

**Exhibit 5 - Engineering Statement**  
**MULTIPLE OWNERSHIP STUDY**

prepared for

**Roy E Henderson**

KHTZ(FM) Ganado, Texas

Ch. 235C 100 kW 453 m

BPH-20060407AAE

Facility ID 27619

**Introduction**

This engineering statement has been prepared on behalf of *Roy E. Henderson ("Henderson")* for FM station KHTZ(FM). A one-step application is pending to relocate KHTZ's transmitter and upgrade from Class C2 to Class C on Ch. 235 while retaining Ganado, TX as the Community of License (BPH-20060407AAE). *Henderson* has other attributable ownership interests in the region. Accordingly, this statement has been prepared to address the application's question pertaining to common ownership of multiple radio stations serving the same market.<sup>1</sup>

**Multiple Radio Ownership**

The Commission issued a Report and Order and Notice of Proposed Rulemaking ("R&O") FCC -03-127<sup>2</sup> for various multiple ownership and cross ownership issues, as released July 2, 2003. The R&O establishes a means of evaluating radio station multiple ownership issues utilizing existing Arbitron and BIA market data for markets with established geographic boundaries and a separate "interim" means for evaluating radio station multiple ownership issues beyond established radio market geographic boundaries.

KHTZ(FM)'s Community of License, Ganado, Texas, lies in Jackson County, Texas, beyond the bounds of any Arbitron Market Metro Area, in the Total Survey Area ("TSA") of the Houston-Galveston, TX market. Therefore the "interim" methodology is used herein to evaluate compliance with the

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<sup>1</sup> In accordance with the FCC Public Notice issued September 10, 2003 (DA 03-2867), references to Section 73.3555 of the Commission's Rules herein refer to the Rules in effect prior to Report and Order in MB Docket No. 02-277 and MM Docket Nos. 01-235, 01-317, and 00-244 (adopted June 2, 2003). The United States Court of Appeals for the Third Circuit has stayed the effectiveness date of the rules adopted in this Report and Order (see *Prometheus Radio Project v. FCC*, No. 03-3388, 373 F3d 372 (3d Cir. 2004), *stay modified*, No. 03-3388 (September 3, 2004)).

<sup>2</sup> Report and Order in MB Docket No. 02-277 and MM Docket Nos. 01-235, 01-317, and 00-244, and NPRM for MB Docket 03-130 (adopted June 2, 2003)(released July 2, 2003). This aspect of the July 2003 decision was not affected by the subsequent court decision of June 24, 2004 and court order of September 3, 2004.

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Commission's Rules. Thus, for the case at hand, a "market" is defined as the area encompassed by the overlapping principal community contours of the radio stations in which an entity is proposing to have common ownership interest or attribution. The total number of stations covering this market includes both commercial and noncommercial stations with principal community contour overlap of the "market".

However, applicants must exclude from the total station count any stations with transmitter sites more than 92 kilometers from the perimeter of the mutual overlap area, as well as any stations that are commonly owned but which do not define the market.

Based on information supplied by the applicant's representatives, in addition to the proposed, modified KHTZ(FM), *Henderson* has an attributable ownership interest in the following radio facilities in the immediate region:

Facility ID	Call Sign	Channel/ Class	City, State	County	FCC File No.
27619	KHTZ(FM)(App)	Ch. 235C	Ganado, TX	Jackson	BPH-20060407AAE
27619	KHTZ(FM)(Lic)	Ch. 235C2	Ganado, TX	Jackson	BLH-19971202KC
6022	KJAZ(FM)(CP) <sup>3</sup>	Ch. 231C3	Point Comfort, TX	Calhoun <sup>4</sup>	BPH-20051215ABN
6022	KJAZ(FM)(Lic) <sup>3</sup>	Ch. 231C3	Point Comfort, TX	Calhoun <sup>4</sup>	BLH-19980707KA
77693	KROY(FM)(Lic)	Ch. 259C2	Palacios, TX	Matagorda <sup>4</sup>	BLH-19970205KG

Other stations in which *Henderson* has an attributable ownership interest are so removed from the immediate proximity of KHTZ(FM)'s coverage area that there is no question of principal community contour overlap.

In the instant application, *Henderson* proposes to change KHTZ(FM)'s transmitter location and upgrade from Class C2 to C. Accordingly, an evaluation has been made of the locations of the principal community contours of pertinent stations, including the proposed KHTZ facility, in which *Henderson* has an attributable ownership interest. The principal community coverage contours of both the authorized and proposed facilities are shown in **Exhibit 5 – Figure 1**. If the CP facility for KJAZ(FM) is considered, the 3.16 mV/m principal community coverage contour of the proposed facility for KHTZ(FM) shares common overlap with those of both KJAZ(FM)(CP) and KROY(FM). If the licensed

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<sup>3</sup> KJAZ(FM) is Silent pursuant to Silent STA BLSTA - 20080211ADX & BLESTA-20080828ABD.

<sup>4</sup> Calhoun & Matagorda Counties lie beyond the bounds of any Arbitron Market Metro Area, in the Total Survey Area ("TSA") of the Houston-Galveston, TX market.

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facility for KJAZ(FM) is considered, the proposed KHTZ(FM) shares common overlap with KROY(FM) and separately shares common overlap with the silent KJAZ(FM)(Lic). Three markets are thus analyzed herein to demonstrate compliance with the Commission's radio multiple ownership rules.

