

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)
(Pioche, NV))

MB Docket No. _____
RM- _____

FILED/ACCEPTED

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

NOV - 3 2011
Federal Communications Commission
Office of the Secretary

PETITION FOR RULE MAKING

I. INTRODUCTION

Canyon Media Group, LLC ("Canyon Media" or "Petitioner"), by this petition and its associated FCC Form 301 Application, hereby petitions the Federal Communications Commission to initiate a rule making proceeding to amend the FM Table of Allotments (Section 73.202(b) of the Commission's Rules) in order to assign FM Channel 299C to Pioche, Nevada, as that community's second local transmission service as follows:¹

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Pioche, NV	--	299C ²

¹ By its related pending application, FCC File No. BPH-20091016AEO, Canyon Media seeks to relocate its station KCLS(FM) from Channel 269C2 at Pioche, NV to Channel 268C0 at Leeds, UT. In connection with the proposal to relocate KCLS to Leeds, the instant Petition seeks a New allocation on Channel 299C at Pioche, NV as a backfill to that community, however, if the move of KCLS to Leeds, UT is not granted, then this Petition will not be necessary and will be withdrawn.

² The Petitioner proposes the Allotment Site for Channel 299C at Pioche be located at the following coordinates: N 38-18-58, W 114-38-13 (NAD 27). Please note, as the Table of Allotments reflects only current vacant allotments, Channel 269C2 at Pioche, NV, licensed to KCLS(FM), is not reflected in this chart.

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Canyon Media is also the licensee of radio station KCLS(FM), Pioche, NV, and hereby submits the instant Petition for Rule Making as part of a contingently filed “hybrid” application and rule making proceeding in order to further the Commission’s allotment priorities as detailed below. Simultaneously herewith, Canyon Media is amending the application pending for KCLS(FM), FCC File No. BPH-20091016AEO, in response to the Commission’s letter dated October 4, 2011,³ to demonstrate that the proposal complies with the revised procedures adopted in the recent Rural Radio Order.⁴ In addition to the benefits provided by the KCLS Application and earlier elements of that hybrid coordinated application/allotment proceeding, Canyon Media further proposes the addition of a New allocation at Pioche, Nevada to serve the public, as detailed herein.

II. DISCUSSION

In its contingently proposed “hybrid” 301 Application (FCC File No. BPH-20091016AEO), Canyon Media proposes to modify KCLS(FM)’s allotment reference site, change its community of license from Pioche, NV, to Leeds, UT, as that community’s first local transmission service, and change its channel from Channel 269C2 to mutually exclusive Channel 268C0. Even though the relocation of KCLS(FM) from Pioche, NV, to Leeds, UT, will not deprive Pioche of its sole local transmission service -- noncommercial station KLYX(FM) is

³ *Letter from Nazifa Sawez, Assistant Chief, Audio Division, Media Bureau to Brendan Holland, Esq., dated Oct. 4, 2011.*

⁴ *Policies to Promote Rural Radio Services and to Streamline Allotment and Assignment Procedures, Second Report and Order, First Order on Reconsideration, 26 FCC Rcd 2556 (2011) (“Rural Radio Order”).* Canyon Media believes the Media Bureau’s October 4th Letter decision is in error and that no further amendment should be required for the KCLS application. Simultaneously herewith, Canyon Media is filing an Application for Review of that action taken under delegated authority; however, out of an abundance of caution, Canyon Media is also complying with the Bureau’s Letter by amending the KCLS(FM) pending application to further demonstrate that the proposal complies with the FCC’s new procedures and policies regarding changes in community of license. In the event that the Commission rules favorably on the Application for Review, that further amendment and this Petition for Rule Making will become unnecessary and will be withdrawn as moot.

now licensed to Pioche, Nevada⁵ pursuant to the earlier implementation of a related element of the pending KCLS proposal -- certain areas will no longer receive aural service from KCLS(FM). As such, the Petitioner desires to not only replace the KCLS(FM) service in the loss area but also provide expanded wide area service to additional underserved and unserved areas with the instantly proposed new facility.

