

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Amendment of Section 73.202(b))
Table of Allotments)
FM Broadcast Stations) MB Docket No. 05-245
(Corona de Tucson, Sierra Vista,)
Tanque Verde and Vail, Arizona; Animas,)
 Lordsburg and Virden, New Mexico))

FILED/ACCEPTED

AUG 30 2007

Federal Communications Commission
Office of the Secretary

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

PETITION FOR RECONSIDERATION

CCR-Sierra Vista IV, LLC ("CCR"), by its attorneys, hereby submits this Petition for Reconsideration of the Report and Order by the Assistant Chief, Audio Division, Media Bureau, in the above-captioned matter, released July 31, 2007, DA 07-3478 ("Report and Order"). This Petition for Reconsideration is submitted pursuant to Section 1.106 of the Commission's rules. In support of this thereof, the following is respectively submitted:

I. Background

On June 8, 2005, CCR submitted a Petition for Rulemaking seeking an amendment of the FM Table of Allotments to change the community of license of CCR's FM broadcast station KZMK, Channel 265A, Sierra Vista, Arizona, to Tanque Verde, Arizona. On July 29, 2005, the Media Bureau released a Notice of Proposed Rulemaking (DA 05-2208) proposing this change. On September 19, 2005, CCR submitted Comments in support of the proposal. In addition, on September 19, 2005, Cochise Broadcasting, LLC and Desert West Air Ranchers Corporation ("Cochise Desert") submitted a Counterproposal in which they proposed several changes to the FM

No. of Copies rec'd. 0 + 2
List ABCDE

Table of Allotments, including a proposal to allot Channel 267C3 to Tanque Verde, Arizona. On October 4, 2005, CCR submitted Reply Comments and Opposition in response to Cochise Desert's Counterproposal.

On January 23, 2007 the Commission issued a public notice of Cochise Desert's Counterproposal, establishing February 7, 2007 as the due date for statements opposing or supporting the Counterproposal. On February 7, CCR submitted its Opposition to Counterproposal and Cochise Desert submitted a document titled Reply Comments.

The Report and Order granted Cochise Desert's counterproposal and denied CCR's proposal. CCR submits that the Report and Order was erroneous in a number of ways that caused the Bureau to reach an incorrect conclusion. Attached hereto is an Engineering Statement of Clarence Beverage, of Communications Technologies, Inc., Broadcast Engineering Consultants. This Engineering Statement and the points in this Petition establish that the Report and Order should be reversed and CCR's proposal should be approved instead of Cochise Desert's counterproposals.

II. The Cochise Desert Proposal Will Not Place the Required 70 dBu Contours Over Tanque Verde or Corona de Tucson.

Cochise Desert's overall proposal has several components. One proposes the allocation of a new channel at Tanque Verde and another proposes a new allotment for Corona de Tucson. CCR argued that each of those proposals should be rejected because Cochise does not propose to place the required 70 dBu contour over all of the community of license, both in the case of Tanque Verde and Corona de Tucson. CCR's argument regarding Tanque Verde is that there is a significant obstruction between Cochise's proposed transmitter site and the community. With regard to Corona de Tucson, CCR put forth a Longley-Rice alternative showing, not only because of an obstruction such as a mountain, but also because the terrain is extremely unusual due to the extent that it slopes downward from Cochise Desert's proposed transmitter site to Corona de Tucson.

The report and order held that against CCR on these two points. The attached Engineering Statement demonstrates how the Report and Order was in error.

III. Cochise Desert's Proposed Tanque Verde Tower is a Presumed Hazard to Air Navigation.

The attached Engineering Study includes a report by John P. Allen Airspace Consultants, demonstrating that the structure for Dcserf Cochise's proposed transmitter site for Tanque Verde is assumed to be a hazard to air navigation. Cochise Desert proposes a radiation center 346 feet above ground. The attached report specifies that any structure above 177 feet at that location requires FAA notice and is assumed to be a hazard to air navigation.

IV. Animas is Not a Community.

The Report and Order concluded that Animas, New Mexico is a community for allotment purposes because Animas has "local businesses, a post office, churches [and] its own zip code." But the Report and Order erred by not going at all below the surface. Animas is not incorporated and has a population of only 200. Features of community status relied upon by the Commission must be evaluated with an understanding of the rural nature of this part of Southwestern New Mexico, known as the "boothel." The area surrounding the unincorporated town of Animas is primarily agricultural and residents are involved in ranching and farming. As such, residents considered to reside within Animas include surrounding ranches as far as 50 miles beyond the post office. Residents of the area known as Cotton City are also included within the Animas postal area because they are without their own postal service. The main local employer, Phelps Dodge Silver and Copper Mining, closed three years ago, and many residents of the area were laid off. Any "local" establishment is predominately staffed and patronized by residents of the surrounding areas. This is evidenced by the local schools, where 98 percent of the students are bused in from local farms. Many of these students do not even reside in the Animas district, but are able to attend school under

an agreement with an adjacent district to reduce travel time. According to a local resident, Connie Rodriguez, who lists an Animas address in order to use a postal box, there are no local services provided by Animas. Fire protection is provided by a volunteer Fire Department in Cotton City and law enforcement is provided by the Hidalgo County Sheriff's Department and New Mexico state police located in Lordsburg. There are no doctors in the Animas area and medical emergencies require medical evacuation by helicopter to Silver City, which is almost two hours away. Residents of this area buy basic staples in other nearby cities such as Lordsburg, Silver City, Deming and Columbus, because there are no grocery or retail shops in the Animas area with the exception of a gas station which also operates as a convenience store and provides tires for roadside emergencies.