**Stations Within The Radio Markets**

**Exhibit 5 - Figure 2** depicts the bounds of "*Market 1*" shaded in yellow along with the 92 km radius limit specified for the interim contour method [KHTZ(FM)(App), KJAZ(FM)(CP) & KROY(FM)]. **Exhibit 5 - Figure 2A** depicts all of the identifiable, operating domestic commercial and non-commercial radio stations with principal community contours overlapping any part of the shaded market. As shown on **Exhibit 5 - Table I**, one (1) AM and ten (10) FM stations provide some measure of principal community coverage within radio *Market 1*. *Henderson* has an attributable ownership interest in three (3) of those stations with a common overlap of principal community contours. Thus, the common ownership of the proposed KHTZ(FM) with KJAZ(FM)(CP) and KROY(FM)(Lic) complies with Section 73.3555 of the FCC Rules. Specifically, pursuant to §73.3555(a)(1)(iv):

"Local radio ownership rule. A person or single entity (or entities under common control) may have a cognizable interest in licenses for AM or FM radio broadcast stations in accordance with the following limits:

(iv) In a radio market with 14 or fewer full-power, commercial and noncommercial radio stations, not more than 5 commercial radio stations in total and not more than 3 commercial stations in the same service (AM or FM); provided, however, that no person or single entity (or entities under common control) may have a cognizable interest in more than 50% of the full-power, commercial and noncommercial radio stations in such market unless the combination of stations comprises not more than one AM and one FM station."

**Exhibit 5 - Figure 3** depicts the bounds of "*Market 2*" shaded in yellow along with the 92 km radius limit specified for the interim contour method [KHTZ(FM)(App) & KJAZ(FM)(Lic)]. **Exhibit 5 - Figure 3A** depicts all of the identifiable, operating domestic commercial and non-commercial radio stations with principal community contours overlapping any part of the shaded market. As shown on **Exhibit 5 - Table II**, two (2) AM and ten (10) FM stations provide some measure of principal community coverage within radio *Market 2*. *Henderson* has an attributable ownership interest in two (2) of those stations with a common overlap of principal community contours. Thus, the common ownership of the proposed KHTZ(FM) with KJAZ(FM)(Lic) complies with Section 73.3555 of the FCC Rules. Specifically, pursuant to §73.3555(a)(1)(iv):

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“Local radio ownership rule. A person or single entity (or entities under common control) may have a cognizable interest in licenses for AM or FM radio broadcast stations in accordance with the following limits:

(iv) In a radio market with 14 or fewer full-power, commercial and noncommercial radio stations, not more than 5 commercial radio stations in total and not more than 3 commercial stations in the same service (AM or FM); provided, however, that no person or single entity (or entities under common control) may have a cognizable interest in more than 50% of the full-power, commercial and noncommercial radio stations in such market unless the combination of stations comprises not more than one AM and one FM station.”

**Exhibit 5 - Figure 4** depicts the bounds of “*Market 3*” shaded in yellow along with the 92 km radius limit specified for the interim contour method [KHTZ(FM)(App) & KROY(FM)(Lic)]. **Exhibit 5 - Figure 4A** depicts all of the identifiable, operating domestic commercial and non-commercial radio stations with principal community contours overlapping any part of the shaded market. As shown on **Exhibit 5 - Table III**, one (1) AM and eleven (11) FM stations provide some measure of principal community coverage within radio *Market 3*. *Henderson* has an attributable ownership interest in two (2) of those stations with a common overlap of principal community contours. Thus, the common ownership of the proposed KHTZ(FM) with KROY(FM)(Lic) complies with Section 73.3555 of the FCC Rules. Specifically, pursuant to §73.3555(a)(1)(iv):

“Local radio ownership rule. A person or single entity (or entities under common control) may have a cognizable interest in licenses for AM or FM radio broadcast stations in accordance with the following limits:

(iv) In a radio market with 14 or fewer full-power, commercial and noncommercial radio stations, not more than 5 commercial radio stations in total and not more than 3 commercial stations in the same service (AM or FM); provided, however, that no person or single entity (or entities under common control) may have a cognizable interest in more than 50% of the full-power, commercial and noncommercial radio stations in such market unless the combination of stations comprises not more than one AM and one FM station.”

### **Contour Methodology**

In preparing the attached maps and tables, pertinent station data were extracted from the Commission's engineering databases. For AM stations, these included the operating power, radiation efficiency, directional antenna data (where appropriate), and geographic coordinates. The distances to the 5 mV/m principal community coverage contours were computed using a digitized version of the Commission's estimated soil conductivity map, Figure M-3, and a computer program which simulates the Commission's AM groundwave propagation curves. For FM stations, pertinent data for determining the distances to the contour included the antenna elevation above mean sea level, geographic coordinates, effective radiated power, and, where appropriate, directional antenna patterns. The requisite contour distances were determined using digitized, 3 arc-second, terrain data along radials spaced every 5 degrees

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from the transmitter site and an implementation of the Commission's TVFMFS computer program that simulates the FM distance curves. The distances to the pertinent contours were then imported into a GIS mapping program, which was used to develop the attached maps.

**Conclusion**

As demonstrated in the foregoing, the proposed relocation of the KHTZ(FM) facility will comply with §73.3555(a)(1)(iv) of the FCC's radio multiple ownership rules. In each of the three markets analyzed herein, the station counts of eleven and twelve stations is sufficient to support the common ownership of KHTZ(FM), KJAZ(FM) and KROY(FM) in the same market or markets.

**Certification**

Under penalty of perjury, the undersigned hereby certifies that the foregoing statement addressing Radio Multiple Ownership Considerations associated with the proposed relocation of KHTZ(FM) was prepared by him or under his direction and that it is true and correct to the best of his knowledge and belief. Mark Peabody is an associate in the firm of Cavell, Mertz & Associates, Inc. He has submitted numerous engineering exhibits to the Federal Communications Commission and his qualifications are a matter of record with that agency.



