

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

In re Application of	)	
	)	
LANCASTER EDUCATIONAL BROADCAST	)	
SERVICE	)	
	)	File No. BPL-20190812ABF
For application for Construction Permit	)	Facility ID #195731
LPFM Station KLQS-LP	)	
Agua Dulce, California	)	

**PETITION FOR RECONSIDERATION**

Lancaster Educational Broadcast Service (“LEBS”), pursuant to 47 CFR §1.106 of the Commission’s rules, hereby submits this Petition for Reconsideration to the above-identified application. On August 8, 2019 LEBS filed application to relocate LPFM facility KLQS-LP 16.4 km, 9.91 km more than the maximum rounded distance permitted under Section 73.870(a). LEBS’s reasoning within a waiver request was that the second adjacent overlap interference area local to the target population area for KLQS-LP is too large (1.5 km diameter) to accommodate a zero-population area. A novel workaround for this would be to relocate to a higher-elevation location closer in direction to the second adjacent channel antenna, greatly reduce the overlap, and allow permitting of a minor change construction permit. In dismissal letter dated September

5, 2019 the Commission stated the public interest circumstances submitted were not compelling or unique enough to permit the grant of such waiver.

This Reconsideration is being filed to demonstrate that LEBS believes the waiver request meets the threshold for a waiver request in the public interest, as the facility will not be able to adequately serve the community without the grant of the request. LEBS requests the FCC to take a more detailed look at the circumstances that may have not been viewed or fully recognized with hope that it might reverse their decision. Furthermore, it would appear that the circumstances within this request are more unique than past granted waivers that were deemed unique enough.

**THERE ARE SPECIFIC, UNIQUE TECHNICAL CIRCUMSTANCES THAT PRECLUDE THE STATION FROM SERVING THE COMMUNITY WITHOUT A WAIVER GRANT**

LEBS stipulates the specific medley of special circumstances -- perhaps not fully imbibed by the Commission upon application processing -- warrants “a hard look”<sup>1</sup> here. LEBS contends the crux of its unique situation lies in a bevy of limiting circumstances: (1) there are limited tower sites central to the population area, (2) the second adjacent interference area is approximately 750 meters with no gaps open across the area to accommodate that (3) the vicinity has an airport, with runway aligned to proximity of

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<sup>1</sup> See *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969), *affid*, 459 F.2d 1203 (1972), *cert. denied*, 93 S.Ct

the desired site areas, (4) the canyonous nature of the area makes it difficult to cover without an antenna placed high enough, (5) there is ample population within the area that hypothetically could make the station sustainable, but there is no power or sites on top of the preference hills. Below visually outlines the impeding factors:

