



FCC Form 340, Section VII, Question 15(a)
Contour Overlap Requirements 47 CFR Section 73.509

A complete noncommercial educational allocation study was performed in accordance with Section 73.509 of the FCC Rules to ensure that the proposed operation would neither cause nor receive prohibited overlap with respect to any licensed noncommercial broadcast facility, outstanding construction permit, or pending application.

The first two of the attached Exhibits demonstrate the lack of co-channel and first-adjacent channel overlap. The remainder of the Exhibits (Table 1 and Exhibits A through F), demonstrate compliance with Section 73.509 with respect to second-adjacent channel station WFMU(FM), East Orange, New Jersey.

Radio station WFMU(FM) is presently licensed to operate with an Effective Radiated Power (ERP) of 1.25 kW at an antenna Height Above Average Terrain (HAAT) of 151 meters on second-adjacent channel 216A pursuant to FCC License BMLED-20050408ACI. On May 30, 2008, Auricle Communications ("Auricle"), the licensee of WFMU(FM) filed a minor change application (FCC File No. BPED-20080530ABA) to move the WFMU(FM) transmitter site approximately 70 meters and operate with an equivalent technical facility.

Because the present and proposed WFMU(FM) were designed to be technically equivalent, and because the proposed WFMU(FM) transmitter site move is so slight, only the licensed WFMU(FM) technical facility is considered in the Section 73.509 overlap and interference analysis contained herein. Therefore, all representations of "present" overlap

and interference condition refer to the WFMU(FM) licensed facility with respect to the WNYE(FM) licensed facility. All representations of the “proposed” overlap and interference condition refer to the WFMU(FM) licensed facility with respect to the WNYE(FM) proposed technical facility.

Background and Section 73.509 Waiver Request

On September 13, 1989, Upsala College (“Upsala”), the former licensee of WFMU(FM) filed a minor change application (FCC File No. BPED-890913ID) to move to its current site. The proposed WFMU(FM) facility substantially increased Section 73.509 overlap to second-adjacent channel station WNYE(FM). On April 25, 1990, WNYE-FM filed an Opposition to the 1989 WFMU(FM) application citing the increase in overlap and interference and requested a reduction in the proposed WFMU(FM) ERP to properly protect WNYE(FM) in accordance with Section 73.509 of the FCC Rules.

On April 24, 1991, the Commission released its decision in *Educational Information Corporation* [WCPE, Raleigh, NC] 6 FCC Rcd 2207 (1991) (“*Raleigh*”). On September 30, 1992, the Audio Services Division granted the WFMU(FM) application over the WNYE(FM) objection, citing the recent *Raleigh* decision which allowed instances of second and third adjacent channel Section 73.509 overlap in the noncommercial educational FM (NCE-FM) service to increase the flexibility available to NCE-FM stations to make significant improvements in service. Also, in *Raleigh*, the Commission made clear that the “FCC

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should allow the interfering stations some latitude to modify their facilities in turn or they will be forever restricted to their current facilities”.¹

Because WFMU(FM) was granted a Raleigh waiver which allowed increased Section 73.509 overlap caused and received with respect to WNYE(FM), the Audio Division may consider the instant WNYE(FM) proposal as the “other side of the coin”. In *Raleigh*, WCPE(FM), Raleigh, NC was granted a waiver of Section 73.509 overlap received (from second-adjacent channel station WCCE(FM), Buies Creek, NC). The Commission categorized a WCEE(FM) minor change application as “the other side of the coin”:

We note, however, that proposals such as WCCE’s are the “other side of the coin”. Where waivers are approved to allow stations to receive overlap, there is always a station causing it. Thereafter any increase or displacement in the facilities of the “causing” station will result in new overlap. To avoid perpetually restricting such stations to their current facilities, and in view of the limited nature of the interference potential of second or third adjacent channels discussed above, we are inclined to view waiver requests such as WCEE’s favorably where there is clearly a public benefit.²

In light of the above, if a waiver of Section 73.509 is determined to be necessary, a continuation of the *Raleigh* waiver is respectfully requested.

Because of the unique characteristics of the New York City radio market, it is well-established that the only way to effectively serve the entire WNYE(FM) community of license (New York, NY) is from a high-elevation FM broadcast site such as the Empire

¹ See Mass Media Action, Report No. MM-532, April 11, 1991.

² See Educational Information Corporation [WCPE, Raleigh, NC] 6 FCC Rcd 2207 (1991) (“*Raleigh*”) at paragraph 14.

State Building or from Four Times Square.³ Antenna height is a critical factor for a New York City station to serve its community because building penetration and wide-area coverage suffers from the lower antenna sites. The licensed WNYE(FM) antenna HAAT is only 131 meters (430 feet). The instant proposal would increase the WNYE(FM) antenna HAAT to 281 meters (922 feet).

Due to FM allocation considerations, the Empire State Building was ruled out. That left only Four Times Square as a potential site for WNYE(FM) to improve service to its community of license and to the surrounding metropolitan area. Therefore, the instant application proposes a relocation to Four Times Square and a corresponding power reduction.

