study (if any), and the basis for the FAA's decision in this matter can be found on the following page(s)

A copy of this determination will be forwarded to the Federal Communications Commission if the structure is subject to their licensing authority.

If we can be of further assistance, please contact our office at 817-323-4838  
On any future correspondence concerning this matter, please refer to Aeronautical  
Study Number 2005-ASW-6-OE.

Signature Control No: 406963-337626

(DOH)

Prentiss M Andrews  
Specialist

Attachment(s)  
Additional Information  
Frequency Data

## Additional Information for ASN 2005-ASW-6-OE

The existing side-mount antenna is located approximately 2.98 nautical miles (NM) southwest of Downtown Airport, Shreveport, Louisiana. It exceeds the obstruction standards of Title 14, Code of Federal Regulations, Part 77 as follows:

Section 77 23(a)(2) by a maximum of 296 feet - a height that is greater than 200 feet above ground level within three NM as applied to Downtown Airport. The structure exceeds the same standard by 166 feet with regard to Shreveport Regional Airport and 76 feet with regard to Barksdale Air Force Base.

Section 77 28(a)(3) by 73 feet - a height exceeding the Barksdale Air Force Base Runway 15 inner horizontal surface.

This aeronautical study on the existing antenna transmitting on frequency 107.9 at 24.5 kW ERP, was initiated by the Federal Aviation Administration (FAA) under the authority of 49 U.S.C. Section 40103, 14 U.S.C. Section 44719, and 14 CFR part 77. It was initiated as a result of occurrences of electromagnetic interference with components of the National Airspace System. The Determination of No Hazard to Air Navigation issued on the existing antenna tower, under Aeronautical Study 1996-ASW-2512-OE, stated that the determination applied only to the antenna tower and the use of frequency 102.9 at 44 kW ERP. It stated that use of other frequencies and power at the antenna tower would require separate notice to the FAA. No notice was filed with the FAA and research resulting from the occurrences of electromagnetic interference found the source to be the use of frequency 107.9 at 24.5 kW ERP on the subject antenna tower. This aeronautical study and determination result from those findings. Public notice was not issued because substantial adverse effect on aeronautical procedures, and thus aviation safety, was identified during the initial study process.

As previously indicated, Aeronautical Study 1996-ASW-2512-OE, found that the existing antenna tower, based on its height, location, and use of frequency 102.9 MHz at 44 kW ERP was not a hazard to air navigation. The side mounted antenna, transmitting on frequency 107.9 at 24.5 kW ERP, has no adverse effect on VFR terminal or en route flight and no cumulative effect. However, the frequency and power, at the existing location do have a substantial adverse effect on navigational aids and IFR flight.

Repeated reports of actual radio frequency interference, made by B-52 pilots using the Barksdale Air Force Base ILS Runway 15 and ILS Runway 33 procedures, initiated the current aeronautical study. Intermodulation study found that aircraft operating in the frequency protected service volume, making instrument landing system ILS approaches to Runways 5 and 14 at Shreveport Regional Airport, Runway 14 at Shreveport Downtown Airport, and Runways 15 and 33 at Barksdale Air Force Base, are subject to hazardous three signal/third order intermodulation interference, two signal/third order interference, and adjacent channel overload. This potential interference results by the proposed frequency in combination with existing stations and the study found nine such combinations potentially causing intermodulation interference. These combinations potentially interfere with the Barksdale Air Force Base ILS systems for Runways 15 and 33, the Shreveport Regional Airport ILS system for Runway 14 and localizer for Runway 5, and the Downtown Airport localizer for Runway 14. As a result of potential and actual reports of interference from the subject transmitter, the Barksdale Air Force Base ILS Runway 15 and ILS Runway 33 approach procedures are currently not authorized for use. These procedures are essential to flight safety during conditions of low ceilings and visibility.

The potential and reported interference with navigational aids by the subject transmitter constitutes an adverse effect. The adverse effect currently involves all flights unable to utilize the Barksdale Air Force Base Runway 15 and 33 ILS procedures and potentially effects all flights which would use the instrument

procedures previously indicated at Shreveport Regional Airport and Downtown Airport. Accordingly, this determination finds that the subject antenna, transmitting on frequency 107.9 at 24.5 kW ERP, has a substantial adverse effect and constitutes a hazard to air navigation.