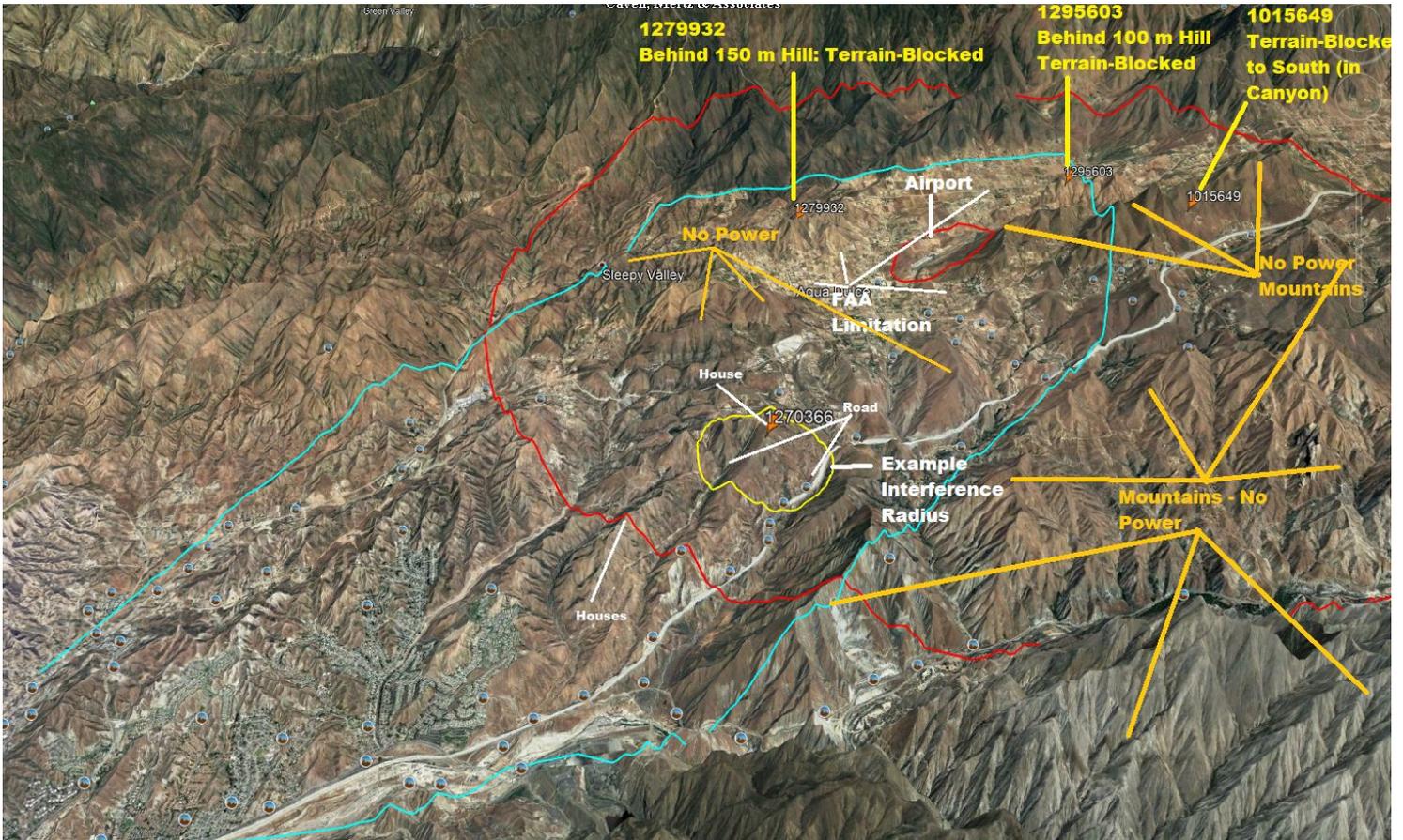


Figure 1: Overview on area

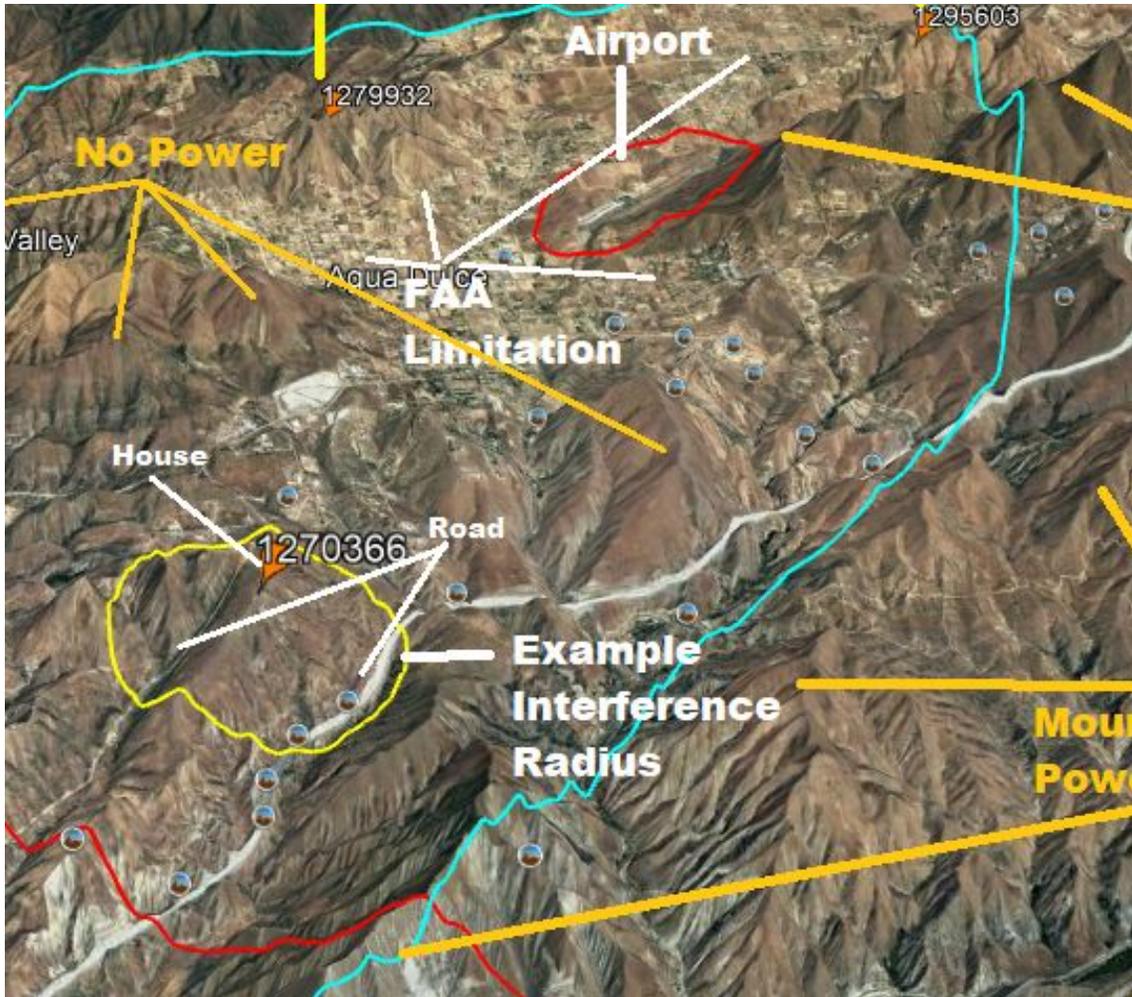


Figure 2: Zoom-in

- (1) The CYAN line estimates the Agua Dulce-Canyon Country population coverage area. The objective is how to go about covering this.
- (2) The RED circle delineates the maximum rounded facility relocation area according to Section 73.870(a).
- (3) The Commission states “When evaluating a request to relocate beyond that which is allowed as a minor change, we typically look at the availability of registered

structures within the allowed 5.6 kilometer radius.”<sup>2</sup> Five antenna licensed are presented within the minor-change area. ASRN 1279932 is in a canyon, separated by a 150 m hill from Agua Dulce. 1295603 is also not on elevated land; it is behind a 100 m hill. 1303159 is also a short (12 m) pole, with intervening terrain to the target population area. 1015649 is elevated, but it is in a canyon also separated by multipath-prone terrain. 1270366 is in a perfect location, but the second adjacent interference area has two houses, a road, and a state highway running through it.

(4) The Agua Dulce Airport is identified in red. The airfield proximity and alignment precludes placement of a new tower in the targeted population area. Towers of only 6.1 m or less are allowed.

(5) The higher elevated sites, as indicated, have no power source.

A central superseding factor, as demonstrated by example, is the intervening second adjacent 54 dBu protected contour of KAMP. The 54 dBu protected contour is more limiting than the usually-standard 60 dBu contour. KLQS-LP needing to comply with a zero-population interference overlap