

Section 307(b) Showing
ADD: 240C St. George, UT
DELETE: 240C Bunkerville, NV
and
ADD: 244C Bunkerville, NV
DELETE: 244C Mesquite, NV

This Section 307(b) showing is being provided as an amendment to the instant pending application, which seeks a minor modification of KZHK(FM) Bunkerville, NV. The KZHK(FM) application was contemporaneously filed as a contingent application along with an FCC Form 301 application filed by College Creek Media, LLC (“CCM”) for its station KHIJ(FM) Mesquite, NV.

Previously, KZHK(FM) obtained a minor change construction permit for the minor modification of its facilities in order to change the station’s community of license from St. George, Utah, to Bunkerville, Nevada, as ordered in MM Docket 01-135. *See* FCC File No. BPH-20050404AED. That construction permit, however, was not built. Rather, KZHK(FM) continues to operate with its licensed facilities at St. George, Utah, as specified in FCC File No. BLH-19970130AED. KZHK(FM) was granted a license renewal for those facilities in St. George, with a license for operations through October, 2013. *See* FCC File No. BRH-20050531BSM. As KZHK(FM) plans to continue to operate with its current licensed facilities, the cancellation of its minor change construction permit for the change in city of license should have no impact on that underlying license. However, to the extent a showing concerning the fact that KZHK(FM) will continue to operate from its licensed facilities is deemed necessary

pursuant to Section 307(b) of the Communications Act of 1934, as amended, the licensee offers the instant showing.

In his application, Frandsen proposes to “change” KZHK(FM)’s community of license from Bunkerville, NV, to the community of St. George, UT on Channel 240C and modify the allotment reference site coordinates of KZHK(FM). Although KZHK never initiated service to Bunkerville, out of an abundance of caution, CCM contingently proposes in its application to change KHIJ(FM)’s community of license from Mesquite, NV, to Bunkerville, NV, at the current KZHK(FM) Bunkerville Allotment Site in order to provide transmission service at Bunkerville, NV.

This exhibit, together with the Comprehensive Technical Exhibits to the contingent Applications, demonstrates that the proposed community of license changes constitute a preferential arrangement of allotments or assignments under Section 307(b) of the Communications Act of 1934, as amended (47 U.S.C. Section 307(b)). Furthermore, as set forth in the Comprehensive Technical Exhibit to each Application, the facilities specified are mutually exclusive, as defined in Section 73.207 of the Commission’s Rules, with the current assignments. As confirmed in the Comprehensive Technical Exhibit to each application, there is an assignment or allotment site for both facilities at each proposed community of license that fully complies with Sections 73.207 and 73.315 of the Commission’s Rules without resort to Sections 73.213 or 73.215. The applicants will comply with the local public notice provisions of Sections 73.3580(c)(3), 73.3580(d)(3), and 73.3580(f) of the Commission’s Rules, and understand that the exception contained in Section 73.3580(e) of the Commission’s Rules does not apply to an

application proposing to change the community of license of an FM station. Consequently, the proposed community of license changes shall qualify for submission as minor modification applications pursuant to Section 73.3573(g) of the Commission's Rules.

In determining whether a proposed community of license change constitutes a preferential arrangement of allotments under Section 307(b) of the Act, the Commission considers whether the proposal would serve one or more of the Commission's four priorities.¹ Here, as will be demonstrated below, grant of the Application would satisfy the first, second, and fourth priorities. Therefore, the Applications constitute a preferential arrangement of allotments under Section 307(b) as compared to the existing allotment/assignment.

A grant of the Applications would not result in a loss of sole operating local aural transmission service at Bunkerville for two reasons. First, since KZHK has not commenced operations at Bunkerville, the residents of that community have not become reliant upon a local transmission service. Thus, the "relocation" of KZHK to its presently licensed community of St. George does not constitute a loss of service to the community of Bunkerville. Second, since the applicants contingently propose to change the community of license of KHIJ(FM) from Mesquite, Nevada, to Bunkerville, NV, Bunkerville will continue to retain a local transmission service. Moreover, the deletion of KHIJ(FM)'s Channel 244 C from Mesquite will not deprive that community of its sole local transmission service as it will continue being served by the

