

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

In re Matter of)	
)	
Marble City Media, LLC)	Facility ID #141124
)	
Interference Caused by FM Translator W252BE)	
Tarrant, Alabama)	

TO: Office of the Secretary, FCC
Chief, Audio Division, Mass Media Bureau

**RESPONSE TO COMPLAINT REGARDING INTERFERENCE BY MARBLE
CITY MEDIA AND FCC LETTER OF INQUIRY**

Shelby Broadcasting, LLC (“Shelby”), proposed licensee of FM Translator Station W252BE, Tarrant, Alabama (the “Translator”) hereby respectfully responds to the Complaint filed by Marble City Media, LLC, licensee of WFXO (FM), Stewartville, Alabama (“Marble City” or “WFXO”) (the “Complaint”) and to the Federal Communications Commission (“FCC”) Audio Division’s letter, dated March 29, 2017 (18003-PPD) (the “Letter”) to Valleydale Broadcasting, LLC¹ (“Valleydale”), soon to be the prior licensee of the Translator. Citing complaints of interference, allegedly caused by the Translator to WFXO, the Letter required the Translator to report regarding a series of questions about the complaints individually and to take “appropriate actions required by the provisions of 47 CFR Sec.74.1203 to resolve all complaints of interference to fulfill its obligations.” The response was due in 30 days, but the Staff consented to a 15-day extension to May 12, 2017.

Marble City’s Complaint fails to meet well-established minimal Commission

¹ Valleydale’s principal, Paul Reynolds, father of Lyle Reynolds and Lee Reynolds (Shelby’s principals), supports the submission of this instant Response.

standards for such complaints, fails to satisfy Section 74.1203, and manifestly does not warrant the Audio Division's threat to suspend the sole FM Spanish language service to Birmingham, Alabama's growing Hispanic audience. WFXO's claims of interference are bogus and disingenuous, supported by a very few complainants, several of whom Marble City failed to acknowledge are not "disinterested" and others of whom have failed to provide the necessary specificity concerning the locus of interference to allow evaluation of the validity of the complaint, much less remediation of the supposed interference. As to the remaining complainants, almost to a man, they have stonewalled the Translator's proposed principals, refusing to respond to inquiries, refusing to provide requested information, or refusing to meet to permit "on, off" testing to evaluate their claims. Marble City fails to be candid about the fact that no claimed interference existed before IT moved toward the Translator. In summation, the Complaint is a frivolous, dishonest, time-wasting submission, which should be summarily dismissed. In support hereof, Shelby respectfully states as follows:

I. BACKGROUND

In its initial Complaint, dated February 10, 2017, Marble City disingenuously represents that "the problem (presumably claims of interference to WFXO) is EVEN MORE compelling because WFXO has recently invested upgrading its station and providing better service to the public and yet the interference is causing the station to be almost unlistenable to a large part of the listening area." (At Complaint, pg. 2) (Capitalization added.) This statement strongly suggests that THERE WAS Translator-related interference caused by the Translator BEFORE WFXO built its modified facilities in early January 2017, and that interference was exacerbated by the facilities

modification. But this insinuation is utterly false, contradicted by Marble City's own complaints in Exhibit 2. None of them predate the inauguration of operations by the modified facility **on January 12.**

Marble City Media's linguistic gamesmanship cannot disguise that the Translator did not impinge upon WFXO as victim here. Rather, WFXO's move, about which it gave Shelby no prior notice, created brand new interference to WFXO. In other words, WFXO was hoisted on its own petard. Now Marble City complains about serious damage to its signal. But who but Marble City is at fault for this displacement? And why should the FCC come to WFXO's rescue under these circumstances?

Marble City's subsequent approach to the interference earns it no credit, either. Rather than approaching Shelby about a reduction in power or height, after Marble City built out its upgrade, Marble City demanded that the Translator's Hispanic audience, the only FM Spanish-language audience in Birmingham, Alabama, be jettisoned. Since there are no other available FM channels in the metropolitan Birmingham, Alabama area, Marble City's rigid position is clearly inimical to the public interest. Yet, Marble City does not hesitate to submit its Complaint, focusing solely on its own private interest in serving two small communities in Alabama.

II. WFXO'S TECHNICAL DEFICIENCIES

Attached hereto as Exhibit 1 is the Declaration of Lee Reynolds, an engineering consultant and Shelby member. Mr. Reynolds opines, based on an extensive channel search, that there is no other available FM channel for the Translator anywhere on the FM Band in the Birmingham market. Thus, grant of Marble City's baseless Complaint will erase Birmingham's only Hispanic FM over-the-air service, according to Mr. Reynolds.

Mr. Reynolds further avers that WFXO's physical plant, essentially not upgraded since its new facilities went on line in January, including an odd 6-bay antenna, are sub-standard with far less surface area coverage than comparable conventional FM Facilities. The result, combined with the hilly terrain in and around WFXO's city of license, is failure to achieve the line of sight over much of Stewartville and its vicinity essential to be received. Only 32.9 % of WFXO's 50/50 contour gets line of sight coverage; only half of its Community Of License does. In Mr. Reynolds' view, it is this failure to serve its community of license and service area, at its own option (presumably to save the cost of a new antenna and increased utility bills), which is at the root of WFXO's interference problems, not the Translator. (At Exhibit 1, pg. 2)

In spite of these conclusions, in order to put the matter to rest, and avoid waste of further FCC administrative resources, Valleydale (and Shelby), yesterday filed for FCC consent to downgrade the Translator's facilities, eliminating all material contour overlap relied upon by Marble City. A copy of the Form 349 is attached for reference to Exhibit 1. This concession eliminates all conceivable potential interference and on its face, undermines Marble City's baseless complaints. Nevertheless, to respond to the Letter, below, Shelby addresses each of the complaints submitted by Marble City.

III. MARBLE CITY COMPLAINTS

Section 74.1203 of the FCC's rules, relied upon in the Letter, bars "actual interference" to the "transmission of any authorized broadcast station" or the direct reception by the public of the off-the-air signals of any authorized broadcast station...regardless of the quality of such reception, the strength of the signal so used, or the channel on which the protected signal is transmitted." The reception which is

adversely affected must be “regularly used.” The rule further provides that, if interference cannot be properly eliminated by the application of suitable techniques, operation of the offending FM translator... station” must be suspended and shall not be resumed until the interference has been eliminated. Marble City offers a series of complaints from a very small cross-section of persons who claim to listen to WFXO regularly to demonstrate non-compliance with this rule.

But, critically, Marble City ignores, or dissembles regarding, two key additional elements of Section 74.1203. First, “if a complainant refuses to permit the FM translator ...to apply remedial techniques which demonstrably will eliminate the interference without impairment to the original reception, the licensee of the FM translator ...is absolved of further responsibility for that complaint.”

Second, complaints by complainants who are not “disinterested” are presumptively incredible and are not credited by the FCC. A full-power station submitting such complaints without explanation or qualification is not exhibiting the candor expected of FCC licensees.

Curiously, the Letter mentions neither of these two fundamental tenets of law regarding alleged FM translator interference. But, they are essential to evaluating the credibility of complaints. If a complaint by a business partner, close friend or other close colleague of a full-power licensee is taken into account by the FCC, the core credibility of the entire interference evaluation process is brought into question. Further, as the applicable FCC rule here states explicitly, it is totally unfair to demand that an FM translator evaluate and, if necessary, remediate, alleged interference when the claimant will not cooperate, whether by refusing to communicate, provide specific information

required by the Letter, or blocking remediation efforts. The equity of this approach is apparent; Marble City should not be permitted to submit and rely on complaints from allegedly “regular” listeners and then subvert Shelby’s good faith attempts to address the complaints either through inaction or active encouragement of stonewalling.

Here is a list of Marble City’s complainants and a report on Shelby’s efforts to address their complaints. We note that NONE of these complainants provided the detailed information regarding their receiving equipment (e.g., model number and manufacturer) required by the Letter, thus rendering it impossible for Shelby to comply with the terms of the Letter, in spite of Shelby’s explicit request they do so:

Thomas Roberts—Mr. Roberts is President and CEO of the Greater Coosa Valley Chamber of Commerce. Interviewed by a principal of Shelby (see Exhibit 2, Declaration of Lyle Reynolds, attached hereto; all subsequent representations herein are by that representative, Lyle Reynolds.) Mr. Roberts admitted to Mr. Reynolds that Marble City is a valued member of the Chamber and that Me. Roberts and Marble City’s principal are close business and business associates. They have spoken dozens of times about the newly upgraded station and the translator. Mr. Roberts clearly values his member’s interests. Mr. Roberts is trying to help Marble City build its brand. He is therefore not a disinterested complainant. Further, Mr. Roberts’s complaint that WFXO’s signal “is being overrun” at an undisclosed location is far too imprecise to allow evaluation on its merits. Finally, Mr. Roberts refused to cooperate with Shelby because he does not have time. His complaint is entitled to no credence.