Thus, the Animas area is a sparsely populated geographical space within Hidalgo county where residents work large tracts of land for farming and agricultural purposes, a gas station provides fuel and tire service, and local children are bused in for educational services. It is not a true community with its own separate identity sufficient to warrant the allocation of a separate local transmission service.

V. Cochise Desert's Counterproposal Should Not be Considered Mutually Exclusive with CCR's Proposal.

In order to submit its Counterproposal, Cochise Desert had to be able to claim that its proposal was mutually exclusive with the current operations of its station KKYZ. At the time Cochise Desert submitted its proposal, KKYZ was authorized to operate on Channel 269A at Sierra Vista, but was attempting to change the station's authorization to Channel 267C3 At Corona de Tucson. While this proceeding was pending the Commission approved that change for KKYZ's facilities. That Commission action would have created the mutual exclusivity needed to make Cochise Desert's Counterproposal acceptable for filing. But Cochise Desert has never changed KKYZ's facilities from Channel 269A at Sierra Vista to Channel 267C3 at Corona de Tucson, so the

purported mutual exclusivity is illusory. Cochise Desert should not be rewarded for this slight-of-hand.

VI. Other Bases for Reconsideration.

The attached Engineering Statement also points out that Cochise Desert's proposed allotments contain severe short-spacings to Mexican allotments and stations; that Cochise Desert's proposals violate Section 73.315(b) of the Commission's rules; and that Cochise Desert's proposal for Virden, New Mexico violated the FM freeze in effect at the time Desert Cochise submitted its Counterproposal.

VII. Conclusion

For the reasons stated in this Petition for Reconsideration, including the attached Engineering Statement, CCR respectively requests that the Media Bureau reconsider the Report and Order, approve CCR's proposal and deny Cochise Desert's counterproposals.

Respectfully submitted,

CCR-SIERRA VISTA IV, LLC

By: Howard M. Liberman
Howard M. Liberman
DRINKER BIDDLE & REATH LLP
1500 K Street, NW, Suite 1100
Washington, DC 20005
Telephone: 202-842-8800
Its Attorneys

August 30, 2007

I, Holly D. Kuebler, attest under the penalty of perjury that the assertions contained in Section IV of the attached Petition for Reconsideration of CCR-Sierra Vista IV, LLC. regarding the community status of Animas, New Mexico are true upon information and belief from conversations I conducted with local residents of the Animas area of Hidalgo County.

Holly D. Kuebler
Holly D. Kuebler

August 21, 2011
Date

**ENGINEERING STATEMENT
PREPARED IN SUPPORT OF
PETITION FOR RECONSIDERATION**

BY

CCR-SIERRA VISTA IV, LLC

MB DOCKET NO. 05-245 RM-11264, RM-11357

CORONA DE TUCSON, SIERRA VISTA, TANQUE VERDE

AND VAIL, ARIZONA, ANIMAS, LORDSBURG

AND VIRDEN, NEW MEXICO

AUGUST 2007

**ENGINEERING STATEMENT
PREPARED IN SUPPORT OF
PETITION FOR RECONSIDERATION
BY
CCR-SIERRA VISTA IV, LLC
MB DOCKET NO. 05-245 RM-11264, RM-11357
CORONA DE TUCSON, SIERRA VISTA, TANQUE VERDE
AND VAIL, ARIZONA, ANIMAS, LORDSBURG
AND VIRDEN, NEW MEXICO**

AUGUST 2007

SUMMARY

The following engineering statement has been prepared on behalf of **CCR-Sierra Vista IV, LLC (CCR)**. CCR filed a Petition for Rulemaking to amend the Table of Allotments to delete Channel 265A at Sierra Vista, Arizona and add Channel 265A at Tanque Verde, Arizona as now specified in MM Docket No. 05-245, RM-11264. On September 19, 2005, a counterproposal was filed by Cochise Broadcasting, LLC and Desert West Air Ranchers Corporation ("Cochise Desert"). On July 31, 2007 the Media Bureau released a Report and Order in the above noted proceeding. This statement addresses aspects of the decision which are believed to be in error. Technical and procedural arguments discussed herein are summarized below:

- 1 - The Report and Order suggests that the Bureau did not forward to OET CCR's arguments concerning Cochise Desert's failure to place a 70 dBu signal over the community of license, for analysis for (73.315(a)) Rule compliance.

CCR argued that the Cochise Desert proposal for Channel 267C3 at Tanque Verde failed to provide a 70 dBu signal to Tanque Verde as required by 73.315(a).

CCR argued that the Cochise Desert proposal for Channel 253A at Corona de Tucson failed to provide a 70 dBu signal to Corona de Tucson as required by 73.315(a).