Frequency Data for ASN 2005-ASW-6-OE

LOW FREQUENCY	HIGH FREQUENCY	FREQUENCY UNIT	ERP	ERP UNIT
107 9	0	MHz	24 5	KW

**COMMENTS  
OF  
ACCESS.1 LOUISIANA HOLDING COMPANY, LLC  
APRIL 27, 2005  
MB DOCKET NO. 05-47**

**EXHIBIT 3**



## Archived Cases in Louisiana

Case Number (ASN)	City	State	Status	NACO Number	Structure Type	Lat (NAD 83)	Long (NAD 83)
<a href="#">2004-ASW-2766-OE</a>	SHREVEPORT	LA	<a href="#">Determined</a>		Antenna Tower	32- 26- 35.3	93- 47- 55.1
<a href="#">2004-ASW-3279-OE</a>	SHREVEPORT	LA	<a href="#">Determined</a>		Antenna Tower	32- 25- 15.4	93- 44- 30.0
<a href="#">2004-ASW-4116-OE</a>	SHREVEPORT	LA	<a href="#">Determined</a>	19-2480	Antenna Tower	32- 29- 35.5	93- 45- 53.3
<a href="#">2004-ASW-4122-OE</a>	SHREVEPORT	LA	<a href="#">Determined</a>	19-2741	Antenna Tower	32- 36- 42.2	93- 52- 2.8
<a href="#">2004-ASW-4123-OE</a>	SHREVEPORT	LA	<a href="#">Determined</a>		Antenna Tower	32- 27- 2.7	93- 52- 46.3
<a href="#">2004-ASW-5946-OE</a>	SHREVEPORT	LA	<a href="#">Determined</a>	19-2760	Antenna Tower	32- 28- 21.2	93- 49- .3
<a href="#">2004-ASW-5947-OE</a>	SHREVEPORT	LA	<a href="#">Determined</a>		Antenna Tower	32- 23- 28.7	93- 45- 44.9
<a href="#">2004-ASW-6539-OE</a>	SHREVEPORT	LA	<a href="#">Determined</a>		Antenna Tower	32- 28- 20.2	93- 56- 51.7
<a href="#">2005-ASW-6-OE</a>	SHREVEPORT	LA	<a href="#">Determined</a>	19-1303	Antenna - Side Mount	32- 29- 36.5	93- 45- 55.6
<a href="#">2005-ASW-96-OE</a>	Shreveport	LA	<a href="#">Determined</a>		Antenna Tower	32- 25- 13.1	93- 49- 51.2
<a href="#">2005-ASW-299-OE</a>	SHREVEPORT	LA	<a href="#">Determined</a>		Crane	32- 28- 43.3	93- 45- 37.7
<a href="#">2005-ASW-802-OE</a>	Shreveport	LA	<a href="#">Determined</a>		Antenna Tower	32- 28- 41.2	93- 45- 23.2
<a href="#">2005-ASW-1149-OE</a>	Shreveport	LA	<a href="#">Determined</a>		Antenna Tower	32- 25- 13.1	93- 49- 51.2
<a href="#">2005-ASW-1677-OE</a>	Shreveport	LA	<a href="#">Determined</a>		Antenna Tower	32- 17- 46.6	93- 34- 10.1

**Number of records found: 193**

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**OE/AAA**  
Obstruction Evaluation/Airport Airspace Analysis

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## Circularized Cases in Louisiana

Case Number (ASN)	City	State	Status	NACO Number	Structure Type	Public Notice
2004-ASW-1976-OE	WINNFIELD	LA	Circularization		Antenna Tower	Circ Letter
2004-ASW-3640-OE	NEW ORLEANS	LA	Circularization		Antenna Tower	Circ Letter

**Number of records found: 2**

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**CERTIFICATE OF SERVICE**

I, Kathy Nickens, a secretary in the law firm of Rubin, Winston, Diercks, Harris & Cooke, L.L.P., do hereby certify that the foregoing "Comments of Access.1 Louisiana Holding Company, LLC" was mailed this 27th day of April, 2005 to the following:

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Media Bureau  
Federal Communications Commission  
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Victoria M. McCauley  
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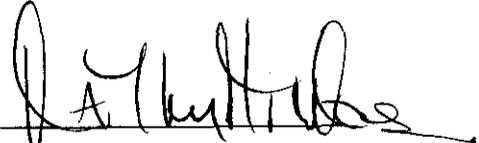
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Kathy Nickens

April 27, 2005