Su Green—No legal name is provided for this complainant!! Further, no specific location is furnished, only two towns. There is no feasible way to verify the interference

claim. She never responded to an email questionnaire. The complaint is therefore irrelevant.

Mike Lewis—This complainant, like other complainants, does not affirmatively state he is a “regular listener.” Worse, he admits that he did not listen to the station “until recently.” Finally, he did not respond to a Shelby email seeking assistance and information, a copy of which is attached. (Copies of an identical letter or email were sent to each complainant.) Accordingly, his complaint should not be credited.

Ginger Smith—This complaint lacks a specific interference locus. Ms. Smith says the interference occurs when she is “working out at Childersburg, AL.” Shelby has no idea where she works out and she has not responded to further inquiries.

Pastor Brian Taunton—Shelby has had several conversations with the Pastor, who indicates he understood from Marble City that Shelby would not have to change channels or go off the air. The Pastor has continued to maintain he receives periodic interference, but has stated he is willing to cooperate with Shelby in remediating the alleged interference. However, the Pastor has been unavailable recently and will not return from vacation until at least May 25. Thereafter, he will contact Shelby to set up an appointment.

Ken Sims—This complaint is like others vague as to where interference occurs. In any event, Mr. Sims has not responded to Shelby’s outreach. This complaint must be discounted.

Danny Culp—Mr. Culp has not responded to Shelby’s outreach. This complaint must be discounted.

Michael Adair—Mr. Adair has advised Shelby that he does not have the time to cooperate with or provide additional information requested by Shelby. We note his primary residence is in New York, raising serious question about his status as a “regular listener.” The FCC should not give this complaint any credence.

Alan Bowers—Mr. Bowers says: “I listen every once in a while” to WFXO. That hardly makes him a regular listener and he has resisted efforts to delve further into the meaning of “once in a while.” His complaint is unacceptable.

Jacob Lee—Mr. Lee claims to experience interference in three major AL communities. No specific address, landmark, or street is furnished. This showing is insufficient to warrant a finding of actual interference.

Tom Carden—Mr. Carden has failed to respond to outreach by Shelby to verify his claims of interference. That dooms his claim.

Michael Oglesby—Complainant does not state specifically where his alleged interference occurs. Moreover, he fails to state he is a “regular listener”. Also, he does not assert that Spanish programming is the source of the interference. There is no way of ascertaining what is causing the “static and tone sound” he describes. Mr. Oglesby states he does not have time to cooperate with Shelby’s remediation effort. This complaint is not compliant with FCC requirements.

Scott Smith—Mr. Smith did not respond to Shelby. He makes no statement he is a “regular listener”. He did not respond to Shelby’s email. His complaint should not be credited.

Steve Garriss—Mr. Garriss did not respond to Shelby. Therefore, no credence is warranted.

Marty Garrett—Mr. Garrett did not respond to Shelby. His complaint is therefore unpersuasive and unacceptable.

In sum, every single one of Marble City's proffered complaints is infirm on one or more grounds: lack of specificity, bias in favor of Marble City, not "regular listener", inadequate description of interference, refusal to cooperate with Shelby. Marble City has failed dismally to meet its burden to meet the standards outlined in section 74.1203 and related FCC rulings and policies.

V. CONCLUSION

In two recent petitions of rulemaking now pending before the FCC, one filed by the National Association of Broadcasters, petitioners have expressed concern that the full power FM/translator balance of power has swung far too close to abuse of the FCC's processes by full power licensees. A handful (sometimes as few as one or two in a large market) of frivolous, non-specific complaints, many by friends and associates of the licensee, are dumped on the FCC, forcing translators off the air, in some case destroying their businesses. This does not serve the public interest. This case illustrates why.

Marble City's complaint, particularly when considered in light of the Translator's pending modification application, should be summarily rejected.

Respectfully Submitted,

SHELBY BROADCASTING, LLC
VALLEYDALE BROADCASTING, LLC

By: 

John C. Trent, Esq.
Howard M. Weiss, Esq.
Its Attorneys

May 12, 2017

Law Office of
Putbrese Hunsaker & Trent, P.C.
200 South Church Street
Woodstock, VA 22664
(540) 459-7646

Exhibit 1

Declaration of Lee Reynolds

Technical Statement

I, Lee S. Reynolds, have been a practicing technical consultant before the FCC since 1989. I have filed (and received grants for) hundreds of FCC applications for TV, AM and FM radio stations. I received a Bachelor of Science degree in physics from the University of Alabama in 1992. The instant statement is a summation of my evaluation of the interference complaint lodged against translator W252BE, channel 252, Tarrant, AL by WFXO(FM), channel 252A, Stewartville, AL.

WFXO(FM), channel 252A, Stewartville, AL has filed a complaint against translator W25BE, channel 252, Tarrant, AL, alleging received co-channel interference. The attached studies demonstrate that WFXO has significant line of sight obstructions not only within its F(50,50) 60 dBu contour, but also over its community of license (Stewartville, AL).

Exhibit 1 shows line of sight (using USGS 3-arcsecond terrain with 100-meter resolution) from the WFXO antenna to all points inside the F(50,50) 60 dBu contour. As this exhibit demonstrates, WFXO has significant terrain obstruction issues throughout the station's 60 dBu coverage area. This exhibit demonstrates that WFXO, with its relatively short antenna AGL (64 meters AGL) has significant issues with line of sight, despite its HAAT of 151 meters. The terrain in this area is rather undulating, causing significant swaths of area where terrain obstructions are prevalent. As shown in Exhibit 1, WFXO only has line of sight to 32.9% of the area inside the F(50,50) 60 dBu contour.

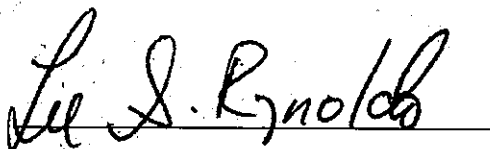
WFXO employs a Jampro JLPC-6 6-bay full-wave antenna, even though its ERP is only 2.7 kW. While this allows WFXO's transmitter power output to remain low (1.02 kW), the use of a 6-bay full-wave antenna creates a tight radiation beam, which is not the best choice when covering hilly terrain, especially with an antenna location that has line of sight issues. This further adds to the underperformance of WFXO's signal within its own 60 dBu contour. It is this underperformance that is the primary contributor to WFXO's received interference. It is this weaker-than-predicted signal (due to line of sight issues and a

poor antenna choice) that makes WFXO susceptible to co-channel interference it might not otherwise receive.

Exhibit 2 shows that the WFXO antenna barely succeeds in providing line of sight to half of its community of license (Stewartville, AL). This is another example of the type of terrain obstruction issues WFXO experiences.

Based on this, it is my conclusion that WFXO is experiencing interference due to its own weak signal inside its F(50,50) 60 dBu contour. The station's weaker-than-predicted signal renders it susceptible to interference it should otherwise be able to overcome.

Submitted the 9th day of May, 2017.

A handwritten signature in black ink, reading "Lee S. Reynolds", written over a horizontal line.