Mark Peabody  
February 6, 2009

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Engineering Statement

Figure 1 - Principal Community Coverage Contours of Proposed Commonly Owned Stations

Figures 2 & 2A - Market 1 - Overlap Of KHTZ(FM)(App) With KJAZ(FM)(CP) & KROY(FM)

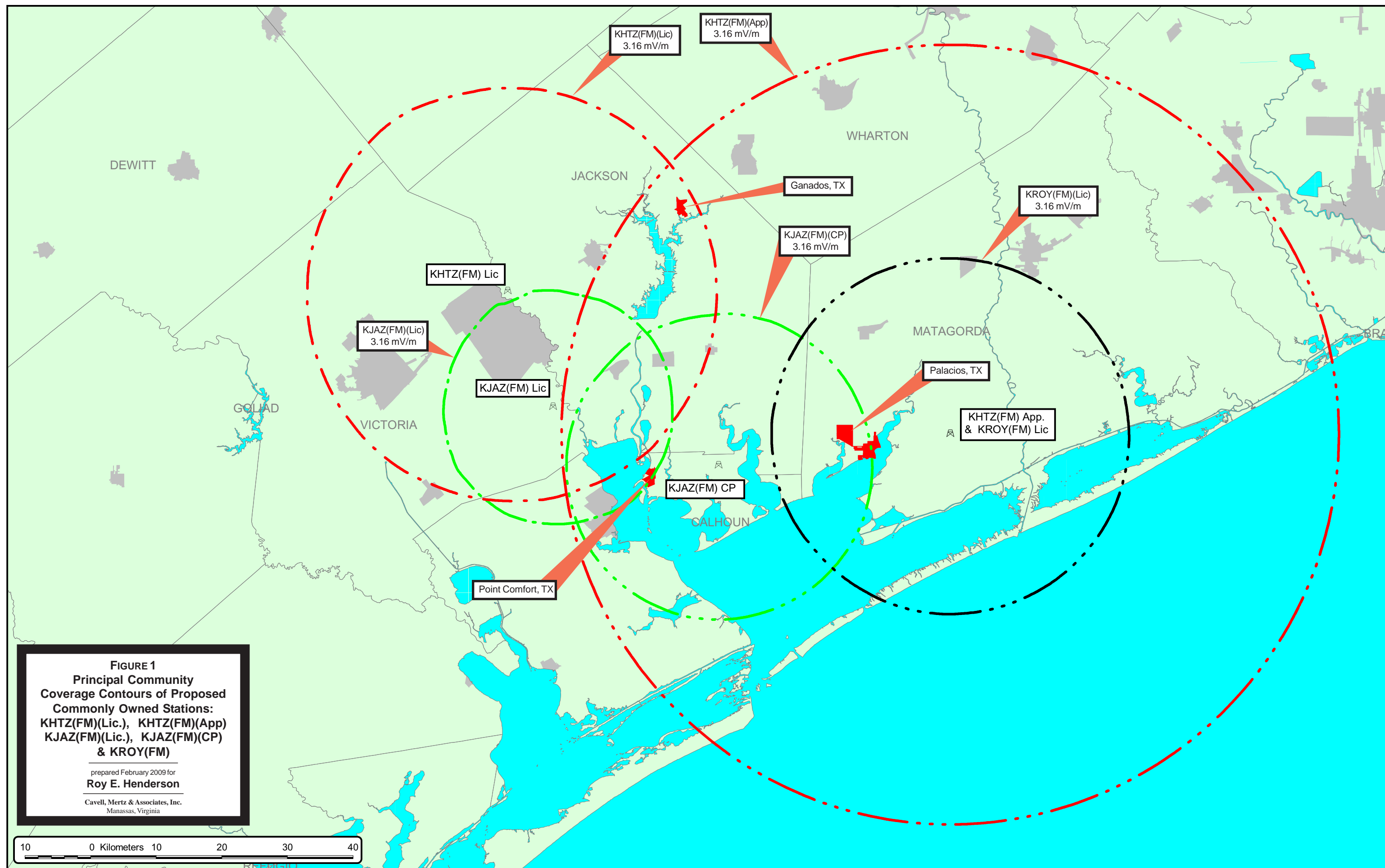
Table I - Tabulation of Stations Overlapping Market I