¹ See *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982) ("*FM Assignment Policies*"). The four priorities are: (i) first full-time aural reception service to a community; (ii) a second full-time aural reception service to a community; (iii) first local transmission service to a community; and (iv) other public interest factors. The second and third criteria have equal priority. *Id.* at 91. See also *Revision of Procedures Governing Amendments to FM Table of Allotments and Changes of Community of License in the Radio Broadcast Services*, 21 FCC Rcd 14212, at ¶ 10 (2006) (Section 307(b) priorities and policies used by Commission since 1982 continue to apply under new application procedures).

fulltime aural service of KEKL(FM), KAIZ(FM), and KVEG(FM). Also, KAER(FM)'s Channel 208C1 has been recently deleted from St. George and mutually exclusive Channel 207C has been added at Mesquite (see BPED-20070907AFS). As such, Mesquite currently enjoys three operating and one authorized yet unbuilt local transmission service.

Exhibit 1, attached hereto, is a Gain/Loss study demonstrating that when Channel 240C is deleted from Bunkerville and mutually exclusive Channel 240C is added to St. George for KZHK(FM)'s use, a net gain in population of 87,964 persons will result under Priority 4.

Exhibit 2 is a Bunkerville, Nevada, Remaining Services Study demonstrating that when KZHK 240C is deleted from Bunkerville and KHIJ(FM) 244C is added at Bunkerville as its replacement transmission service, no white or gray area will be created by the proposed community change.

Exhibit 3 is an Existing Services Study showing the stations currently serving the KZHK(FM) gain area. No white or gray area will be eliminated as a result of adding 240C to St. George.

Exhibit 4 is a Gain/Loss study demonstrating that when Channel 244C is deleted from Mesquite and mutually exclusive Channel 244C is added to Bunkerville for KHIJ(FM)'s use, a net gain in population of 171,525 persons will result under Priority 4.

Exhibit 5 is a Mesquite, Nevada, Remaining Services Study demonstrating that when KHIJ(FM) 244C is deleted from Mesquite and KHIJ(FM) 244C is added at Bunkerville as its replacement transmission service, no white or gray area will be created by the proposed community change.

