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Murray, UT 84107
Phone: 801-270-2309
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Tuesday, August 21, 2001

Magalie Roman Salas, Secretary
Office of the Secretary
Federal Communications Commission
445 Twelfth Street, S.W. Room TW-A325
Washington, DC 20054

**RE: LPTV Auction Number 81, Group M563
Mutual Exclusivity Settlement Agreement**

Dear Ms. Salas;

Enclosed is a Mutual Exclusivity Settlement Agreement for Auction 81 Group M563, submitted on behalf of Millard County, Sevier County and Acme Television Licenses of Utah, LLC.

A courtesy copy of this application is being sent to Mr. Shaun Maher, Video Services Division, Mass Media Bureau, Federal Communications Commission, 445 12th Street S.W. Room 2-A820, Washington, D.C. 20554 as per the Public Notice DA 01-1289.

Should there be any questions with regards to this agreement, please contact Rick Ervin at 801-270-2309.

Sincerely,

A handwritten signature in cursive script that reads 'Rick Ervin'.

Rick Ervin
V.P. of Distribution and FCC Compliance
ACME Television, LLC

Enclosures

Cc: Mr. Shaun Maher
Mr. Kent Parsons
Mr. Dee Hollingshead
Mr. Rick Ervin

**Low Power Television Auction No. 81
Group M563
Mutual Exclusivity Settlement Agreement**

By and between

**Millard County BNPTT-20000823AAW,
Sevier County BNPTT-20000815AAM
and**

ACME Television Licenses of Utah, LLC BNPTT-20000830BSU

This Mutual Exclusivity Settlement Agreement is entered into on the 20th day of August 2001, by and between Millard County, UT; Sevier County, UT; and ACME Television Licenses of Utah, LLC to meet the requirements of the Federal Communications Commission Public Notice DA 01-1289 issued on May 25, 2001 and to meet the requirements of the Code of Federal Regulations Part 73.3525 *Agreements for removing application conflicts*.

The Public Notice dated May 1, 2000 announcing the Low Power Television Auction 81 application window stated that this auction was intended to provide additional opportunities for Low Power Television and Television Translator service to rural areas of the country. The notice further explains that the Commission would consider terrain shielding for interference protection, as long as the applicant clearly demonstrated the terrain shielding by terrain profiles, Longley-Rice propagation studies or a combination there of.

All three parties to this agreement comprise the whole of Auction No. 81, Group M563 as per *Attachment A* of *FCC Public Notice DA 01-1289*. The applicants include:
Millard County, FCC File number: BNPTT-20000823AAW, FCC Facility ID number 125976, proposed channel 43, community of license: Scipio, UT.
Sevier County, FCC File Number: BNPTT-20000815AAM, FCC Facility ID number 125473, proposed channel 43, community of license: Rural Sevier County.
ACME Television Licenses of Utah, LLC, FCC File number: BNPTT-20000830BSU, FCC Facility ID number: 131215, community of license: Manti & Ephraim, UT.

These applications are all intend to bring additional television translator service of the programming of broadcast stations serving the Salt Lake DMA, to those viewers who are terrain/distance isolated from receiving the Designated Market Area's (DMA) broadcast television stations.

Each of the three applications is intended to bring new program service to viewers who are unable to presently receive that given programming or station. A single specific broadcast station does not benefit from the simultaneous issuance of construction permits for all three applications. One application is planned to provide KJZZ-TV an independent station to rural Sevier county, the application for Scipio is intended to

provide those viewers KCSG-TV, a new local PAX network affiliate to that community and the final application is intended to provide the viewers in the Manti/Ephriam area with KUWB-TV, a WB network affiliate.

The three applications are all proposing to utilize channel 43. It is the position of all the parties to this agreement that the proposed facilities are clearly **terrain isolated** and that the terrain provides the needed interference protect required for each community to be served, which is demonstrated in the figures supplied as part of Attachment A of this document.

It is agreed by all the undersigned parties, upon commencement of operation of all the proposed facilities related to this agreement that each party is willing to accept unpredicted potential interference from the other party. It is further agreed that all parties to this agreement, in the unlikely event of any unpredicted interference problems that may occur, will work together in resolving the interference issue.

The issuance of all three applications facilitate the minimal use of spectrum, at the same time providing maximum population coverage, better meeting the needs of the public.

