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Federal Communications Commission  
Office of Secretary

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of )  
)  
Amendment of Section 73.202(b) )  
Table of Allotments ) MB Docket No. 05-112  
FM Broadcast Stations ) RM - 11185  
(Fredericksburg, Texas) )

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

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COUNTERPROPOSAL

Respectfully submitted,

RAWHIDE RADIO, LLC

CLEAR CHANNEL BROADCASTING  
LICENSES, INC.  
CCB TEXAS LICENSES, L.P.  
CAPSTAR TX LIMITED PARTNERSHIP

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May 9, 2005

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## SUMMARY

Capstar TX Limited Partnership, licensee of Station KWTX, Waco, Texas; CCB Texas Licenses, L.P., licensee of Stations KAJA, San Antonio, Texas and KHFI-FM, Georgetown, Texas; Clear Channel Broadcasting Licenses, Inc., licensee of Station KLFX, Nolanville, Texas; and Rawhide Radio, L.L.C., licensee of Station KLTO-FM, McQueeney, Texas (together, "Joint Parties"), submit a counterproposal in this proceeding. This counterproposal is the same as the Joint Parties' pending proposal in MM Docket No. 00-148, which is now on Application for Review before the Commission. Should that proposal be dismissed or denied on procedural grounds, the Joint Parties wish to have it considered in this proceeding.

This counterproposal is proper in the context of this proceeding. The Commission itself, in the *Notice of Proposed Rule Making*, noted the that petitioner's proposed allotment of Channel 256C3 at Fredericksburg is mutually exclusive with the Joint Parties' pending proposal because of its substitution of Channel 256A at Ingram, Texas.

Grant of this counteposal offers a number of public interest benefits. It would provide first local services to three communities (four, if the Commission desires to make an allotment to Flatonina as set forth herein). It would also provide a significant gain in population able to receive new radio service. By contrast, the petition in this proceeding seeks to allot the second FM and third local service to Fredericksburg. Accordingly, this counterproposal is favored under the Commission's priorities.

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**COUNTERPROPOSAL**

1. Capstar TX Limited Partnership (“Capstar”), licensee of Station KWTX, Waco, Texas; CCB Texas Licenses, L.P. (“CCB Texas”), licensee of Stations KAJA, San Antonio, Texas and KHFI-FM, Georgetown, Texas; Clear Channel Broadcasting Licenses, Inc., licensee of Station KLFX, Nolanville, Texas; and Rawhide Radio, L.L.C. (“Rawhide”), licensee of Station KLTO-FM, McQueeney, Texas (together, “Joint Parties”), jointly by their respective counsel, hereby submit this Counterproposal in the above-captioned proceeding. In the *Notice of Proposed Rule Making* (DA 05-706, rel. March 18, 2005) (“*NPRM*”), the Commission noted that the allotment proposed by the petitioner, Channel 265C3 at Fredericksburg, Texas, was in conflict with a proposal advanced in *Quanah, Texas, et al.*, 18 FCC Rcd 9495 (2003) (MM Docket No. 00-148), which is not yet final. *NPRM* at note 2. The Commission further noted that the Fredericksburg proposal could be considered, but any grant would be conditioned on the final outcome of MM Docket No. 00-148. *Id.*

2. The Commission was clearly concerned that if the allotments at issue in MM Docket No. 00-148 are ultimately granted, the Fredericksburg allotment, if granted, would have

to be rescinded. The implication, however, was that if MM Docket No. 00-148 does not result in any changes to the FM Table of Allotments, then the Fredericksburg allotment can stand.

3. The Joint Parties are resubmitting their pending proposal as a counterproposal in this proceeding in case the proposal is not granted in MM Docket 00-148. The Commission should not interpret this resubmission as a withdrawal of the pending proposal, now on Application for Review by the Commission, in MM Docket 00-148. Rather, the Joint Parties believe it is prudent, if a procedural defect causes the proposal to be denied in MM Docket 00-148, to preserve the proposal for consideration here. On the other hand, should the Commission grant this counterproposal in this proceeding, the pending Application for Review in MM Docket 00-148 would become moot.

4. The Commission noted that the petition for Fredericksburg, while contingent on the Joint Parties' pending proposal in MM Docket 00-148, is permissible under *Auburn Alabama, et al.*, 18 FCC Rcd 10333 (2003). However, if the petitioner in this case is permitted to file a contingent proposal under *Auburn, Alabama* others such as the Joint Parties should be allowed to do the same. As discussed below, this proposal is mutually exclusive with the proposal for Fredericksburg, and it better serves the public interest by advancing priority (3) of the Commission's allotment priorities, whereas the Fredericksburg proposal advances only priority (4). Therefore, the Commission should prefer this Counterproposal over the Fredericksburg proposal.

5. The Joint Parties propose (1) the substitution of Channel 247C1 for 248C at Waco, the reallocation of Channel 247C1 from Waco to Lakeway, Texas, and the modification of the license for Station KWTX accordingly; (2) the substitution of Channel 243C2 for Channel 244C1 at Georgetown, the reallocation of Channel 243C2 from Georgetown to Lago Vista,

Texas, and the modification of the license of KHFI-FM accordingly; (3) the substitution of Channel 249A for Channel 297A at Nolanville, and the modification of the license of Station KLFX accordingly; (4) the substitution of Channel 245C1 for Channel 247C at San Antonio, and the modification of the license for Station KAJA accordingly; and (5) the reallocation of Channel 249C1 from McQueeney to Converse, Texas, and the modification of the license for Station KLTO-FM accordingly. In order to accomplish these allotments, the following changes to the FM Table of Allotments are requested (listed alphabetically):

Community	Channels	
	Present	Proposed
Converse, Texas	-----	249C1
Flatonia, Texas	-----	232A
Georgetown, Texas	244C1	-----
Ingram, Texas	243A	256A
Lakeway, Texas	-----	247C1
Lago Vista, Texas	-----	243C2
Llano, Texas	242A	297A
McQueeney, Texas	249C1	-----
Nolanville, Texas	297A	249A
San Antonio, Texas	247C	245C1
Waco, Texas	248C	-----

## I. PRELIMINARY MATTERS

6. The Joint Parties collectively own all of the stations that are required to make changes. As discussed below, the Joint Parties request the substitution of Channel 256A for the currently vacant Channel 243A allotment at Ingram, Texas. This channel substitution can be made at the current allotment reference coordinates.

7. This Counterproposal is mutually exclusive with the petitioner's proposal to allot Channel 265C3 at Fredericksburg by virtue of its allotment of Channel 265A at Ingram, Texas. See Exhibit E, Figure 29. As discussed above, the Commission should prefer this

Counterproposal because it offers first local services at Converse, Lakeway, and Lago Vista, Texas, whereas the petitioner's proposal would provide only a third local service at Fredericksburg (KNAF(AM) and KNAF-FM are both licensed to Fredericksburg).

8. As a final preliminary matter, the Joint Parties hereby state that should the Commission amend the Table of Allotments as requested herein, one of the Joint Parties, as the licensee, will file an application to implement each change and construct each facility expeditiously.

## **II. COMPLIANCE WITH THE COMMISSION'S TECHNICAL RULES**

### **A. Station KWTX, Waco/Lakeway, Texas**

9. The Joint Parties wish to substitute Channel 247C1 for Channel 248C at Waco, Texas for Station KWTX and its community of license changed to Lakeway, Texas as its first local service. As indicated in the attached Engineering Statement, Channel 247C1 can be allotted to Lakeway at a new transmitter site in compliance with the Commission's distance separation rules provided additional channel substitutions are made at San Antonio, Georgetown, and Nolanville, Texas, as discussed below. *See* Figures 1-2. The channel study reveals a short spacing to a proposed channel 247A allotment at Garwood, Texas. This allotment was requested in a petition filed by Charles Crawford on May 21, 2003. That petition, which has not yet been docketed, may be combined into this proceeding.

10. A gain/loss study is provided in Figure 3, and a remaining services study is provided in Figures 4-5. Capstar TX Limited Partnership, one of the Joint Parties, is the licensee of KWTX. Capstar hereby states that it will file an application for Channel 247C1 consistent with the Commission's spacing rules if the Commission grants its allotment to Lakeway as proposed herein.

11. The allotment of Channel 247C1 at Lakeway complies with the Commission's rules for a change in community of license. Channel 247C1 at Lakeway is mutually exclusive with Channel 248C at Waco, as Figure 1 demonstrates. Waco will continue to receive adequate aural service from many stations. See Figures 4-5. Lakeway (pop. 8,002) will obtain a first local service (priority 3) while Waco (pop. 113,726) will continue to have at least 10 local services (priority 4). See *Revision of FM Assignment Policies and Procedures, supra*.

12. Lakeway is a community deserving of its own local radio station. Although Lakeway is within the Austin, Texas Urbanized Area, the relocation of KWTX from Waco to Lakeway does not implicate the Commission's policy concerning the migration of stations from rural to urban areas since KWTX currently places a 70 dBu contour over the Waco, Texas Urbanized Area. Therefore, a *Tuck* showing is not necessary. Nevertheless, should it be necessary, the *Tuck* criteria are met in this case.

13. Lakeway's population is 1.2% of that of Austin. See *Ada, Newcastle and Watonga, Oklahoma*, 11 FCC Rcd 16896 (1996) (new city is 0.9% of the population of the central city); *Scotland Neck and Pinetops, North Carolina*, 10 FCC Rcd 11066 (1995) (3.1% of the central city). Lakeway is located 23.15 kilometers from Austin. In any event, the Commission has repeatedly stated that these factors are less important than evidence of independence. See e.g., *Headland, Alabama and Chattahoochee, Florida*, 10 FCC Rcd 10352 (1995).

14. As shown in Figure 3 of the Engineering Statement, the change in site location for KWTX will result in a net gain in population to 671,127 persons and a loss in coverage area to 5,480 sq. km. within the respective 60 dBu contours.

15. In addition, the eight factors discussed below demonstrate Lakeway's independence from Austin. Sources for this information can be found in the exhibits submitted by the Joint Parties in MM Docket No. 00-148.

**(1) *There are Sufficient Employment Opportunities in Lakeway for its Residents, and a Substantial Percentage of Lakeway Residents Work in Lakeway.***

16. There are a substantial number of businesses located in Lakeway, and residents of the city need not go to Austin for employment. These employers include Lakeside Air (HVAC company), American Automobile Rental and Sales, B-J's Auto Repair, the First Commercial Bank, the Village Bank and Trust, Harborside Boats, PRODOC (computer services), Spiller Carpet & Flooring, Lakeway Pharmacy, and Buster's Bar-B-Q.