Lee S. Reynolds
Technical Consultant

EXHIBIT 1

WFXO(FM)

Latitude: 33-04-20

Longitude: 86-10-08

Antenna AGL: 64 m

Base Elevation: 324 m

Receiver Height: 1.8 m

WFXO(FM), Stewartville, AL

Line of Sight Study

Within the F(50,50)

60 dBu Contour

Line of Sight

Area Inside F(50,50) 60 dBu: 2537 sq km

Area With Line of Sight: 834 sq km

Percentage of Area Inside 60 dBu w/Line of Sight: 32.9%

0 7.5 15

Kilometers

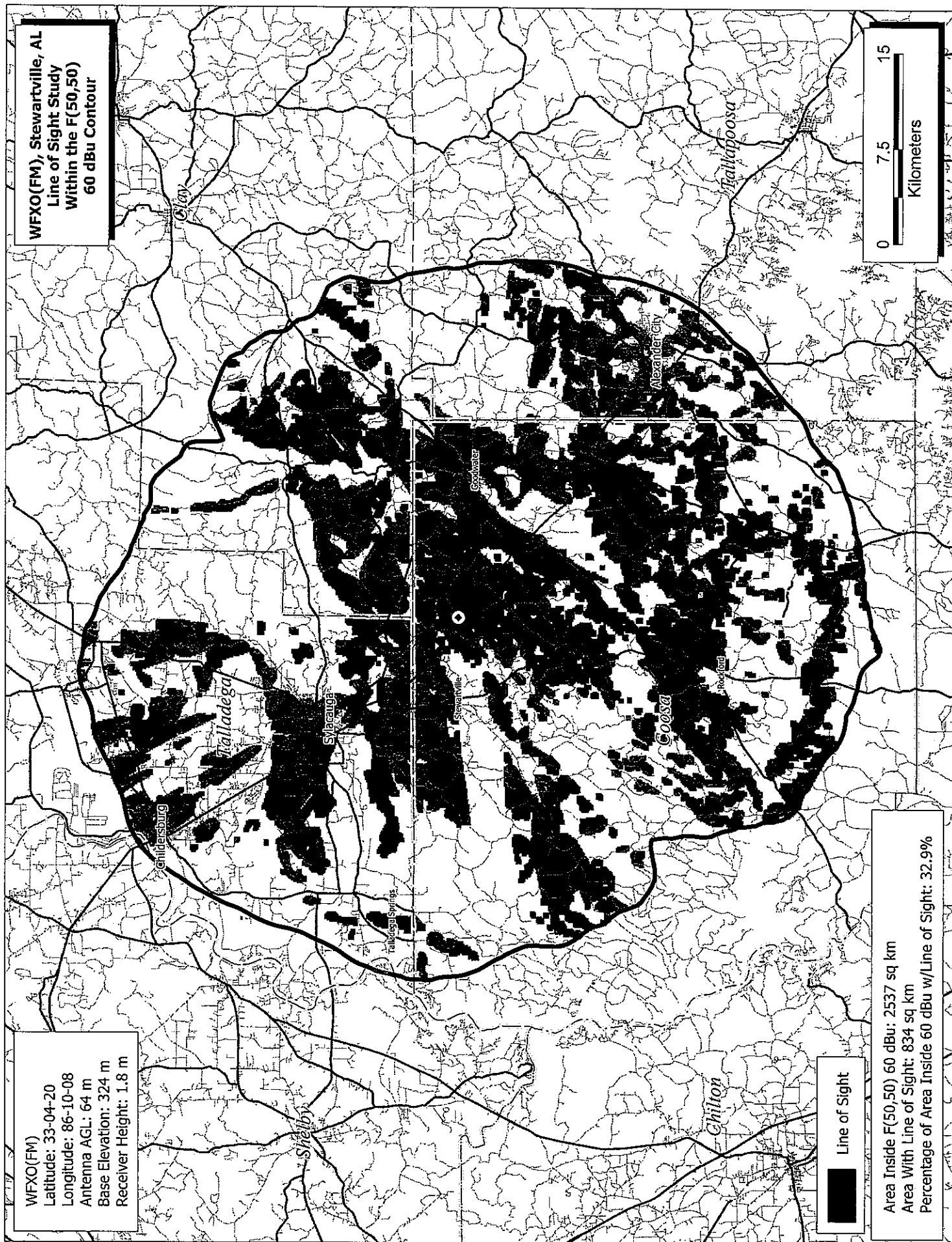


EXHIBIT 2

WFXO(FM)

Latitude: 33-04-20

Longitude: 86-10-08

Antenna AGL: 64 m

Base Elevation: 324 m

Receiver Height: 1.8 m

WFXO(FM), Stewartville, AL
Line of Sight Study
Over the City of License
(Stewartville, AL)

Stewartville
City
Limits

Tower
Site

Line of Sight



Area of Stewartville, AL: 62.89 sq km
Area With Line of Sight: 32.03 sq km
Percentage of the City with Line of Sight: 50.9%

0 1.5 3

Kilometers



Federal Communications Commission Washington, D.C. 20554 FCC 349	Approved by OMB 060-0405 (April 2017)	FOR FCC USE ONLY
APPLICATION FOR AUTHORITY TO CONSTRUCT OR MAKE CHANGES IN AN FM TRANSLATOR OR FM BOOSTER STATION Read INSTRUCTIONS Before Filling Out Form		FOR COMMISSION USE ONLY FILE NO. BPFT - 20170511AAL

Section I - General Information

1. Legal Name of the Applicant VALLEYDALE BROADCASTING, LLC			
Mailing Address P. O. BOX 383174			
<table border="1"> <tr> <td data-bbox="120 808 844 934">City BIRMINGHAM</td> <td data-bbox="844 808 1258 934">State or Country (if foreign address) AL</td> <td data-bbox="1258 808 1515 934">ZIP Code 35238 -</td> </tr> </table>	City BIRMINGHAM	State or Country (if foreign address) AL	ZIP Code 35238 -
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<table border="1"> <tr> <td data-bbox="120 934 844 1029">Telephone Number (include area code) 2056019997</td> <td data-bbox="844 934 1515 1029">E-Mail Address (if available) PAULR@REYNOLDSTECHNICAL.COM</td> </tr> </table>	Telephone Number (include area code) 2056019997	E-Mail Address (if available) PAULR@REYNOLDSTECHNICAL.COM	
Telephone Number (include area code) 2056019997	E-Mail Address (if available) PAULR@REYNOLDSTECHNICAL.COM		
<table border="1"> <tr> <td data-bbox="120 1029 503 1155">FCC Registration Number: 0018897223</td> <td data-bbox="503 1029 844 1155">Call Sign W252BE</td> <td data-bbox="844 1029 1515 1155">Facility Identifier 141124</td> </tr> </table>	FCC Registration Number: 0018897223	Call Sign W252BE	Facility Identifier 141124
FCC Registration Number: 0018897223	Call Sign W252BE	Facility Identifier 141124	
2. Contact Representative (if other than Applicant) PAUL H. REYNOLDS			
Firm or Company Name REYNOLDS TECHNICAL ASSOCIATES			
Mailing Address P. O. BOX 383174			
<table border="1"> <tr> <td data-bbox="120 1501 503 1596">City BIRMINGHAM</td> <td data-bbox="503 1501 844 1596">State or Country (if foreign address) AL</td> <td data-bbox="844 1501 1515 1596">ZIP Code 35238 -</td> </tr> </table>	City BIRMINGHAM	State or Country (if foreign address) AL	ZIP Code 35238 -
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<table border="1"> <tr> <td data-bbox="120 1596 844 1690">Telephone Number (include area code) 2056019997</td> <td data-bbox="844 1596 1515 1690">E-Mail Address (if available) PAULR@REYNOLDSTECHNICAL.COM</td> </tr> </table>	Telephone Number (include area code) 2056019997	E-Mail Address (if available) PAULR@REYNOLDSTECHNICAL.COM	
Telephone Number (include area code) 2056019997	E-Mail Address (if available) PAULR@REYNOLDSTECHNICAL.COM		
3. If this application has been submitted without a fee, indicate reason for fee exemption (see 47 C.F.R. Section 1.1114): <input type="radio"/> Governmental Entity <input type="radio"/> Noncommercial Educational Licensee/Permittee <input type="radio"/> Other <input checked="" type="radio"/> N/A (Fee Required)			
4. Facility information: a. <input checked="" type="radio"/> FM Translator <input type="radio"/> FM Booster b. Community or communities to which the proposed facility will be licensed: <table border="1"> <tr> <td data-bbox="162 1911 406 1959">Community(ies)</td> <td data-bbox="406 1911 503 1959">State</td> </tr> </table>	Community(ies)	State	
Community(ies)	State		

TARRANT

AL

5. Application Purpose

- ☐ New station
☐ Major Change in licensed facility
☒ Minor Change in licensed facility
- ☐ Major Modification of construction permit
☐ Minor Modification of construction permit
☐ Major Amendment to pending application
☐ Minor Amendment to pending application

a. File number of original construction permit: -

If an amendment, **submit as an Exhibit** a listing by Section and Question [Exhibit 1]

Number the portions of the pending application that are being revised.