Exhibit 1 includes a Channel Spacings Study demonstrating that Channel 299C, at the proposed allotment site, is fully spaced under Section 73.207 to all other allotments, authorizations, and proposals. Exhibit 2 includes an Allotment Site Contour Map demonstrating that the proposed allotment site places a city-grade signal over the proposed community of license.

Consistent with Section 307(b),⁶ grant of the proposal, including the adoption of the rule making sought by this Petition, would satisfy several of the Commission's allotment priorities without negatively impacting any of the priorities.⁷ First, Priority Three will be favorably triggered by authorizing a new first local transmission service at Leeds, Utah through the related modification of the community of license of KCLS(FM) sought by FCC File No. BPH-20091016AEO.⁸

⁵ A license application, FCC File No. BLED-20101216ABW, was granted on January 21, 2011, covering the construction permit issued to KLYX(FM) for Pioche, Nevada, FCC File No. BMPED-20091016AEN.

⁶ Section 307(b) of the Communications Act of 1934, as amended, states that the Commission must distribute broadcast licenses to states and communities so "as to provide a fair, efficient, and equitable distribution of radio service." 47 U.S.C. § 307(b).

⁷ See *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982) ("*FM Assignment Policies*"). The four priorities are: (i) first full-time aural reception service to a community; (ii) a second full-time aural reception service to a community; (iii) first local transmission service to a community; and (iv) other public interest factors. The second and third criteria have equal priority. *Id.* at 91. See also *Revision of Procedures Governing Amendments to FM Table of Allotments and Changes of Community of License in the Radio Broadcast Services*, 21 FCC Rcd 14212, at ¶ 10 (2006) (Section 307(b) priorities and policies used by Commission since 1982 continue to apply under new application procedures).

⁸ In addition to the Section 307(b) showing contained herein, simultaneously herewith Canyon Media is amending the pending KCLS Application FCC File No. BPH-20091016AEO to include a lengthy Section

Second, a grant of the proposal will also positively impact Priority Four as the number of aural reception services in the KCLS(FM) loss area have been maintained with the related introduction of new service to Pioche, Nevada by KLYX(FM). In addition, Priority Four will be further served as service to Pioche will increase as a result of the new Class C FM Allotment sought to be added at Pioche by the instant Petition. Footnote 103 in the Rural Radio Order states, “Any loss of service to underserved listeners under Priority 4 that is offset by proposed new service to a greater number of underserved listeners would not constitute a “net loss of service” to such listeners, and would be viewed more favorably.”⁹ The addition of Channel 299C at Pioche from the proposed reference coordinates will cover all but 30 persons in the KCLS(FM) loss area thereby not negatively impacting Priority Four. Attached hereto as Exhibit 3 is a Gain study demonstrating that when Channel 299C is added to Pioche, NV, a proposed new service will be provided to 3,887 persons. Exhibit 3 also provides a comparison of the New 299C Pioche Gain Area (from the fully spaced allotment coordinates) with the KCLS(FM) Loss Area. As can be seen, the addition of Channel 299C at Pioche covers 95% of the geographical KCLS(FM) Loss Area and 99% of the Loss Area’s population.

Third, this new Class C FM Allotment from its fully spaced reference coordinates will have the added benefit of favorably triggering Priority One and Priority Two by eliminating white area and gray area to populations that would not be considered *de minimis* in comparison. Exhibit 4 provides an Existing Services Study showing the stations that currently serve the gain area. From these fully-spaced reference coordinates, significant white and gray area will be

307(b) showing demonstrating the public interest benefits resulting from the “hybrid” proposal and demonstrating that the proposal, including the allocation of a New channel at Pioche, Nevada sought by this Petition, will result in a preferential arrangement of allotments.