The proposed WNYE(FM) Four Times Square facility was specifically designed to decrease Section 73.509 overlap caused to WFMU(FM) decrease Section 73.509 interference caused to WFMU(FM). Because the WNYE(FM) proposal will decrease overlap caused and maintain overlap received, a waiver of Section 73.509 of the FCC Rules may not be necessary to grant the instant proposal. However, as stated above, if a waiver of Section 73.509 is determined to be necessary, a continuation of the *Raleigh* waiver is respectfully requested.

³ Of the 19 FM stations licensed to New York, NY, only WNYE(FM) and two other stations (WFUV and WNYU) operate from a transmitter site other than the Empire State Building or Four Times Square.

Section 73.509 Overlap Study - WNYE(FM) vs. WFMU(FM)

Table 1, contains the details of the present and proposed areas of Section 73.509 overlap and Section 73.509 interference⁴ between WNYE(FM) [Channel 218] and WFMU(FM) [Channel 216]. Exhibit A through Exhibit F depict the overlap/interference conditions summarized in Table 1. As shown in Table 1:

- The land area subject to WNYE(FM) Section 73.509 overlap caused is decreased by 7.1 square kilometers as a result if the instant proposal.
- The land area subject to WNYE(FM) Section 73.509 overlap received is maintained.
- The total land area subject to Section 73.509 overlap is decreased by 7.1 square kilometers as a result if the instant proposal.
- The land area subject to WNYE(FM) Section 73.509 interference caused is decreased by 7.0 square kilometers as a result if the instant proposal.
- The total land area subject to Section 73.509 interference is decreased by 6.4 square kilometers as a result if the instant proposal.
- The population subject to WNYE(FM) Section 73.509 interference caused is decreased by 41,187 persons.
- The population subject to WNYE(FM) Section 73.509 interference is decreased by 41,043 persons.

Overlap caused is increased to only 24,247 persons, or only 0.496% of the population within the WFMU(FM) protected contour. Similarly, interference received is

⁴ Interference calculations were based on: (1) the -40 dB undesired-to-desired ratio for second-adjacent channel related stations set forth in Section 73.509(a); (2) the F(50,50) protected contours calculated in accordance with Section 73.509(c)(1) and, (3) the F(50,10) interfering contours calculated in accordance with Section 73.509(c)(2) of the FCC Rules.

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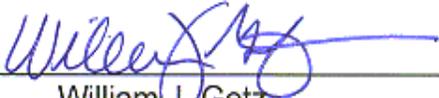
increased to only 144 persons, or 0.0011% of the population within the WNYE(FM) protected contour. While the population within the “overlap caused” area and the “interference received” area increases slightly the overwhelming benefits listed above support a waiver of Section 73.509 if necessary.

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Spacing Requirements 47 CFR Section 73.207

An intermediate frequency (IF) allocation study was performed considering existing stations, proposed stations and allocations on channels 53 and 54 channels removed from the proposed channel of operation. The study revealed that the instant proposal satisfies the minimum distance separations specified for IF-related stations in Section 73.207 of the FCC Rules.