All the undersigned applicants hereby state and agree:

1. That no applications were filed, for the sole purpose, to cause the requirement of a Mutual Exclusivity Settlement Agreement or the requirement of a resolution by which a financial auction would be required.
2. That there will be no financial consideration paid or promised by, to or amongst the parties, as a requirement of the consummation of this agreement. The parties strongly believe it is in the public's best interest for all the parties to work together on an engineering solution, which allows for all three applications to be awarded.
3. That since there is no financial consideration to be paid by and between the parties, there will be no reimbursement for time, engineering, legal, or other associated costs.
4. That there are no written or oral agreements by or amongst the parties in regards to withdrawal or dismissal of their respective application(s).

- - -

IN WITNESS WHEREOF, the parties have executed this Mutual Exclusivity Settlement Agreement as of the day and year first written above.

For:

MILLARD COUNTY, UTAH

By: *G. Lavar Cox*
Printed Name: G. LAVAR COX
Title: CHAIRMAN COMMISSION
Date: 7, 3 2001

SEVIER COUNTY, UTAH

By: *Ralph Okerlund*
Printed Name: Ralph Okerlund
Title: County Commission
Date: 7, 17 2001

ACME TELEVISION LICENSES OF UTAH, LLC

By: *John Rossi*
Printed Name: John Rossi
Title: V.P. / General Manager
Date: 8, 10 2001

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MILLARD COUNTY, UTAH

By: *G. Lavar Cox*
Printed Name: G. LAVAR COX
Title: CHAIRMAN COMMISSION
Date: 7, 3 2001

SEVIER COUNTY, UTAH

By: _____
Printed Name: _____
Title: _____
Date: _____, _____ 2001

ACME TELEVISION LICENSES OF UTAH, LLC

By: *John Rossi*
Printed Name: John Rossi
Title: V.P. / general manager
Date: 8, 20 2001

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For:

MILLARD COUNTY, UTAH

By: *G. LaVar Cox*
Printed Name: G. LAVAR COX
Title: CHAIRMAN COMMISSION
Date: 7, 3 2001