- 2 - The Report And Order failed to address the following deficiencies in the Cochise Desert counter proposal.

The KKYZ CH 267C3 allotment proposal for Tanque Verde, Arizona proposed an ERP of 0.65 kW toward the short spacing to CH 266B Sasabe, Sonora, Mexico. The proposed ERP reduction of 15.85 dB exceeds the 15 dB limit set forth in 73.316 § 1.4.1 of the U. S. Mexican Agreement.

The Commission staff evaluated the Counter Proposal allotment facilities for gains and losses based on omni directional facilities rather than as directional facilities as specified by Cochise Desert.

- 3 - The Report and Order acknowledged at paragraph 4 that Mexico has objected to the proposed Cochise Desert Channel 279A at Vail, Arizona allotment yet at paragraph 19 invited Cochise Broadcasting, LLC to file a 301 application for that channel and community despite the fact that such an application cannot be granted.

- 4 - The Report and Order presumed that the Cochise Desert Tanque Verde transmitter site would not have local zoning or FAA impacts but acknowledged that these presumptions are rebuttable.

- 5 - The Report and Order, at paragraph 12, alloted new C1 services to Animas and Virden, New Mexico and determined that each met the requirements for community status.

- 6- The Report and Order, at paragraph 11, responds to CCR's argument that the Cochise Desert Counterproposal for Channel 276C3 at Tanque Verde is not mutually exclusive with the KKYZ CH 269A license at Sierra Vista by stating that the KKYZ license was modified to specify CH267C3 at Corona de Tucson in MB Docket No. 03-141.

These issues are discussed in detail in the following pages.

73.315(a) COMPLIANCE - R&O Paragraphs 6 & 7

At paragraph 6 of the Order the staff made its analysis of 70 dBu over Tanque Verde based on 73.313(a) of the Rules. The justification for utilizing 73.313(a) of the Rules was stated as follows:

“We made this determination on the basis of the standard FM propagation methodology set forth in *Section 73.313(a)* of the Rules. In developing this methodology, the Commission assumed “uniform terrain.” Uniform terrain is the average terrain found in all areas of the United States, excluding sharp variations such as ridges and valleys. The F(50,50) curves, used to determine the propagation of the FM signal, assume a terrain variance of 50 meters along radials measured between 3 and 16 kilometers from the transmitter site. In this instance, there is no terrain variance in excess of 50 meters and therefore, no basis to depart from calculating coverage on the basis of standard methodology.” (Emphasis added)

Table I, Pages 1 & 2 attached, and the extracted sample below, includes AAT, HAAT and terrain roughness data for the Cochise Desert CH 276C3 Allotment coordinates at Tanque Verde, Arizona. The staff conclusion indicating that there is no HAAT variance in excess of 50 meters is in error based on this data.

<u>Radial</u>	<u>AAT</u>	<u>HAAT</u>	<u>Delta H *</u>
0°	820.1 m	161	1440 m
20°	850.7 m	130	1047 m
30°	867.3 m	114	527 m
70°	1438.0 m	-457	1047 m
260°	824.3 m	161	31 m
330°	805.0 m	176	496 m
Variance	633 m	633 m	1409 m

• = 10-50 km Delta H

In paragraph 7 of the Order the staff uses the same arguments to support the use of 73.313(a) for the analysis of Channel 253A 70 dBu service to the county of Corona de Tucson. Table I, Pages 3 & 4 attached, and the extracted sample below, include AAT, HAAT and terrain roughness data for the Cochise Desert CH 253A Allotment coordinates at Corona de Tucson, Arizona. As seen previously, the staff conclusion indicating that there is no HAAT variance in excess of 50 meters is in error based on this data.

Corona de Tucson CH253A Sample Radial HAAT data from Table I, pages 3 & 4.

<u>Radial</u>	<u>AAT</u>	<u>HAAT</u>	<u>Delta H</u> *
15°	1126.8 m	220 m	1183 m
50°	1167.7 m	179 m	246 m
190°	1460.3 m	-113 m	181 m
275°	1167.7 m	179 m	321 m
280°	1133.6 m	213 m	252 m
285°	1111.5 m	235 m	188 m
340°	1052.6 m	294 m	207 m
Variance	407 m	407 m	1002 m
	* = 10-50 kM Delta H		

ALTERNATE PREDICTION METHODOLOGY

To determine the Cochise Desert proposed signal level over the proposed allotment communities of Tanque Verde and Corona de Tucson it is necessary to employ an alternate prediction methodology to locate the 70 dBu contour due to a lack of line of sight as confirmed by the staff in paragraphs 6 and 7 of the Order. With respect to CH267C3 at Tanque Verde it was stated in paragraph 6 that “The reference obstruction is 892 meters AMSL...”. With respect to the CH253A proposal for Corona de Tucson it was stated in paragraph 7 “...we have not been able to identify any significant obstruction...” thus confirming the presence of *an* obstruction.

NBS Tech Note 101 (Longley-Rice) is employed here as the primary supplemental prediction method to the 73.313 contour prediction methodology. The FCC Media Bureau, in coordination with OET, has established guidelines for use of the Longley-Rice method. The guidelines are enunciated in a letter dated August 8, 2002 from the Media Bureau concerning KMAJ-FM, Topeka, Kansas, Facility ID 42012, Application BPH-20000316ACF and accessible on the Audio Division web page.