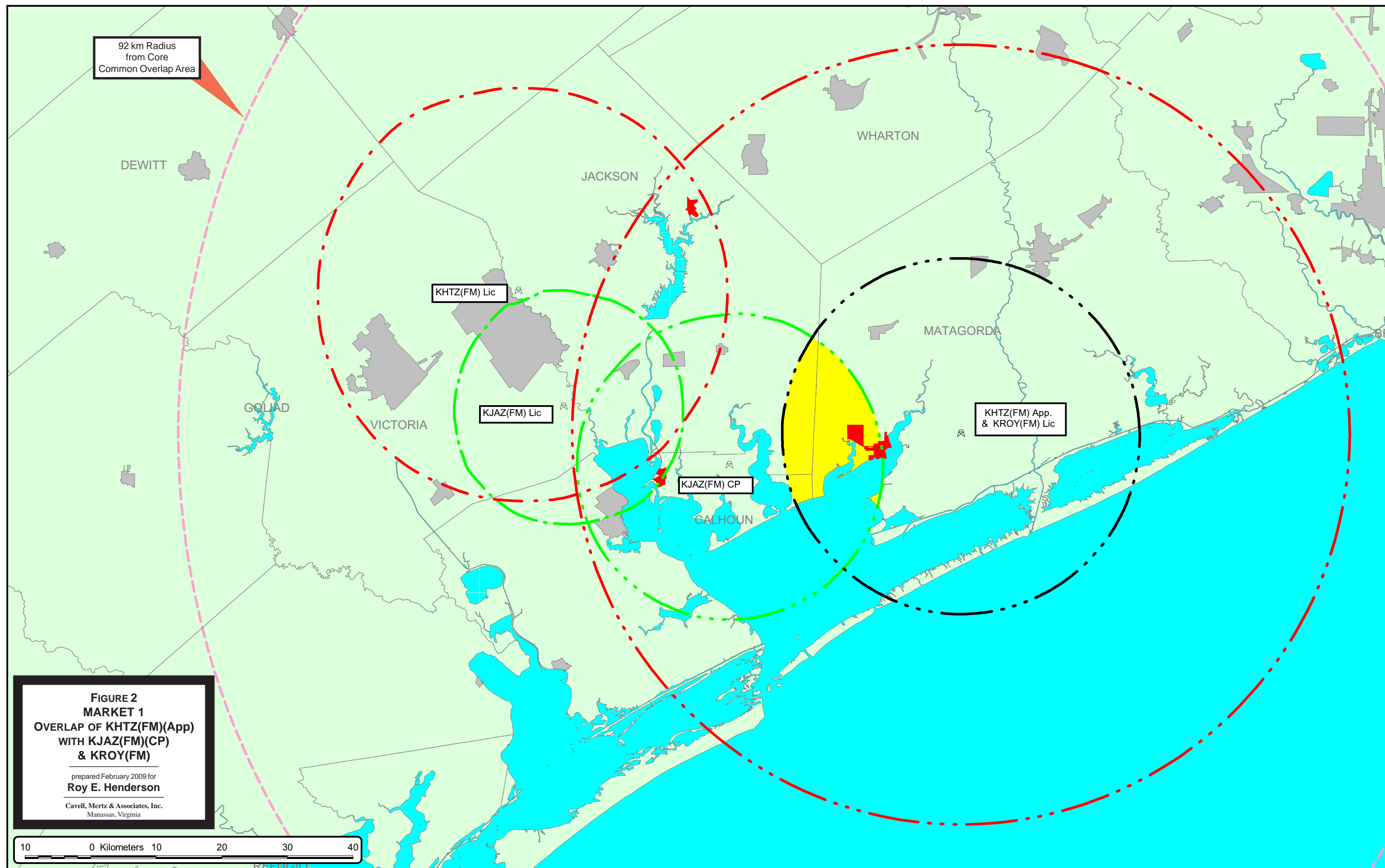
Figures 3 & 3A - Market 2 - Overlap Of KHTZ(FM)(App) With KJAZ(FM)(Lic)

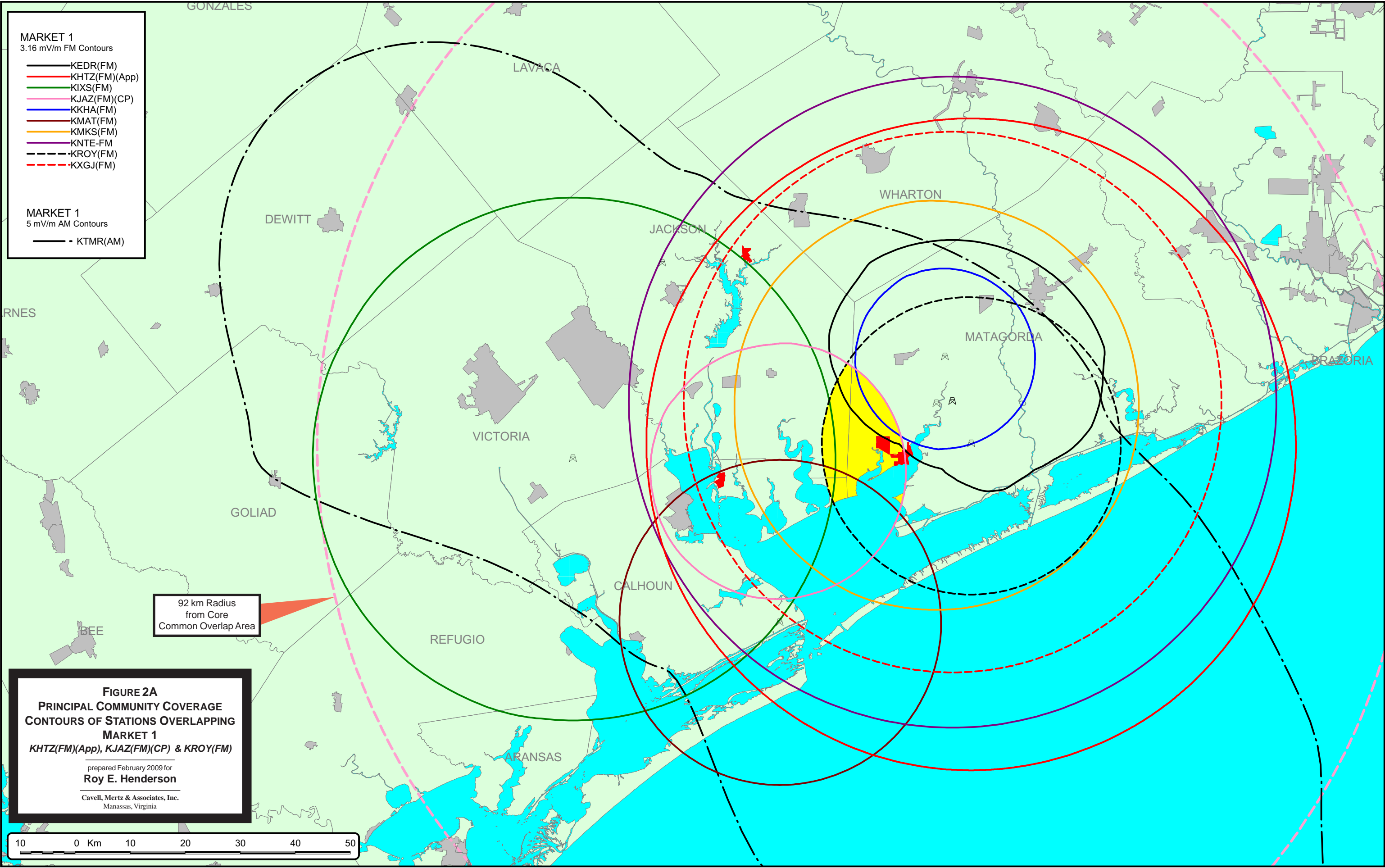
Table II - Tabulation of Stations Overlapping Market II