DATED: July 31, 2008



William J. Getz

NEW (218A)
Palmyra Township, PA
BNPED-20071018AXN

WGRS (218A)
Guilford, CT
LIC: BLED-19951214KB

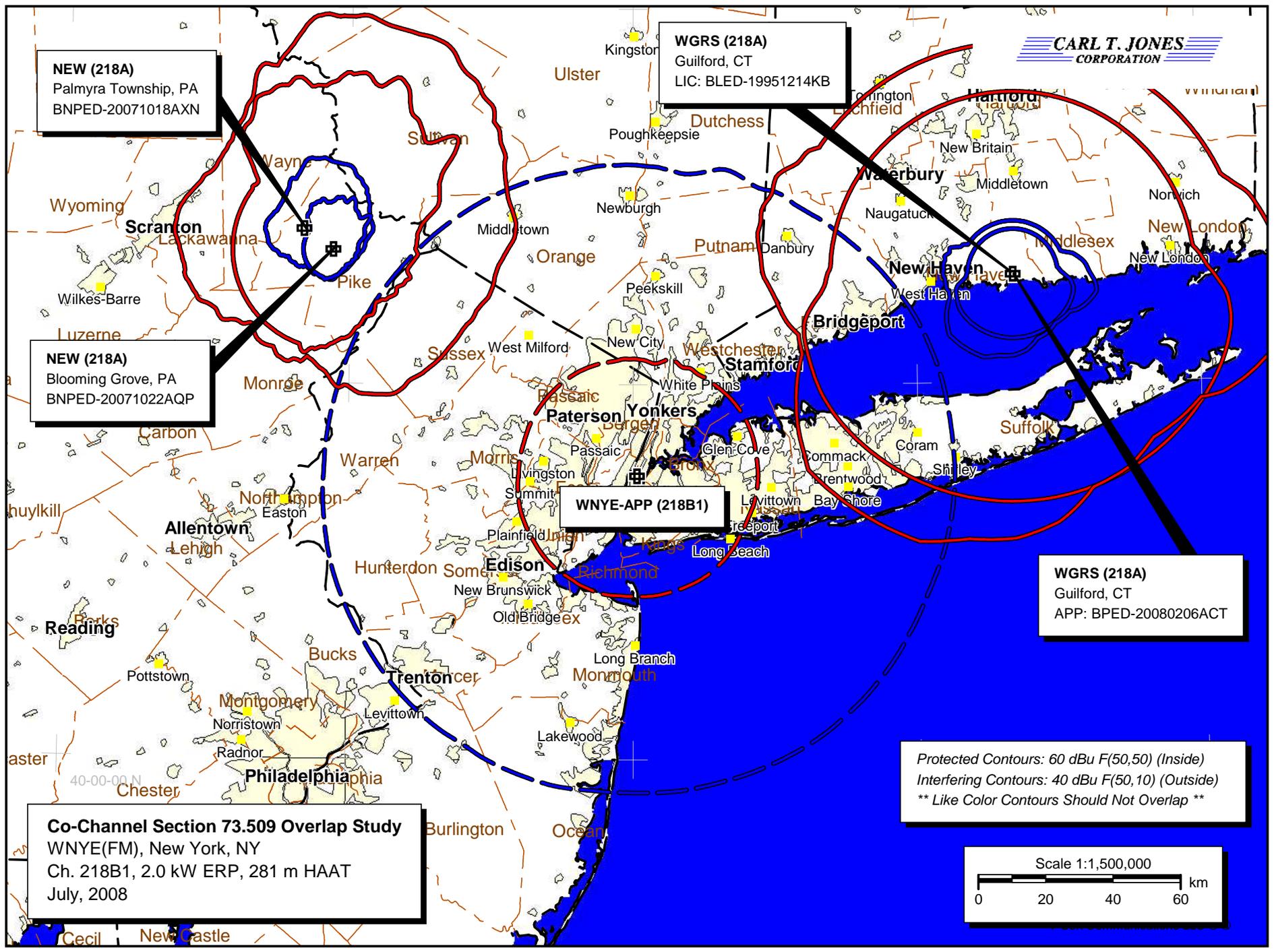
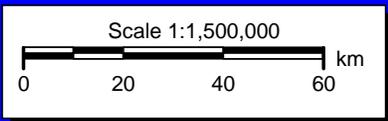
NEW (218A)
Blooming Grove, PA
BNPED-20071022AQP

WNYE-APP (218B1)

WGRS (218A)
Guilford, CT
APP: BPED-20080206ACT

Protected Contours: 60 dBu F(50,50) (Inside)
Interfering Contours: 40 dBu F(50,10) (Outside)
**** Like Color Contours Should Not Overlap ****

Co-Channel Section 73.509 Overlap Study
WNYE(FM), New York, NY
Ch. 218B1, 2.0 kW ERP, 281 m HAAT
July, 2008



First-Adjacent Channel
 Section 73.509 Overlap Study
 WNYE(FM), New York, NY
 Ch. 218B1, 2.0 kW ERP, 281 m HAAT
 July, 2008