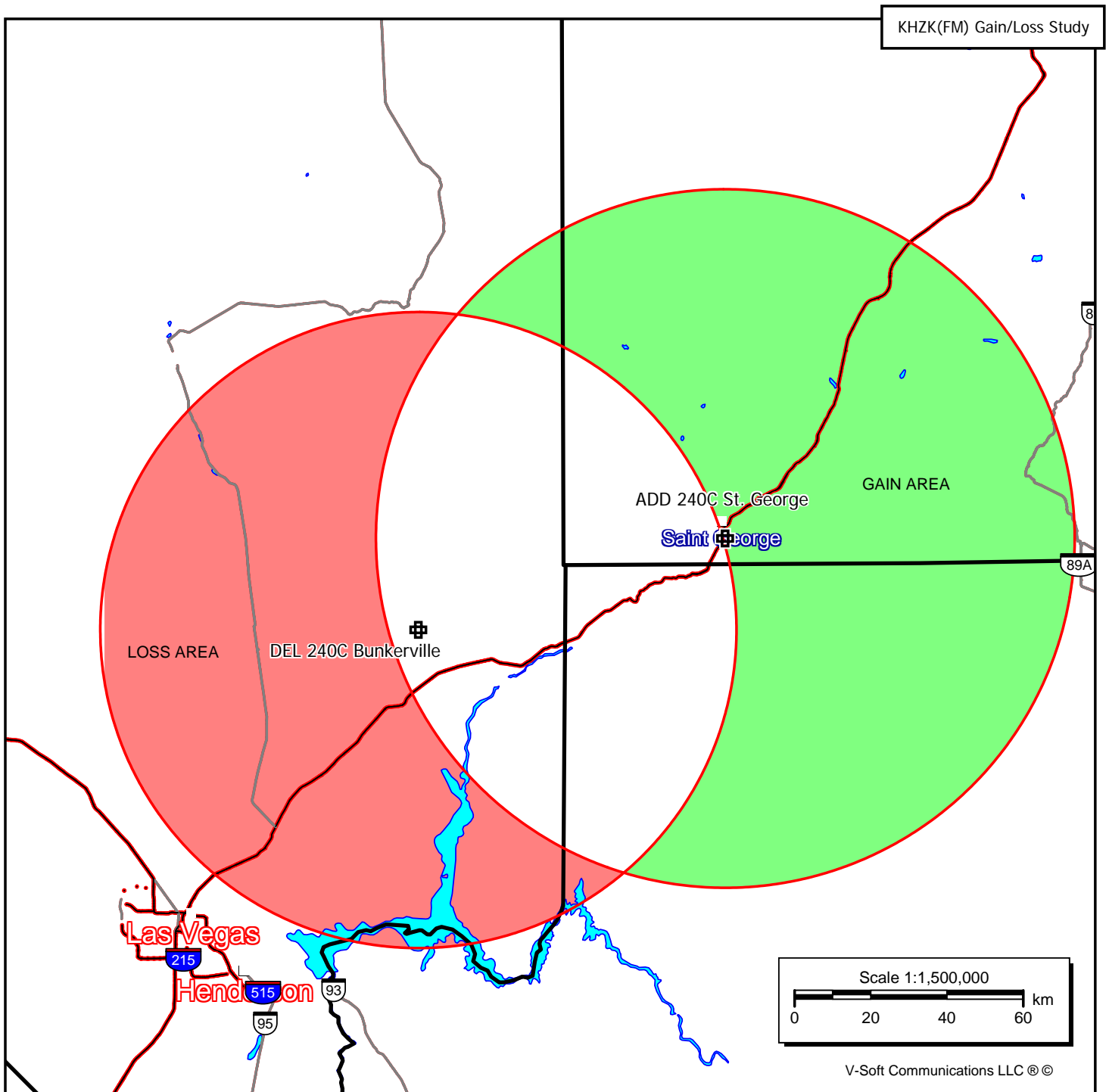
Exhibit 6 is an Existing Services Study showing the stations currently serving the KHIJ(FM) 244C Bunkerville gain area. Given that KZHK(FM)'s Channel 240C is to be deleted from Bunkerville, NV, at the same allotment reference coordinates where KHIJ(FM)'s Channel 244C will be added at Bunkerville, NV, one would not expect an increase in the number of existing services. However, since the two facilities are Class C in nature the Allotment Site Contours are based on "actual" facilities as opposed to "maximized" facilities. Since KZHK(FM) has never constructed facilities on Channel 240C at Bunkerville, according to Commission precedent, the "minimum" Class C circle contour with a radius of 83.4 kilometers (equivalent to 100 kW at 451 m HAAT) must be used to depict this allotment. However, since KHIJ(FM)'s proposed antenna facilities on Channel 244C are "maximum" Class C facilities (equivalent to 100 kW at 600 m HAAT), a 91.8 kilometer circle contour must be used to depict this allotment. As a result of the incoming KHIJ(FM) 244C contour being larger than the existing KZHK(FM) 240C contour, some areas will, in fact, receive a new aural reception service at the allotment stage. Hence, the Existing Services Study at Bunkerville, NV, in Exhibit 6 demonstrates that, upon the addition of Channel 244C at Bunkerville, white area will be eliminated to areas containing 34 residents under Priority One and gray area will be eliminated to areas containing 447 residents under Priority Two.

As Frandsen is not proposing KZHK(FM) be moved to a community as its first local transmission and, instead, is proposing to re-license KZHK(FM) to St. George, UT, which itself is the namesake city in the St. George, UT, Urbanized Area, the proposal to add Channel 240C to St. George is not subject to a *Tuck* analysis. Similarly, since the proposal to add Channel 244C to Bunkerville does not place a 70 dBu allotment circle contour over any urbanized area, it, too, is not subject to *Tuck*.

Since the proposals eliminate white area to 34 persons under Priority One, eliminate gray area to 447 persons under Priority Two, and provide a new aural reception service to an additional net 259,489 residents in Utah, Arizona, and Nevada, under Priority Four, the contingent proposals clearly further the Commission's Allotment Priorities.