Figures 4 & 4A - Market 3 - Overlap Of KHTZ(FM)(App) With KROY(FM)(Lic)

Table III - Tabulation of Stations Overlapping Market III



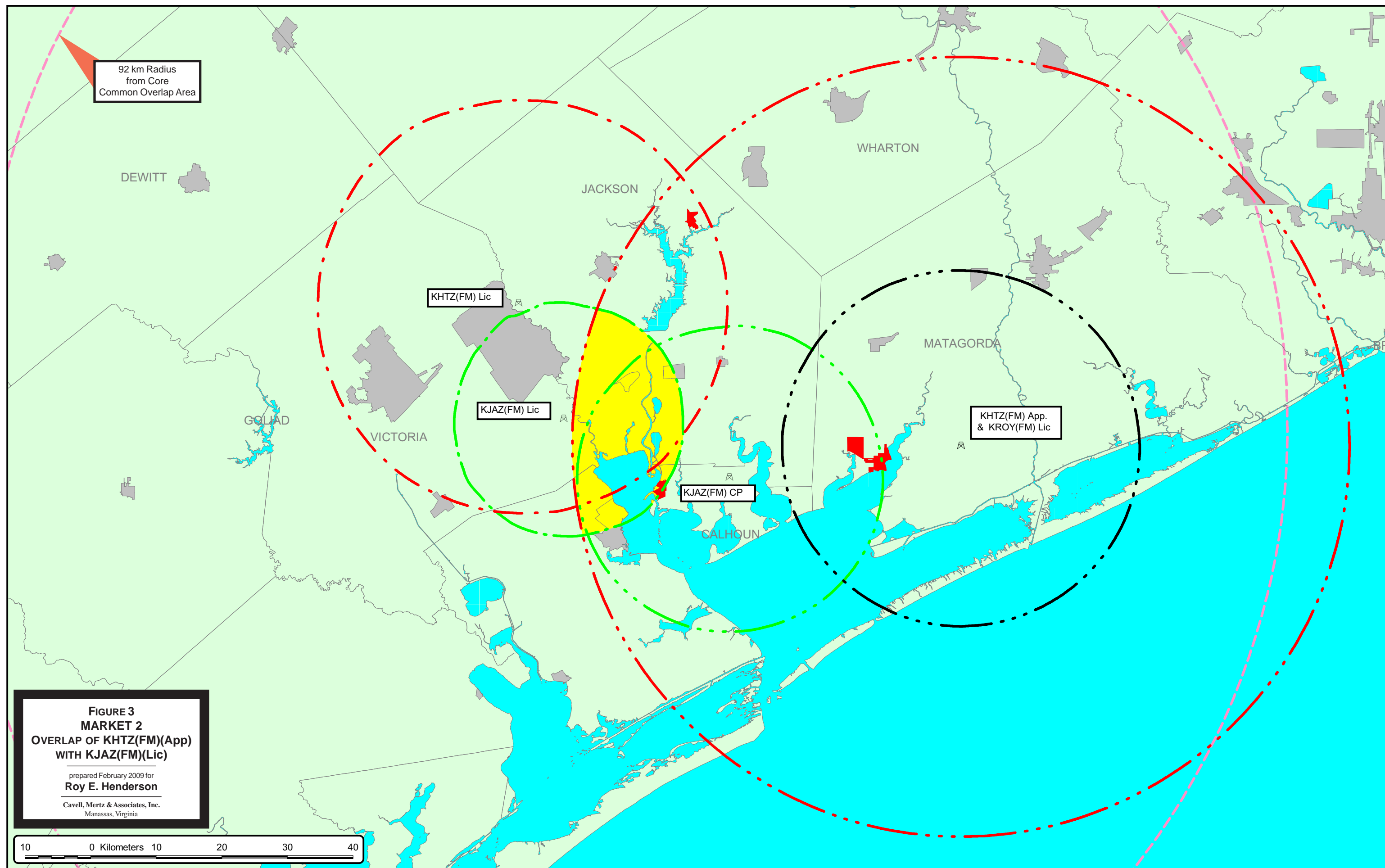


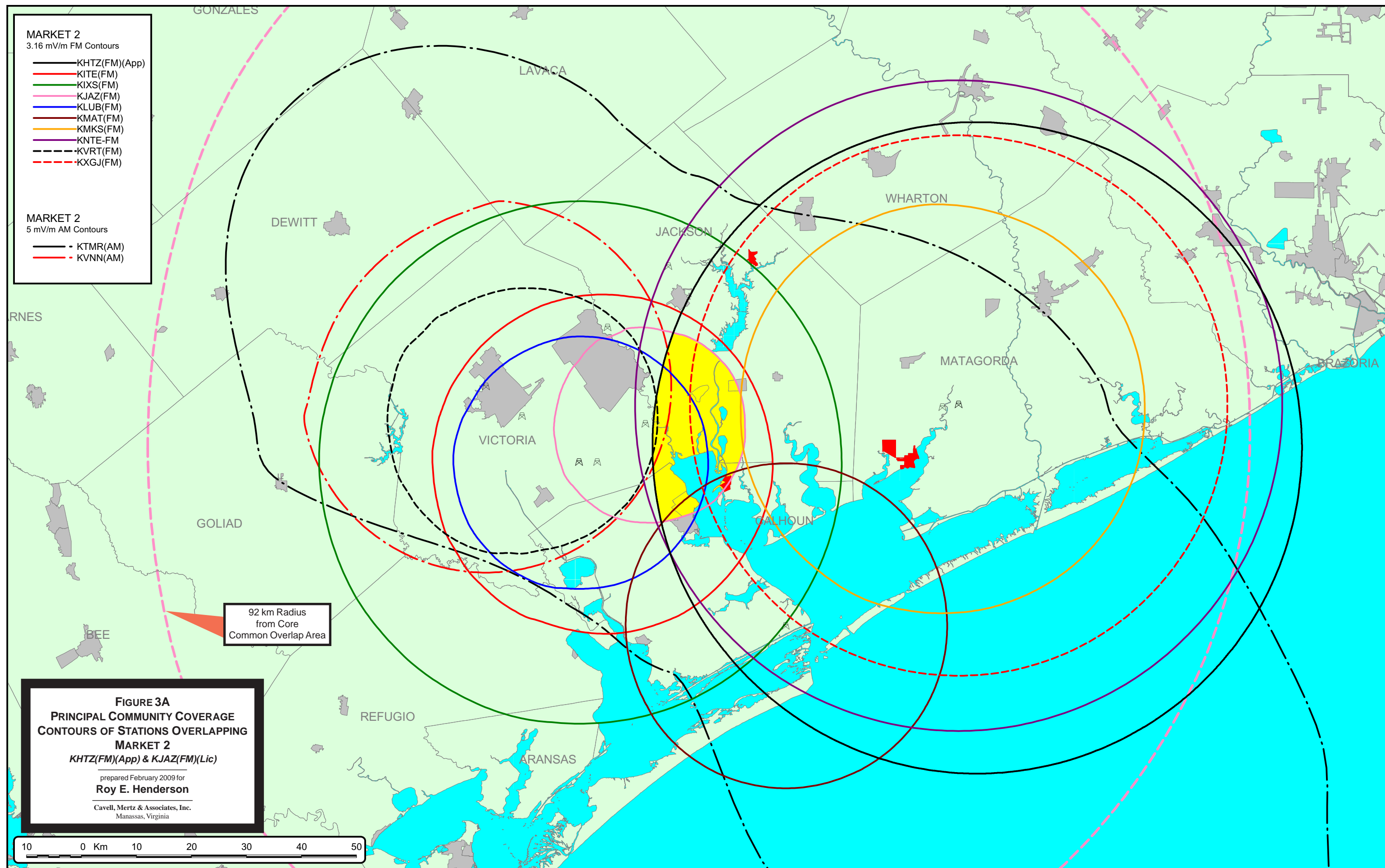


**Exhibit 5 – Table I**  
**Stations With Principal Community Contour Overlap**  
**MARKET 1 – KHTZ(FM)(App) – KJAZ(FM)(CP) – KROY(FM)**  
 prepared for  
**Roy E Henderson**  
 KHTZ(FM) Ganado, Texas  
 Ch. 235C 100 kW 453 m  
 BPH-20060407AAE  
 Facility ID 27619

Market	Call	Facility ID	Ch./Class	City - State	FCC File No.
Market 1	KEDR(FM)	91338	201C2	Bay City, TX	BLED-20070822ADT
Market 1	KHTZ(FM)(App)*	27619	235C	Ganado, TX	BPH-20060407AAE
Market 1	KIXS(FM)	25584	300C1	Victoria, TX	BLH-20030221ABY
Market 1	KJAZ(FM)(CP)*	6022	231C3	Point Comfort, TX	BPH-20051215ABN
Market 1	KKHA(FM)	87439	223A	Markham, TX	BLH-20000905AAZ
Market 1	KMAT(FM)	72527	286C2	Seadrift, TX	BLH-20070525AEG
Market 1	KMKS(FM)	58979	273C1	Bay City, TX	BLH-20070720ABH
Market 1	KNTE-FM	36507	245C0	El Campo, TX	BLH-20070716ACW
Market 1	KROY(FM)*	77693	259C2	Palacios, TX	BLH-19970205KG
Market 1	KXGJ(FM)	2131	269C1	Bay City, TX	BLH-20070716ACX
Market	Call	Facility ID	Frequency	City - State	FCC File No.
Market 1	KTMR(AM)	28191	1130 kHz	Edna, TX	BL-19820527AK

\* Stations in which Roy E Henderson has Attributable Ownership Interest  
 and that are part of the defined Market.