SEVIER COUNTY, UTAH

By: _____
Printed Name: _____
Title: _____
Date: ____, ____ 2001

ACME TELEVISION LICENSES OF UTAH, LLC

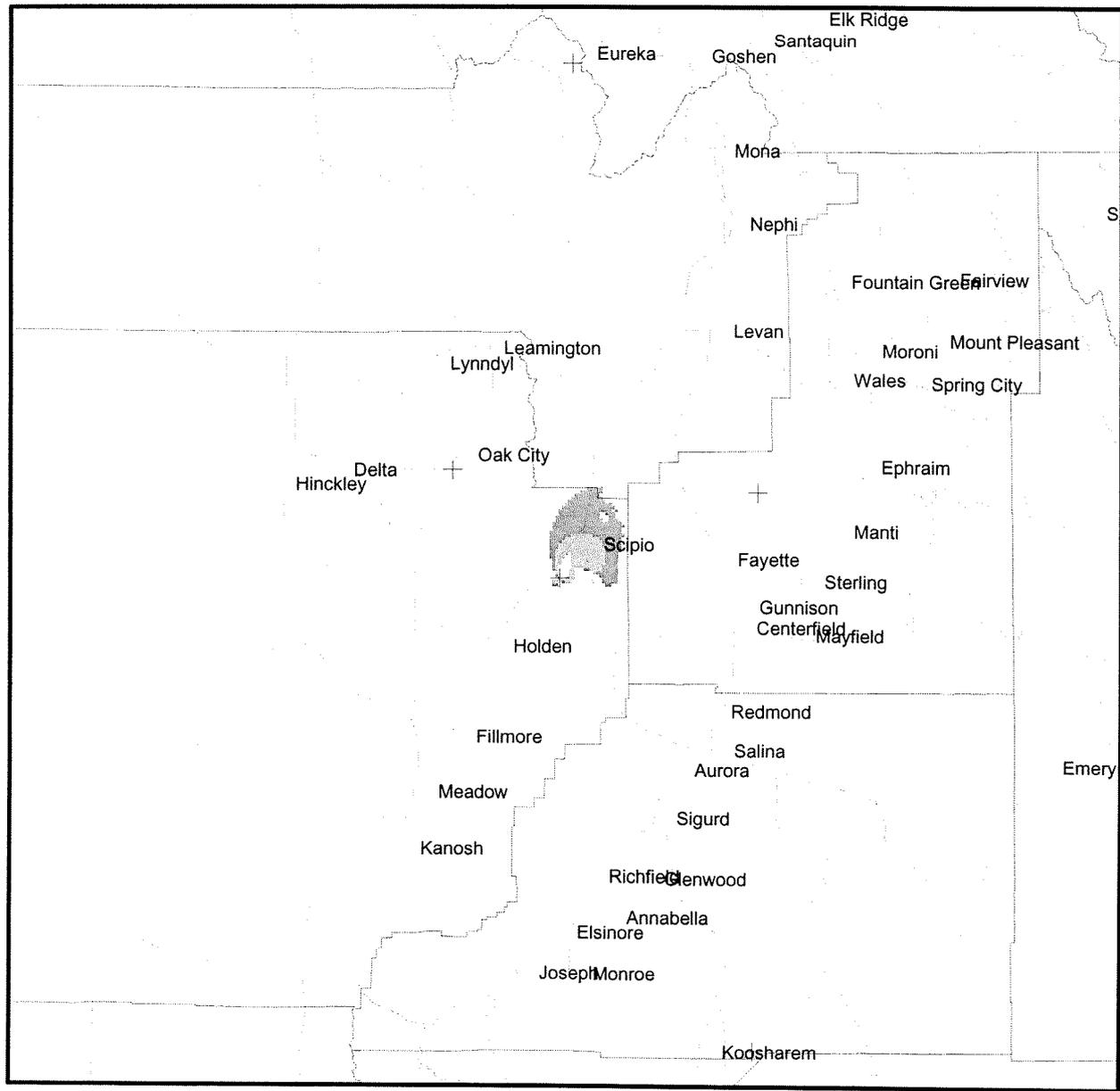
By: *John Rossi*
Printed Name: John Rossi
Title: V.P. / General Manager
Date: 8, 20 2001

Attachment A

The Longley-Rice propagation studies were performed using version 1.2.2 of the Longley-Rice propagation model as part of EDX Engineering, Inc.'s *TVSR* version 5.0.1 software.

All topographic maps and terrain profiles were developed using Delorme Inc.'s *TOPO USA* version 2.0 software.

| Description | Figure |
|--|---------------|
| Longley-Rice Propagation Study, facilities to serve Scipio, UT | 1.1 |
| Longley-Rice Propagation Study, facilities to serve Rural Sevier County, UT | 1.2 |
| Longley-Rice Propagation Study, facilities to serve Manti & Ephraim, UT | 1.3 |
| Terrain Profile between Rural Sevier County and Scipio, UT facilities | 1.4 |
| Terrain Profile between Rural Sevier County and Manti/Ephraim, UT facilities | 1.5 |
| Terrain Profile between Scipio, UT and Manti/Ephraim, UT facilities | 1.6 |

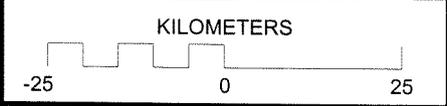


TVSR™: Scipio UT 43.map
 Prop. model: Longley-Rice v1.2.2
 Time: 50.0% Loc.: 50.0%
 Prediction Confidence Margin: 0.0dB
 Climate: Continental Temperate
 Land use (clutter): none
 Atmospheric Abs.: none
 K Factor: 1.333
 RX Antenna - Type: OMNI
 Height: 2.0 m AGL Gain: -2.15 dBd