17. Moreover, according to the last available census data, of the roughly 1,835 working Lakeway residents over the age of sixteen, 12.1% (222) worked in Lakeway. Of the 1613 residents who worked outside of Lakeway, 1022, or 55.7 % of the town's workers, worked in the Austin MSA. The remaining 32.2% of Lakeway's workers held jobs located either outside of the Austin MSA, or inside of the Austin MSA, but outside of Austin.

**(2) *Lakeway is Served by a Local Newspaper.***

18. The Lake Travis View publishes weekly, and has been in existence for 15 years. Although it is distributed in a number of communities located to the south of Lake Travis, the paper provides a substantial amount of coverage to the city of Lakeway. For example, the View provides substantial coverage of the Lakeway City Council. This coverage included giving candidates for Lakeway City Council a forum to discuss their views on various issues of importance to the community. None of the other communities served by the View received a similar level of coverage. Both the print version of the View, as well as the View's Internet site (<[www.laketravisview.com](http://www.laketravisview.com)>), provide news and sports stories of interest to Lakeway residents.

The View's Web site also carries comprehensive listings of area meetings and events, and local classified advertisements.

**(3) *Lakeway Residents Consider Their Community to be Separate from Austin.***

19. Lakeway has a well-established identity and a distinct history that distinguishes it from Austin. As explained below, Lakeway has its own government, which allows residents the opportunity to participate in matters of local concern. Moreover, Lakeway has its own unique history. The town was founded on the site of a 2,700 acre ranch owned by Houston oilman Jack Josey. In 1962, representatives of the Gulfmont Hotel Company purchased a portion of the ranch with plans to build an inn and a residential community. They began selling lots in May 1963, and a year later bought an additional 2,800 acres. By 1974, the development had grown to over 300 homes and 1200 acres. Residents accordingly requested and received the consent of the city of Austin to incorporate. This history, when combined with the wide range of businesses and commercial opportunities available in Lakeway, and the fact that Lakeway provides many of its own municipal services, all suggest that residents of the city view their community as a separate entity from Austin, one that could survive on its own if Austin did not exist.

**(4) *Lakeway Has its Own Local Government and Elected Officials.***

20. The City of Lakeway is governed by a Mayor and five City Council members, which oversee the provision of police protection, water and sewage services, as well as the operations of the Lakeway Municipal Court. Lakeway citizens may also participate in municipal affairs by receiving mayoral appointments to the one of the city's many committees, including the Activity Center Advisory Committee, the Board of Adjustment, the Deer Relocation Committee, the Health Services Committee, the Parks and Recreation Commission, or the Zoning and Planning Commission. Lakeway also has its own Municipal Utility District (MUD), which is comprised of elected members who oversee the operation of two water

treatment plants and three wastewater treatment plants. Lakeway receives its fire protection from nearby Hudson's Bend, and is not dependent on Austin for these services.

**(5) Lakeway has its Own Zip Code**

21. The U.S. Postal Service associates the following zip code with Lakeway: 78734.

**(6) Lakeway has Numerous Commercial Establishments, and is Not Dependent on Austin for Medical Care**

22. As mentioned above, Lakeway is the home of dozens of commercial establishments, including a number that identify with the community by using "Lakeway" in their name, including: the Lakeway Inn, Lakeway Exxon Service Center, Lakeway Mortgage, Lakeway Pharmacy, Lakeway Pool Maintenance, Lakeway Printing and Visual, Towers of Lakeway Retirement Community, and PakMail of Lakeway. Lakeway has its own municipal airport, the Lakeway Airpark, and its own library.

23. Although Lakeway has no hospital of its own, it does have several general practitioners and dentists, two acupuncture centers, two assisted living communities, two chiropractors, an optometrist, two orthodontists, and three mental health or family counseling providers.

**(7) Businesses Can Advertise to Lakeway Residents Directly and Need Not Use Media from the Austin Market.**

24. Businesses interested in reaching the residents of Lakeway may do so through the Lake Travis View newspaper in either the print or online versions. Also, the Lakeway Civic Corporation produces the Lakeway Resident's Directory, which is given to all Lakeway residents free of charge, and which accepts advertising from local businesses.

**(8) *Lakeway Provides its Own Municipal Services; It Does Not Receive them from Austin.***

25. The city of Lakeway, and not Austin, provides municipal services to Lakeway's residents. Lakeway levies its own property taxes, enforces its own parking regulations, has its own police department, oversees its own garbage collection, has its own Utility District that manages the provision of water and sewer services, and its own municipal Court. The city also owns and operates an Activity Center, a multi-use facility that provides meeting rooms for Lakeway activities, organizations and businesses. Lakeway residents may take any of more than a dozen classes at the center, including Bridge I and II, Cooking - Tuscan Cuisine, Digital Photography, Personal Safety and Integral Yoga. There are five churches in Lakeway of various denominations.

26. Lakeway students attend public schools in the Lake Travis Independent School District. Although the District primarily draws from nearby Bee Cave and various unincorporated areas around Lakeway, four of the district's six schools are located in the 78734 zip code, including two of its three elementary schools and its only high school. The district's most recent annual budget exceeded \$27 million. It is operated by a superintendent and a seven-member elected school board. In addition, the Lake Travis Education Foundation, a non-profit volunteer organization, raises money to support the students and teachers of the Lake Travis ISD.

**B. Station KAJA, San Antonio, Texas**

27. In order to reallocate KWTX to Lakeway on Channel 247C1, Station KAJA, San Antonio, Texas must change channel from 247C to 245C1 and relocate its transmitter site to a new location. The accompanying channel study (Figures 6-7) demonstrates that Channel 245C1 can be allotted to San Antonio at a new transmitter site in compliance with the Commission's spacing rules provided that an additional substitution is made at Georgetown, Texas as described

below. The channel study reveals short spacings to proposed allotments at Christine and Tilden, Texas. The Christine allotment was proposed in a petition for rule making filed by Katherine Pyeatt on July 18, 2003. That petition, which has not been docketed, may be combined into this proceeding. The Tilden proposal was dismissed. *See Tilden, Texas*, DA 04-914 (rel. April 5, 2004), *app. for review pending*. Even though the Tilden dismissal is not final, this counterproposal may be accepted and processed. *See Auburn, Alabama, et al.*, 18 FCC Rcd 10333, 10340-41 (2003). Alternatively, the Tilden proposal may also be considered in the context of this proceeding.

28. The channel study also shows a short spacing to a Channel 244C allotment at Piedras Negras, Mexico. However, the allotment of Channel 245C1 at KAJA complies with the U.S.-Mexico treaty because KAJA will not cause any interference to a hypothetical facility at Piedras Negras. *See Agreement Between the Government of the United States of America and the Government of the United Mexican States Relating to the FM Broadcasting Service in the Band 88-108 MHz*, Annex 1. A small reduction in power for KAJA in the direction of Piedras Negras is necessary to achieve treaty compliance. *See Figure 9*.

29. The relocation of Station KAJA will result in a net loss in population within the 60 dBu contour of 18,454 in an area of 46 square kilometers.

30. CCB Texas Licenses, L.P., the licensee of KAJA, is one of the Joint Parties. CCB Texas hereby states that it will file an application for Channel 245C1 in compliance with the Commission's spacing rules should the Commission approve the changes.

### **C. Station KHFI, Georgetown/Lago Vista, Texas**

31. In order to effectuate the changes at Waco/Lakeway and San Antonio, Station KHFI, Georgetown, Texas must change channel and downgrade from Channel 244C1 to 243C2, and change its community of license to Lago Vista, Texas. The accompanying Channel Study

(Figures 10-11) demonstrates that these changes can be made in compliance with the Commission's spacing rules provided that additional substitutions are made at Ingram and Llano, Texas as described below. The channel study reveals short spacings to proposed allotments at Evant, Kerrville, and Goldthwaite, Texas. The Evant allotment, although initially granted, was subsequently denied. 18 FCC Rcd 6213 (2003), *app. for review pending*. Even though this dismissal is not final, the instant counterproposal may be accepted and processed. *See Auburn, Alabama, et al.*, 18 FCC Rcd 10333, 10340-41 (2003). Alternatively, the Evant proposal can be considered in the context of this proceeding. The Commission's CDBS shows that the Kerrville allotment was proposed in a petition for rule making filed by Charles Crawford which has not been assigned a docket number. The Goldthwaite allotment was proposed in a petition for rule making filed by Katherine Pyeatt on December 2, 2003. The Kerrville and Goldthwaite petitions may be combined into this proceeding.

32. CCB Texas Licenses, L.P., the licensee of KHFI, is one of the Joint Parties. CCB Texas hereby states that it will file an application for Channel 243C2 at Lago Vista in compliance with the Commission's spacing rules should the Commission approve the changes.

33. The allotment of Channel 243C2 at Lago Vista complies with the Commission's rules for a change in community of license. Channel 243C2 at Lago Vista is mutually exclusive with Channel 244C1 at Georgetown, as Figure 10 demonstrates. Georgetown will continue to receive adequate aural service from 19 stations. *See Figures 13-14*. Lago Vista (pop. 4,507) will obtain a first local service (priority 3) while Georgetown (pop. 28,339) will retain local service from KINV(FM) (priority 4). *See Revision of FM Assignment Policies and Procedures, supra*. The change in site and downgrade in class will result in a net loss of coverage to 175,094 persons in an area of 7,545 sq. km.. *See Figure 12*.

34. From Lago Vista, Channel 243C2 will place a 70 dBu contour over much of the Austin, Texas Urbanized Area. However, this relocation does not implicate the Commission's policy against the migration of stations from rural areas to urban areas. Indeed, if anything, the opposite is true. From its current location, KHFI places a 70 dBu contour over all of the Austin, Texas Urbanized Area. The Joint Parties propose to downgrade the station and relocate it away from the city center. Nevertheless, should the Commission require it, a Tuck showing can be made in this case, demonstrating that Lago Vista should be awarded a first local service preference.

35. Lago Vista's population is 0.7% of that of Austin. *See Ada, Newcastle and Watonga, Oklahoma*, 11 FCC Rcd 16896 (1996) (new city is 0.9% of the population of the central city); *Scotland Neck and Pinetops, North Carolina*, 10 FCC Rcd 11066 (1995) (3.1% of the central city). Lago Vista is located 29.08 kilometers from Austin. In any event, the Commission has repeatedly stated that these factors are less important than evidence of independence. *See e.g., Headland, Alabama and Chattahoochee, Florida*, 10 FCC Rcd 10352 (1995).

36. The eight factors discussed below demonstrate Lago Vista's independence from Austin. Sources for this information can be found in the exhibits submitted by the Joint Parties in MM Docket 00-148.