Exhibit 1

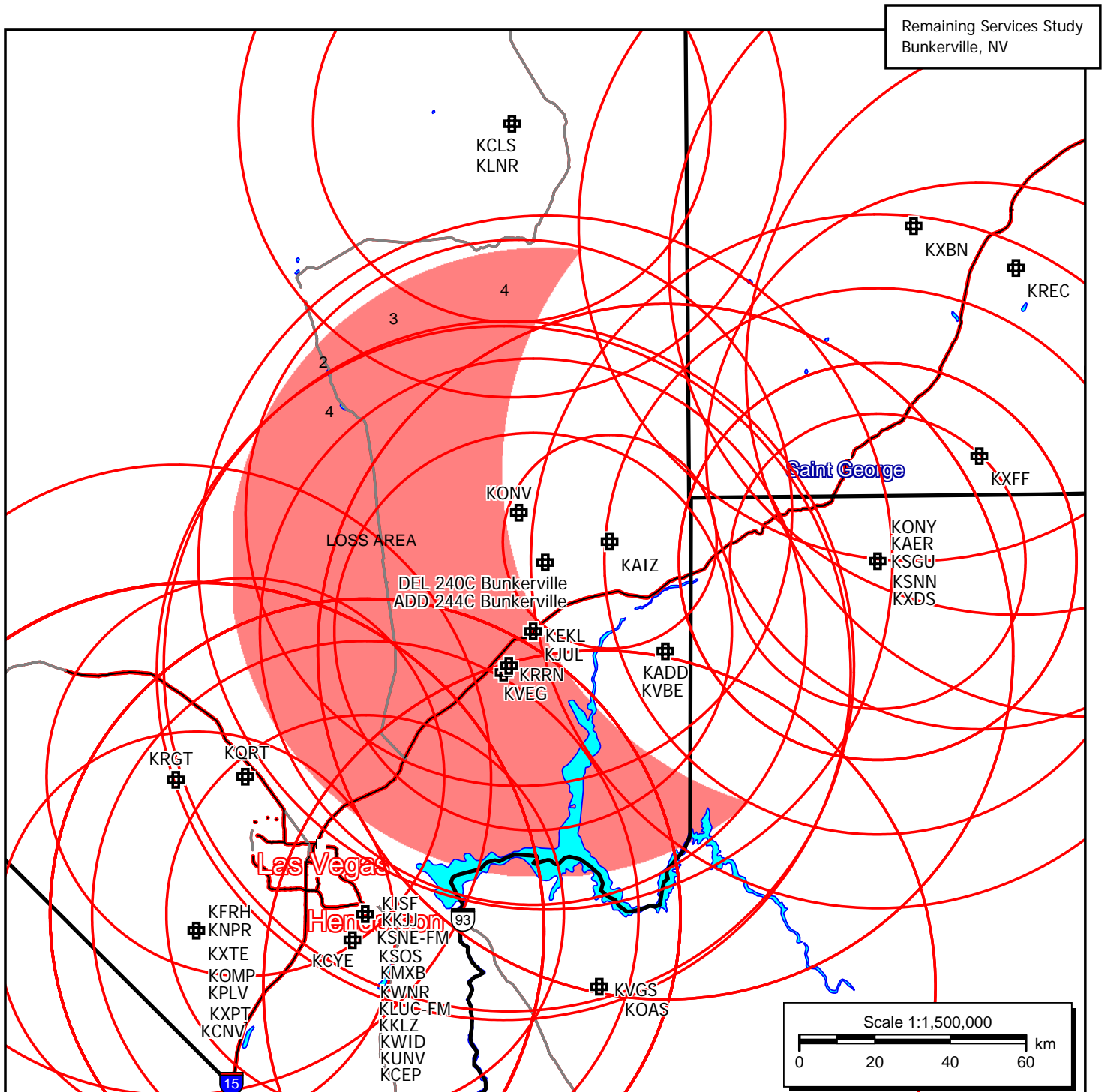
KZHK(FM) Gain/Loss Study



Population in Gain Area: 97,177 persons
Population in Loss Area: 9,213 persons
Net Gain in Population: 87,964 persons

Exhibit 2

Bunkerville, NV, Remaining Services Study



All portions of the Loss Area retaining fewer than five aural reception services have been labeled with the number of services remaining. As can be seen on the map above, at all locations no fewer than two aural reception services will remain in the loss area. Therefore, no white or gray areas are created upon the deletion of Channel 240C at Bunkerville.