⁹ *Policies to Promote Rural Radio Services and to Streamline Allotment and Assignment Procedures*, Second Report and Order, First Order on Reconsideration, 26 FCC Rcd 2556 (2011) (“*Rural Radio Order*”) at footnote 103.

eliminated as a result of the new proposed Class C service at Pioche. White area will be eliminated to 125 persons and gray area will be eliminated to 155 persons, thereby furthering Priority One and Priority Two. Priority Four will also be positively triggered as a new third aural reception service will cover 2,794 persons, a new fourth aural reception service will cover 799 persons, and a new fifth aural reception service will cover 14 persons.

Accordingly, the allocation of a new Channel 299C to Pioche, Nevada will further the Commission's allotment priorities and result in a preferential arrangement of allotments. Further, Pioche, Nevada is an established and licensable community, as shown by the fact that KLYX(FM) is presently licensed to that community today.

III. CONCLUSION

In conclusion, the Petitioner respectfully requests that the Commission authorize the allotment of Channel 299C at Pioche in conjunction with the KCLS(FM) proposal to relocate from Pioche, NV, to Leeds, UT, in order for the Petitioner to assist the Commission in furthering its Allotment Priorities for the listening public. In the event that Channel 299C is allotted to Pioche, the Petitioner will apply to participate in the auction of the channel allotment requested

and specified in the instant Petition for Rulemaking and its associated 301 Application and, if it is the high bidder for the facility, the Petitioner will construct and operate the station.

Respectfully submitted,

CANYON MEDIA GROUP, LLC

By: 

Brendan Holland

Its Counsel

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1919 Pennsylvania Avenue, N.W.
Suite 800
Washington, D.C. 20006

Dated: November 3, 2011

Exhibit 1

NEW(FM) 299C Pioche, NV

Channel Study

ADD 299C Pioche, NV
 Allotment Site Section 73.207 Channel Spacings Study

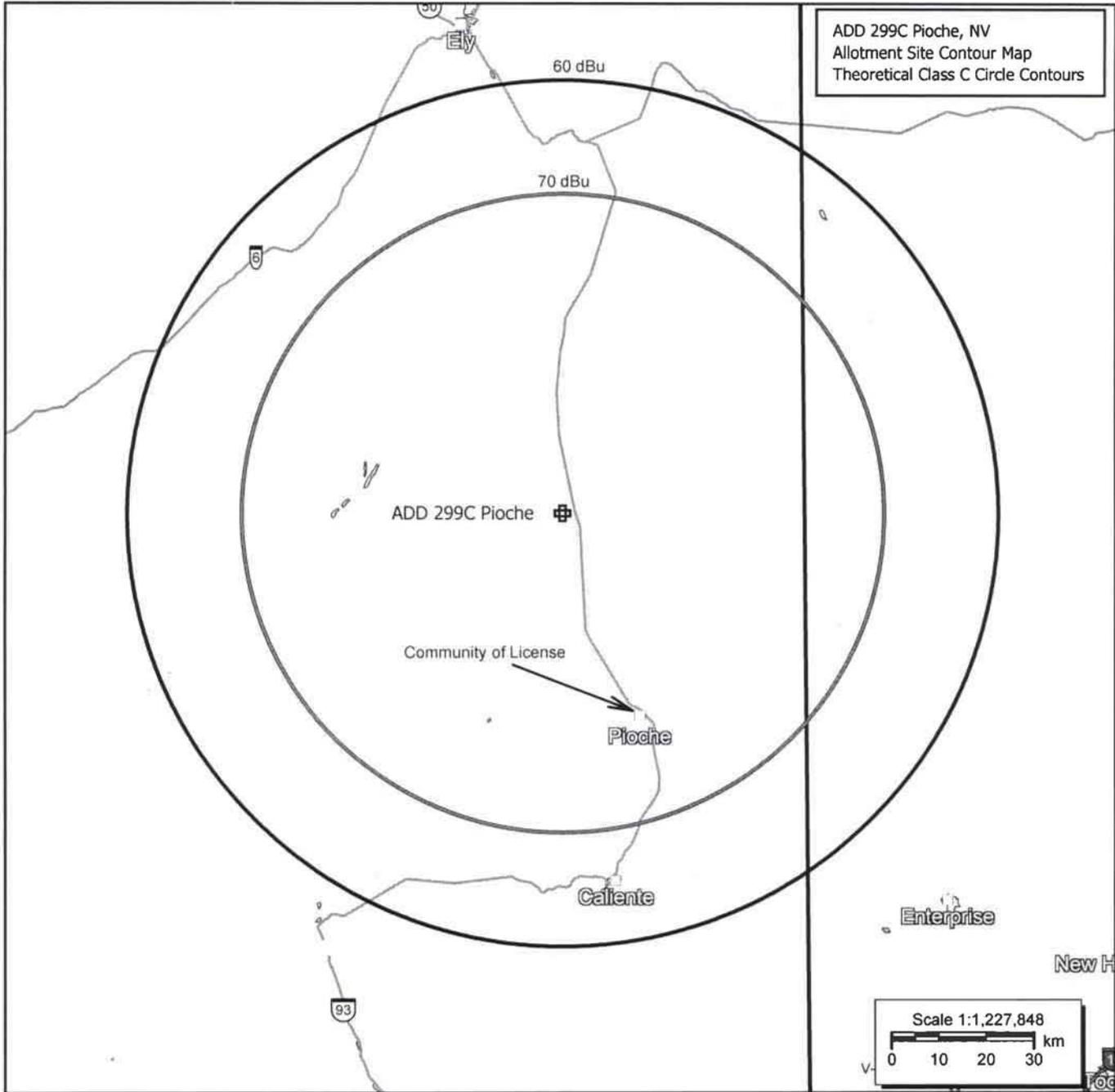
REFERENCE		DISPLAY DATES
38 02 18.2 N.	CLASS = C	DATA 09-19-11
114 40 59.6 W.	Current Spacings to 3rd Adj.	SEARCH 10-03-11
----- Channel 299 - 107.7 MHz -----		