is a chief limiting factor. The yellow circle (example) drawn around tower ASRN 1270366 is 749 m in radius. However, moving to the west, such as this location, would increase the population coverage of KLQS-LP by 104 times (see Appendix B). Hence, such a move to the west is certainly in the public interest if it was technically possible.

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<sup>2</sup> See *Letter from James D. Bradshaw to Frombus Group Inc. RE WEOZ-LP, Loudon, TN File No. BMPL-20160601ADG*. June 17, 2017.

The core argument here is that the second adjacent channel protection of a zero-population overlap of 1.5 km diameter in overlap is not a possibility. There are roads and residences that intervene such a requirement. The station has had difficulty operating with a community of only 1,146 persons within its Longey-Rice 60 dBu (Appendix A). It is seen greatly in the public interest to save the station and increase its reception audience up to a possible 104 times that population by finding a site further to the south closer to the second adjacent broadcast antenna so the second adjacent interference overlap contracts to a size that is deployable. The actual site proposed provides for 17 times the population covered than the licensed spot (and with a booster, several times more) (Appendix C). The engineering proposal within BPL-20190812ABF requests such a move to fulfill that goal. This situation is seen as a unique technical circumstance that presents a current operating hardship given its coverage is sufficiently smaller than a typical LPFM station due to terrain-blocking, and it cannot serve the entire community it was meant to serve.