WVKR-FM (217B1)
 Poughkeepsie, NY

WXCI (219A)
 Danbury, CT

WOSR (219B1)
 Middletown, NY

NEW (217A)
 Budd Lake, NJ
 BNPED-20071019AYI

NEW (219A)
 Princeton, NJ
 BNPED-20071018AXM
 BNPED-20071019ARM

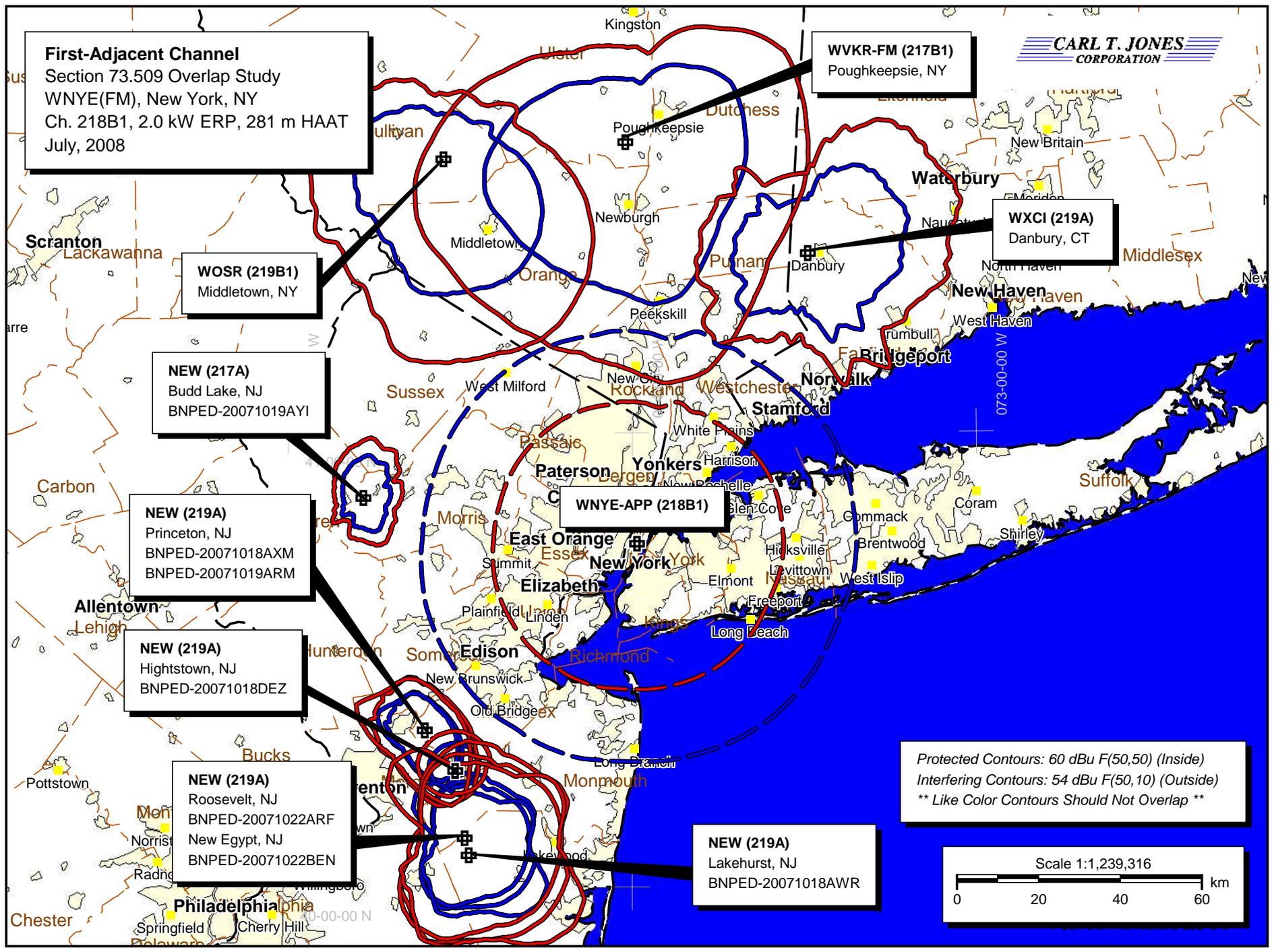
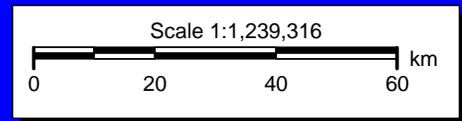
NEW (219A)
 Hightstown, NJ
 BNPED-20071018DEZ

NEW (219A)
 Roosevelt, NJ
 BNPED-20071022ARF
 New Egypt, NJ
 BNPED-20071022BEN

NEW (219A)
 Lakehurst, NJ
 BNPED-20071018AWR

WNYE-APP (218B1)

Protected Contours: 60 dBu F(50,50) (Inside)
Interfering Contours: 54 dBu F(50,10) (Outside)
**** Like Color Contours Should Not Overlap ****



**Details of Section 73.509 Overlap and Inteference Area
WNYE(FM), New York, NY vs. WFMU(FM), East Orange, NJ
July, 2008**

WNYE Section 73.509 Overlap Caused to WFMU			
	Present	Proposed	Change
Land Area (sq. km ²)	24.0	16.9	-7.1
Population	361,059	385,306	+24,247

WNYE Section 73.509 Overlap Received from WFMU			
	Present	Proposed	Change
Land Area (sq. km ²)	12.0	12.0	0.0
Population	18,241	18,241	+0

WNYE Section 73.509 Interference Caused to WFMU			
	Present	Proposed	Change
Land Area (sq. km ²)	19.8	12.8	-7.0
Population	306,182	264,995	-41,187

WNYE Section 73.509 Interference Received from WFMU			
	Present	Proposed	Change
Land Area (sq. km ²)	2.6	3.2	+0.6
Population	2,187	2,331	+144

Net Change

Land Area Subject to Section 73.509 Overlap = **Decreased by 7.1 sq. km.**
Population within Section 73.509 Overlap Area = **Increased by 24,247 persons**

Land Area Subject to Section 73.509 Interference = **Decreased by 6.4 sq. km.**
Population within Section 73.509 Interference Area = **Decreased by 41,043 persons**

Present WNYE Overlap Caused: Land Area = 24.0 km², Population = 361,059
 Present WNYE Overlap Received: Land Area = 12.0 km², Population = 18,241



*Present Section 73.509 Overlap Area
 WNYE(FM) Licensed Facility
 Ch, 218B, 18.0 kW, 131 m HAAT
 WFMU(FM) Licensed Facility
 Ch. 216A, 1.25 kW, 151 m HAAT
 July, 2008*