Call	Channel	Location	Azi	Dist	FCC	Margin
KYLZ	LIC 300A	Parowan	UT 96.5	164.7	164.5	0.18
KXTE	LIC 298C	Pahrump	NV 197.7	241.2	240.5	0.7
KVGS	APP-N 300C	Meadview	AZ 172.4	246.5	240.5	6.0
R11000	ADD 300C	Meadview	AZ 172.4	246.5	240.5	6.0
KVGS	LIC-N 300C	Meadview	AZ 172.4	246.5	240.5	6.0
R11000	DEL 300C	Laughlin	NV 172.8	266.9	240.5	26.4
KSNN	RSV-A 297C2	St. George	UT 136.6	142.1	104.5	37.6

 RSV-R = reserved and needs protection, RSV-A = allocation

Exhibit 2

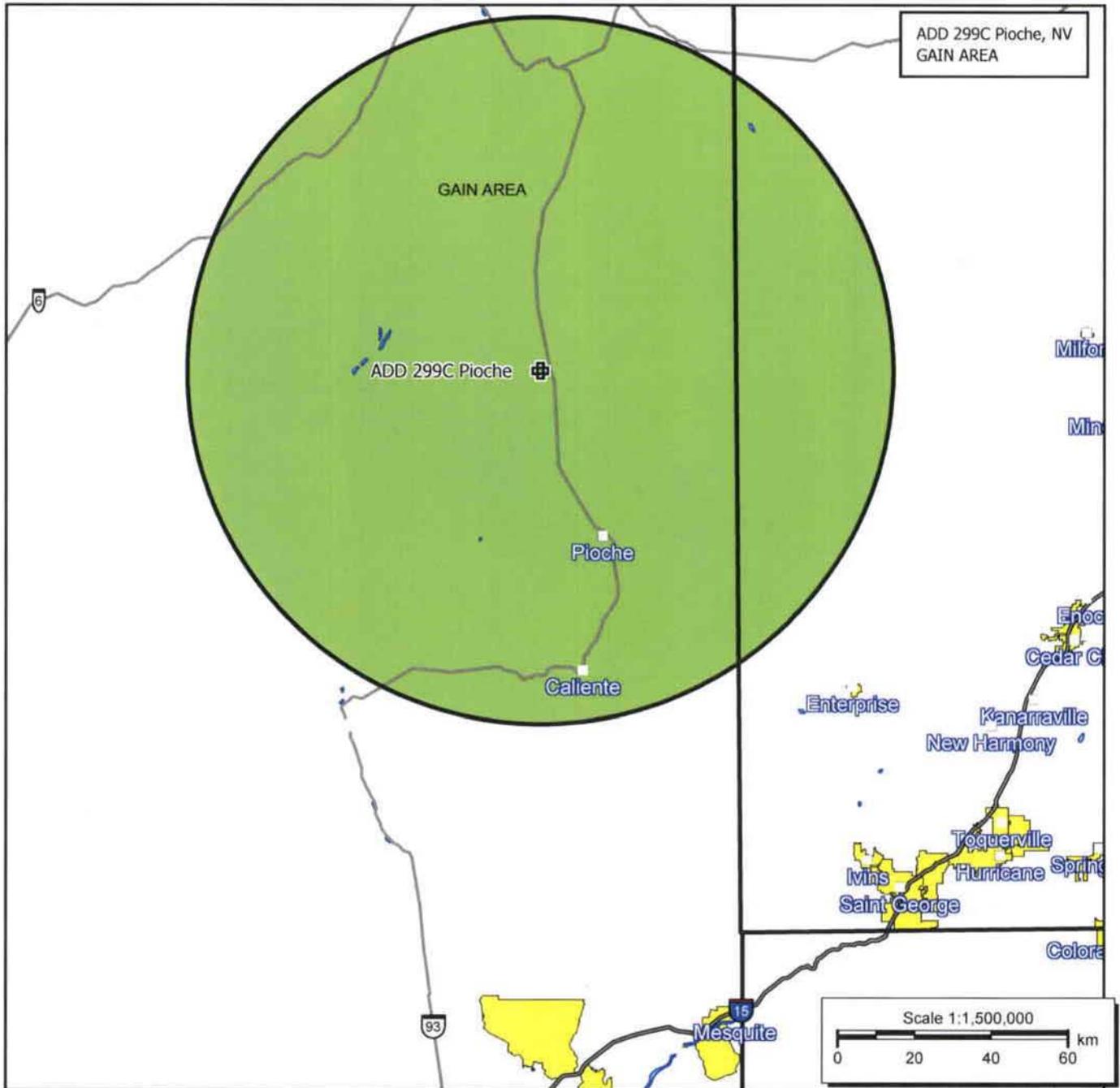
**NEW(FM) 299C Pioche, NV
Allotment Site Contour Map**