KLQS-LP presents that its current 60 dBu overlaps with the proposed 60 dBu within the submitted application of BPL-20190812ABF (as pictorially demonstrated in the application).<sup>3</sup> This is an identical standard for full power FM and translators for

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<sup>3</sup> “The Commission has granted waivers to allow [LPFM] stations to relocate greater distances when the applicants demonstrated a lack of viable sites within 5.6 kilometers. Such waiver grants involved sites from which the station’s existing 60 dBu service contour would overlap with that of its relocated facility.” Para. 14. *Notice of Proposed Rulemaking. Amendments of Parts 73 and 74 to Improve the Low Power FM Radio Service Technical Rules*. MB Docket No. 19-193. July 30, 2019.

minor change moves: §73.3573(a)(1) permits NCE-FM minor change moves with simply retaining a portion of their 60 dBu within the new 60 dBu proposal. The same opportunity is afforded to translators under §74.1233(a)(1). The Commission has recently suggested this as an LPFM rule change within a pending rulemaking.<sup>4</sup> It would appear the Commission would thus currently see the benefit in such relocation rationale.

**PRIOR APPROVED 73.870(a) WAIVER SHOWINGS HAD BEEN GRANTED WITH LESS RIGOROUS, UNIQUE, OR COMPELLING CIRCUMSTANCES**

LEBS believes its current request comprises special circumstances that warrant a deviation from the general rule. An exhaustive showing here demonstrates a unique, factual licensing plight. LEBS viewed some prior granted waiver requests concerning Section 73.870(a):

BMPL-20170807ABB KOWO-LP merely stated it cannot find a site within 5.6 km

BMPL-20170629AAV KINC-LP stated that it lost its site, it would be convenient to move to a site 11.8 km away, and there would be an overlapping licensed-to-proposed 60 dBu overlap.

BPL-20160914ABD WAON-LP stated that it is losing the lease for its current site, cannot find another site within 5.6 km, and owns its new site.

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<sup>4</sup> *Ibid.*

BPL-20171025ABN WCRM-LP stated it simply could not find a site within 5.6 km, and the new site would better serve the community of license.

BPL-20170830ABA WTJN-LP stated “since it will help the applicant relocate and operate its LPFM facility and therefore benefit the public interest by serving the surrounding communities.”

BMPL-20160531AFE KXWS-LP was granted relocation >5.6 km move without a waiver.

The above waiver requests, comprised of a few sentences, were granted in the public interest. None of these requests comprised reasoning concerning an essential >5.6 km move to bring sustainability to the station, provided reseasoning why all locations would not work within the 5.6 km radius area, or presented comprehensive explanations of technical burden to the extent LEBS has demonstrated. Moreover, there is substantial population coverage increase with the proposal that is very much in the public interest.

LEBS believes that this unique demonstration of circumstances is compelling, and has surpassed the circumstances presented in past-granted Section 73.870(a) waivers. LEBS respectfully requests the Commission to entertain the waiver request -- given the further limiting-circumstances presented above -- which would permit KLQS-LP sustainability.