NOTE: In addition to the information called for in this section, an explanatory exhibit providing full particulars must be submitted for each question for which a "No" response is provided. See General Instruction J.

Section II - Legal

1.	Certification. Applicant certifies that it has answered each question in this application based on its review of the application instructions and worksheets. Applicant further certifies that where it has made an affirmative certification below, this certification constitutes its representation that the application satisfies each of the pertinent standards and criteria set forth in the application instructions and worksheets.	<input checked="" type="radio"/> Yes <input type="radio"/> No
2.	Applicant is:	
	<input type="radio"/> an individual	<input type="radio"/> a general partnership
	<input type="radio"/> a limited partnership	<input type="radio"/> a not-for-profit corporation
	<input type="radio"/> other	<input type="radio"/> a for-profit corporation
	a. If "other", describe nature of applicant in an Exhibit.	<input checked="" type="radio"/> a limited liability company (LLC/LC)
3.	a. Applicant certifies that it is not the licensee or permittee of the commercial primary station being rebroadcast and that neither it nor any parties to the application have any interest in or connection with the commercial primary station being rebroadcast. See 47 C.F.R. Section 74.1232(d).	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A See Explanation in [Exhibit 3]
	b. Applicant certifies that the FM translator's (a) 1mV/m coverage contour does not extend beyond the protected contour of the commercial FM primary station to be rebroadcast, or (b) entire 1mV/m coverage contour is contained within the greater of either: (i) the 2 mV/m daytime contour of	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A See Explanation in

the commercial AM primary station to be rebroadcast, or (ii) a 25-mile radius centered at the commercial AM primary station's transmitter site.	[Exhibit 4]
<p>NOTE: If No to a. and b., and no waiver has been requested in an Exhibit, this application is unacceptable for filing. See 47 C.F.R. Section 74.1232(d).</p> <p>If Yes to (a) and No to (b) applicant is prohibited from receiving any support, before or after construction, either directly or indirectly from the commercial primary station being rebroadcast or from any person or entity having any interest whatsoever, or any connection with the primary FM station. Interested and connected parties include group owners, corporate parents, shareholders, officers, directors, employees, general and limited partners, family members and business associates. See 47 C.F.R. Section 74.1232(e).</p>	
<p>4. The applicant, if for a commercial FM translator station with a coverage contour extending beyond the protected contour of the commercial primary station being rebroadcast, certifies that it has not received any support, before or after constructing, directly or indirectly, from the licensee/permittee of the primary station or any person with an interest in or connection with the licensee or permittee of the primary station, except for technical assistance as provided for under 47 C.F.R. Section 74.1232(e).</p>	<p><input type="radio"/> Yes <input type="radio"/> No</p> <p><input type="radio"/> N/A</p> <p>See Explanation in [Exhibit 5]</p>
<p>5. For applicants proposing translator rebroadcasts that are not the licensee of the primary station, the applicant certifies that written authority has been obtained from the licensee of the station whose programs are to be retransmitted. If No, this application is unacceptable for filing.</p>	<p><input type="radio"/> Yes <input type="radio"/> No</p> <p><input type="radio"/> N/A</p>
<p>6. Character Issues. Applicant certifies that neither applicant nor any party to the application has or has had any interest in or connection with:</p> <p>a. any broadcast application in any proceeding where character issues were left unresolved or were resolved adversely against the applicant or party to the application; or</p> <p>b. any pending broadcast application in which character issues have been raised.</p>	<p><input checked="" type="radio"/> Yes <input type="radio"/> No</p> <p>See Explanation in [Exhibit 6]</p>
<p>7. Adverse Findings. Applicant certifies that, with respect to the applicant, any party to the application, and any non-party equity owner in the applicant, no adverse finding has been made, nor has an adverse final action been taken by any court or administrative body in a civil or criminal proceeding brought under the provisions of any law related to the following: any felony; mass media-related antitrust or unfair competition; fraudulent statements to another governmental unit; or discrimination.</p> <p>If the answer is "No," attach as an Exhibit a full disclosure concerning the persons and matters involved, including an identification of the court or administrative body and the proceeding (by dates and file numbers), and a description of the disposition of the matter. Where the requisite information has been earlier disclosed in connection with another application or as required by 47 C.F.R. Section 1.65, the applicant need only provide: (i) an identification of that previous submission by reference to the file number in the case of an</p>	<p><input checked="" type="radio"/> Yes <input type="radio"/> No</p> <p>See Explanation in [Exhibit 7]</p>

	application, the call letters of the station regarding which the application or Section 1.65 information was filed, and date of filing; and (ii) the disposition of the previously reported matter.	
8.	Alien Ownership and Control. Applicant certifies that it complies with the provisions of Section 310 of the Communications Act of 1934, as amended, relating to interests of aliens and foreign governments.	<input type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 8]
9.	Program Service Certification. Applicant certifies that it is cognizant of and will comply with its obligations as a Commission licensee to present a program service responsive to the issues of public concern facing the station's community of license and service area.	<input type="radio"/> Yes <input type="radio"/> No
10.	Local Public Notice. Applicant certifies compliance with the public notice requirements of 47 C.F.R. Section 73.3580.	<input type="radio"/> Yes <input type="radio"/> No
11.	Auction Authorization. If the application is being submitted to obtain a construction permit for which the applicant was the winning bidder in an auction, then the applicant certifies, pursuant to 47 C.F.R. Section 73.5005(a), that it has attached an exhibit containing the information required by 47 C.F.R. Sections 1.2107(d), 1.2110(i), 1.2112(a) and 1.2112(b), if applicable. An exhibit is required unless this question is inapplicable.	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A See Explanation in [Exhibit 9]
12.	Anti-Drug Abuse Act Certification. Applicant certifies that neither applicant nor any party to the application is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862.	<input checked="" type="radio"/> Yes <input type="radio"/> No
13.	Equal Employment Opportunity (EEO). If the applicant proposes to employ five or more full-time employees, applicant certifies that it is filing simultaneously with this application a Model EEO Program Report on FCC Form 396-A.	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A

I certify that the statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith. I acknowledge that all certifications and attached Exhibits are considered material representations. I hereby waive any claim to the use of any particular frequency as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and request an authorization in accordance with this application. (See Section 304 of the Communications Act of 1934, as amended.)

Typed or Printed Name of Person Signing PAUL H. REYNOLDS	Typed or Printed Title of Person Signing MEMBER
Signature	Date 04/07/2017

SECTION III - PREPARER'S CERTIFICATION

I certify that I have prepared Section III (Engineering Data) on behalf of the applicant, and that after such preparation, I have examined and found it to be accurate and true to the best of my knowledge and belief.

Name LEE S. REYNOLDS		Relationship to Applicant (e.g., Consulting Engineer) TECHNICAL CONSULTANT	
Signature		Date 04/07/2017	
Mailing Address POST OFFICE BOX 383174			
City BIRMINGHAM	State or Country (if foreign address) AL	Zip Code 35238 -	
Telephone Number (include area code) 2059016600		E-Mail Address (if available) LEER@REYNOLDSTECHNICAL.COM	

WILLFUL FALSE STATEMENTS ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. CODE, TITLE 47, SECTION 312(a)(1)), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).