**(1) *There are Sufficient Employment Opportunities in Lago Vista for its Residents, and a Substantial Percentage of Lago Vista Residents Work in Lago Vista.***

37. There are a sufficient number of businesses located in Lago Vista that residents of the city need not go to Austin for employment. These employers include the Boaz Financial Group, Christopher Travels, Compass Bank, Gila Construction, The Island on Lake Travis, Lago

Vista Marine, Micro n'More, Inc., Showtime Performance Boats, and Vista Video. Lago Vista has an active Chamber of Commerce.

38. Moreover, according to the last available census data, of the roughly 942 working Lago Vista residents over the age of sixteen, 38.0% (358) worked in Lago Vista. The Commission has found that much smaller percentages of residents working in the specified community have satisfied this Tuck criterion. *See Coolidge and Gilbert, Arizona*, 11 FCC Rcd. 3610 (1996) (finding that 13% of persons working in their place of residence satisfied this Tuck criterion). Moreover, of the 584 residents who work outside of the town, only 353, or 37.5% of the town's workers, worked in the Austin MSA. The remaining 24.5% of Lago Vista's workers held jobs located either outside of the Austin MSA, or inside of the Austin MSA, but outside of Austin.

**(2) *Lago Vista is Served by a Local Newspaper.***

39. The North Lake Travis Log publishes every Thursday, and has been in existence for over 18 years. Although it is distributed in communities throughout the North Lake Travis area, a substantial amount of the paper's coverage is dedicated to the city of Lago Vista. For example, the paper recently printed an editorial written by the Mayor of Lago Vista, Dennis Jones, in which he discussed the city council's work on the FY 2001 city budget. The paper also covered the Council's ultimate passage of that budget. None of the other communities served by the Log received similar coverage. Both the print version of the Log, as well as the Log's Internet site (<[www.northlaketravislog.com](http://www.northlaketravislog.com)>), provide news and sports stories of interest to Lago Vista residents. The Log's Web site carries comprehensive listings of area meetings and events, and local classified advertisements.

**(3) *Lago Vista Residents Consider Their Community to be Separate from Austin.***

40. Lago Vista has well-established identity that is separate from that of Austin. The city has its own government, allows residents the opportunity to participate in matters of local concern. Lago Vista has a unique history. The area that is now Lago Vista was previously the Infamous Bar-K Ranch Resort, which flourished during the 1950's and '60s. The present-day city was developed as a planned community, and incorporated in the early 1980s. Moreover, the businesses and commercial opportunities available in Lago Vista, and the fact that Lago Vista provides many of its own municipal services, all suggest that the Lago Vista citizens view their city as a separate entity that could survive on its own if Austin did not exist.

**(4) *Lago Vista Has its Own Local Government and Elected Officials.***

41. The City of Lago Vista is governed by a Mayor and six City Council members and a city manager, who oversees the provision of police protection, water and sewage service, as well as the operations of the Lago Vista municipal court. The city levies a real estate and sales tax. It has four full-time employees and one part-time employee. Lago Vista citizens may also participate in municipal affairs through city's Planning and Development Commission.

**(5) *Lago Vista has its Own Zip Code***

42. The following zip code is associated with Lago Vista: 78645.

**(6) *Lago Vista has Numerous Commercial Establishments, and is Not Dependent on Austin for Medical Care***

43. Lago Vista is the home of dozens of commercial establishments, including a number that identify with the community by using "Lago Vista" in their name: Lago Vista Chiropractic; Lago Vista Golf & Resort, Lago Vista Business Services, Inc., Lago Vista Rentals, and Lago Vista Real Estate, Inc. Lago Vista residents can obtain basic medical care from the

two doctors and two dentists that practice in the city. Lago Vista has its own municipal airport, and its own library.

**(7) *Businesses Can Advertise to Lago Vista Residents Directly and Need Not Use Media from the Austin Market.***

44. Business interested in reaching the residents of Lago Vista may do so through the North Lake Travis Log newspaper in either the print or online versions.

**(8) *Lago Vista Provides its Own Municipal Services; It Does Not Receive them from Austin.***

45. The city of Lago Vista, and not Austin, provides municipal services to Lago Vista's residents. Lago Vista has its own police department, water and sewer services, and its own Municipal Court.

46. There are seven churches within the Lago Vista town limits, including the Good Shepherd Lutheran Church and the Rolling Hills Community Church. Seven hundred eight students attend either the elementary school, junior high, or high school in the Lago Vista Independent School District. The district has been in existence since 1975, and its most recent annual budget exceeded \$23 million. It is operated by a superintendent and an six-member elected school board.

**D. Channel 243A, Ingram, Texas**

47. The changes at Georgetown/Lago Vista require that Channel 256A be substituted for Channel 243A at Ingram, Texas. This substitution can be made consistent with the Commission's spacing rules, and requires no other changes to the Table of Allotments. See Figure 29. A construction permit has been issued for this allotment. See File No. BNPH-20050103ACN. The permit was conditioned on the final outcome of MM Docket 00-148. Therefore, the permittee is on notice that its channel may be changed as proposed herein.

48. As the Notice of Proposed Rule Making states, the Ingram proposal is mutually exclusive with the allotment of Channel 265C3 at Fredericksburg, Texas, proposed in this proceeding. It also reveals short spacings to allotments at Harper, Camp Wood, and Dilley, Texas. However, these short spacings do not preclude consideration of the Ingram allotment. A petition for Channel 256A at Harper, Texas was filed by Charles Crawford on May 7, 2001. The Harper petition, which has not been docketed, may be considered with the present proposals in this proceeding. Channel 256A was deleted at Camp Wood in MM Docket 99-214. *See Camp Wood and Rock Springs, Texas*, 15 FCC Rcd 10349 (2000). That proceeding is now final.

49. On April 17, 2002, the Commission granted a construction permit for Station KLMO-FM, Dilley, Texas. The permit (BPH-20010102AAC) was issued in error because it conflicted with the Joint Parties' prior-filed proposal to substitute Channel 256A at Ingram, Texas. However, the construction permit in fact does protect Channel 256A at Ingram. The permit was issued pursuant to Section 73.215 with respect to Stations KAYG, Camp Wood, Texas; KBUC, Pleasanton, Texas; and KJFK, Lampasas, Texas, and in affording contour protection to those stations it also affords contour protection to the Ingram allotment. Should the Joint Parties' proposal be granted, the Dilley construction permit, with Section 73.215 protection towards Ingram, would not be affected. Therefore, the Dilley permit does not preclude grant of the Joint Parties' proposal. *See Beverly Hills, Chiefland, Holiday, Micanopy and Sarasota, Florida*, 11 FCC Rcd 4641, 4641-42 (1996).

#### **E. Station KQBT, Llano, Texas**

50. In order to make the changes at Georgetown/Lakeway, Channel 297A must be substituted for 242A at Llano, Texas at a new transmitter site. The accompanying Channel Study demonstrates that Channel 297A can be allotted to Llano in compliance with the Commission's spacing rules provided a substitution is made at Nolanville, Texas as described

below. *See* Figures 15-16. The channel study also reveals a short spacing to a proposed allotment at Goldthwaite, Texas and an application for KHLB, Channel 295A, Burnet, Texas. The petition for Goldthwaite was dismissed. *See Goldthwaite, Texas*, 19 FCC Rcd \_\_\_\_ (DA 04-734, rel. March 19, 2004), *app. for review pending*. Even though the Goldthwaite dismissal is not final, this counterproposal may be accepted and processed. *See Auburn, Alabama, et al.*, 18 FCC Rcd 10333, 10340-41 (2003). Alternatively, the Goldthwaite proposal can be considered in the context of this proceeding.

51. The Burnet application, File No. BPH-20030902ADU, does not protect the Joint Parties' proposal, and thus is contingent upon action in this proceeding. The Commission has not yet granted the application, and is holding the application in its pending queue. The application could be combined and considered as a counterproposal in this proceeding.

52. Rawhide Radio, LLC, the licensee of KQBT, is one of the Joint Parties. Rawhide hereby states that it will apply for Channel 297A at Llano and construct the facilities if the application is granted.

53. At the new transmitter site, there will be a net loss in population of 4,832, with a small gain in an area of 88 sq. km. *See* Figure 17.

#### **F. Station KLFX, Nolanville, Texas**

54. In order to change channels at Llano, Channel 249A must be substituted for Channel 297A for Station KLFX at Nolanville, Texas. The channel substitution may be made at the current transmitter site of KLFX, as Figure 18 demonstrates, provided that a change is made at McQueeney, Texas as described below. Clear Channel Broadcasting Licenses, Inc., the licensee of KLFX, is one of the Joint Parties. Clear Channel states that it will apply for the new channel and construct the frequency change as authorized.

**G. Station KLTO-FM, McQueeney/Converse, Texas**

55. In order to allot Channel 249A at Nolanville, Channel 249C1 must be deleted at McQueeney, Texas. The accompanying Channel Study demonstrates that Channel 249C1 can be allotted to Converse for use by Station KLTO-FM in compliance with the Commission's spacing rules, provided that changes are made at Waco and San Antonio as discussed *supra*. See Figures 19-20. The channel study reveals short spacings to proposed allotments at Mason, Tilden, and Batesville, Texas. However, the Batesville rule making proposal should not have been accepted, and the Mason and Tilden rule making proposals have been dismissed.<sup>1</sup> Even though these dismissals are not final, the instant counterproposal may be accepted and processed. See *Auburn, Alabama, et al.*, 18 FCC Rcd 10333, 10340-41 (2003). Alternatively, the proposals may be considered in the context of this proceeding.

56. Rawhide, one of the Joint Parties, is the licensee of KLTO-FM. Rawhide hereby states that it will file an application for Channel 249C1 at Converse should the Commission grant the changes. A gain/loss study is provided in Figure 21.

57. The allotment of Channel 249C1 at Converse complies with the Commission's rules for a change in community of license. The use of Channel 249C1 at Converse is mutually exclusive with its use at McQueeney, as Figure 19 demonstrates. McQueeney will continue to receive adequate aural service from 24 stations. See Figures 22-23. Neither McQueeney nor Converse currently has local service. (KLTO-FM, although allotted to McQueeney, currently operates from its previously allotted Channel 249C3 at Cuero, Texas. If the Commission grants this proposal, Rawhide would file its application for Converse.) Therefore, each community receives priority 3 as a first local service but since Converse (pop. 11,508) is larger than

McQueeney (pop. 2,527), Converse is preferred under the Commission's allotment priorities. *See Chatom and Grove Hill, Alabama*, 12 FCC Rcd 7664 (1997); *Revision of FM Assignment Policies and Procedures*, 90 F.C.C.2d 88 (1982).

58. Converse is a community deserving of its own local radio station. Converse is within the San Antonio, Texas Urbanized Area, which implicates the Commission's policy concerning the migration of stations from underserved rural areas to well-served urban areas. However, in this case there is ample evidence of the independence of Converse from San Antonio, and the Tuck criteria are clearly met.