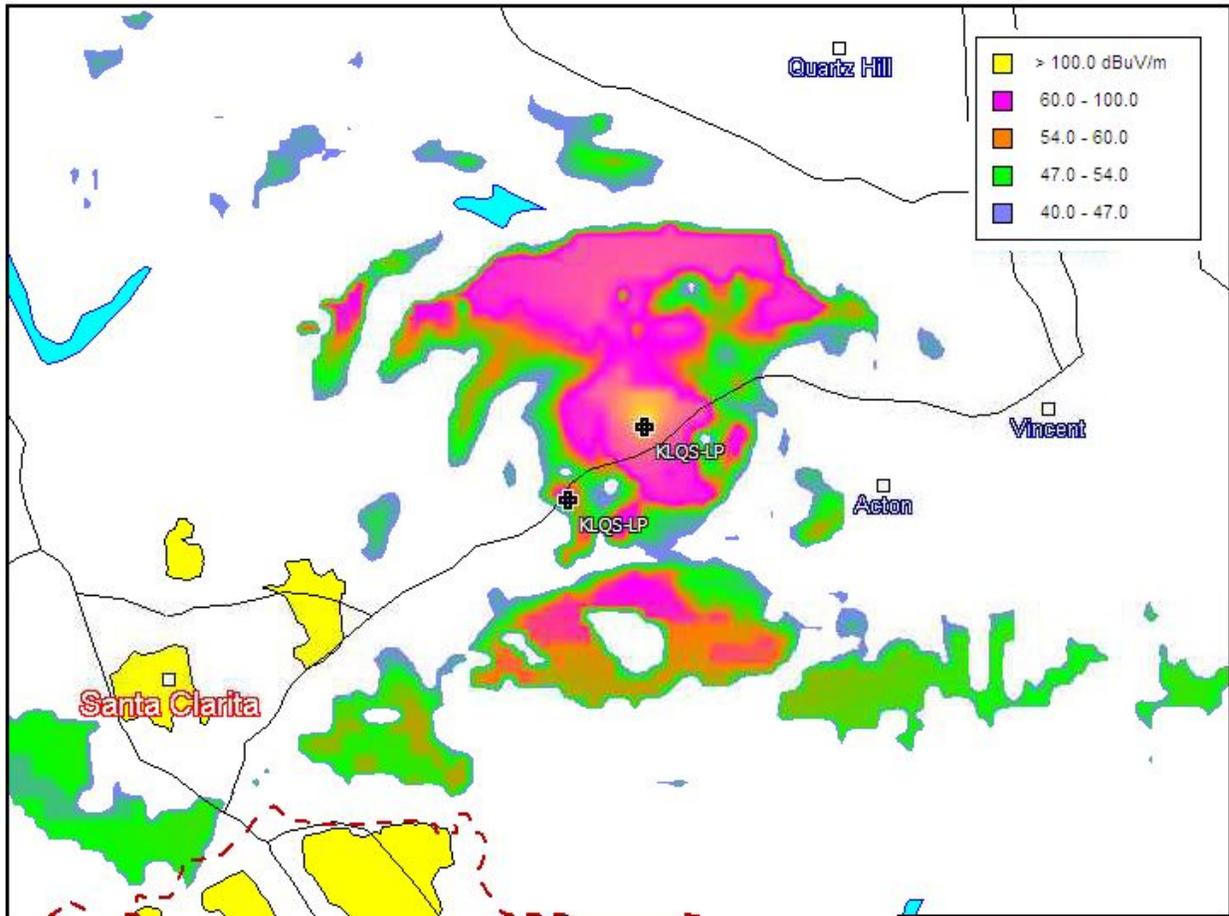
Submitted by,

A handwritten signature in black ink, appearing to read "David P. Weary". The signature is fluid and cursive, with the first name "David" being the most prominent.

David Weary  
President,  
Lancaster Educational Broadcast Service  
26951 Ruether Ave., B-1  
Santa Clarita, CA 91351  
661-714-9440