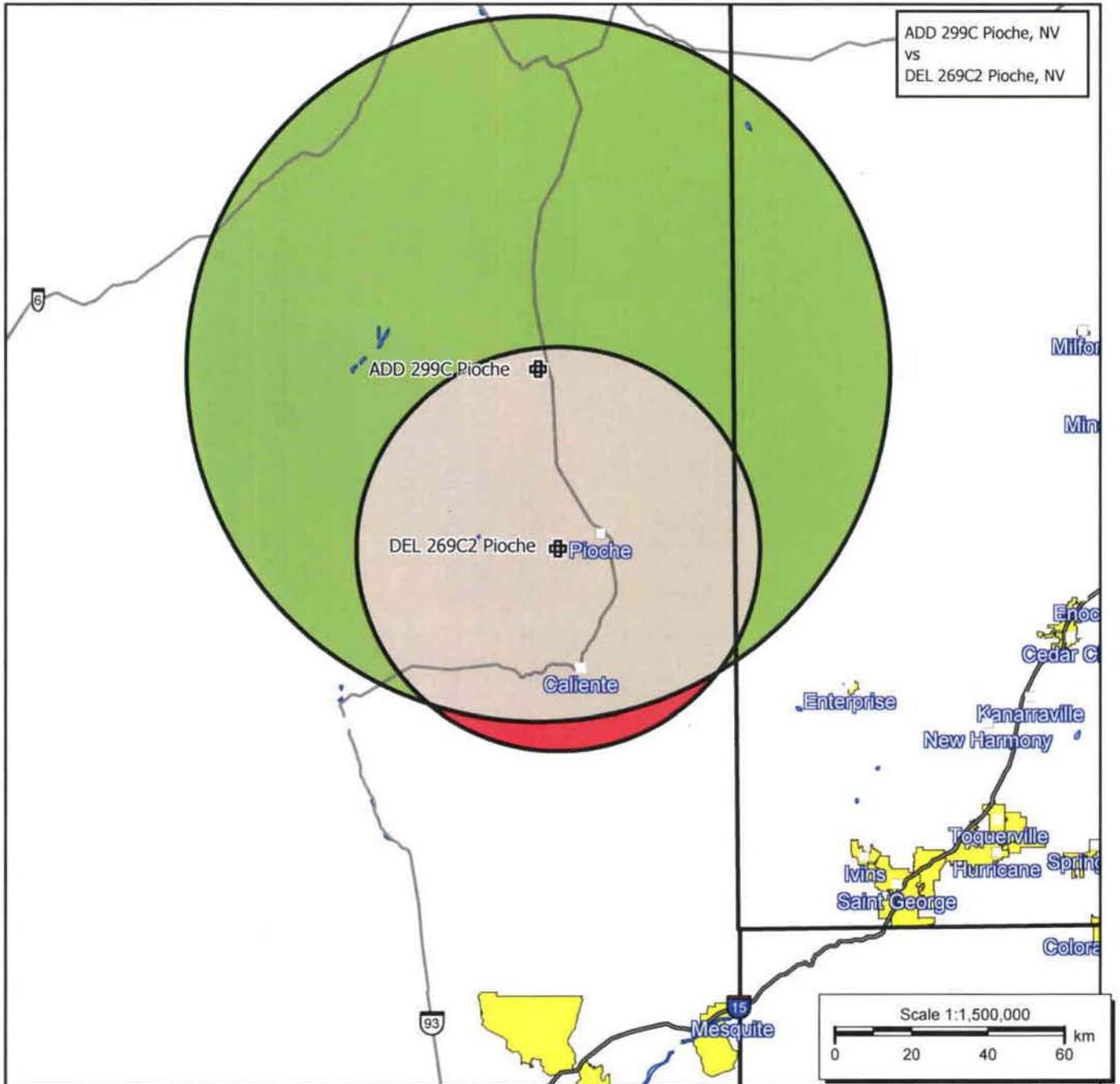
ADD 299C Pioche

Channel: 299C
 Frequency: 107.7 MHz
 Latitude: 38-18-58.38 N
 Longitude: 114-38-13.47 W
 COR AGL Height: 514.0 m
 COR AMSL Height: 2497.7 m
 Base Elevation: 1983.7 m
 COR HAAT: 599.53 m
 ERP: 100.00 kW
 Horiz. Pattern: Omni
 Vert. Pattern: No
 Prop Model: None