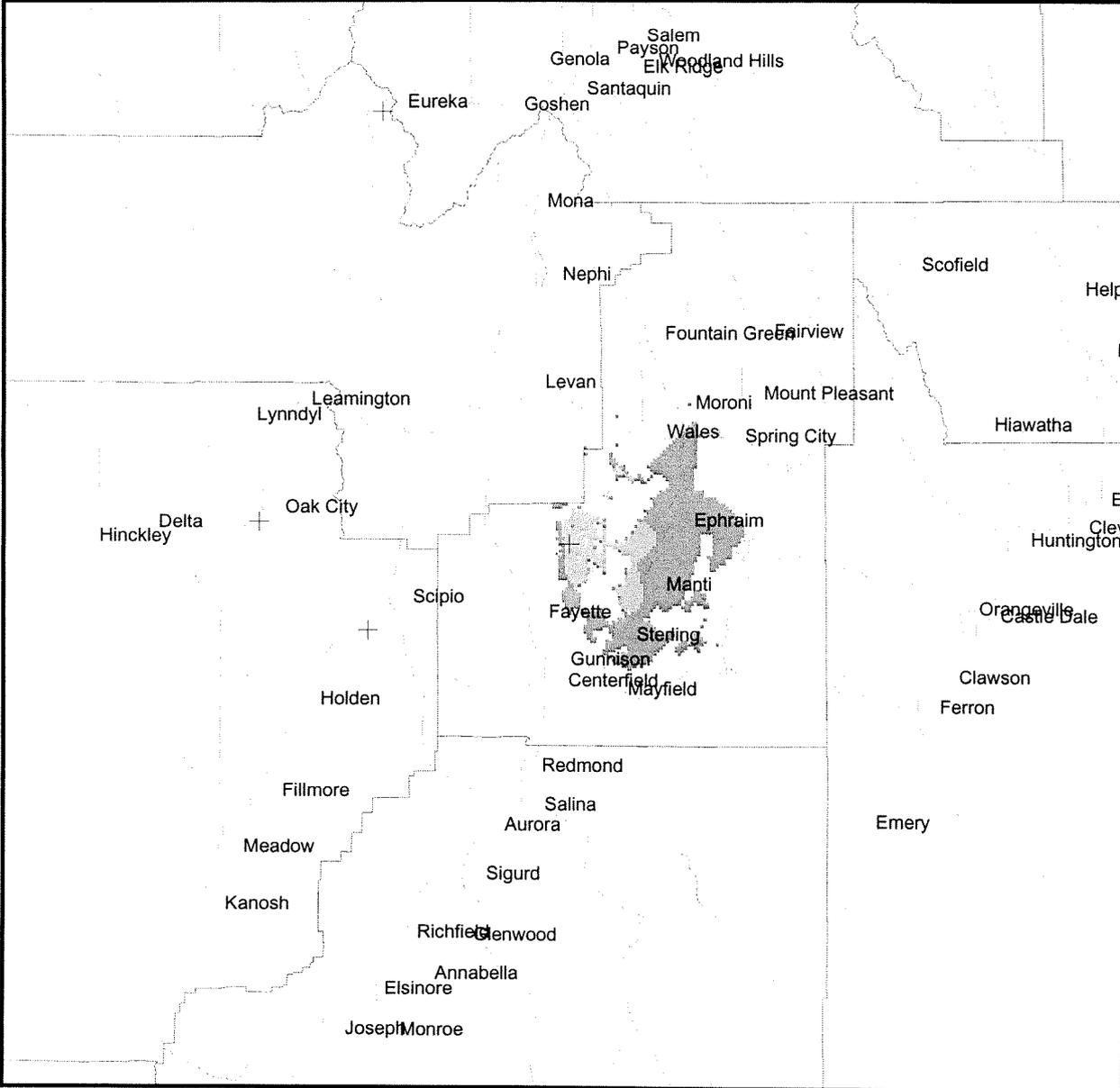
Field strength at remote

| | |
|---------|-------------|
| > | 80.0 dBµV/m |
| 74.0 to | 80.0 dBµV/m |
| 64.0 to | 74.0 dBµV/m |
| < | 64.0 dBµV/m |

Display threshold level: -200.0 dBmW



Scipio, UT
 BNPTT-20000823AAW Facility ID 125976
 Figure 1.1 06/23/2001



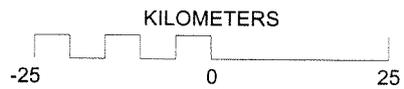
TVSR™: Manti Ephraim UT 43.map

Prop. model: Longley-Rice v1.2.2
 Time: 50.0% Loc.: 50.0%
 Prediction Confidence Margin: 0.0dB
 Climate: Continental Temperate
 Land use (clutter): none
 Atmospheric Abs.: none
 K Factor: 1.333
 RX Antenna - Type: OMNI
 Height: 2.0 m AGL Gain: -2.15 dBd