Proposed WNYE Overlap Caused: Land Area = 16.9 km², Population = 385,306
 Proposed WNYE Overlap Received: Land Area = 12.0 km², Population = 18,241

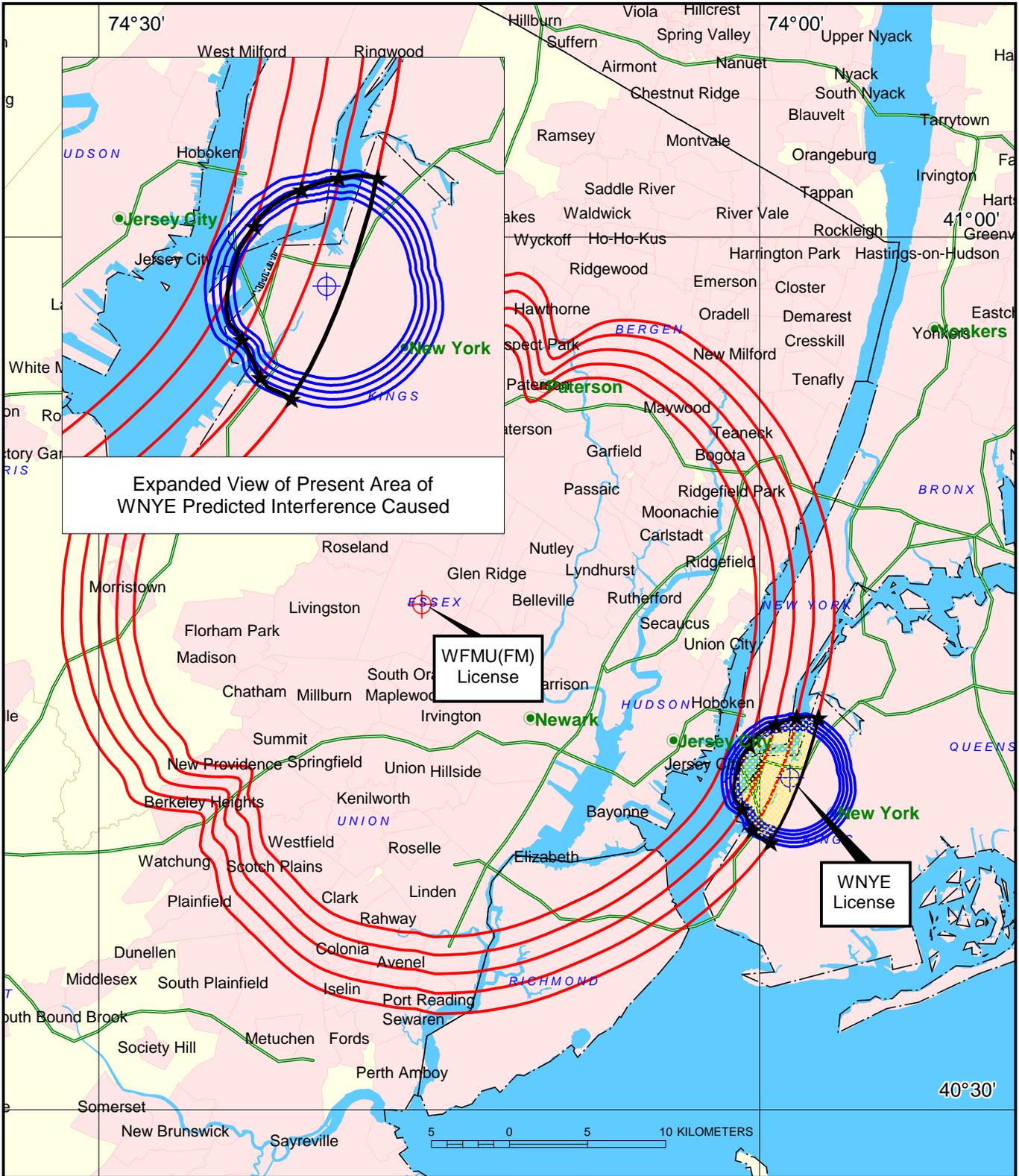


*Proposed Section 73.509 Overlap Area
 WNYE(FM) Proposed Facility
 Ch, 218B1, 2.0 kW, 281 m HAAT
 WFMU(FM) Licensed Facility
 Ch. 216A, 1.25 kW, 151 m HAAT
 July, 2008*