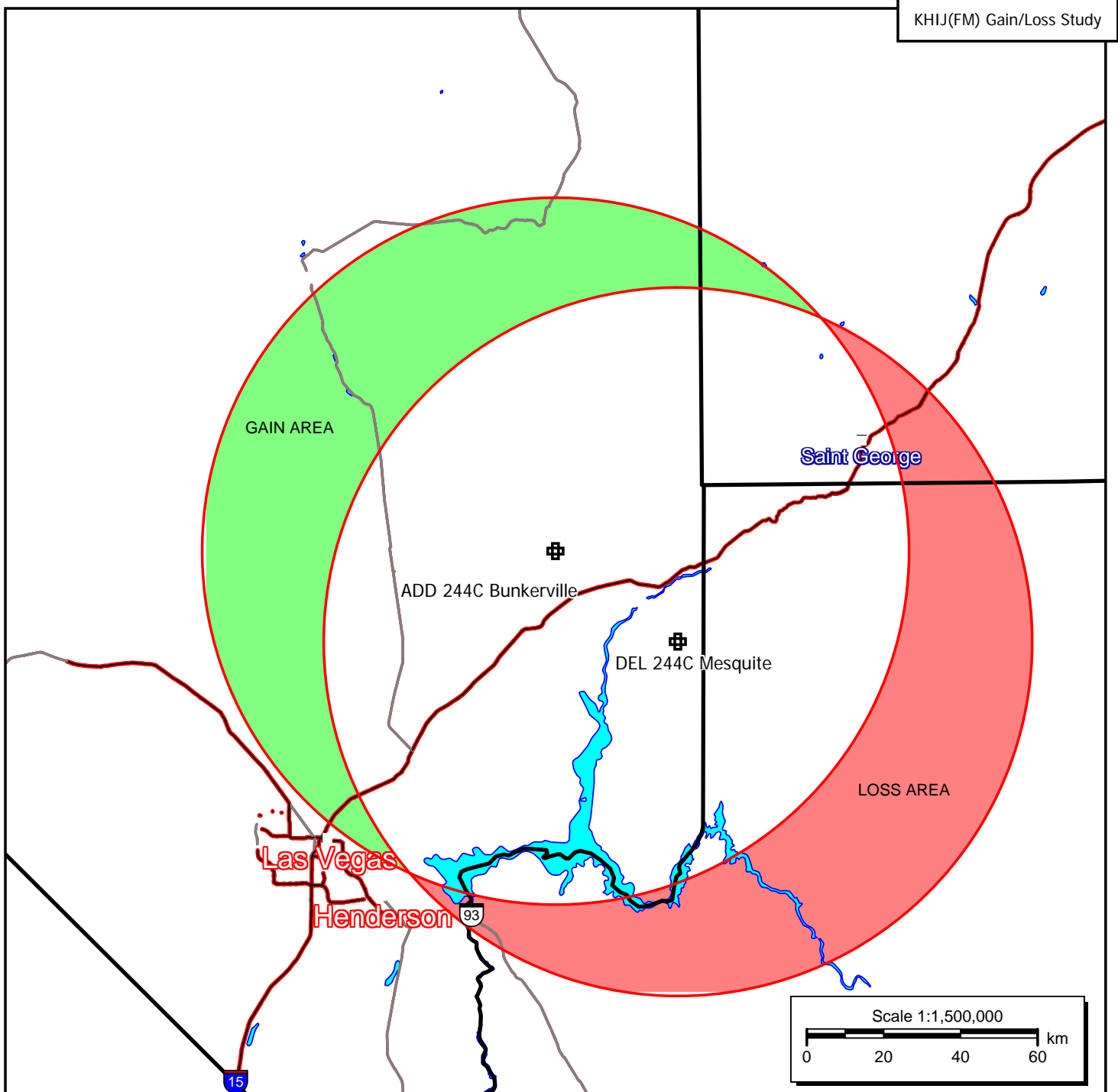
Note: Since the replacement local transmission service of Channel 244C at Bunkerville, NV (KHJ(FM)) is being added at the same location where the present Allotment Site for Channel 240C (KZHK(FM)) is being deleted, at least one aural reception service can be guaranteed at all locations. What's more, since the facilities for Channel 240C at Bunkerville were never constructed, for the purposes of this remaining services study and in keeping with Commission policy, a minimal Class C 83.4 km circle contour must be assumed for the deleted Channel 240C. However, since KHJ 244C proposes maximum Class C facilities at its antenna site, the size of its contour will actually be the full 91.8 km radius - more than enveloping the entire Channel 240C contour being deleted.