Section III-A - Engineering				
TECHNICAL SPECIFICATIONS				
Ensure that the specifications below are accurate. Contradicting data found elsewhere in this application will be disregarded. All items must be completed. The response "on file" is not acceptable.				
TECH BOX				
1.	Channel: 252			
2.	Primary Station:			
	Facility ID Number	Call Sign	City	State
	5354	WAYE	BIRMINGHAM	AL
3.	Delivery Method (Select One): <input type="radio"/> Off-air <input type="radio"/> Microwave <input type="radio"/> Satellite <input type="radio"/> Via <input checked="" type="radio"/> Other			
4.	Antenna Location Coordinates: (NAD 27)			
	Latitude: Degrees 33 Minutes 29 Seconds 2 <input checked="" type="radio"/> North <input type="radio"/> South			

Longitude: Degrees 86 Minutes 48 Seconds 21 <input checked="" type="radio"/> West <input type="radio"/> East											
5. Antenna Structure Registration Number: 1037278 <input type="checkbox"/> Not Applicable <input type="checkbox"/> Notification filed with FAA											
6. Antenna Location Site Elevation Above Mean Sea Level:										279 meters	
7. Overall Tower Height Above Ground Level:										328 meters	
8. Height of Radiation Center Above Ground Level:										136 meters(H) 136 meters(V)	
9. Effective Radiated Power:										0.1 kW(H) 0.1 kW(V)	
10. Transmitting Antenna: Before selecting Directional "Off-the-Shelf", refer to "Search for Antenna Information" under <u>CDBS Public Access</u> (http://licensing.fcc.gov/prod/cdbspubacc/prod/cdbsp_a.htm). Make sure that the Standard Pattern is marked Yes and that the relative field values shown match your values. Enter the Manufacturer (Make) and Model exactly as displayed in the Antenna Search. <input type="radio"/> Nondirectional <input type="radio"/> Directional Off-the Shelf <input checked="" type="radio"/> Directional composite Manufacturer SHI Model 6812B Rotation: 18degrees <input type="checkbox"/> No Rotation											
Degrees	Value	Degrees	Value	Degrees	Value	Degrees	Value	Degrees	Value	Degrees	Value
0	0.92	10	0.97	20	0.96	30	0.92	40	0.87	50	0.9
60	0.92	70	0.92	80	0.92	90	0.9	100	0.82	110	0.82
120	0.85	130	0.87	140	0.9	150	0.89	160	0.9	170	0.98
180	0.9	190	0.76	200	0.6	210	0.2	220	0.22	230	0.22
240	0.17	250	0.18	260	0.3	270	0.4	280	0.54	290	0.7
300	0.83	310	0.85	320	0.69	330	0.79	340	1	350	0.96
Additional Azimuths											

Relative Field Polar Plot

11. For FM Boosters and Fill-in translators only.	
<p>a. FM Fill-in translators. Applicant certifies that the FM translator's (a) 1mV/m coverage contour does not extend beyond the protected contour of the commercial FM primary station to be rebroadcast, or (b) entire 1mV/m coverage contour is contained within the greater of either: (i) the 2 mV/m daytime contour of the commercial AM primary station to be rebroadcast, or (ii) a 25-mile radius centered at the commercial AM primary station's transmitter site.</p>	<p><input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A</p> <p>See Explanation in [Exhibit 10]</p>
<p>b. FM Boosters. Applicant certifies that the FM Booster station's service contour is entirely within the primary station's protected coverage contour.</p>	<p><input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> N/A</p> <p>See Explanation in [Exhibit 11]</p>
12. Interference. The proposed facility complies with all of the following applicable rule sections. Check all that apply:	
	<input checked="" type="radio"/> Yes <input type="radio"/> No

		See Explanation in [Exhibit 12]
	Overlap Requirements. <input checked="" type="checkbox"/> a) 47 C.F.R. Section 74.1204 Exhibit Required.	[Exhibit 13]
	Television Channel 6 Protection. <input checked="" type="checkbox"/> b) 47 C.F.R. Section 74.1205 with respect to station(s) Exhibit Required.	[Exhibit 14]
13.	Unattended operation. Applicant certifies that unattended operation is not proposed, or if this application proposes unattended operation, the applicant certifies that it will comply with the requirements of 47 C.F.R. Section 74.1234.	<input checked="" type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 15]
14.	Multiple Translators. Applicant certifies that it does not have any interest in an application or an authorization for an FM translator station that serves substantially the same area and rebroadcasts the same signal as the proposed FM translator station.	<input checked="" type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 16]
15.	Environmental Protection Act. Applicant certifies that the proposed facility is excluded from environmental processing under 47 C.F.R. Section 1.1306 (i.e., the facility will not have a significant environmental impact and complies with the maximum permissible radiofrequency electromagnetic exposure limits for controlled and uncontrolled environments). Unless the applicant can determine compliance through the use of the RF worksheets in Appendix A, an Exhibit is required. By checking "Yes" above, the applicant also certifies that it, in coordination with other users of the site, will reduce power or cease operation as necessary to protect persons having access to the site, tower or antenna from radiofrequency electromagnetic exposure in excess of FCC guidelines.	<input checked="" type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 17]
PREPARER'S CERTIFICATION ON PAGE 4 MUST BE COMPLETED AND SIGNED.		

Section IV – Noncommercial Educational Point System Factors - -New and Major Change Applications on Reserved Channels Only (used to select among mutually exclusive applications for new stations and major modifications) **NOTE:** Applicants will not received any additional points for amendments made after the close of the application filing window.

Preliminary Matter: Does this application provide fill-in service only?	<input type="radio"/> Yes <input type="radio"/> No
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1.	Established Local Applicant: Applicant certifies that for at least the 24 months immediately prior to application, and continuing through the present, it qualifies as a local applicant pursuant to 47 C.F.R. Section 73.7000, that its governing documents require that such localism be maintained, and that it has placed documentation of its qualifications as an established local applicant in a local public inspection file and has submitted to the Commission copies of the documentation.	<input type="radio"/> Yes <input type="radio"/> No
2.	Diversity of Ownership: Applicant certifies that the principal community (city grade) contour of the proposed station does not overlap the principal community contour of any other authorized radio station (including AM, FM, and non-fill-in FM translator stations, commercial or noncommercial) in which any party to the application has an attributable interest as defined in 47 C.F.R. Section 73.3555, that its governing documents require that such diversity qualification in a local public inspection file and has submitted to the Commission copies of the documentation.	<input type="radio"/> Yes <input type="radio"/> No
3.	State-wide Network: Applicant certifies that (a) it has NOT claimed a credit for diversity of ownership above; (b) it is one of the three specific types of organizations described in 47 C.F.R. Section 73.7003(b)(3); and (c) it has placed documentation of its qualifications in a local public inspection file and has submitted to the Commission copies of the documentation.	<input type="radio"/> Yes <input type="radio"/> No
4.	Technical Parameters: Applicant certifies that the numbers in the boxes below accurately reflect the new (increased) area and population that its proposal would serve with a 60 dBu signal measured in accordance with the standard predicted contours in 47 C.F.R. Section 73.713(c) and that it has documented the basis for its calculations in the local public inspection file and has submitted copies to the Commission. Major modification applicants should include the area of proposed increase only (exclude the station's existing service area). (Points, if any, will be determined by FCC)	<input type="radio"/> Yes <input type="radio"/> No
	New (increased) area served in square kilometers (excluding areas of water):	
	Population served based on the most recent census block data from the United States Bureau of Census using the centroid method:	
Tie Breakers		
5.	<p>Existing Authorizations. a. By placing a number in the box, the applicant certifies that it and any persons and organizations with attributable interests in the applicant pursuant to 47 C.F.R. Section 73.3555 have, as of the date filing, existing authorizations for the following number of relevant broadcast stations. FM translator applicants should count all attributable full service radio stations, AM and FM, commercial and noncommercial and FM translator stations other than fill-in stations.</p> <p>(number of attributable commercial and non-commercial licenses and construction permits)</p> <p>b. (Fill-in Applicants Only.) By placing a number in the box, the applicant certifies that, in addition to the station identified in 5(a), it and any persons and organizations with attributable interests in the applicant pursuant to 47 C.F.R. Section 73.3555 have, as of the date filing,</p>	

existing authorizations for the following number of FM translators.

6. **Pending Applications.** a. By placing a number in the box, the applicant certifies that it and any persons and organizations with attributable interests in the applicant pursuant to 47 C.F.R. Section 73.3555 have, as of the date filing, pending applications for new or major changes to the following number of relevant broadcast stations, AM and FM, commercial and non-commercial and FM translator stations other than fill-in stations.

(number of attributable commercial and non-commercial applications)

- b. (Fill-in Applicants Only.) By placing a number in the box, the applicant certifies that, in addition to the station identified in 5(a), it and any persons and organizations with attributable interests in the applicant pursuant to 47 C.F.R. Section 73.3555 have, as of the date of filing, existing authorizations for the following number of FM translators.

Section VI -- Certification

I certify that the statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith. I acknowledge that all certifications and attached Exhibits are considered material representations. I hereby waive any claim to the use of any particular frequency as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and request an authorization in accordance with this application. (See Section 304 of the Communications Act of 1934, as amended.)