September 15, 2019

Appendix A: Current Coverage



Population report for KLQS-LP. Field strength above 60.0 dBuV/m

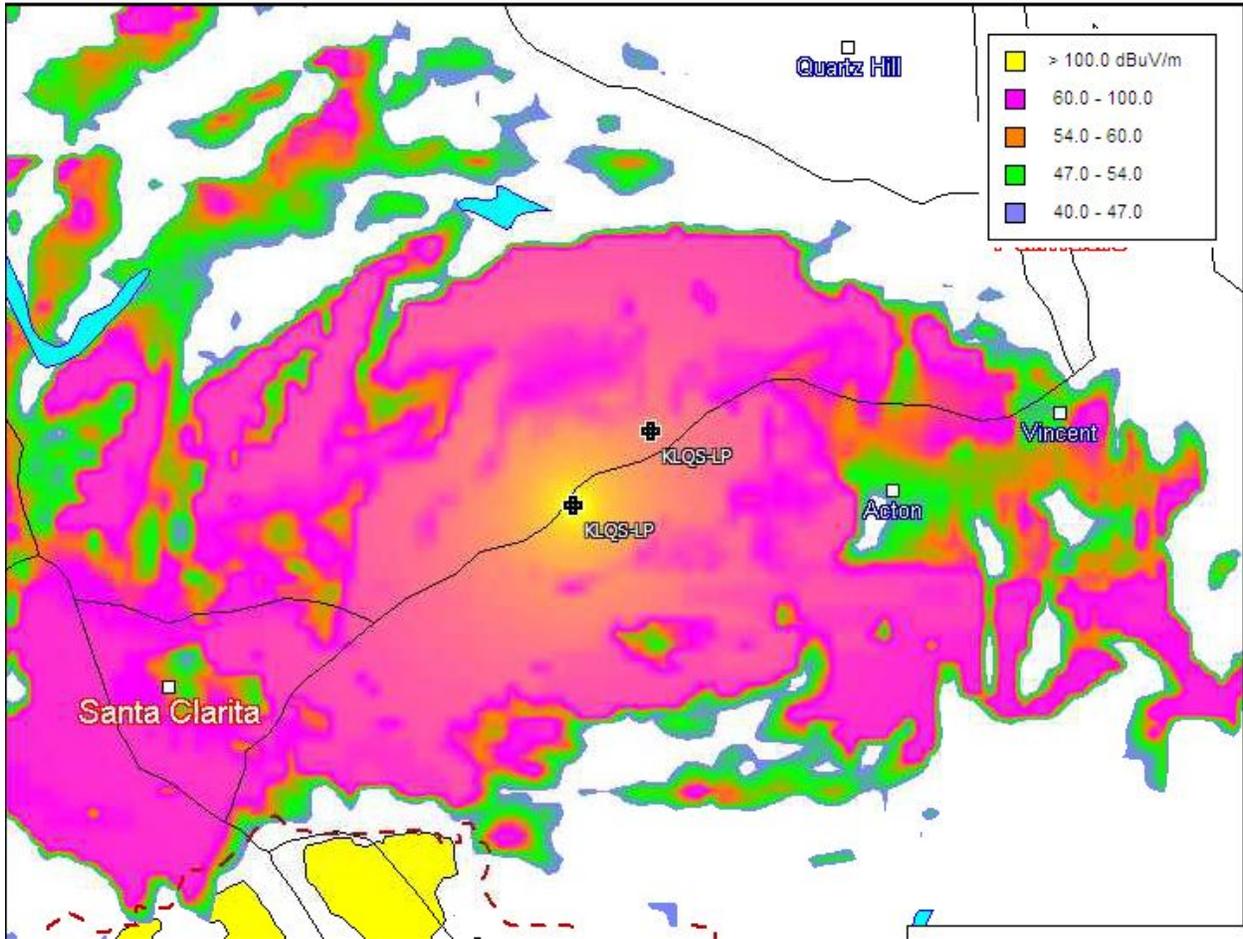
Total Population: 1,146

Total Housing Units: 422

Breakdown:

White:	1,012	[ 88.3% ]
Black:	10	[ 0.9% ]
Hispanic:	85	[ 7.4% ]
Native American:	3	[ 0.3% ]
Asian:	12	[ 1.0% ]
Pacific Islander:	0	[ 0.0% ]
Mixed Race:	22	[ 1.9% ]
Other:	2	[ 0.2% ]
Total:	1,146	

Appendix B: Coverage, if the antenna was moved to the west of the current site.