WFMU Protected F(50,50) Contours 60 dBu to 64 dBu in 1 deg. increments

WNYE Interfering F(50,10) Contours 100 dBu to 104 dBu in 1 deg. increments

EXHIBIT C



Expanded View of Present Area of WNYE Predicted Interference Caused

WFMU(FM) License

WNYE License

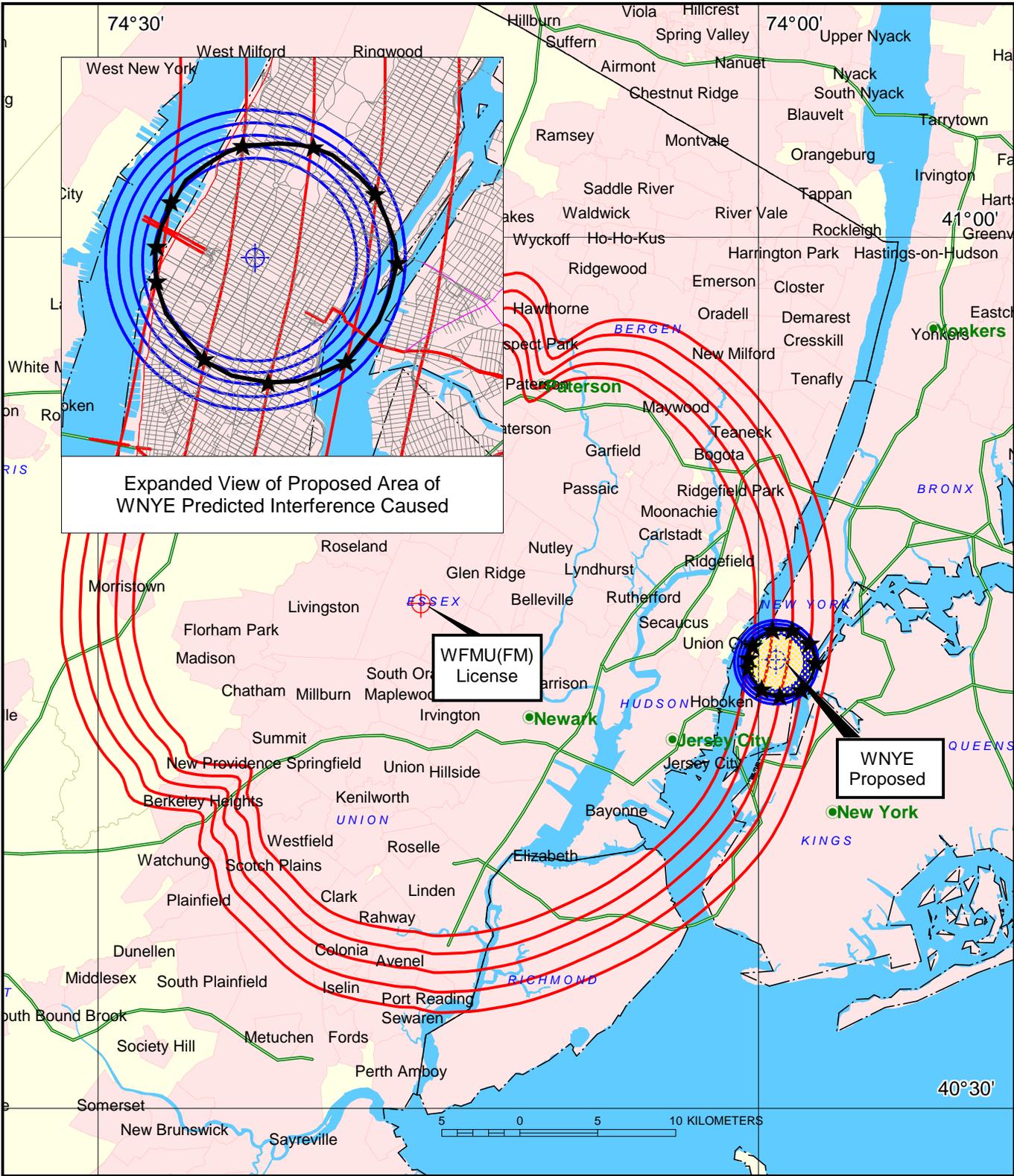


Area of Predicted Interference
Land Area = 19.8 km² / Population = 306,182

*Present Section 73.509 Interference Caused
WNYE(FM) Licensed Facility
Ch, 218B, 18.0 kW, 131 m HAAT
WFMU(FM) Licensed Facility
Ch. 216A, 1.25 kW, 151 m HAAT
July, 2008*