Typed or Printed Name of Person Signing
PAUL REYNOLDS

Typed or Printed Title of Person Signing
MEMBER

Signature

Date
04/07/2017

Exhibits

Attachment 10

Description
<u>Engineering exhibits</u>

Exhibit 12

Description: INTERFERENCE

SEE THE ATTACHMENT IN EXHIBIT 10.

Attachment 12

Exhibit 13**Description:** EXHIBIT 13

SEE THE ATTACHMENT IN EXHIBIT 10.

Attachment 13

Exhibit 14**Description:** TV CHANNEL 6 PROTECTION

W252BE DOES NOT OPERATE IN THE RESERVED BAND, NOR DOES IT OPERATE ON AN I.F. CHANNEL TO ANY TV STATION. THEREFORE NO PROPOSED INTERFERENCE TO ANY TV STATION WILL OCCUR.

Attachment 14

Exhibit 15**Description:** UNATTENDED OPERATION

APPLICANT CERTIFIES THAT UNATTENDED OPERATION IS NOT PROPOSED, OR IF THIS APPLICATION PROPOSES UNATTENDED OPERATION, THE APPLICANT CERTIFIES THAT IT WILL COMPLY WITH THE REQUIREMENTS OF 47 C.F.R. SECTION 74.1234.

Attachment 15

Exhibit 16**Description:** MULTIPLE TRANSLATORS

APPLICANT CERTIFIES THAT IT DOES NOT HAVE ANY INTEREST IN AN APPLICATION OR AN AUTHORIZATION FOR AN FM TRANSLATOR STATION THAT SERVES SUBSTANTIALLY THE SAME AREA AND REBROADCASTS THE SAME SIGNAL AS THE PROPOSED FM TRANSLATOR STATION.

Attachment 16

Exhibit 17**Description:** HUMAN EXPOSURE TO RADIOFREQUENCY RADIATION

THE PROPOSED FACILITY WILL PRODUCE 0.037% OF THE ALLOWABLE RADIATION FOR CONTROLLED/OCCUPATIONAL LIMITS. HENCE, THERE ARE NO RADIATION ISSUES FOR PERSONS NEAR THE BASE OF THE TOWER.

NO NEW TOWER CONSTRUCTION IS PROPOSED.

Attachment 17

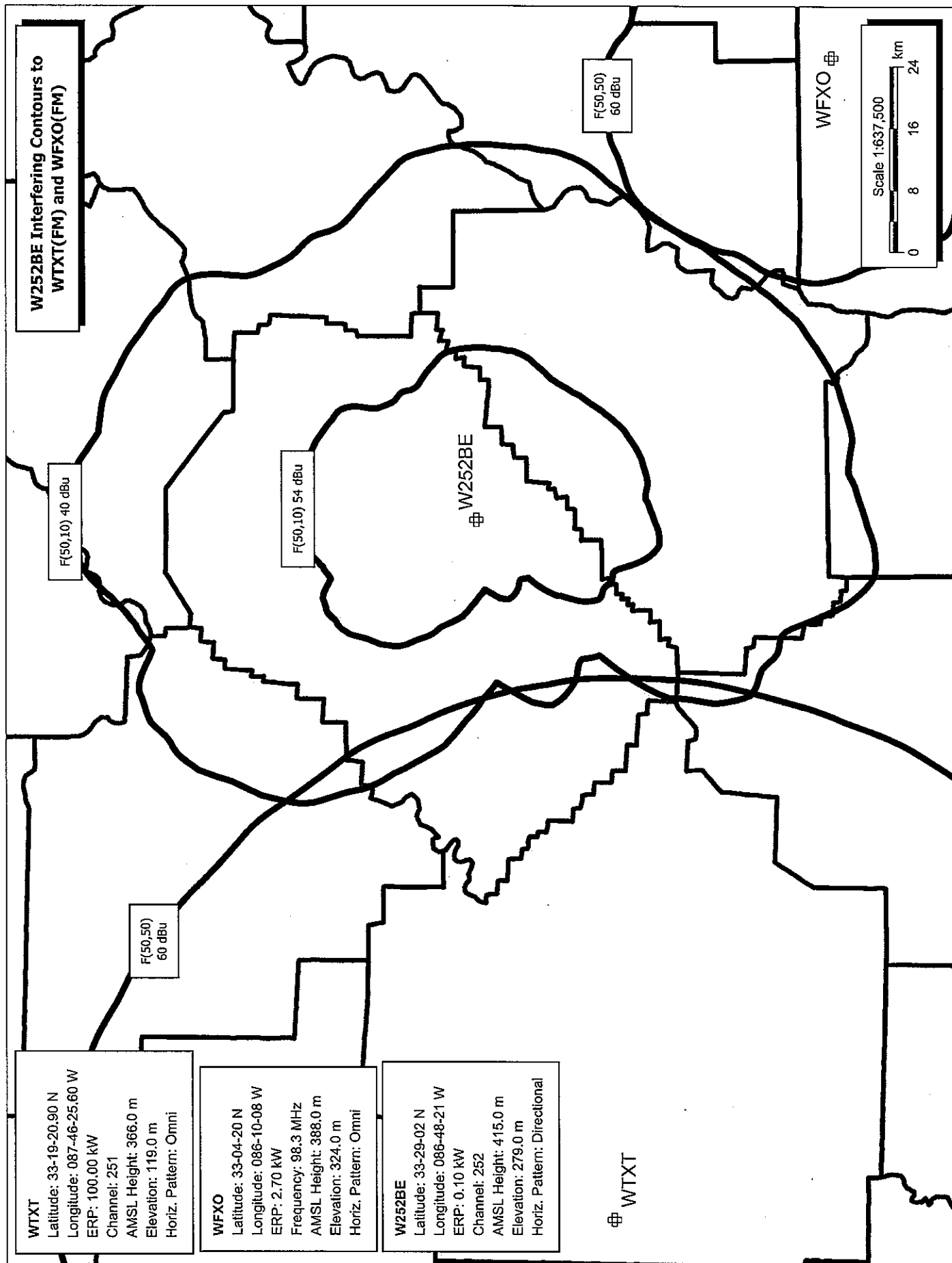
**Engineering Statement
In Support of an
Application for a Construction Permit
W252BE, Tarrant, AL**