59. Converse's population is 1.0% of that of San Antonio. *See Ada, Newcastle and Watonga, Oklahoma*, 11 FCC Rcd 16896 (1996) (new city is 0.9% of the population of the central city); *Scotland Neck and Pinetops, North Carolina*, 10 FCC Rcd 11066 (1995) (3.1% of the central city). Converse is located 20.61 kilometers from San Antonio. However, as discussed above, these factors are less important than evidence of independence. *See e.g., Headland, Alabama and Chattahoochee, Florida*, 10 FCC Rcd 10352 (1995).

60. The relocation of KLTO-FM from McQueeney to Converse will result in an increase in population served of 1,282,622 persons within the station's 60 dBu contour. *See* Figure 21. This relocation will create a small gray area within the loss area. *See* Figure 21. The creation of a small gray area should not pose a problem, since it falls under a co-equal priority as first local service. *See Littlefield, Wolfforth, and Tahoka, Texas*, 12 FCC Rcd 3215 (1997), partial recon. granted, 15 FCC Rcd 5532 (2000). Nevertheless, should the Commission require it, the Joint Parties propose the allotment of Channel 232A to Flatonia, Texas, as that community's first local service. *See* discussion, *infra*. Rawhide will file an application to build

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<sup>1</sup> *See Mason, Texas*, 17 FCC Rcd 11038 (2002), recon. denied, 18 FCC Rcd 103 (2003), app. for review denied, 19 FCC Rcd 470 (2004), pet. for review pending; *Tilden, Texas*, 19 FCC Rcd \_\_\_\_\_ (DA 04-914, rel. April

a new station at Flatonia if the allotment is approved. The new allotment to Flatonia will provide a second aural service to the entire grey area.

61. The eight factors discussed below demonstrate Converse's independence from San Antonio. Sources for this information can be found in the exhibits submitted by the Joint Parties in MM Docket 00-148.

***(1) There are Sufficient Employment Opportunities in Converse for its Residents, and a Substantial Percentage of Converse Residents Work in Converse.***

62. Converse is home to dozens of businesses, and residents of the city need not go to San Antonio for employment. These businesses include AAA Bathtub Refinishing, Inc., Bug Free Pest Control Service, Chism Trail Antiques, Diamond Shamrock Corp., F & M Medical Supply, Northeast Janitorial Service, RR Truck Sales & Service, Star Custom Cabinets, and Walgreens Drug Store.

63. Moreover, according to the last available census data, of the roughly 4552 working Converse residents over the age of sixteen, 11.6% (529) worked in Converse. Of the 4023 residents who worked outside of Converse, 2864, or 62.9 % of the town's workers, worked in San Antonio. The remaining 25.5% of Converse's workers held jobs located either outside of the San Antonio MSA, or inside of the San Antonio MSA, but outside of San Antonio. Converse businesses may join the Randolph Metrocom Chamber of Commerce, which promotes the industrial and commercial interests of communities, including Converse, that surround Randolph Air Force Base.

***(2) Converse is Served by a Local Newspaper.***

64. The Metrocom Herald publishes weekly and serves Converse and several surrounding communities. Both the print version of the Herald, as well as the Herald's Internet

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5, 2004), *app. for review pending*. Batesville is not dismissed yet.

site (<[www.primetimenewspapers.com/herald/hercvr.htm](http://www.primetimenewspapers.com/herald/hercvr.htm)>), offer news and sports stories of interest to Converse residents. The paper provides a substantial amount of coverage to the city of Converse. For example, the Herald regularly covers the Converse City Council, as indicated by a recent story on a proposal before the Council to house stray animals found in Converse at the facilities of the nearby town of Live Oak. The Herald also recently ran a feature on the extension of an existing bus route to include south Converse. The Herald's Web site also carries comprehensive weekly listings of meetings and events and a crime blotter for Converse and its other communities.

***(3) Converse Residents Consider Their Community to be Separate from San Antonio.***

65. Converse has a well-established identity and a distinct history that distinguishes it from San Antonio. As explained below, Converse has its own government, which allows residents the opportunity to participate in matters of local concern. There are also a wide range of businesses and commercial opportunities available in Converse. These factors, in combination, suggest that residents of the city view their community as a separate entity from San Antonio, one that could survive on its own if San Antonio did not exist.

***(4) Converse Has its Own Local Government and Elected Officials.***

66. The City of Converse is governed by a Mayor and six City Council members, who oversee the provision of police and fire protection, water and sewer services, as well as the operations of the Converse Municipal Court. The city's operations are overseen on a day-to-day basis by a City Manager. Converse citizens may also participate in municipal affairs through the Converse Parks and Recreation Commission, the Building and Standards Commission, the Street Commission, the Planning Commission, and the Zoning Commission. The Converse City Council has independent taxing authority.

**(5) *Converse has its Own Zip Code***

67. The U.S. Postal Service associates the following zip code with Converse: 78109.

**(6) *Converse has Numerous Commercial Establishments, and is Not Dependent on San Antonio for Medical Care***

68. As mentioned above, Converse is the home of dozens of commercial establishments. A number of these businesses identify with their community by using “Converse” in their name, including: Converse AC & Heating, Converse Mini Storage, Converse Beauty Shop, Converse Chiropractic Center, and Converse Painting.

69. Although Converse has no hospital of its own, it does have several general practitioners and dentists, a vision care provider, and two chiropractors, to provide basic medical care to Converse residents.

70. Converse has its own library, which was created through the combined efforts of the Converse Lions’ Club, the Converse Grange, and other volunteers.

**(7) *Businesses Can Advertise to Converse Residents Directly and Need Not Use Media from the San Antonio Market.***

71. Business interested in reaching the residents of Converse may do so through the Metrocom Herald newspaper.

**(8) *Converse Provides its Own Municipal Services; It Does Not Receive them from San Antonio***

72. The city of Converse, and not San Antonio, provides municipal services to Converse’s residents. As noted above, Converse levies its own property taxes, has its own police and fire departments, oversees its own garbage collection, water and sewer services, and municipal Court. The Converse Police Department employs twenty-three officers, two civilians and one K-9 unit. The Converse Fire & EMS Department has nine paid personnel and between fifteen and twenty-five volunteers. The Department is fully equipped, with three major class-A

pumpers, three ambulances, one rescue vehicle and one brush truck. All of the full-time personnel are cross-trained in both fire and emergency medical services, as are most of the volunteers.

73. There are ten churches in Converse of various denominations. Converse students attend public schools in the Judson Independent School District. Although the school district also draws students from other communities around Converse, a number of its schools, including its only high school, senior high school, and adult and community education center, are located in Converse itself. The school district's most recent annual budget exceeded \$103 million. It is operated by a superintendent and a seven-member elected Board of Trustees.

#### **H. Flatonia, Texas**

74. As discussed above, the Joint Petitioners do not believe a supplementary allotment is necessary in order to remove gray area. Nevertheless, should the Commission desire, Channel 232A can be allotted to Flatonia, Texas, as demonstrated in the channel study, Appendix A to Exhibit E. The station will place a 70 dBu signal over the entire community of license as shown in the map, Appendix B to Exhibit E.

75. Flatonia, Texas fully satisfies the FCC definition of "community" for allotment purposes. The town had 1,295 residents as of the 1990 Census. It is not part of any urbanized area. According to the staff at the Flatonia City Hall, the town is governed by its own elected mayor, five city council members, and a city manager. It provides its own fire and police protection, and its own water and wastewater service. The city also retails electricity, and contracts out for garbage collection. Residents can obtain local news from the weekly Flatonia Argus, as well as an Internet-based "newspaper," the Flatonia News. The city's Chamber of Commerce also operates a web site, <[www.flatonia-tx.com](http://www.flatonia-tx.com)>, that contains a substantial amount of information about local events and attractions. The city's approximately 600 public school

students attend Flatonia Public Schools, which operates an elementary school, a middle school, and a high school. The city has its own library, and zip code (78941). Medical services are available to Flatonia residents at the city's medical clinic, eye doctor, and veterinary clinic. There are three churches in the town. Sources for this information can be found in the exhibits submitted by the Joint Parties in MM Docket 00-148

76. There are dozens of small businesses and organizations located in Flatonia, including several that identify with the city by including "Flatonia" in their names, including the Flatonia Veterinary Clinic, the Flatonia Food Mart, the Flatonia Baptist Church, the Flatonia Livestock Commission, and the Flatonia Community Clinic. The city's major employers include Cal-Maine Foods, the Flatonia Independent School District, Prototype (a machining company), the Oak Manor Nursing Center, and Central Texas Bank.

77. The calendar of events maintained by the Flatonia Chamber of Commerce shows that there are a number of events that give the town an identity of its own, highlighted by Czilispiel XXVII, the 28th annual chili cook-off originated by the town's Czech immigrants. Other events include Flatonia Market Days in April and September, the 4-H and FFA Livestock Show, the Sacred Heart Catholic Church Picnic and Fall Festival, and the Christmas in Flatonia Candlelight Homes Tour.

### III. CONCLUSION

This counterproposal is identical to the Joint Parties' proposal set forth in their counterproposal in MM Docket 00-148 (Quanah, Texas). *See Quanah, Texas, et al.*, 18 FCC Rcd 9495 (2003), *app. for review pending*. The Commission may combine this proceeding with a number of pending proceedings and render its decision, thereby realizing gains in administrative efficiency. As the Joint Parties have demonstrated, grant of the counterproposal would provide first local services to three communities (four, if the Commission desires to make

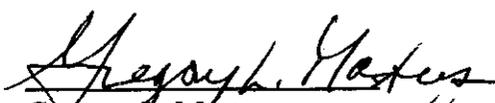
an allotment to Flatonia as set forth herein). It would also provide a significant gain in population able to receive new radio service.

Respectfully submitted,

RAWHIDE RADIO, LLC

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CCB TEXAS LICENSES, L.P.  
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Its Counsel

Their Counsel

May 9, 2005

**Engineering Statement**

**In Support of a**

**Petition for Rule Making  
Capstar TX Limited Partnership  
CCB Texas Licenses, L.P.  
Rawhide Radio, L.L.C.  
Clear Channel Broadcasting Licenses, Inc.**

**General**

The instant Petition for Rule Making was prepared for Capstar TX Limited Partnership ("Capstar"), licensee of Station KWTX, Waco, Texas; CCB Texas Licenses, L.P. ("CCB Texas"), licensee of Stations KAJA, San Antonio, Texas and KHFI-FM, Georgetown, Texas; Rawhide Radio, L.L.C. ("Rawhide"), licensee of Station KNGT, McQueeney, Texas; and Clear Channel Broadcasting Licenses, Inc. ("Clear Channel"), licensee of KLFX, Nolanville, Texas. The above named petitioners are referred herein as The Joint Parties. It is prepared and submitted as a Petition for Rule Making. The Joint Parties propose to delete channel 248C at Waco, Texas (KWTX) and allot channel 247C1 at Lakeway, Texas as that community's first local service; substitute channel 245C1 for channel 247C (KAJA) at San Antonio; delete channel 244C1, Georgetown, Texas (KHFI) and allot channel 243C2 at Lago Vista, Texas; substitute channel 297A for channel 242A at Llano, Texas (KBAE); and substitute channel 249A for channel 297A at Nolanville, Texas (KLFX). All of the above reallocations and channel substitutions will allow the deletion of channel 249C1 at McQueeney, Texas (KNGT) and its subsequent allotment to Converse, Texas on channel 249C1 as that community's first local service.