Field strength at remote

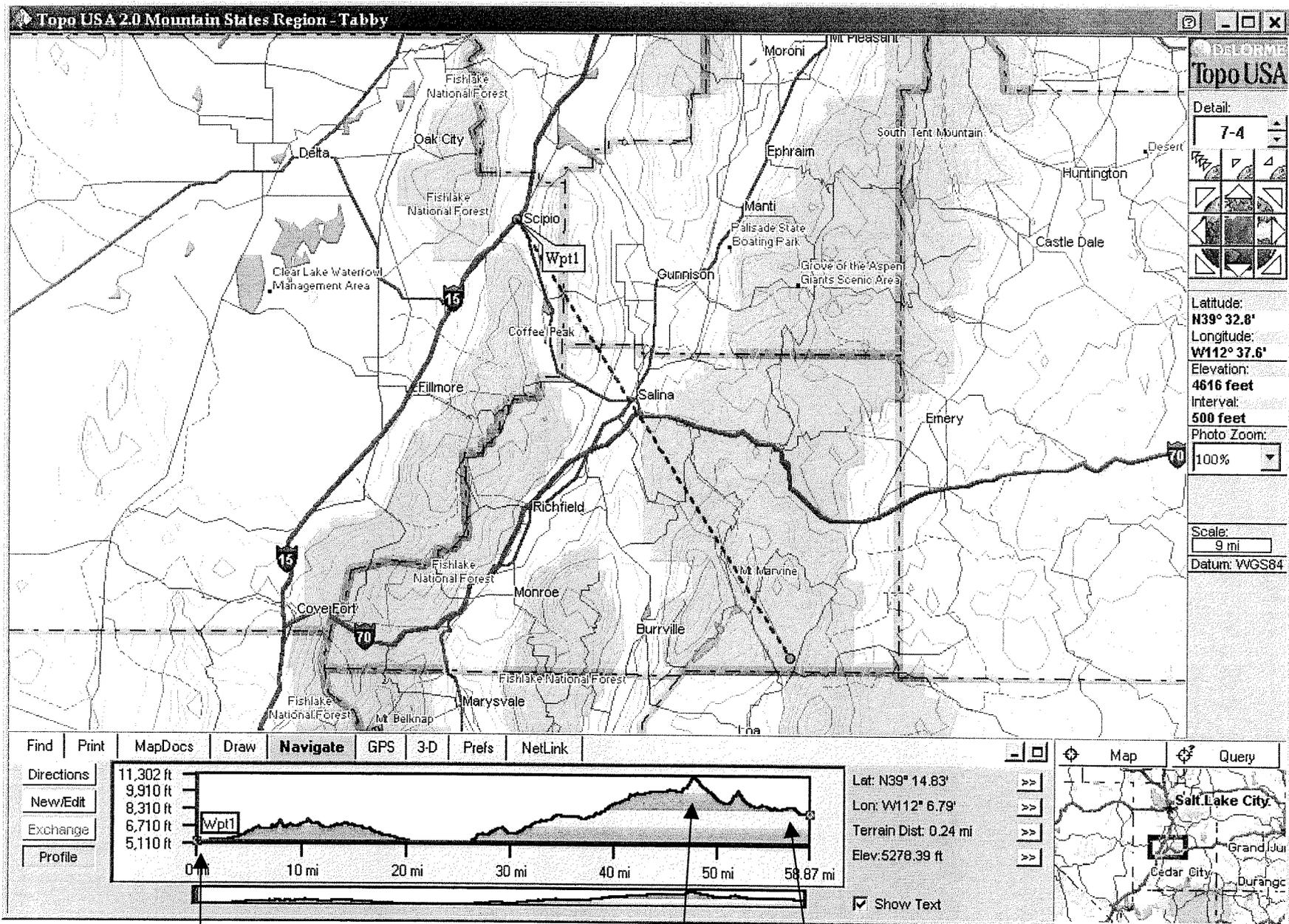
| | |
|---------|-------------|
| > | 80.0 dBµV/m |
| 74.0 to | 80.0 dBµV/m |
| 64.0 to | 74.0 dBµV/m |
| < | 64.0 dBµV/m |