Population report for KLQS-LP. Field strength above 60.0 dBuV/m

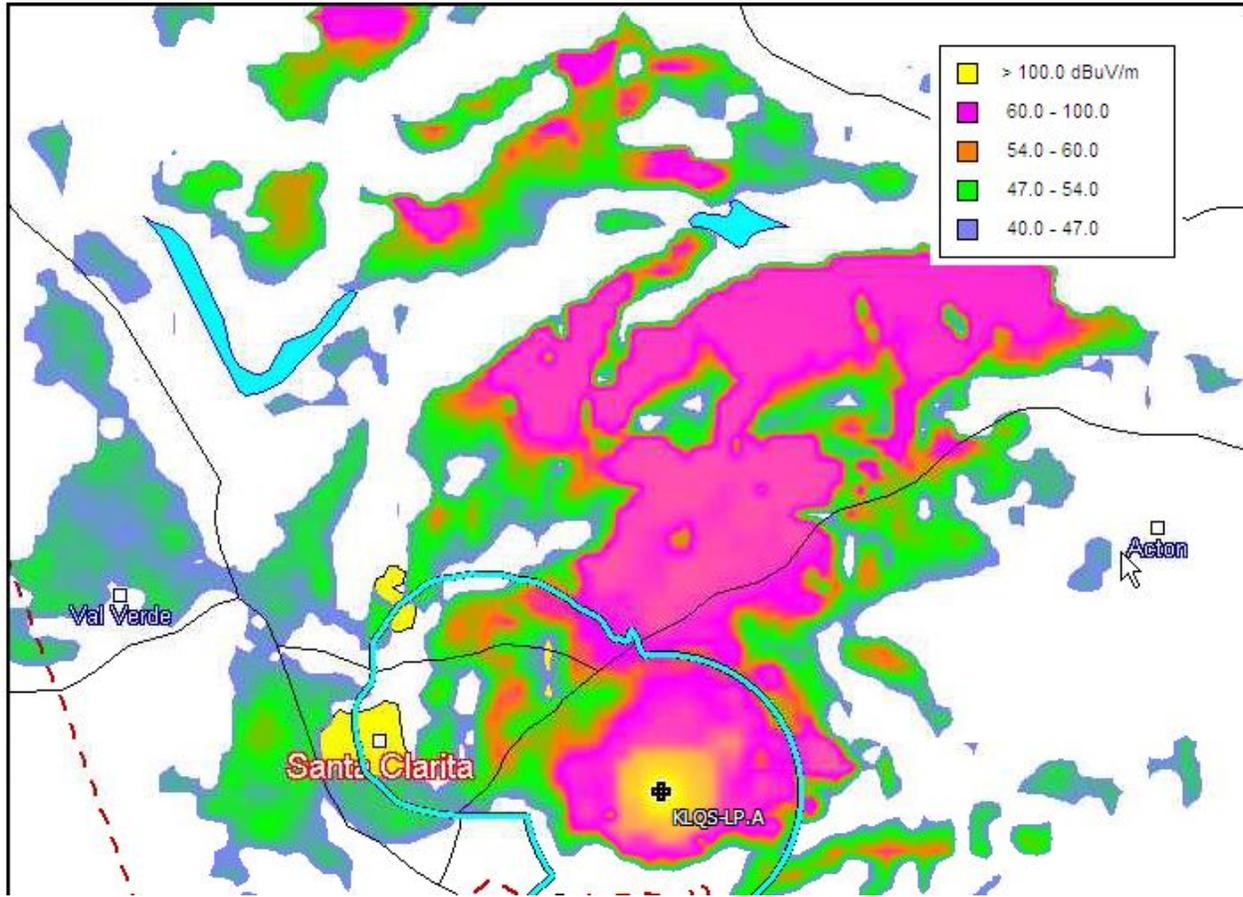
Total Population: 119,828

Total Housing Units: 43,950

Breakdown:

White:	85,015	[	70.9%	]
Black:	3,086	[	2.6%	]
Hispanic:	20,318	[	17.0%	]
Native American:	456	[	0.4%	]
Asian:	7,273	[	6.1%	]
Pacific Islander:	153	[	0.1%	]
Mixed Race:	3,252	[	2.7%	]
Other:	275	[	0.2%	]
Total:	119,828			

Appendix C: Proposed location.



Population report for KLQS-LP.A. Field strength above 60.0 dBuV/m

Total Population: 19,463

Total Housing Units: 6,381

Breakdown:

White:	14,431	[ 74.1% ]
Black:	543	[ 2.8% ]
Hispanic:	3,062	[ 15.7% ]
Native American:	80	[ 0.4% ]
Asian:	852	[ 4.4% ]
Pacific Islander:	16	[ 0.1% ]
Mixed Race:	470	[ 2.4% ]
Other:	9	[ 0.0% ]
Total:	19,463	