### **Methods**

The Joint Parties' Petition for Rule Making is presented in sections, in which each channel or licensed facility where a change is proposed, is discussed individually. All sections begin with an allocation or channel spacing study. Additional exhibits then support the proposed modification's technical compliance.

All searches were performed on a V-Soft SearchFM program. The studies were based on the latest technical data from the Commission's databases. Mapping, population counts, and gain/loss areas were conducted using a professional mapping program from MapInfo Corporation, Version 5.5. The program contains the exact community boundaries of the relevant cities. In pertinent cases where community boundaries were critical, the boundaries were cross-checked with the U.S. Census Bureau's TIGER maps.

All modifications that require a class change or antenna site modification have a gain/loss study for population and square kilometers.

### **Nature of The Joint Parties Petition for Rule Making**

A summary of all communities and their related channels (present and proposed) is included in Table 1 for reference. The Petition for Rule Making provides for first local services at Converse, Lakeway, and Lago Vista, all Texas. In order to accomplish this, various channels and licensed facilities need to be modified in order to create compliance with §73.207. It creates a large increase in square kilometers covered. This is demonstrated by the large increase in the number of persons served within the new 60-dBu contour.

- I). KWTX – channel 248C, Waco, Texas. As discussed previously, the use of channel 249C1 at Converse, Texas requires modification of other facilities. KWTX must be

deleted at Waco on channel 248C and allotted to Lakeway on channel 247C1 in order to eliminate short spacing to the proposed use of channel 249A at Nolanville, Texas (KLFX). The allotment of channel 247C1 at Lakeway is short spaced to KWTX by 83.70 kilometers. This demonstrates that channel 247C1 at Lakeway is mutually exclusive with channel 248C at Waco. However, in order to allocate channel 247C1 to Lakeway for use by KWTX, additional changes must be made in the spectrum as follows:

A). KAJA – channel 247C, San Antonio, Texas. Presently KAJA operates on channel 247C licensed to San Antonio, Texas. The allotment of channel 247C1 at Lakeway creates a short spacing to KAJA of 149.43 kilometers. The Joint Parties propose to eliminate this short spacing by substituting channel 245C1 for channel 247C at San Antonio for use by KAJA. This substitution also requires a minor site modification.

1). KHFI – channel 244C1, Georgetown, Texas. Presently KHFI operates on channel 244C1. The substitution of channel 245C1 for channel 247C at San Antonio creates a short spacing to KHFI of 45.81 kilometers. In addition, the proposed allotment of channel 247C1 at Lakeway creates a short spacing to KHFI on channel 244C1 of 75.66 kilometers. Deleting channel 244C1 at Georgetown and substituting channel 243C2 at Lago Vista, Texas (as that community's first local service) can eliminate both of these short spacings. The substitution of channel 243C2 gives clearance to KAJA on channel 245C1 by 57.54 kilometers, while channel 243C2 is a fourth-adjacent to the

proposed allotment of KWTX on channel 247C1 at Lakeway, Texas.

Therefore, it is of no concern.

a). KBAE – channel 242A, Llano, Texas. Presently KBAE operates on channel 242A licensed to Llano, Texas. The substitution of channel 243C2 for channel 244C1 (KHFI) creates a short spacing to Llano of 35.27 kilometers. This short spacing can be eliminated by the substitution of channel 297A for channel 242A at Llano. The substitution requires a minor site modification. This substitution requires some additional sub changes.

i). KLFX – channel 297A, Nolanville, Texas. Presently KLFX operates on channel 297A at Nolanville. It has an application on file for a 1.75 kilometers site change. If channel 297A is substituted for channel 242A at Llano, it creates a short spacing to Nolanville of 10.15 kilometers (8.40 kilometers if application site is used). This short spacing can be eliminated by substituting channel 249A for channel 297A at either the licensed site or the application site of KLFX. Channel 249A is available for substitution at Nolanville only after channel 248C is deleted at Waco and allocated to Lakeway on channel 247C1. However, there is one sub change required for this allotment.

\*) KNGT – channel 249C1, McQueeney, Texas. Previously channel 249C3 was deleted at Cuero, Texas and channel 249C1 was allotted to McQueeney, Texas. At this point, KNGT has not begun broadcast operations at McQueeney on channel 249C1. If channel

249A is substituted for channel 297A at Nolanville, there is a short spacing to McQueeney of 7.26 kilometers. This short spacing can be eliminated by deleting channel 249C1 at McQueeney and substituting channel 249C1 at Converse, Texas as that community's first local service. This community of license change will give clear spacing to Nolanville of 5.04 kilometers. Channel 249C1 at Converse can occur only after channel 247C is modified to channel 245C1 at San Antonio. The distance between channel 249C1 at McQueeney and channel 249C1 at Converse is 79.95 kilometers, thereby creating a short spacing of 165.05 kilometers.

This is a mutually exclusive community of license change.

- b). RADD – channel 243A, Ingram, Texas. Currently channel 243A has been allocated to Ingram, Texas. The substitution of channel 243C2 at Lago Vista for channel 244C1 at Georgetown creates a short spacing to Ingram of 29.35 kilometers. Substituting channel 256A for channel 243A at the channel 243A allotment reference coordinates can eliminate this short spacing. Channel 256A is available for allotment at Ingram, since channel 256A was deleted at Camp Wood, Texas in MM Docket 99-214. However, the database shows a short space of 7.43 kilometers of the allotment of channel 256A at Ingram to the CP site of KLMO at Dilley, Texas. KLMO proposes using §73.215 spacing to the allotment of channel 256A at Ingram. The legal justification for using channel 256 as a

substitute channel at Ingram is discussed in the legal section of the instant PRM.

### **EXHIBITS EXPLAINED**

#### **KWTX**

Exhibit E, Figure 1 is an allocation study showing all the spacings for the substitution of channel 247C1 at Lakeway, Texas for channel 248C at Waco, Texas (KWTX). It demonstrates that only two spectrum changes are required for this substitution. However, it does not depict the sub changes required. The short space shown at Garwood is a PRM that should be executed inside the context of the instant PRM. The references to channel 248C2 at Marlin and Waco are related to proposals that were withdrawn and not on an appeal. Exhibit E, Figure 2 is a 70 dBu contour map, demonstrating that channel 247C1 at Lakeway complies with §73.315 of the Rules. Exhibit E, Figure 3 is gain/loss study map for the licensed class C facility's 60 dBu contour and the proposed hypothetical 60 dBu contour. Exhibit E, Figure 4 is a remaining services study for the loss area of KWTX. Exhibit E, Figure 5 is a list of the facilities used in the KWTX remaining services study.

#### **KAJA**

Exhibit E, Figure 6 is an allocation study showing all the spacings for the substitution of channel 245C1 for channel 247C at San Antonio, Texas (KAJA). It demonstrates that only one spectrum change is required for this substitution. However, it does not depict the subchanges required. The short spacings to Christine and Tilden, Texas are both a PRM that should be considered MX to the instant PRM and considered inside its context. Exhibit E, Figure 7 is a 70 dBu contour map, demonstrating that channel 247C1 at

Lakeway complies with §73.315 of the Rules. Exhibit E, Figure 8 is gain/loss study map for the licensed class C facility's 60 dBu contour and the proposed hypothetical 60 dBu contour. Since KAJA is a minimal class C (100 kW at 300 meters HAAT) and a maximum class C1 is being proposed, no gain/loss study is included. Exhibit E, Figure 9 is a maximum class C1 F(50,10) 54 dBu contour map, calculate via the means spelled out in the US/Mexican agreement governing FM service in the 88-108 MHz (1992). The azimuth from KAJA to the allotment at Piedras Negras is 243 degrees. The HAAT along that radial at 225 degrees is 325 meters and at 270 degrees is 303 meters. Therefore, the interpolated HAAT along the 243 degree radial is 319 meters.

The distance from the KAJA allocation site to the Piedras Negras site is 191 kilometers. With a back azimuth of 117 degrees, the interpolated HAAT is 607 meters. The distance to the protected 60 dBu contour becomes 92 kilometers. Therefore, the distance to the KAJA interfering contour cannot exceed  $191 - 92 = 99$  kilometers. An ERP of 56 kW for KAJA will prevent any overlap according to the provisions in the treaty. This is shown in Exhibit E, Figure 9.

#### KHFI

Exhibit E, Figure 10 is an allocation study showing all the spacings for the substitution of channel 243C2 at Lago Vista, Texas for channel 244C1 at Georgetown, Texas (KHFI). It demonstrates that only two spectrum changes are required for this substitution. However, it does not depict the sub changes required. The short spacing shown to channel 243C3 Kerrville and channel 243A at Goldthwaite are MX PRM's and should be considered inside the context of the instant PRM. Exhibit E, Figure 11 is a 70 dBu contour map, demonstrating that channel 243C2 at Lago Vista complies with §73.315 of the Rules.

Exhibit E, Figure 12 is gain/loss study map for the licensed class C1 facility's 60 dBu contour and the proposed hypothetical 60 dBu contour. Exhibit E, Figure 13 is a remaining services study for the loss area of KHFI. Exhibit E, Figure 14 is a list of the facilities used in the KHFI remaining services study.

KBAE

Exhibit E, Figure 15 is an allocation study showing all the spacings for the substitution of channel 297A at Llano, Texas for channel 242A at Llano, Texas (KBAE). It demonstrates that only one spectrum change is required for this substitution. However, it does not depict the sub change required. The short space shown to channel 297A at Goldthwaite is a MX PRM and should be compared inside the context of the instant PRM. An application on the part of KHLB, Burnet, Texas was filed that short spaces the substitution of channel 297A at Llano. This application does not propose protection to channel 297 at Llano. Therefore, it should be considered as MX to the instant PRM and appraised accordingly. Exhibit E, Figure 16 is a 70 dBu contour map, demonstrating that channel 297A at Llano complies with §73.315 of the Rules. Exhibit E, Figure 17 is gain/loss study map for the CP class A facility's 60 dBu contour and the proposed hypothetical 60 dBu contour.