Display threshold level: -200.0 dBmW



Manti/Ephraim, UT

BNPTT-20000830BSU Facility ID 131215
 Figure 1.3 06/23/2001

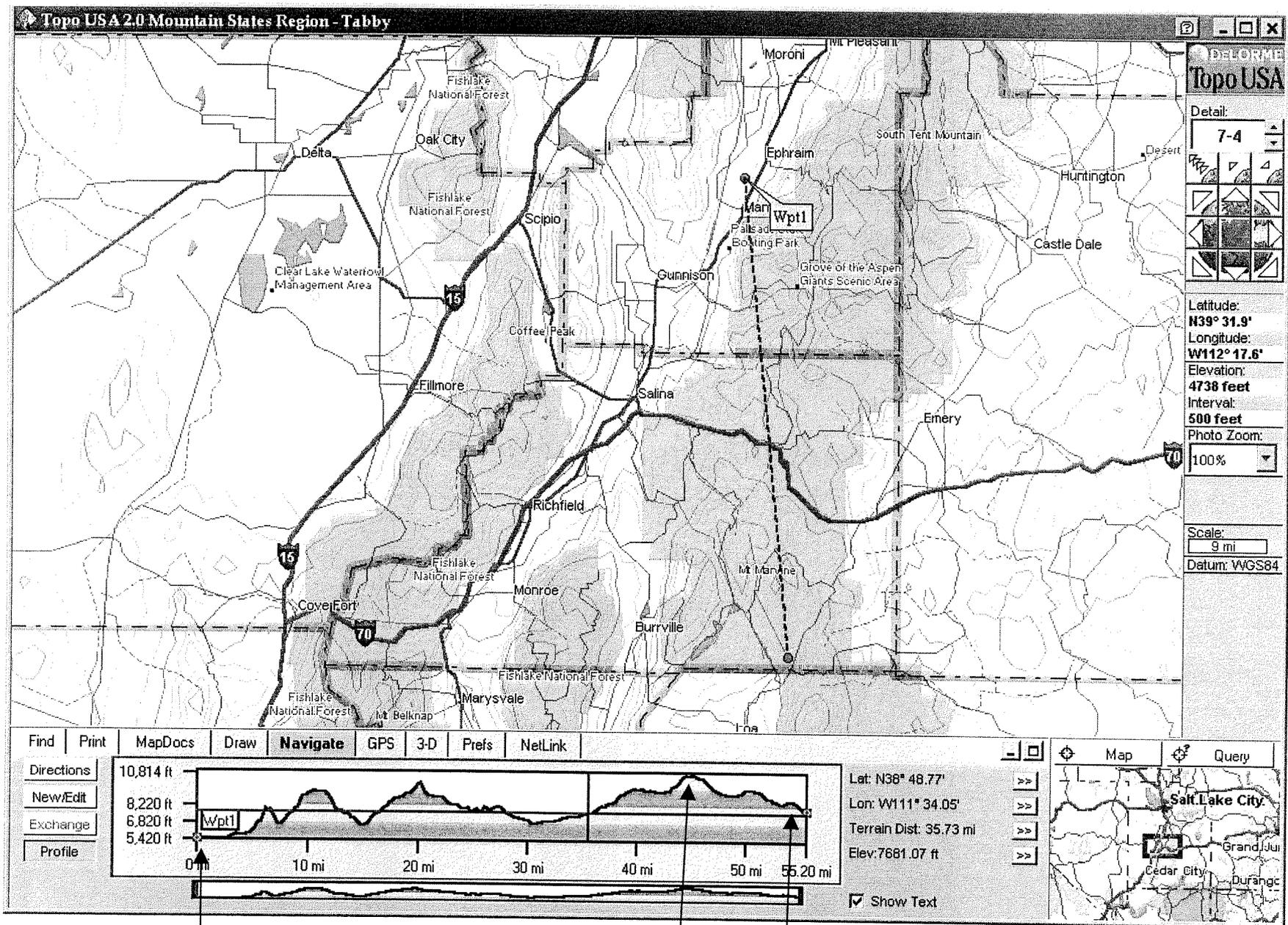


Scipio, UT

Mt. Marvina

Rural Sevier
County XLTR
Site

Figure 1.4 Terrain Profile Scipio, UT – Rural Sevier County