WFMU Protected F(50,50) Contours 60 dBu to 64 dBu in 1 deg. increments

WNYE Interfering F(50,10) Contours 100 dBu to 104 dBu in 1 deg. increments



Expanded View of Proposed Area of WNYE Predicted Interference Caused

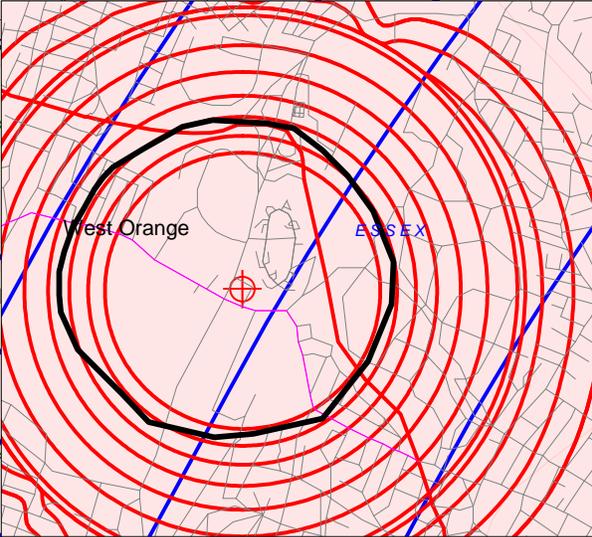
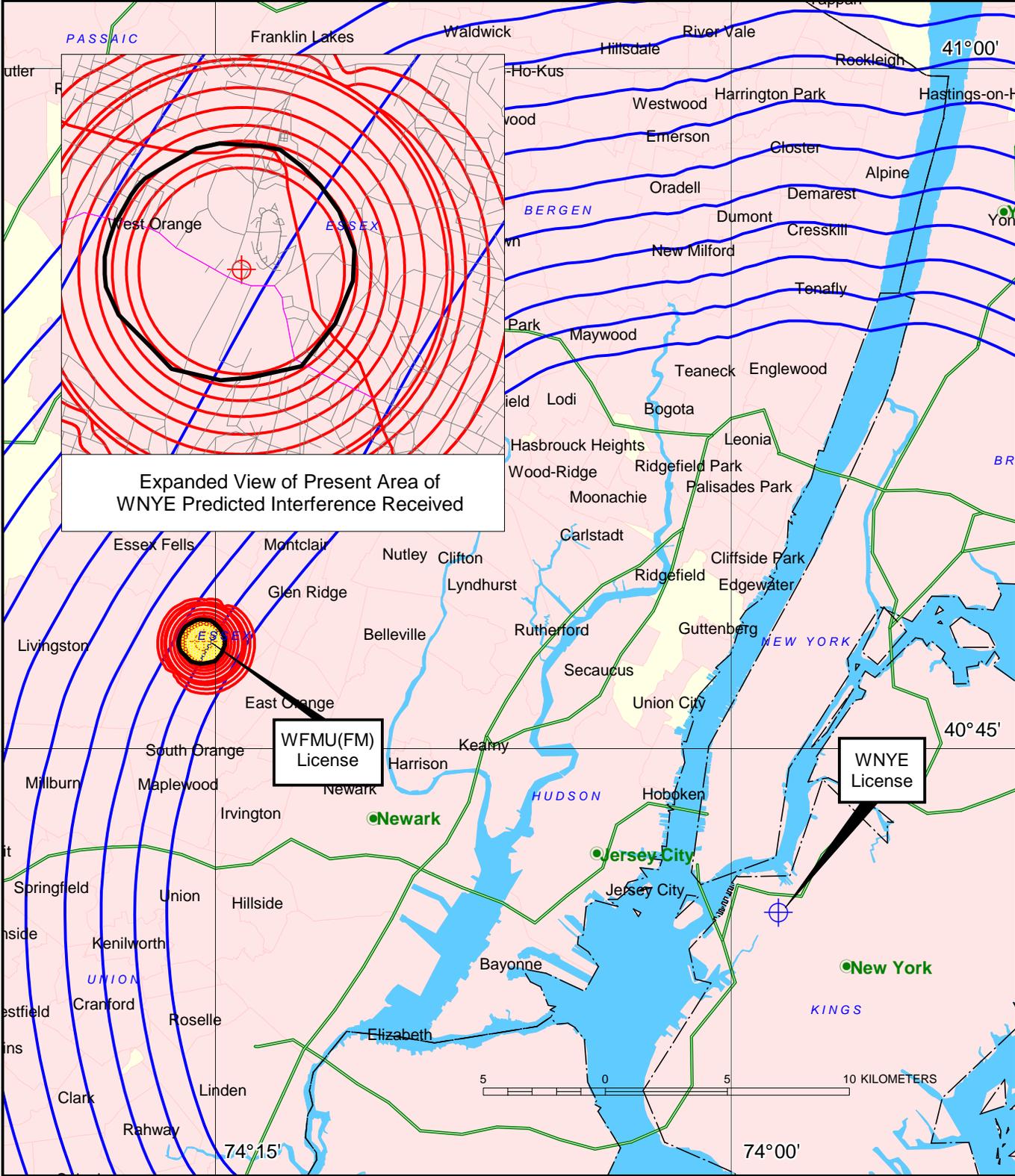
WFMU(FM) License

WNYE Proposed

 Area of Predicted Interference
Land Area = 12.8 km² / Population = 264,995

*Proposed Section 73.509 Interference Caused
WNYE(FM) Proposed Facility
Ch. 218B1, 2.0 kW, 281 m HAAT
WFMU(FM) Licensed Facility
Ch. 216A, 1.25 kW, 151 m HAAT
July, 2008*

WNYE Protected F(50,50) Contours 60 dBu to 69 dBu in 1 deg. increments
WFMU Interfering F(50,10) Contours 100 dBu to 109 dBu in 1 deg. increments