KLFX

Exhibit E, Figure 18 is an allocation study showing all the spacings for the substitution of channel 249A for channel 297A at Nolanville, Texas (KLFX). It demonstrates that only one spectrum change is required for this substitution.

KNGT

Exhibit E, Figure 19 is an allocation study showing all the spacings for the substitution of channel 249C1 at Converse, Texas for channel 249C1 at McQueeney, Texas (KNGT). It demonstrates that the spectrum changes required for this substitution have been effectuated by the previous changes of KAJA. The short spaces shown to channel 249C3 at Mason, channel 250A at Tilden and channel 250A at Batesville, all Texas, are MX with the instant PRM and should be considered inside the context of the Joint Parties proposal. Exhibit E, Figure 20 is a 70 dBu contour map, demonstrating that channel 249C1 at Converse complies with §73.315 of the Rules. Exhibit E, Figure 21 is gain/loss study map for the licensed class C facility's 60 dBu contour and the proposed hypothetical 60 dBu contour. Exhibit E, Figure 22 is a remaining services study for the loss area of KNGT. Exhibit E, Figure 23 is a list of the facilities used in the KNGT remaining services study.

The Joint Parties realize that precedent establishes the fact that a service removed from a community, and that service has never begun operations, it is not considered a loss of service to the community. This is the case with KNGT at McQueeney. Channel 249C1 was placed at McQueeney in MM Docket 99-357, after it was deleted at Cuero. A construction permit for KNGT compliant with the Report and Order in MM Docket 99-357 has been issued. However, it will be several months before broadcast operations can began at McQueeney.

#### AD243

Exhibit E, Figure 24 is an allocation study showing all the spacings for the substitution of channel 256A for channel 243A at Ingram, Texas (AD243A). It demonstrates that no spectrum changes are required for this substitution. However, KLMO has a CP for a

channel that is short to the allotment of channel 256A at Ingram. It should be noted that the short spacing was created by the KLMO licensee, and not by the substitution of channel 256A at Ingram.

**The Joint Parties Petition for Rule Making Gain-Loss Area**

Exhibit E, Figure 25 is a tabulation of the gain/loss areas for each facility that requires an antenna location or class change. Stations that are proposed to have only their present channel substituted at their licensed site and require no class changes are omitted in this study. It is assumed that the service they would provide with a channel change would not deviate from their current coverage. In addition, the gain/loss totals are included according to the two divisions of the instant Petition for Rule Making discussed earlier.

The study includes ten facilities that have a deviation in their coverage area proposed by the instant Petition for Rule Making. Listed in the study is each station's loss and gain area in square kilometers and the population gains and losses in number of persons according to the U.S. Census Bureau's estimated 2000 population figures. It depicts a cumulative total loss area of 19,851 square kilometers and a gain area of 12,348 square kilometers. The Joint Parties Petition for Rule Making has a net area loss of 7,503 square kilometers.

The population loss has a cumulative loss of 347,772 persons, while the population gain is 1,432,014 persons. Therefore, the net population gain of The Joint Parties Petition for Rule Making is 1,084,242 persons.



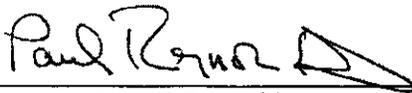
**Statement of the Consultants**

The instant engineering portion of a Petition for Rule Making was prepared for Capstar TX Limited Partnership; CCB Texas Licenses, L.P.; Rawhide Radio, L.L.C.; and Clear Channel Broadcasting Licenses, Inc. ("The Joint Parties") and supports a Petition for Rule Making. It was developed by Reynolds Technical Associates (RTA) and may not be used for purposes other than submission to the Commission by The Joint Parties.

It may not be reproduced in its entirety, or in part, by anyone (other than from the Commission) without the written consent of RTA.

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

For Reynolds Technical Associates:



Paul H. Reynolds

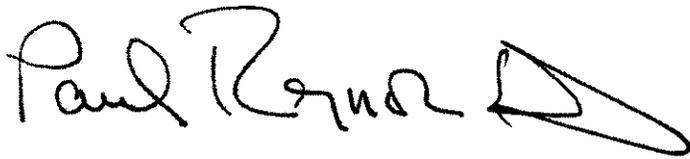
June 21<sup>st</sup>, 2004

12585 Old Highway 280 East, Suite 102  
Chelsea, Alabama 35043  
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## STATEMENT OF THE CONSULTANTS

Reynolds Technical Associates (RTA) has reviewed the engineering portion of the instant counterproposal for submission in MB Docket No. 05-112. The counterproposal complies with the Commission's spacing rules using the most recent Commission and outside data.

A handwritten signature in black ink, appearing to read "Paul Reynolds", followed by a stylized flourish or checkmark.

May 9, 2005

**Engineering Statement  
In Support of a  
Petition for Rule Making  
The Joint Parties**

Allocation Study - Ch 247C1 Lakeway, TX (KWTX)  
[Depicting spectrum changes required to allot Ch 247C1]  
(Using KWTX Class C1 proposed allotment coordinates as reference)

REFERENCE				CLASS = C1		DISPLAY DATES		
30 18 51 N				Current	Spacings	DATA	06-18-04	
97 51 58 W				Channel 247 - 97.3 MHz		SEARCH	06-20-04	
-----								
Call	Channel	Location		Dist	Azi	FCC	Margin	
-----								
<b>Community of Lakeway</b>				<b>TX</b>	<b>13.39</b>	<b>296.3</b>		
Reference Coordinates:								
North Latitude: 30-22-03								
West Longitude: 97-59-28								
<b>KAJA</b>	<b>LIC</b>	<b>247C</b>	<b>San Antonio</b>	<b>TX</b>	<b>120.57</b>	<b>223.4</b>	<b>270.0</b>	<b>-149.43</b>
<b>RDEL</b>	<b>DEL</b>	<b>247C</b>	<b>San Antonio</b>	<b>TX</b>	<b>126.08</b>	<b>224.4</b>	<b>270.0</b>	<b>-143.92</b>
Of Concern:								
Substitution of Ch 245C1 proposed								
in PRM at; NL: 29-30-14; WL: 98-46-56								
<b>KWTXFM</b>	<b>LIC</b>	<b>248C</b>	<b>Waco</b>	<b>TX</b>	<b>125.30</b>	<b>24.9</b>	<b>209.0</b>	<b>-83.70</b>
<b>KWTXFM</b>	<b>CP</b>	<b>248C</b>	<b>Waco</b>	<b>TX</b>	<b>125.34</b>	<b>24.9</b>	<b>209.0</b>	<b>-83.66</b>
Of No Concern:								
Licensed and CP facility of KWTX								
before proposed allotment to Lakeway								
<b>RDEL</b>	<b>DEL</b>	<b>244C1</b>	<b>Georgetown</b>	<b>TX</b>	<b>6.34</b>	<b>81.8</b>	<b>82.0</b>	<b>-75.66</b>
<b>KHFIFM</b>	<b>LIC</b>	<b>244C1</b>	<b>Georgetown</b>	<b>TX</b>	<b>6.34</b>	<b>81.8</b>	<b>82.0</b>	<b>-75.66</b>
<b>RDEL</b>	<b>DEL</b>	<b>244C1</b>	<b>Georgetown</b>	<b>TX</b>	<b>15.71</b>	<b>353.7</b>	<b>82.0</b>	<b>-66.29</b>
Of Concern:								
Change in class (C2), channel (243)								
and community of license (Lago Vista, TX)								
proposed in instant PRM								
<b>RADD</b>	<b>ADD</b>	<b>247A</b>	<b>Garwood</b>	<b>TX</b>	<b>157.36</b>	<b>122.0</b>	<b>200.0</b>	<b>-42.64</b>
Of Concern:								
MX PRM that should be considered within								
the context instant proceeding.								
<b>RADD</b>	<b>ADD</b>	<b>248C2</b>	<b>Marlin</b>	<b>TX</b>	<b>115.60</b>	<b>35.7</b>	<b>158.0</b>	<b>-42.40</b>
<b>RDEL</b>	<b>DEL</b>	<b>248C2</b>	<b>Waco</b>	<b>TX</b>	<b>147.69</b>	<b>25.5</b>	<b>158.0</b>	<b>-10.31</b>
Of No Concern:								
Database entries from previous PRM concerning								
Marlin and Waco. Proposals withdrawn and not on appeal.								

Continued on next page

REFERENCE  
30 18 51 N  
97 51 58 W

CLASS = C1  
Current Spacings

DISPLAY DATES  
DATA 06-18-04  
SEARCH 06-20-04

----- Channel 247 - 97.3 MHz -----  
Call Channel Location Dist Azi FCC Margin  
-----  
RADD ADD 249A Nolanville TX 90.66 17.4 75.0 15.66

Of Note:

Substitution of Ch 249A for Ch 297A (in instant proceeding)  
at licensed and application site of KLFX

ALLO RSV 249C1 McQueeney TX 107.93 169.5 82.0 25.93  
KNGT.C CP 249C1 McQueeney TX 109.43 168.8 82.0 27.43  
RADD ADD 249C1 Converse TX 115.83 211.0 82.0 33.83  
RDEL DEL 249C1 McQueeney TX 115.83 211.0 82.0 33.83  
RADD ADD 249C1 Converse TX 115.83 211.0 82.0 33.83

Of Note:

Various database entries relating to the  
allotment of Ch 249C1 at Converse (in this proceeding).  
NL: 29-25-07; WL: 98-29-02