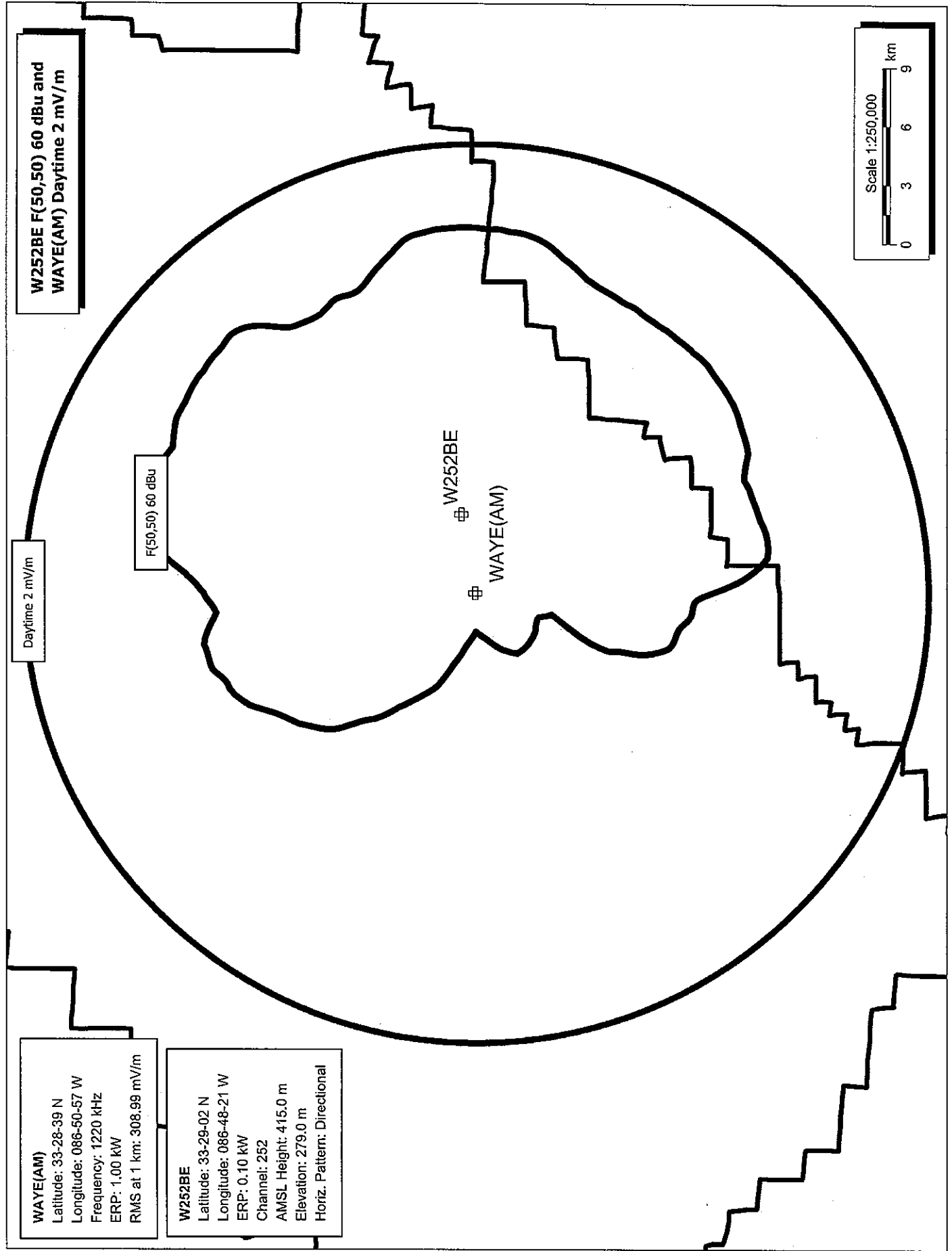
FM Overlap Study

REFERENCE CH# 252D - 98.3 MHz, Pwr= 0.1 kW DA, HAAT= 227.3 M, COR= 415 M DISPLAY DATES
33 29 02.0 N. Average Protected F(50-50)= 15.5 km DATA 04-07-17
86 48 21.0 W. Standard Directional SEARCH 04-07-17

CH	CALL	TYPE	ANT	AZI.	DIST	LAT.	Pwr (kW)	INT (km)	PRO (km)	*OUT*
CITY	STATE			<--	FILE #	LANG.	HAAT (M)	COR (M)	LICENSEE	(Overlap in km)
252D	W252BE	LIC DC		0.0	0.0	33 29 02.0	0.090	62.5	19.5	-72.5*
Tarrant	AL			0.0	BMLFT20140520ALM	86 48 21.0	350	538	Valleydale Broadcasting, LLC	
Of no concern: Licensed W252BE facility.										
254C1	WBHK	LIC NCX		300.8	0.1	33 29 04.0	39.000	8.8	69.8	-70.3*
Warrior	AL			120.8	BLH20030122AAG	86 48 25.0	408	601	Sm-wbkh, LLC	
Of concern: Since WBHK and W252BE are only 100 meters apart, the maximum distance to the interfering contour is 0.1 meter.										
252A	WFXO	LIC CX		127.5	74.9	33 04 20.0	2.700	84.4	29.4	0.3
Stewartville	AL			307.9	BLH20170103AAJ	86 10 08.0	151	388	Marble City Media, LLC	
Note: No overlap as a result of the modification of W252BE in the instant application.										
251C1	WTXT	LIC CX		259.0	91.8	33 19 20.9	100.000	101.3	69.2	6.7
Fayette	AL			78.4	BLH20120823AAB	87 46 25.6	274	366	Capstar Tx, LLC	
250D	W262AR	CP C		61.1	14.9	33 32 54.0	0.032	0.4	4.9	9.2
Irondale	AL			241.2	BPFT20160129AJF	86 39 56.0		279	La Promesa Foundation	
249C3	WHPH	LIC NCX		184.3	55.8	32 58 55.0	13.000	4.1	40.3	14.9
Jemison	AL			4.3	BLH20100519ADS	86 51 02.0	140	301	Great South Wireless, LLC	

Terrain database is NGDC 30 SEC, R= 73.215 qualifying spacings or FCC minimum spacings in KM, M= Margin in KM
Contour distances are on direct line to and from reference station. Reference Zone= , Co to 3rd adjacent.
Ant Column: (D= DA Standard, Z= DA 73.215, N= Not DA 73.215, _= Omni), Polarization (C,H,V,E), Beamtilt (Y,N,X)
"*"affixed to 'IN' or 'OUT' values = site inside protected contour.





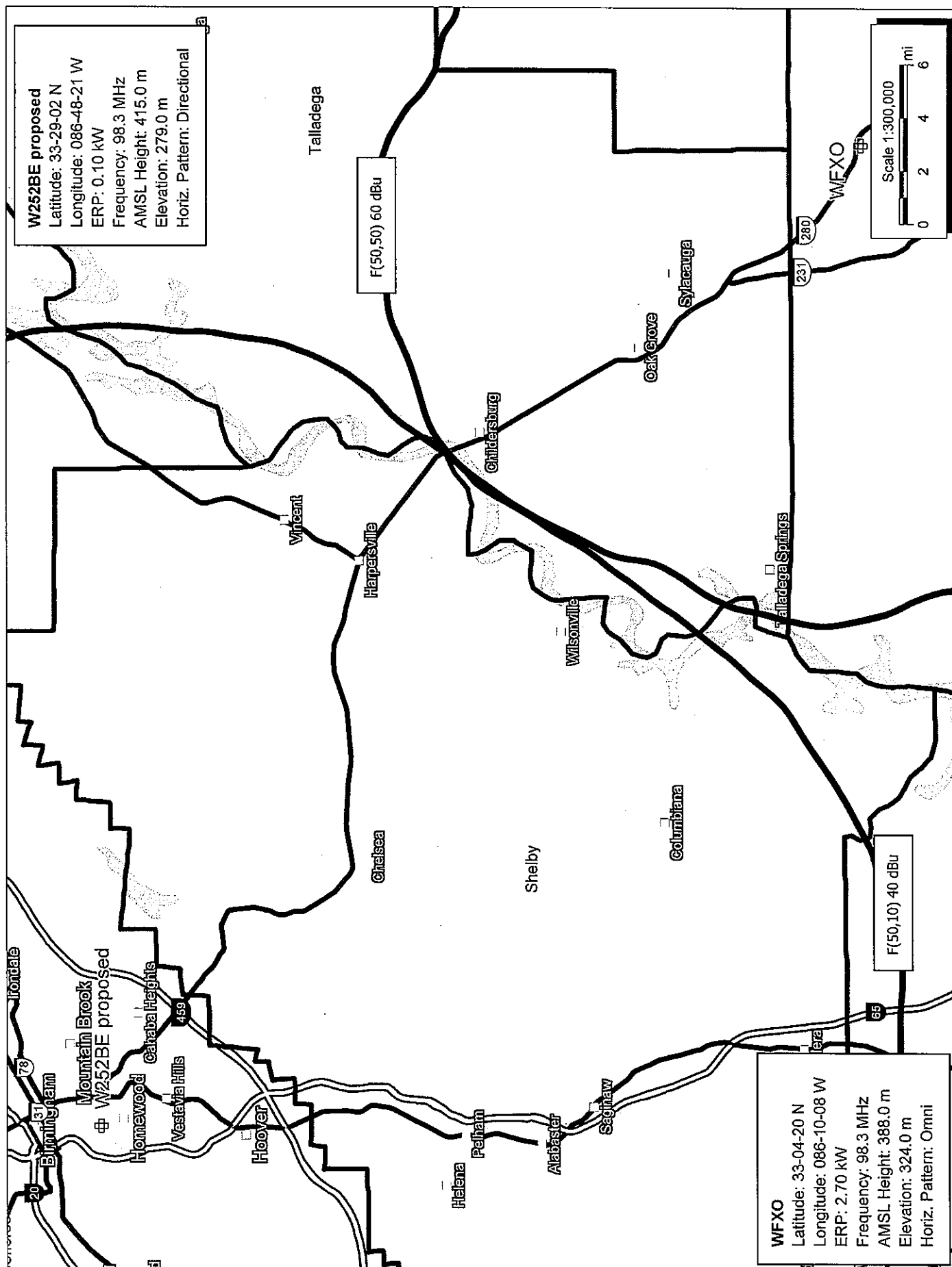
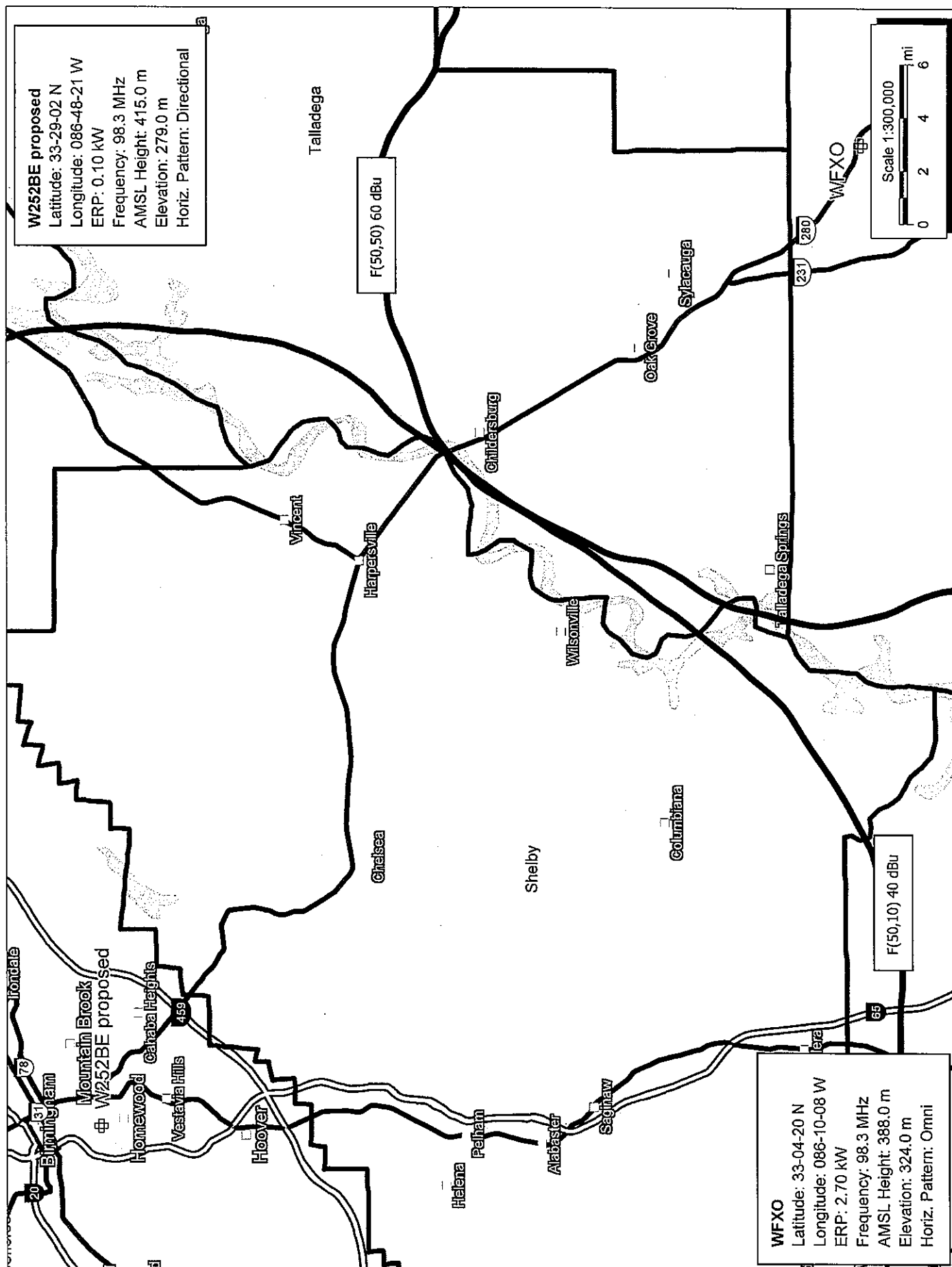