Use of the Longley-Rice prediction model is believed appropriate for analyzing the signal level provided to the communities of Tanque Verde and Corona de Tucson for the proposed facilities based on the following facts.

The terrain in the Tucson area is commonly acknowledged to vary between valley and high surrounding mountains. Figure 1 is a topographical map depicting the proposed Cochise Desert transmitter sites with sample terrain elevations plotted. This Figure is offered as further substantiation of the rough, widely varying terrain associated with the proposed site locations and service areas.

The FCC test points for use of Longley-Rice are listed below:

- 1) The FCC has established that the Delta h must depart widely from the 50 meter standard and be 20 meters or less or 100 meters or more. In the case of the proposed Cochise Desert CH276C3 Tanque Verde facility, the Delta h on the radials which cross Tanque Verde (350-45 degrees) vary between 411 and 1,476 meters and the Delta h for the proposed CH265A Corona de Tucson site radials which cross Corona de Tucson (270-290 degrees) vary between 184 and 349 meters. (Table I attached).
- 2) Distance to the 73.313(a) computed 70 dBu contour must be at least 10% different than the distance to the 70 dBu based on Longley-Rice. The 70 dBu 73.313 distance on the proposed CH 267C3 Tanque Verde 21 degree radial is 25.9 kilometers while the Longley Rice predicted 70 dBu occurs at a minimum distance of 16.6 kM (See Figure 2). This is a difference of 35.9%. The 70 dBu 73.313 distance on the proposed CH 253A Corona de Tucson 274 degree radial is 21.4 kilometers while the Longley Rice predicted 70 dBu occurs at a minimum distance of 12 kM (See Figure 3 and Table II). This is a difference of 44%.
- 3) A list of assumptions must be supplied (Please see Table II for NTIA Boulder Telecommunications Analysis Services printout).
- 4) A sample calculation using the supplemental procedure must be supplied (please see below).

SAMPLE COMPUTATION

Figure 4 is a plot of the terrain elevation from the proposed Corona de Tucson site on a 274 degree bearing across the community boundary using the RadioSoft 3 second, high accuracy, terrain data. The end point coordinates are NAD 27 N.L. 31° 56' 10.3", W.L. 110° 46' 49.8".

The basic formula for calculation of signal strength is obtained from NBS Technical Note 101, Transmission Loss Predictions For Tropospheric Communications Circuits, revised May 1966.

$$\text{dBuV/m} = 106.92 - 20 (\log d)$$

d = distance in kilometers

To determine Field Strength in dBuV/m, the path specific data must be applied:

- Lbd = basic diffraction transmission loss (obstruction loss)
- ERP = Effective radiated power in dBkW relative to a dipole
- A = Excess path loss from fresnel zone loss and clutter loss

The final formula becomes:

$$\text{dBu V/m} = 106.92 - 20 (\log d) + \text{ERP} - \text{Lbd} - \text{A}$$

For the proposed facility the sample computation values, related to *Figure 4*, are:

- d = 16 kM
- Lbd = 19.50 dB
- ERP = 7.78 dBk
- A = 10 dB fresnel loss
5 dB clutter loss (Value obtained from discussion with *OET*)
- dBuV/m = $106.92 - 24 + 7.78 - 19.5 - 10 - 5$
- dBuV/m = 56.2 dBu

Note: The computed value is significantly below the TA Services calculation due to the higher accuracy RadioSoft Terrain data and use of clutter loss. In either case the computed signal level is well below the required 70 dBu.

Figure 2 is a map depicting the CH267C3 proposed Cochise Desert transmitter site, Tanque Verde community boundary and the 70 dBu computed signal level using Longley Rice Tech Note 1.2.1 with Radio Soft 3 second terrain data. It may be seen from this analysis that the Cochise Desert proposal for Channel 267C3 at Tanque Verde places the predicted 70 dBu over less than 100% of the Tanque Verde community boundary which violates the Commission's established standards for community of license service from an allotment.

Figure 3 is a map depicting the CH253A proposed Cochise Desert transmitter site, Corona de Tucson community boundary and the 70 dBu computed signal level using Longley Rice Tech Note 1.2.1 with Radio Soft 3 second terrain data. It may be seen from this analysis that the Cochise Desert proposal for Channel 253A at Corona de Tucson places the predicted 70 dBu over 52% of the Corona de Tucson community boundary which violates the Commission's established standards for community of license service from an allotment.

It is CCR's contention that had the staff requested OET analysis of the Cochise Desert Counterproposal facilities, the conclusions arrived at concerning 70 dBu service over Tanque Verde and Corona de Tucson would have been different and the CCR Petition would have, by necessity, been the preferred proposal.

COCHISE DESERT MEXICAN VIOLATION TO MEXICO & ERRONEOUS GAIN/LOSS DATA

Cochise Desert proposed allotment coordinates with severe short spacings to Mexican allotments and stations. The short spacings and ERP limits are taken directly from the Cochise Desert counterproposal.