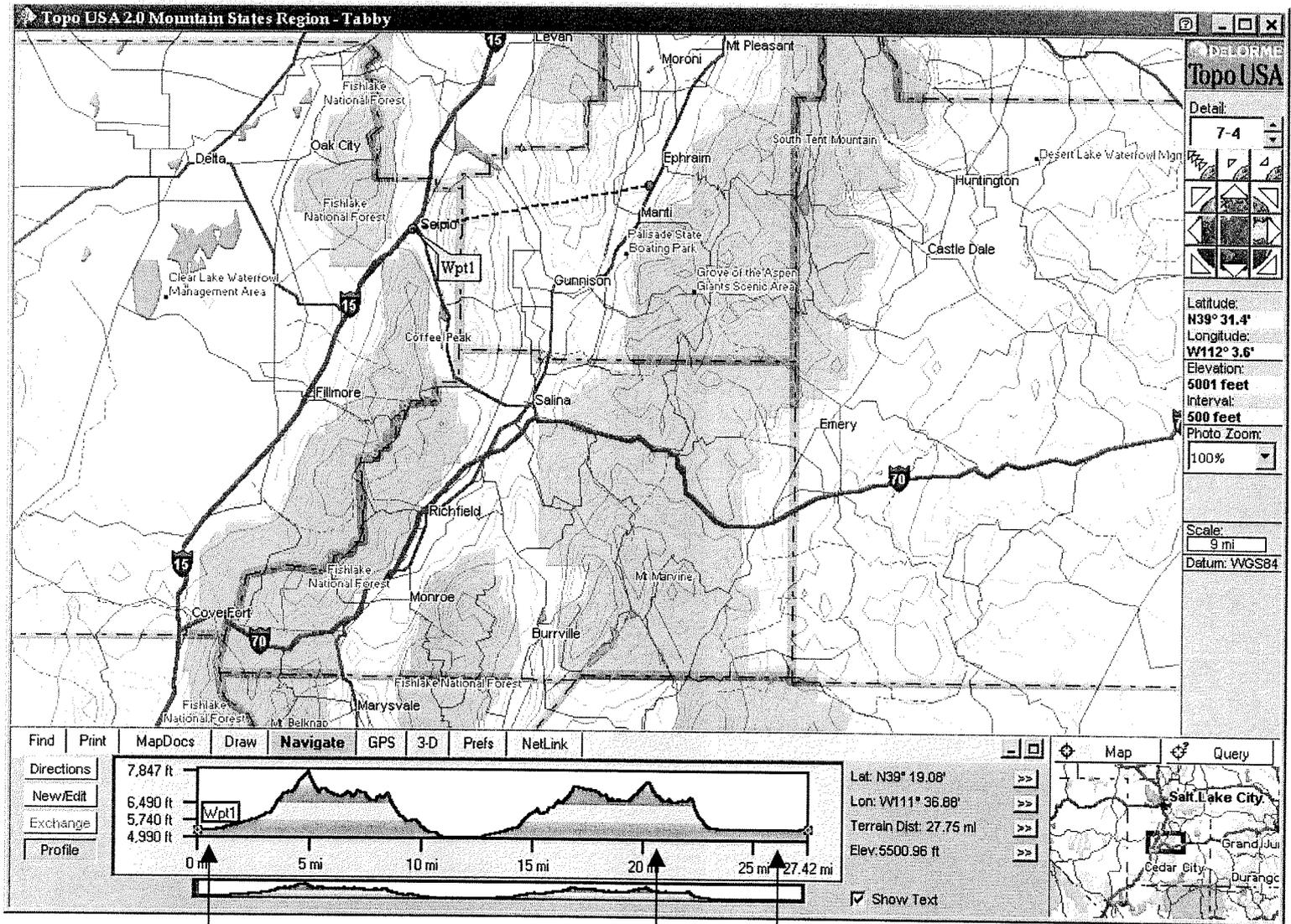


Manti/Ephraim, UT

Mt. Marvine

Proposed Rural Sevier
County XLTR Site

Figure 1.5 Terrain Profile Manti/Ephraim – Rural Sevier County XLTR Site



Scipio, UT

Manti/Ephraim, UT
 Proposed Manti/Ephraim
 Translator Site

Figure 1.6 Terrain Profile Scipio, UT – Manti & Ephraim, UT