Exhibit 3

St. George, UT, Existing Services Study

Exhibit 4

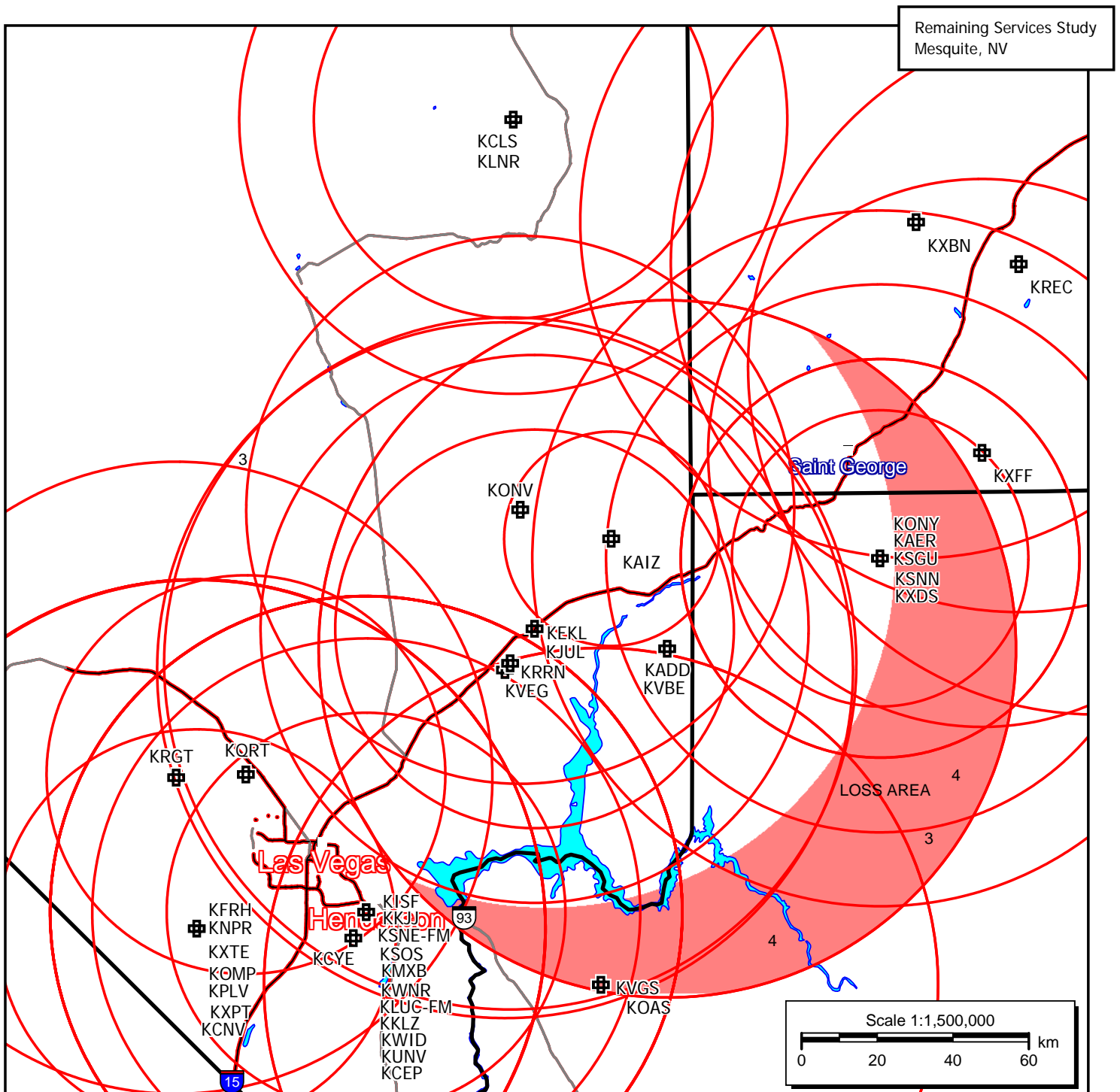
KHIJ(FM) Gain/Loss Study



Population in Gain Area: 179,804 Persons
Population in Loss Area: 8,279 Persons
Net Gain in Population: 171,525 Persons