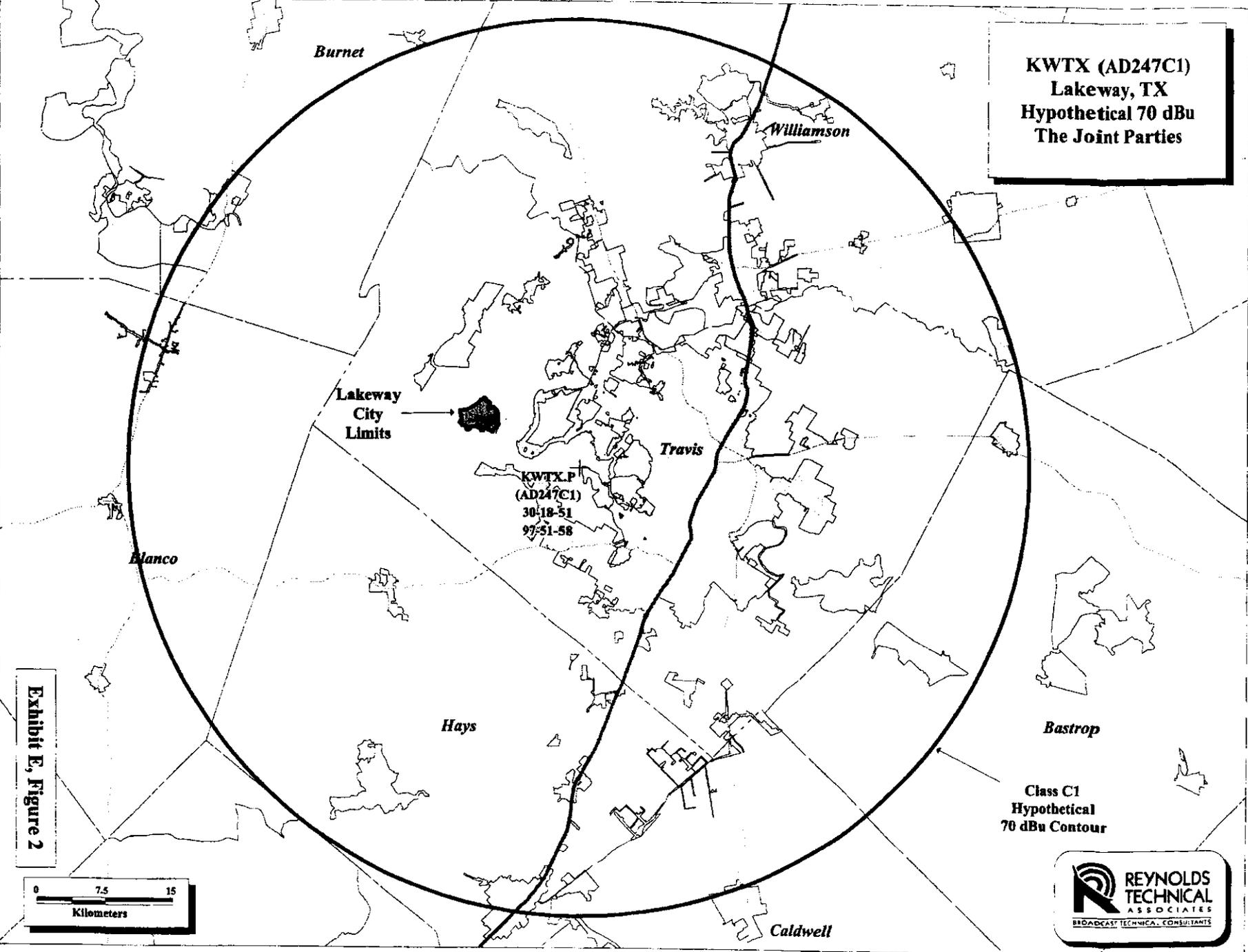
RADD ADD 245C1 San Antonio TX 126.08 224.4 82.0 44.08

Of Note:

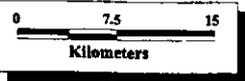
Substitution of Ch 245C1 for Ch 247C  
for KAJA at;  
NL: 33-26-13; WL: 97-29-05

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**KWTX (AD247C1)  
Lakeway, TX  
Hypothetical 70 dBu  
The Joint Parties**



**Exhibit E, Figure 2**



Pop. Gain = 1,300,502  
Pop. Loss = 629,375  
Gain Area = 20,000 sq. km  
Loss Area = 14,520 sq. km

AD247C1 (KWTX.P)  
Lakeway, TX  
Gain/Loss Study  
The Joint Parties

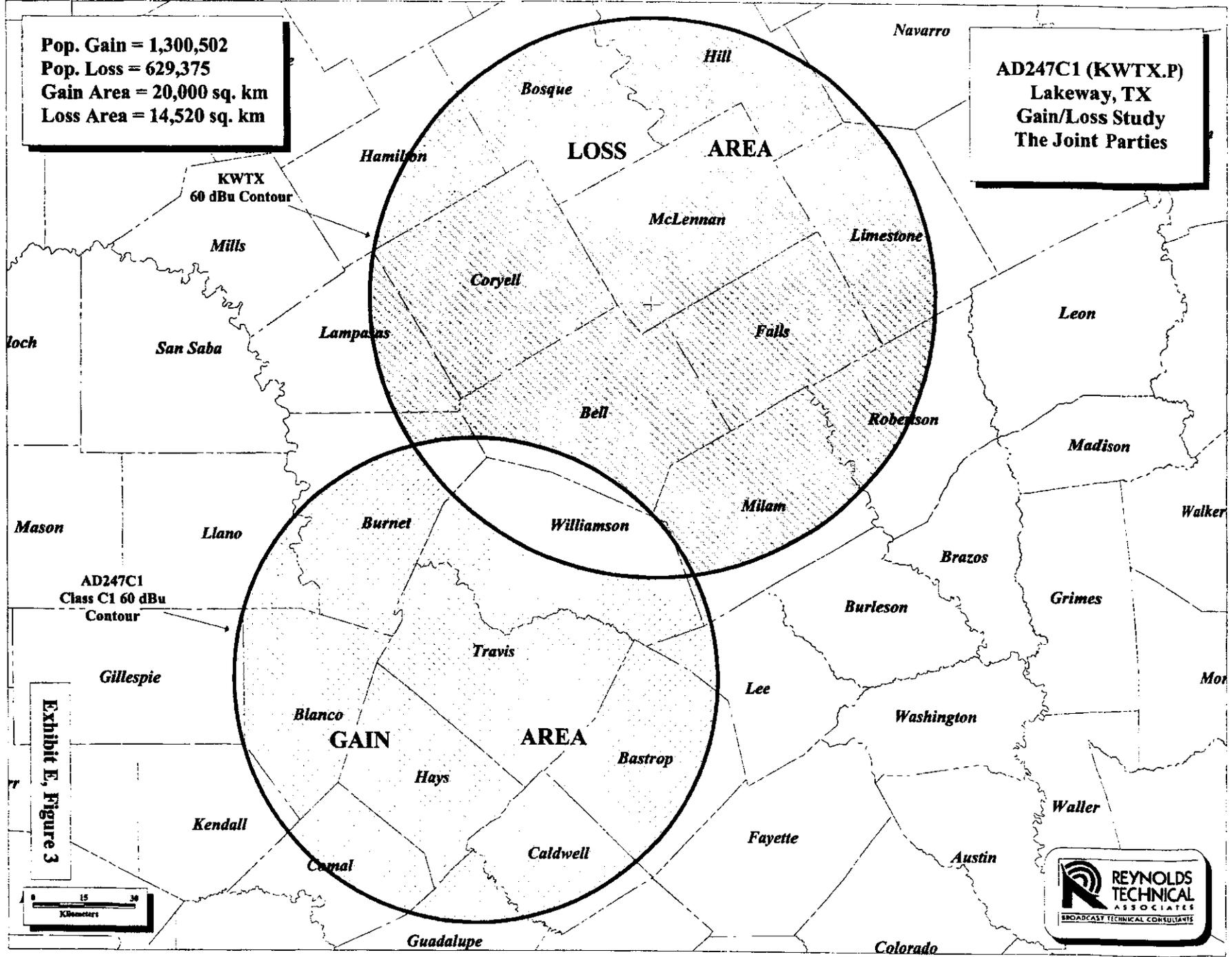
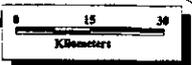
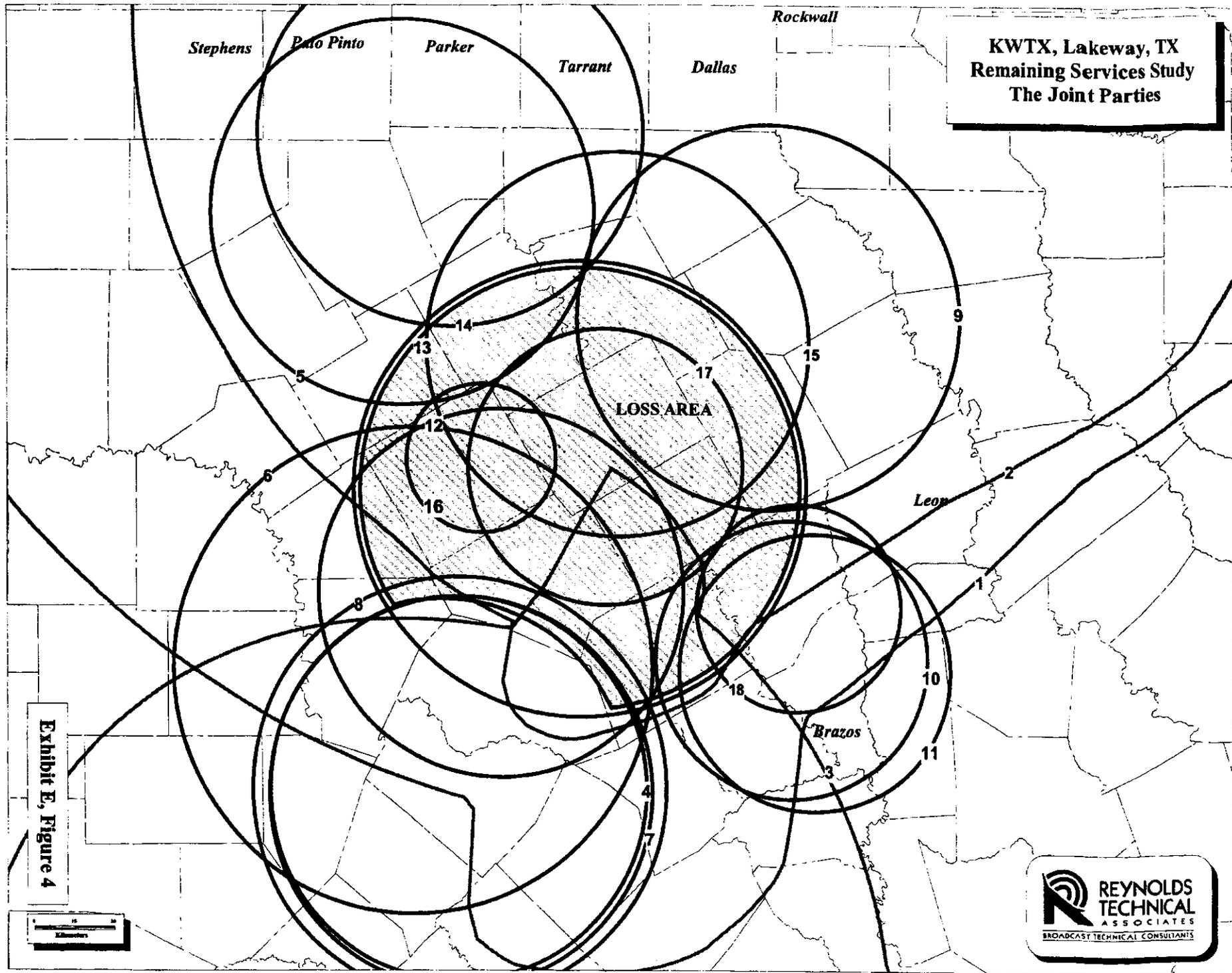