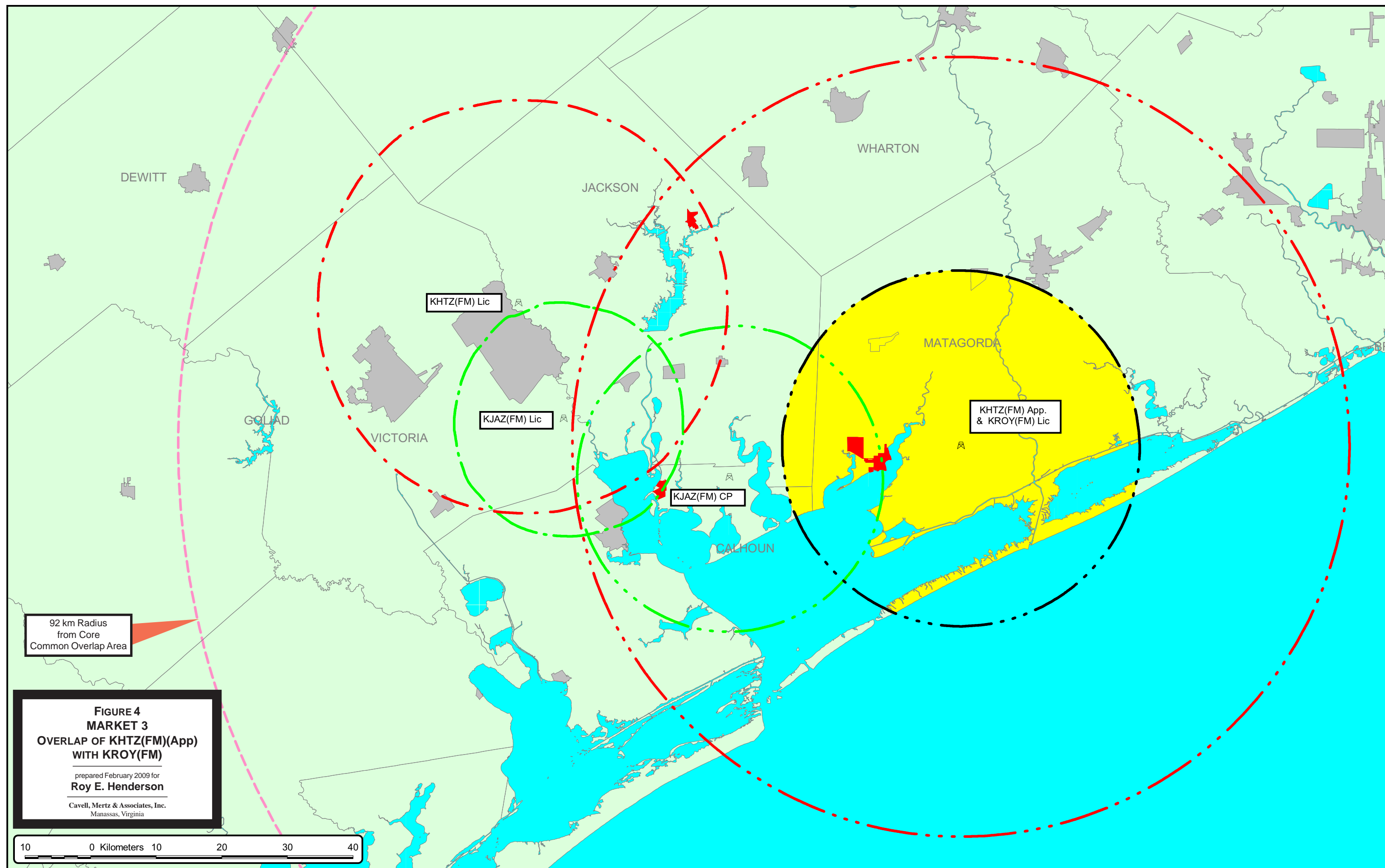




**Exhibit 5 – Table II**  
**Stations With Principal Community Contour Overlap**  
**MARKET 2 – KHTZ(FM)(App) – KJAZ(FM)(Lic)**  
 prepared for  
**Roy E Henderson**  
 KHTZ(FM) Ganado, Texas  
 Ch. 235C 100 kW 453 m  
 BPH-20060407AAE  
 Facility ID 27619

Market	Call	Facility ID	Ch./Class	City - State	FCC File No.
Market 2	KHTZ(FM)(App)*	27619	235C	Ganado, TX	BPH-20060407AAE
Market 2	KITE(FM)	12179	227C1	Port Lavaca, TX	BLH-19920518KB
Market 2	KIXS(FM)	25584	300C1	Victoria, TX	BLH-20030221ABY
Market 2	KJAZ(FM)*	6022	231C3	Point Comfort, TX	BLH-19980707KA
Market 2	KLUB(FM)	68301	295C3	Bloomington, TX	BLH-20080424AAF
Market 2	KMAT(FM)	72527	286C2	Seadrift, TX	BLH-20070525AEG
Market 2	KMKS(FM)	58979	273C1	Bay City, TX	BLH-20070720ABH
Market 2	KNTE-FM	36507	245C0	El Campo, TX	BLH-20070716ACW
Market 2	KVRT(FM)	61176	214C2	Victoria, TX	BLED-19950410KH
Market 2	KXGJ(FM)	2131	269C1	Bay City, TX	BLH-20070716ACX
Market	Call	Facility ID	Frequency	City - State	FCC File No.
Market 2	KTMR(AM)	28191	1130 kHz	Edna, TX	BL-19820527AK
Market 2	KVNN(AM)	28474	1340 kHz	Victoria, TX	