Exhibit 5

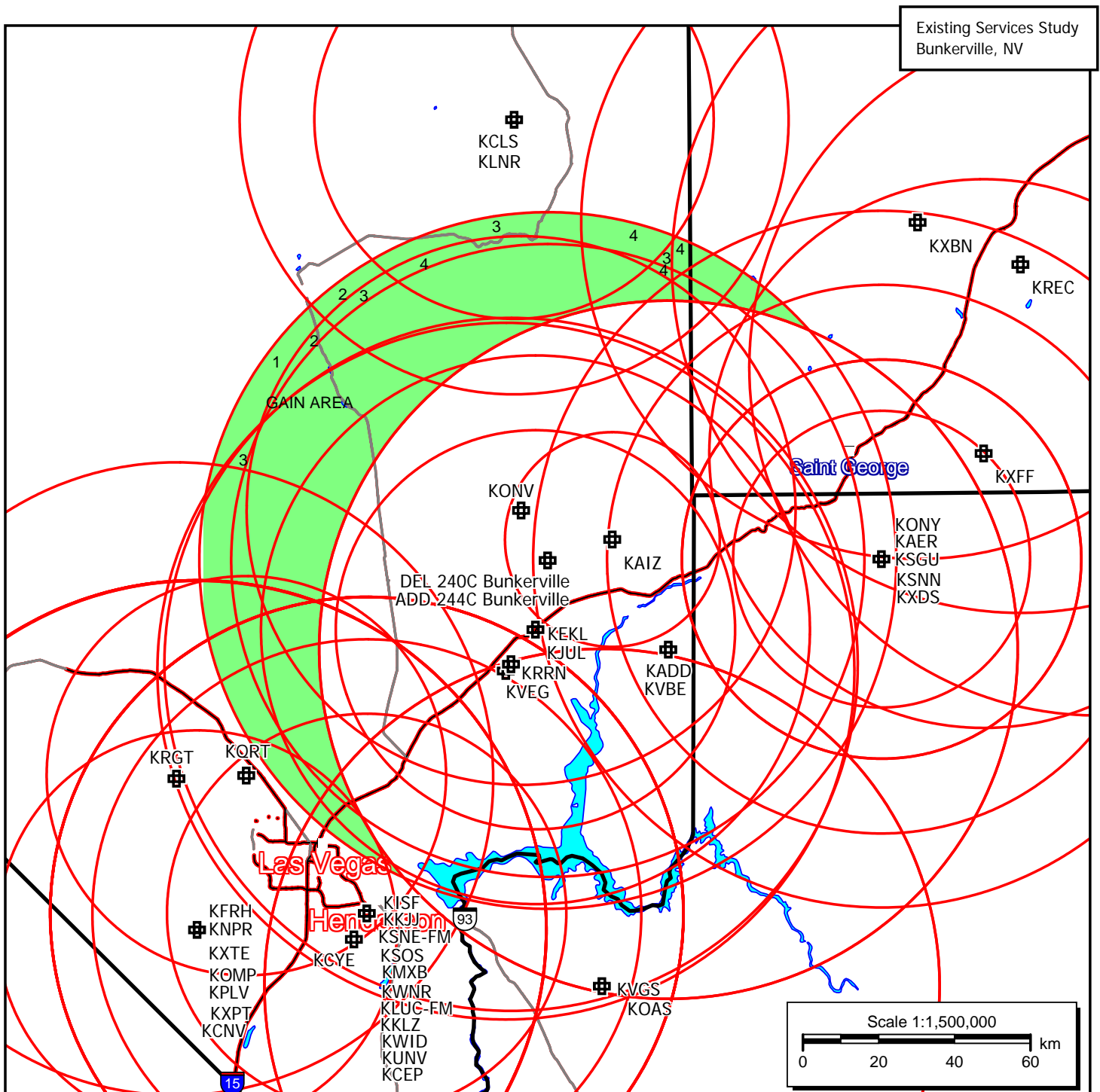
Mesquite, NV, Remaining Services Study



Those area retaining less than five remaining services area labeled on the map. As can be seen, no areas will be served by no fewer than 3 aural reception services. Therefore, no white or gray area is created.

Exhibit 6

Bunkerville, NV, Existing Services Study



Since the facilities for Channel 240C at Bunkerville (KZHK) were never constructed, for the purposes of this existing services study and in keeping with Commission policy, a minimal Class C 83.4 km circle contour must be assumed for Channel 240C proposed for deletion. However, since KHIJ 244C proposes maximum Class C facilities at its antenna site, the size of its contour will actually be the full 91.8 km radius at its Allotment Site. And, since the Allotment Sites for the addition of Channel 244C (KHIJ) at Bunkerville is co-located at the present Channel 240C (KZHK) Allotment site being contingently proposed, a first new aural service will be provided to persons residing in the "donut radius" between 83.4 km and 91.8 km from the co-located allotment site. As such, some areas will receive their first or second aural reception service. Those areas where the addition of Channel 244C at Bunkerville will constitute a new reception service where fewer than three currently exist are labeled on the map. Importantly, the addition of Channel 244C at Bunkerville will eliminate white area to 34 persons and gray area to 447 persons favorably triggering Priority 1 and Priority 2.