Exhibit E, Figure 3



**KWTX, Lakeway, TX  
Remaining Services Study  
The Joint Parties**



**Exhibit E, Figure 4**



**ENGINEERING STATEMENT  
In Support of a  
Petition For Rule Making**

**The Joint Parties**

**Stations included in KWTX to Lakeway, TX Remaining Services Study**

<u>Contour Number</u>	<u>Call Letters</u>	<u>City of License</u>	<u>Frequency</u>
1	WBAP-AM	Fort Worth, Texas	820
2	KRLD-AM	Dallas, Texas	1080
3	WOAI-AM	San Antonio, Texas	1200
4	KFMA-FM	Austin, Texas	89.5
5	KTFW-FM	Glen Rose, Texas	92.1
6	KLNC-FM	Cedar Park, Texas	93.3
7	KLBJ-FM	Austin, Texas	93.7
8	KAMX-FM	Luling, Texas	94.7
9	KDXX-FM	Corsicana, Texas	107.9
10	KTSR-FM	College Station, Texas	95.1
11	KKYS-FM	Bryan, Texas	104.7
12	KNCT-FM	Killeen, Texas	91.3
13	WACO-FM	Waco, Texas	99.9
14	KDXT-FM	Benbrook, Texas	107.1
15	KBRQ-FM	Hillsboro, Texas	102.5
16	KASZ-FM	Gatesville, Texas	98.3
17	KLRK-FM	Marlin, Texas	92.9

**Engineering Statement  
In Support of a  
Petition for Rule Making  
The Joint Parties**

Allocation Study - Ch 245C1 San Antonio, TX (KAJA)  
[Depicting spectrum changes required to substitute Ch 245C1]  
(Using KAJA Class C1 proposed allotment coordinates as reference)

REFERENCE		DISPLAY DATES
29 30 01 N	CLASS = C1	DATA 06-18-04
98 46 41 W	Current Spacings	SEARCH 06-20-04
----- Channel 245 - 96.9 MHz -----		

Call	Channel	Location	Dist	Azi	FCC	Margin
<b>Community of San Antonio</b>						
			<b>TX 26.87</b>	<b>100.1</b>		
Reference Coordinates:						
North latitude: 29-27-28						
West Longitude: 98-30-19						
<b>RADD</b>	<b>ADD</b>	<b>245C1</b>	<b>San Antonio</b>	<b>TX</b>	<b>0.00</b>	<b>0.0 245.0 -245.00</b>
Of Note:						
Proposed allotment in MM Docket 00-148						
<b>RADD</b>	<b>ADD</b>	<b>245C3</b>	<b>Christine</b>	<b>TX</b>	<b>95.64</b>	<b>163.8 211.0 -115.36</b>
Of Concern:						
MX PRM that should be considered within the context of the instant PRM						
<b>RDEL</b>	<b>DEL</b>	<b>247C</b>	<b>San Antonio</b>	<b>TX</b>	<b>0.00</b>	<b>0.0 105.0 -105.00</b>
<b>KAJA</b>	<b>LIC</b>	<b>247C</b>	<b>San Antonio</b>	<b>TX</b>	<b>5.88</b>	<b>63.8 105.0 -99.12</b>
Of No Concern:						
Licensed facility of KAJA before modification proposed in instant PRM						
<b>RDEL</b>	<b>DEL</b>	<b>245C3</b>	<b>Tilden</b>	<b>TX</b>	<b>115.28</b>	<b>167.0 211.0 -95.72</b>
<b>RADD</b>	<b>ADD</b>	<b>245C3</b>	<b>Tilden</b>	<b>TX</b>	<b>115.28</b>	<b>167.0 211.0 -95.72</b>
Of Concern:						
MX PRM that should be considered within the context of the instant PRM						
<b>RDEL</b>	<b>DEL</b>	<b>244C1</b>	<b>Georgetown</b>	<b>TX</b>	<b>131.18</b>	<b>45.6 177.0 -45.82</b>
<b>KHFIFM</b>	<b>LIC</b>	<b>244C1</b>	<b>Georgetown</b>	<b>TX</b>	<b>131.18</b>	<b>45.6 177.0 -45.82</b>
<b>RDEL</b>	<b>DEL</b>	<b>244C1</b>	<b>Georgetown</b>	<b>TX</b>	<b>136.54</b>	<b>38.8 177.0 -40.46</b>
Of No Concern:						
Licensed facility of KHFI before modification proposed in instant PRM						
<b>ALLO</b>	<b>244C</b>	<b>Piedras Negras</b>	<b>CI</b>	<b>190.75</b>	<b>242.9</b>	<b>209.0 -18.25</b>
Of Concern:						
Under International agreement instant PRM use of Ch 245C1 cannot give interference Mexican allotment's protected contour. This allotment complies with that rule. See Exhibit E, Figure 9.						

REFERENCE

29 30 01 N  
98 46 41 W

CLASS = C1  
Current Spacings

DISPLAY DATES  
DATA 06-18-04  
SEARCH 06-20-04

----- Channel 245 - 96.9 MHz -----

Call	Channel	Location	Dist	Azi	FCC	Margin
KIOXFM	LIC 245C1	El Campo	TX 244.51	105.5	245.0	-0.49
RDEL	DEL 243A	Ingram	TX 77.53	325.5	75.0	2.53
ALLO	VAC 243A	Ingram	TX 77.53	325.5	75.0	2.53
RADD	ADD 243C3	Kerrville	TX 78.72	323.0	76.0	2.72
KXYLFM	LIC-N 245C1	Brownwood	TX 254.82	348.2	245.0	9.82
KIOXFM	APP 245C0	El Campo	TX 269.48	106.2	259.0	10.48
KIOXFM	APP 245C0	El Campo	TX 269.48	106.2	259.0	10.48
KXTNFM	LIC 298C0	San Antonio	TX 55.78	116.6	37.0	18.78
RDEL	DEL 248C	Waco	TX 131.56	46.8	105.0	26.56
ALLO	246B	Nuevo Laredo	TA 225.95	200.9	195.0	30.95
XHNLOF	OPE 246B	Nuevo Laredo	TA 234.20	197.7	195.0	39.20
ALLO	VAC 242A	Cotulla	TX 118.05	201.0	75.0	43.05

**RADD ADD 247C1 Lakeway TX 126.08 43.9 82.0 44.08**

Of Note:

Proposed allotment of Ch 247C1 (KWTX) in  
PRM at; NL: 30-18-51; WL: 97-51-58

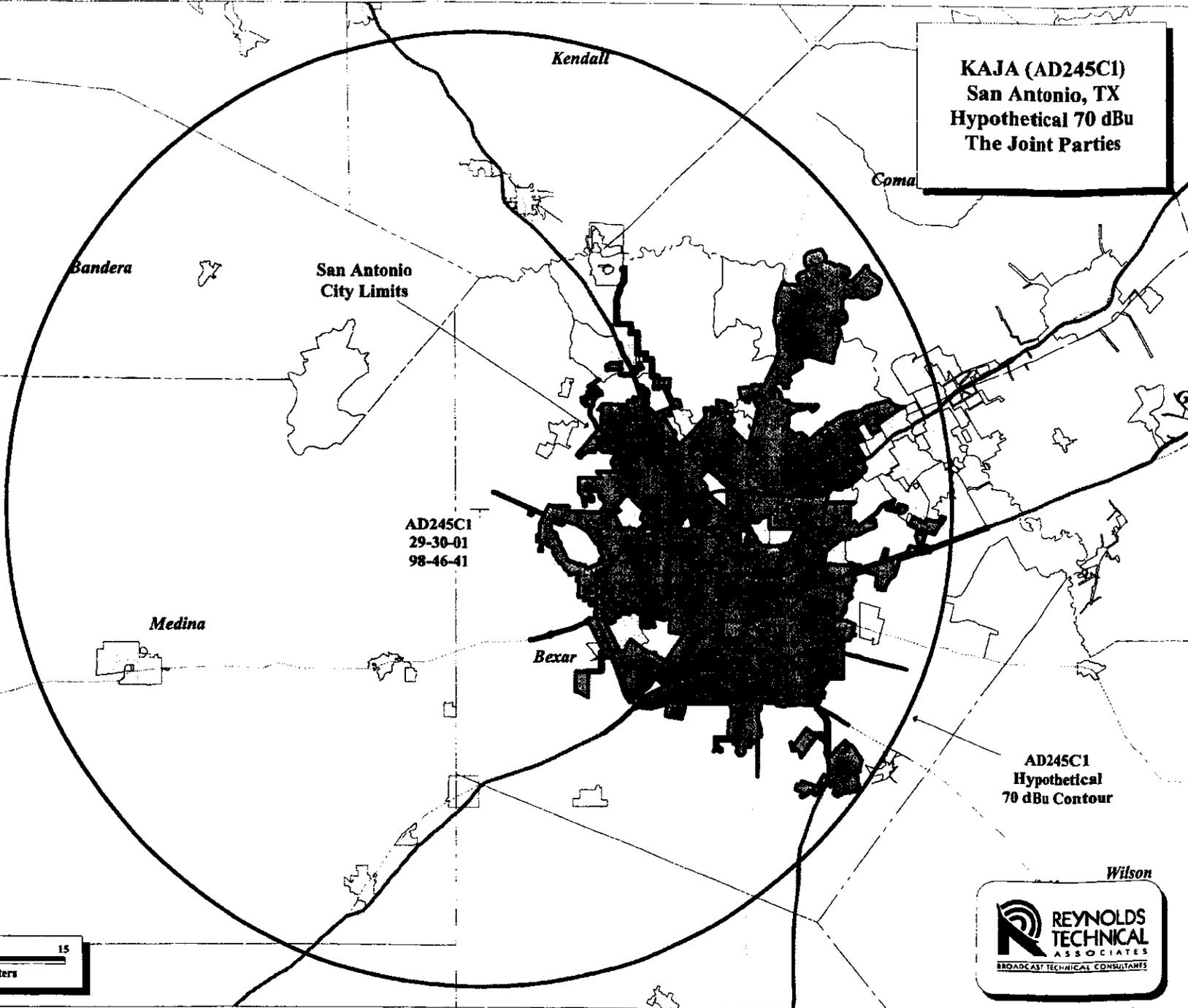
**RADD ADD 247C1 Lakeway TX 131.56 46.8 82.0 49.56**

Of Note:

Proposed allotment of 247C1 (KWTX) in  
MM Docket 00-148

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**KAJA (AD245C1)  
San Antonio, TX  
Hypothetical 70 dBu  
The Joint Parties**



**AD245C1  
29-30-01  
98-46-41**

**AD245C1  
Hypothetical  
70 dBu Contour**

*Wilson*



**Exhibit E, Figure 7**