Exhibit 3

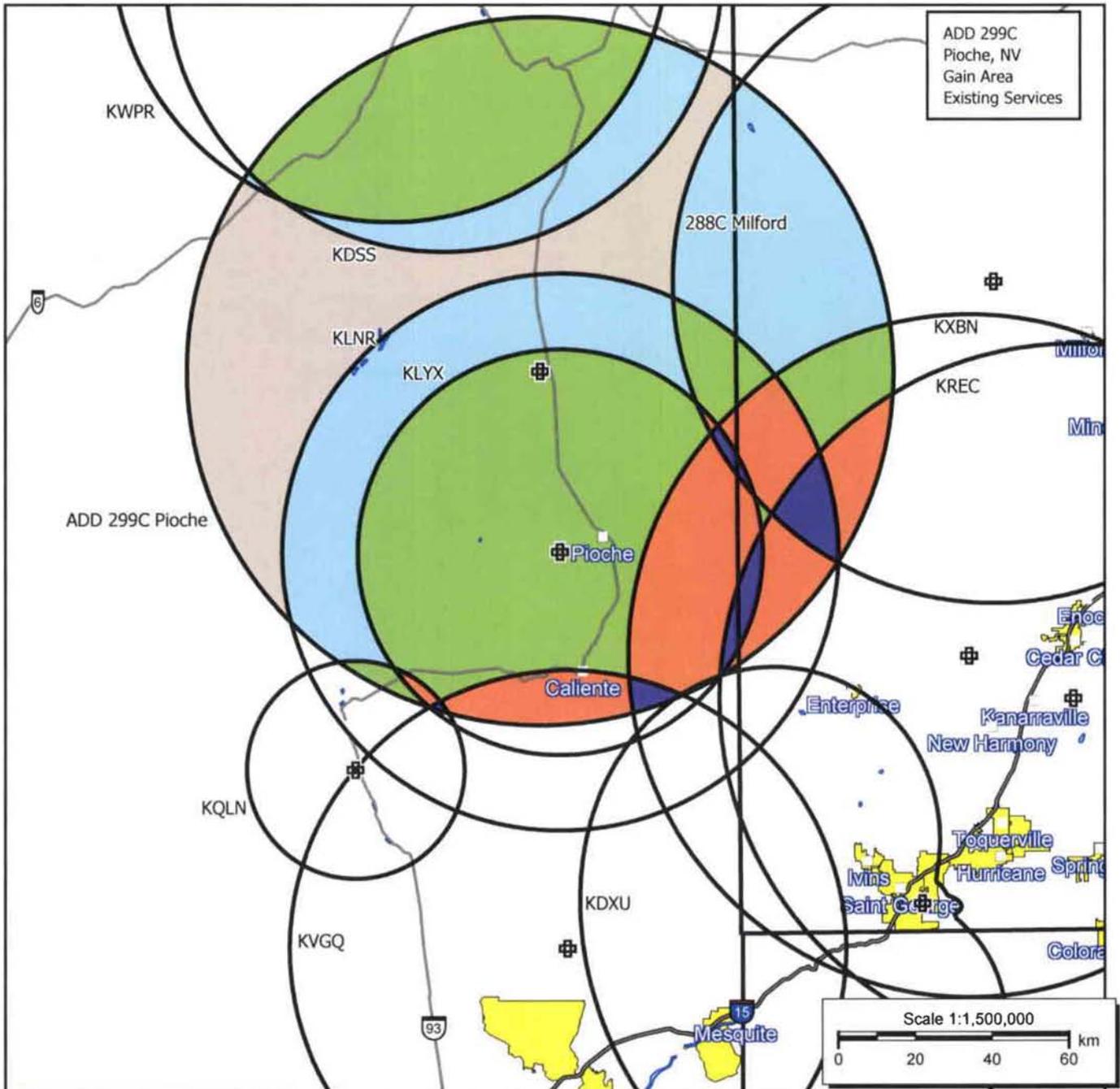


Area Shaded Green - Gain Area
 Total Population: 3,887
 Overlap Area: 26,474 sq. km



<p>Area Shaded Red (Net Loss of Reception Service) Total Population: 30 Overlap Area: 429 sq. km</p>
<p>Area Shaded Green (Net Gain of New Service) Total Population: 871 Overlap Area: 18,211 sq. km</p>
<p>Area Shaded Gray (No Change in Service) Total Population: 3,016 Overlap Area: 8,263 sq. km</p>

Exhibit 4



ADD 299C
 Pioche, NV
 Gain Area
 Existing Services

299C Pioche, NV, Gain Area:

Priority 1:
 Gray = New 1st Service: 125 Persons

Priority 2:
 Blue = New 2nd Service: 155 Persons

Priority 4:
 Green = New 3rd Service: 2,794 Persons
 Orange = New 4th Service: 799 Persons
 Purple = New 5th Service: 14 Persons