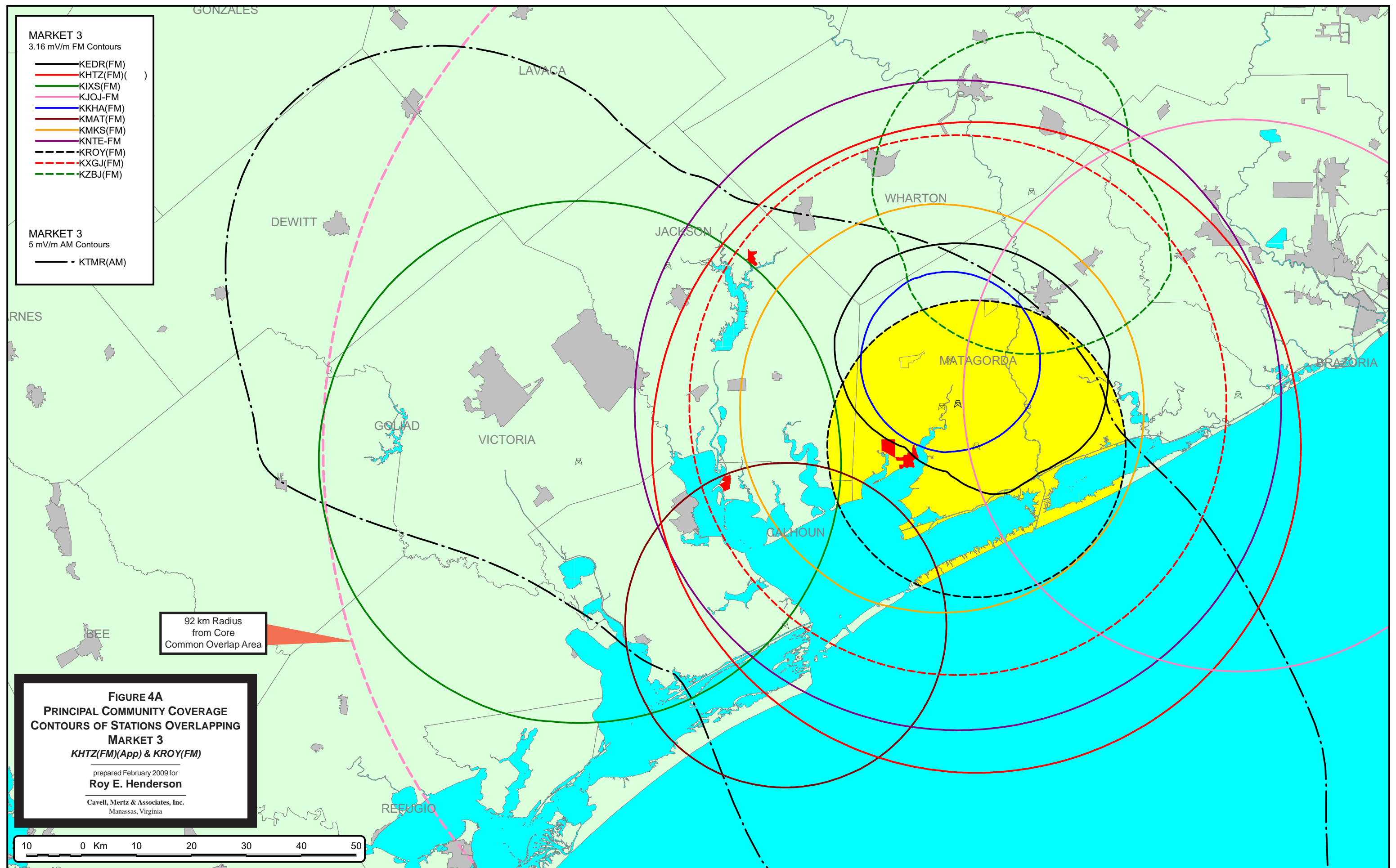
\* Stations in which Roy E Henderson has Attributable Ownership Interest  
 and that are part of the defined Market.



**FIGURE 4**  
**MARKET 3**  
**OVERLAP OF KHTZ(FM)(App)**  
**WITH KROY(FM)**

prepared February 2009 for  
**Roy E. Henderson**

Cavell, Mertz & Associates, Inc.  
Manassas, Virginia



**Exhibit 5 – Table III**  
**Stations With Principal Community Contour Overlap**  
**MARKET 3 – KHTZ(FM)(App) – KROY(FM)**  
prepared for  
**Roy E Henderson**  
KHTZ(FM) Ganado, Texas  
Ch. 235C 100 kW 453 m  
BPH-20060407AAE  
Facility ID 27619

Market	Call	Facility ID	Ch./Class	City - State	FCC File No.
Market 3	KEDR(FM)	91338	201C2	Bay City, TX	BLED-20070822ADT
Market 3	KHTZ(FM)(App)*	27619	235C	Ganado, TX	BPH-20060407AAE
Market 3	KIXS(FM)	25584	300C1	Victoria, TX	BLH-20030221ABY
Market 3	KJOJ-FM	69565	277C	Freeport, TX	BLH-19871013KC
Market 3	KKHA(FM)	87439	223A	Markham, TX	BLH-20000905AAZ
Market 3	KMAT(FM)	72527	286C2	Seadrift, TX	BLH-20070525AEG
Market 3	KMKS(FM)	58979	273C1	Bay City, TX	BLH-20070720ABH
Market 3	KNTE-FM	36507	245C0	El Campo, TX	BLH-20070716ACW
Market 3	KROY(FM)*	77693	259C2	Palacios, TX	BLH-19970205KG
Market 3	KXGJ(FM)	2131	269C1	Bay City, TX	BLH-20070716ACX
Market 3	KZBJ(FM)	91535	208C2	Bay City, TX	BLED-20050624AAV

Market	Call	Facility ID	Frequency	City - State	FCC File No.
Market 3	KTMR(AM)	28191	1130 kHz	Edna, TX	BL-19820527AK

\* Stations in which Roy E Henderson has Attributable Ownership Interest  
and that are part of the defined Market.