CH 267C3 TANQUE VERDE, AZ

Sasabe, So, MX CH 266B
Required separation = 145 kM
Proposed separation = 194.54 kM
ERP proposed = 0.65 kW (null 15.85 dB)

Aqua Prieta, So, MX CH 267B
Required separation = 211 kM
Proposed separation = 148.53 kM
ERP proposed = 2.77 kW (null 9.55 dB)

CH 253A CORONA, DE TUCSON, AZ

XHSAP Fmagua Prieta, So, MX CH 253B
Required separation = 178 kM
Proposed separation = 122.77 kM
ERP proposed = 0.847 kW (null of 8.5 dB)

CH 279A VAIL, AZ

XHRZ, Nogales, So, MX CH 278B

Required separation = 125 kM
Proposed separation = 79.04 kM
ERP proposed = 0.19 kW (null of 15 dB)

Cananea, So, MX CH 280B

Required separation = 125 kM
Proposes separation = 113.53 kM
ERP proposed = 6 kW (null of 0 dB)

As can be seen above, the counterproposal is based on the supposition that the best interests of the United States are had by proposing severely restricted allotments to Mexico for Channel 267C3 at Tanque Verde, Channel 253A at Corona de Tucson and Channel 279A at Vail. The proposal for Tanque Verde requires a null depth of 15.85 dB which exceeds the 15 dB limit set forth in 73.316 and Section 1.4.1 of the U.S. Mexican Agreement.

A review of the Gain and Loss Area Study Exhibits submitted by Cochise Desert shows 60 dBu contours of constant radius as would be expected for omnidirectional facilities. To submit gain and loss area numbers based on omnidirectional facilities serves no purpose other than to put inflated, incorrect, gain area data into the record. The counterproposal contains no accurate gain and loss data and the submitted data is clearly in error being based entirely on omnidirectional facilities.

COCHISE & DWAR 73.315(b) VIOLATION

Section 73.315(b) of the Commission's Rules specifies that the antenna location should be chosen so that line-of-sight can be obtained from the antenna over the principal city to be served and in no event should there be a major obstruction in this path.

An analysis to three of the five new allotment reference coordinates proposed by Cochise Desert was made to determine the RC AMSL required for a facility of full Class HAAT. That RC AMSL was used to analyze line-of-sight to the central reference coordinates for each community. The data employed is listed below:

<u>Coordinates</u>		<u>RC</u>	<u>Community</u>
<u>Allotment</u>	<u>Community</u>	<u>AMSL</u>	<u>Name</u>
32-08-45	32-15-06	976.6 m	Tanque Verde, AZ
110-46-56	110-44-12	HAAT 100 m	<i>Figure 4</i>
31-55-39	31-57-55	1350.6 m	Corona de Tucson, AZ
110-37-57	110-46-30	HAAT 100 m	<i>Figure 5</i>
32-24-12	32-41-13	1606.1 m	Virден, NM
108-53-59	109-00-05	HAAT 299 m	<i>Figure 6</i>

By inspection of the attached terrain profiles, Appendix 2 *Figures 4-6*, it is seen that the Tanque Verde, Corona de Tucson and Virден allotments violate 73.315(b) criteria as there is a significant terrain obstruction between the allotment coordinates proposed and the communities of license. At paragraphs 6 & 7 of the Order the staff states that the obstructions are not “major” and thus need not be considered.

CCR is aware of no established definition of “major” but submits that the intent of the Rule is that there be no obstructions which would significantly impair the signal strength. In that regard Appendix 3, attached, is a paper by well know scientist and propagation expert Harry K. Wong of the FCC OET Staff. A quote from page 3 of Mr. Wong’s paper follows:

“The relative roundness of terrain features along the path is of special concern because the radio field beyond a sharp obstacle is considerably greater than the field beyond more rounded features.”

Mr. Wong correctly points out that the attenuation beyond a low rounded obstruction can be greater than the attenuation beyond a high sharp obstruction. Thus, since CCR has demonstrated that the obstructed paths do result in a loss of 70 dBu signal over the proposed allotment communities it is believed an error to ignore these obstructions and rely on the 73.313(a) contour method analysis.

THE COCHISE DESERT COUNTERPROPOSAL VIOLATES THE FM FREEZE

New petitions to amend the Table of Allotments were precluded during the pendency of MB Docket No. 05-210. The proposed allotment for Chanel 228C1 at Virден, NM is not mutually exclusive with the CCR Petition or any channel in the Cochise Desert counterproposal as seen on the attached allocation study, *Exhibit III (Appendix 4)*. The proposed allotment at Virден, NM should have been summarily dismissed.

THE PROPOSED TANQUE VERDE CH267C3 (KKYZ) ALLOTMENT SITE REPRESENTS A PRESUMED HAZARD TO AIR NAVIGATION

Cochise Desert propose a RC 981 meters AMSL at a site with a ground elevation of 2,872' requiring that the radiation center be 346' above ground (476' for line of site). Based on the August 29, 2007 report by John P. Allen Airspace Consultants (Figure 5 attached) any structure exceeding 177' requires FAA Notice and is assumed to be a Hazard To Air Navigation.