Exhibit 2

Declaration of Lyle Reynolds

DECLARATION OF LYLE REYNOLDS

I, Lyle Reynolds, representative of Valleydale Broadcasting, LLC, licensee of FM Translator Station W252BE hereby declare under penalty of perjury that the following statement is true and correct to the best of my knowledge and belief.

In response to a letter from the FCC staff dated March 29, 2017. I conducted telephonic interviews with and sent questionnaires (sample attached) to the Complainants whose statements were cited in a Complaint filed by Marble City Media, LLC. The goals of this outreach were to evaluate the claims of interference made by Marble City and to remediate it where interference was determined to exist.

A summary of my findings is included in the attached Response to Complaint.

Lyle Reynolds Date: May 12, 2017



Lyle Reynolds <983radiofm@gmail.com>

Interference with WFXO(FM)

1 message

Lyle Reynolds <983radiofm@gmail.com>

Tue, Apr 25, 2017 at 8:21 PM

To: mlewis327@gmail.com

Bcc: h.weiss496@gmail.com, reynoldstyle1002@gmail.com

April 25, 2017

Dear Mr Lewis:

I write to you on behalf of Shelby Broadcasting Associates, LLP, proposed licensee of FM Translator Station W252BE, Tarrant, Alabama. Station WFXO (FM, Stewartville, AL, I has filed a complaint with the Federal Communications Commission (the "FCC") in Washington, DC, alleging that our translator W252BE causes interference to alleged regular listeners of Station WFXO (FM), Stewartville, AL. The complaint relies on sworn statements from WFXO listeners residing or commuting almost 50 miles away from Station WFXO's facilities, including you.

The FCC's staff has written a letter to us, requiring a response to the complaint no later than May 12, distinguishable from that of WFXO. Under the FCC's rules, we must reach out to you to verify the interference and, if it in fact exists, to re-mediate it. We also note that in order for your complaint to be credited by the FCC, you must be "disinterested". Accordingly, while we regret the necessity to further ask you to participate in this dispute, we have no choice, as an FCC licensee, but to respectfully ask that you respond to the questions that follow. We ask that you be as specific as possible and as prompt as possible in responding. In preparing your response, we also want to make sure that you understand that the translator at issue here rebroadcasts Spanish-language programming broadcast by Station W252BE, Tarrant, AL, programming that is unique in your listening area and presumably easily distinguishable from that of WFXO. We also note that the FCC will not "credit" complaints from listeners who are not "regular" or "disinterested". The latter term means you cannot have a business or close personal relationship with either of the two contesting parties, e.g., an employee or a business partner.

Please address the following:

Please provide the email address and telephone number which work best to reach you. Please indicate when you would prefer to be contacted and where. Please provide your job or home address, depending on which is your preferred address. We undertake to keep all of this information confidential and to not communicate to you with you in a manner or at a location for which we do not have your consent.

When did you commence listening to Station WFXO on a "regular" basis? When did you first notice interference from the translator to station WFXO? What was the nature of the interference? How did it affect the Station's signal?

To whom did you raise a complaint first about the interference? If in writing, please provide a copy of the complaint.

When did you become aware that Station WFXO intended to file your complaint at the FCC? Were there revisions made in your complaint before it was filed? Were you aware of them? If so, when did the change made—before the filing at the FCC?

Is the same interference that you complained of in your initial complaint currently continuing? Please state specifically at what location, how often, whether weather conditions affect it, and how long it continues.

State how often and for how long you listen to the Station. State if you have ever experienced interference to the Station from a station other than the Translator and provide details.

State whether you have any business, professional, legal or personal relationship with an owner, employee or contractor providing services to the Station or the Translator. If so, provide details.

Certificate of Service

I, Sharon L. Hinderer, Legal Assistant at the law firm of Putbrese Hunsaker & Trent, P.C., do hereby certify that copies of the foregoing "RESPONSE TO COMPLAINT REGARDING INTERFERENCE BY MARBLE CITY MEDIA AND FCC LETTER OF INQUIRY" have, this 12th day of May, 2017, been sent via First Class Mail, postage pre-paid, to the following:

Peter H. Doyle, Esquire (by e-mail)
Federal Communications Commission
445 12th Street SW
Washington DC 20554

James Bradshaw (by e-mail)
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Robert Gates (by e-mail)
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

M. Scott Johnson, Esquire (by e-mail and U.S. Mail)
Fletcher, Heald & Hildreth, PLC
1300 17th Street North, 11th Floor
Arlington, Virginia 22209
Counsel for Marble City Media, LLC



Sharon L. Hinderer