Expanded View of Present Area of WNYE Predicted Interference Received

WFMU(FM) License

WNYE License

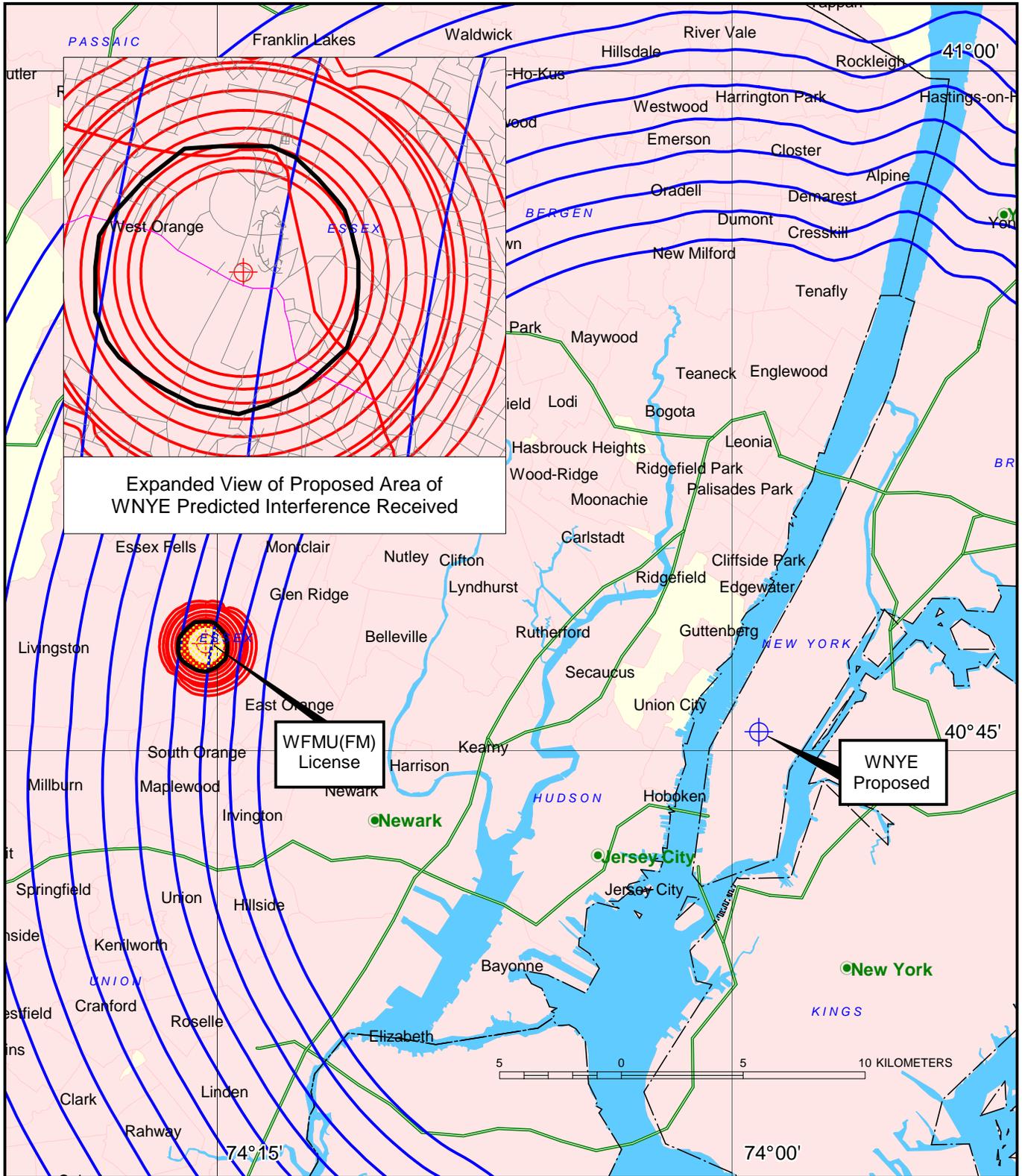
 Area of Predicted Interference
Land Area = 2.6 km² / Population = 2,187

Present Section 73.509 Interference Received
WNYE(FM) Licensed Facility
Ch. 218B, 18.0 kW, 131 m HAAT
WFMU(FM) Licensed Facility
Ch. 216A, 1.25 kW, 151 m HAAT
July, 2008

WNYE Protected F(50,50) Contours 60 dBu to 70 dBu in 1 deg. increments

WFMU Interfering F(50,10) Contours 100 dBu to 109 dBu in 1 deg. increments

EXHIBIT F



Expanded View of Proposed Area of WNYE Predicted Interference Received

WFMU(FM) License

WNYE Proposed

 Area of Predicted Interference
Land Area = 3.2 km² / Population = 2,331

Proposed Section 73.509 Interference Received
WNYE(FM) Proposed Facility
Ch. 218B1, 2.0 kW, 281 m HAAT
WFMU(FM) Licensed Facility
Ch. 216A, 1.25 kW, 151 m HAAT
July, 2008

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