COUNTERPROPOSAL FAILURE TO COMPLY WITH FCC CHANGE OF COMMUNITY OF LICENSE CRITERIA

The FCC established specific guidelines regarding modification of FM and TV authorizations when specifying a new community of license as found in 4 FCC Rcd 4870 (1989), recons. Granted in part, 5 FCC Rcd 7094 (1990). The Cochise Desert counterproposal fails to comply with the guidelines as the proposed CH 267C3 allotment for Tanque Verde is not mutually exclusive with the current CH 265A allotment at Sierra Vista based on licensed facilities.

The counterproposal for CH 267C3 is mutually exclusive with the CCR proposal for CH 265A due to the short spaced relationship of Channel 267C3 at Tanque Verde chosen by Cochise. CH 267C3 is a second adjacent channel to CCR's proposed use of CH 265A and is only short spaced due to the close proximity of proposed allotment coordinates. In its desire to create a mutually exclusive scenario Cochise has moved its proposed allotment coordinates so far from Sierra Vista that the proposal fails the requirement of mutual exclusivity to the original allotment. Appendix 1 is an allocation study based on the allocation coordinates proposed by Cochise for CH 267C3 at Tanque Verde as submitted in CCR's February 2007 Opposition To Counterproposal. It is seen that the Tanque Verde coordinates are not mutually exclusive with the allotment coordinates for CH 269A at Sierra Vista, Arizona. The CH 269A coordinates represent the only licensed coordinates. To allow Cochise Desert to rely on the allocation coordinates for unbuilt CH 269C1 at Sierra Vista or unbuilt CH 267C3 at Corona De Tucson would allow the daisy chain

process of jumping from community to community without constructing that the Commission has stated it wishes to prevent.

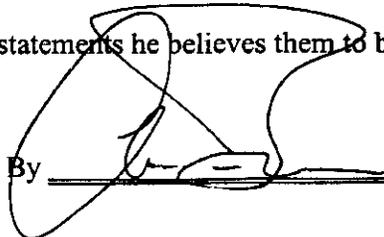
It is noted that the Report and Order in MB Docket No. 03-141 adding CH 267C3 at Corona de Tucson, Arizona was released on June 25, 2004 and Cochise was granted a CP for CH 267C3, BPH-20021218ANF, on September 16, 2005. To date, a license application has not been filed for CH 267C3 at Corona de Tucson. In MB Docket No. 05-210, released November 29, 2006, *Rule Section 73.3573(g)(2)* states that the facilities specified for a proposed new community of license must be mutually exclusive, as determined by *Section 73.207*, with the applicant's current facilities or its current assignment. As determined above, the proposed Cochise CH 267C3 allotment coordinates are not mutually exclusive with the current CH 265A license or allotment coordinates as the A to C3 spacing requirement for 2nd adjacent channels is 42 kilometers and the actual separation is 82.67 kilometers.

CONCLUSION

Based on the analysis herein the following conclusions are made:

- The Commission ignored CCR's statement the Cochise Desert CH267C3 Tanque Verde and CH253A Corona de Tucson allotment sites violated both 73.315(a) and 73.315(b) of the Rules. CCR submits comprehensive data herein confirming that both allotment sites are associated with significant terrain obstruction and fail to meet the Commission standard for 70 dBu service over the entire community of license.
- Based on the statement of Mary Lowe, Airspace Consultant, attached Figure 5, it must be presumed that the Cochise Desert CH267C3 allotment site can not be constructed absent full FAA study and issuance of a Determination of No Hazard.
- The Commission acknowledges that the proposed allotment for CH279A at Vail, Arizona has been objected to and thus can not be constructed yet the Report and Order in this proceeding invites a 301 application for CP to be filed.
- The points highlighted here render the Cochise Desert counter proposal incomplete and unable to be implemented arguably removing grounds for the decision in the Report And Order.

The foregoing was prepared on behalf of **CCR-Sierra Vista IV, LLC** by Clarence M. Beverage of *Communications Technologies, Inc.*, Marlton, New Jersey, whose qualifications are a matter of record with the Federal Communications Commission. The undersigned certifies, under penalty of perjury, that the statements herein are true and correct of his own knowledge, except such statements made on information and belief, and as to these statements he believes them to be true and correct.

By  _____

Clarence M. Beverage
for *Communications Technologies, Inc.*
Marlton, New Jersey
August 29, 2007

TABLE I

RADIAL AAT AND DELTA H TERRAIN DATA IN METERS
 PROPOSED COCHISE DESERT CH267C3 TANQUE VERDE, AZ
 AUGUST 2007

COORDINATES NAD 27 NL: 32 8 45 WL: -110 46 56

<u>AZIMUTH</u>	<u>RADIAL DISTANCE</u>	<u>AAT</u>	<u>DELTA H</u>
.0	16.1 km	820.1	1440.0
5.0	16.1	825.6	1476.0
10.0	16.1	830.4	1339.0
15.0	16.1	838.5	1224.0
20.0	16.1	850.7	1047.0
25.0	16.1	861.6	895.0
30.0	16.1	867.3	527.0
35.0	16.1	872.3	494.0
40.0	16.1	871.0	411.0
45.0	16.1	886.0	436.0
50.0	16.1	949.3	344.0
55.0	16.1	1016.2	343.0
60.0	16.1	1140.0	501.0
65.0	16.1	1301.9	844.0
70.0	16.1	1438.0	1284.0
75.0	16.1	1387.6	1034.0
80.0	16.1	1273.3	861.0
85.0	16.1	1114.5	547.0
90.0	16.1	995.5	527.0
95.0	16.1	952.7	766.0
100.0	16.1	944.0	963.0
105.0	16.1	939.0	831.0
110.0	16.1	940.9	491.0
115.0	16.1	948.8	236.0
120.0	16.1	957.6	263.0
125.0	16.1	966.3	362.0
130.0	16.1	963.5	588.0
135.0	16.1	958.3	743.0
140.0	16.1	946.2	624.0
145.0	16.1	947.3	483.0
150.0	16.1	950.0	517.0
155.0	16.1	949.0	448.0
160.0	16.1	945.9	436.0
165.0	16.1	939.3	494.0
170.0	16.1	934.4	617.0
175.0	16.1	924.0	651.0
180.0	16.1	917.8	808.0
185.0	16.1	910.2	1118.0
190.0	16.1	899.9	828.0
195.0	16.1	890.9	346.0
200.0	16.1	883.1	174.0
205.0	16.1	877.2	97.0
210.0	16.1	869.5	76.0
215.0	16.1	863.2	157.0
220.0	16.1	859.0	268.0

TABLE I Page 2

RADIAL AAT AND DELTA H TERRAIN DATA IN METERS
 PROPOSED COCHISE DESERT CH267C3 TANQUE VERDE, AZ
 AUGUST 2007

COORDINATES NAD 27 NL: 32 8 45 WL: -110 46 56

<u>AZIMUTH</u>	<u>RADIAL DISTANCE</u>	<u>AAT</u>	<u>DELTA H</u>
225.0	16.1 km	856.1	339.0
230.0	16.1	852.8	469.0
235.0	16.1	849.1	647.0
240.0	16.1	843.6	586.0
245.0	16.1	839.1	404.0
250.0	16.1	833.9	263.0
255.0	16.1	828.6	121.0
260.0	16.1	824.3	31.0
265.0	16.1	820.0	61.0
270.0	16.1	815.9	83.0
275.0	16.1	812.5	92.0
280.0	16.1	809.1	152.0
285.0	16.1	805.5	238.0
290.0	16.1	803.7	393.0
295.0	16.1	800.6	227.0
300.0	16.1	800.1	117.0
305.0	16.1	798.3	99.0
310.0	16.1	796.6	108.0
315.0	16.1	794.8	74.0
320.0	16.1	796.6	82.0
325.0	16.1	801.5	284.0
330.0	16.1	805.0	496.0
335.0	16.1	807.6	513.0
340.0	16.1	809.6	862.0
345.0	16.1	812.6	880.0
350.0	16.1	812.9	1024.0
355.0	16.1	814.9	1393.0

TABLE I Page 3

RADIAL AAT AND DELTA H TERRAIN DATA IN METERS
 PROPOSED COCHISE DESERT CH253A CORON de TUCSON, AZ
 AUGUST 2007

COORDINATES NAD 27 NL: 31 55 39 WL: -110 37 57

<u>AZIMUTH</u>	<u>RADIAL DISTANCE</u>	<u>HAAT</u>	<u>DELTA H</u>
.0	16.1 km	1089.1	680.0
5.0	16.1	1100.0	542.0
10.0	16.1	1116.4	806.0
15.0	16.1	1126.8	1183.0
20.0	16.1	1123.4	957.0
25.0	16.1	1137.3	1001.0
30.0	16.1	1141.9	845.0
35.0	16.1	1156.4	614.0
40.0	16.1	1164.4	585.0
45.0	16.1	1165.2	442.0
50.0	16.1	1167.7	246.0
55.0	16.1	1170.8	308.0
60.0	16.1	1174.9	328.0
65.0	16.1	1180.2	199.0
70.0	16.1	1189.6	235.0
75.0	16.1	1210.4	241.0
80.0	16.1	1226.5	224.0
85.0	16.1	1233.6	221.0
90.0	16.1	1254.4	255.0
95.0	16.1	1267.3	315.0
100.0	16.1	1288.1	360.0
105.0	16.1	1306.6	483.0
110.0	16.1	1326.0	629.0
115.0	16.1	1339.2	538.0
120.0	16.1	1340.6	611.0
125.0	16.1	1347.5	559.0
130.0	16.1	1367.2	466.0
135.0	16.1	1371.2	424.0
140.0	16.1	1366.2	264.0
145.0	16.1	1377.1	199.0
150.0	16.1	1397.4	206.0
155.0	16.1	1394.8	295.0
160.0	16.1	1385.9	241.0
165.0	16.1	1384.5	238.0
170.0	16.1	1399.0	270.0
175.0	16.1	1425.8	236.0
180.0	16.1	1440.9	204.0
185.0	16.1	1450.9	183.0
190.0	16.1	1460.3	181.0
195.0	16.1	1450.9	233.0
200.0	16.1	1430.9	254.0
205.0	16.1	1411.5	227.0
210.0	16.1	1404.9	445.0
215.0	16.1	1387.5	726.0

TABLE I Page 4

RADIAL AAT AND DELTA H TERRAIN DATA IN METERS
 PROPOSED COCHISE DESERT CH253A CORON de TUCSON, AZ
 AUGUST 2007

COORDINATES NAD 27 NL: 31 55 39 WL: -110 37 57

<u>AZIMUTH</u>	<u>RADIAL DISTANCE</u>	<u>HAAT</u>	<u>DELTA H</u>
220.0	16.1	1379.0	1099.0
225.0	16.1	1393.2	761.0
230.0	16.1	1426.9	590.0
235.0	16.1	1467.0	603.0
240.0	16.1	1439.3	508.0
245.0	16.1	1417.2	466.0
250.0	16.1	1390.6	410.0
255.0	16.1	1341.3	338.0
260.0	16.1	1293.5	345.0
265.0	16.1	1241.6	377.0
270.0	16.1	1197.9	349.0
275.0	16.1	1167.7	321.0
280.0	16.1	1133.6	252.0
285.0	16.1	1111.5	188.0
290.0	16.1	1094.4	184.0
295.0	16.1	1082.7	199.0
300.0	16.1	1073.5	216.0
305.0	16.1	1069.6	230.0
310.0	16.1	1066.1	235.0
315.0	16.1	1064.1	259.0
320.0	16.1	1060.7	261.0
325.0	16.1	1060.0	256.0
330.0	16.1	1057.7	198.0
335.0	16.1	1052.7	192.0
340.0	16.1	1052.6	207.0
345.0	16.1	1070.5	480.0
350.0	16.1	1084.5	702.0
355.0	16.1	1087.4	731.0

TABLE II
 LIST OF ASSUMPTIONS USED FOR SAMPLE NTIA CALCULATION
 CH253A PROPOSED ALLOTMENT 6 KW ERP
 CORONA DE TUCSON, ARIZONA
 AUGUST 2007

Contents of Calculation file:
 /taservice/output/coverage/CV356Aug2907C.calc

Communications System Coverage Model
 Input Summary
 29-Aug-07 13:06:11

```

-----
1) Model:                               Point-to-point irregular terrain
model
2) Output option:                        Field intensity
3) Length units:                         Metric (km and m)
4) Service Application:                  Broadcast
5) Results option:                       WWW
6) Location variability:                 50.00 %
7) Time availability:                    50.00 %
8) Situation variability:                50.00 %
10) Frequency:                           98.500 MHz
11) Polarization:                        Horizontal
12) Conductivity:                         0.005 S/m
13) Dielectric constant:                 15.0
14) Climate zone:                         Continental temperate
20) Transmitter name:                    CH 253A Corona de Tucson
21) Transmitter location:
      Latitude                               Longitude
      Deg N                                 Deg W
      31.9275 31N,55,39.0                   -110.6325 110W,37,57.0
22) Xmtr site elevation:                  1285.0 m      4215.9 ft
23) Xmtr ant ht AMSL:                     1347.00 m     4419.29 ft
23) Xmtr ant ht AGL:                      62.00 m      203.41 ft
24) Transmitter radiation option:         ERP
29) Effective Radiated Power:              6000.0 W
      Effective Isotropic Radiated Power:  9843.5 W
30) Transmitter ant horiz pattern:        Omnidirectional
32) Transmitter ant vert pattern:         Omnidirectional
40) Rcvr ant ht above ground:             9.10 m      29.86 ft
50) Man-made noise environment:           Quiet rural
62) Analysis center:
      Latitude                               Longitude
      Deg N                                 Deg W
      31.9275 31N,55,39.0                   -110.6325 110W,37,57.0
  
```

TABLE II page 2
 LIST OF ASSUMPTIONS USED FOR SAMPLE NTIA CALCULATION
 CH253A PROPOSED ALLOTMENT 6 kW ERP
 CORONA DE TUCSON, ARIZONA
 AUGUST 2007

- 66) Field intensity contour levels:
 - 1) 70.00 dBuV/m
- 67) Coverage study starting azimuth: 274.0 deg
- 67) Coverage study ending azimuth: 274.0 deg
- 67) Coverage study azimuth increment: 1 deg
- 69) Coverage limits: minimum_Full_Listing
- 68) Analysis radius: 17.00 km 10.56 mi

Distance to Contours (KM)

NOTE: ***** indicates contour not found!

Bearing	NO. 1
	70.0
274	12.0

Table of Field intensity values.

Distance km	Bearing 274	dBu
1.00	113.2	
2.00	107.0	
3.00	106.3	
4.00	102.7	
5.00	99.0	
6.00	99.8	
7.00	89.0	
8.00	89.1	
9.00	87.2	
10.00	75.9	
11.00	76.6	
12.00	68.3	
13.00	68.1	
14.00	65.7	
15.00	65.9	
16.00	67.9	
17.00	65.6	

Note: This computation of signal over predicts the signal when compared to more recently available high accuracy databases which reflect greater terrain roughness.