

ATTACHMENT TWO

**Reply To "Opposition to Informal Objection And Motion To Deny
Application or Designate Application For Evidentiary Hearing"
filed by Roy E. Henderson with the FCC Mass Media Bureau
June 16, 1999.**

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

RECEIVED

JUN 16 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of:

Application of)
Bryan Broadcasting License Subsidiary)
To Modify Construction Permit of) BMPH-990419IB
KTSR(FM), College Station, Texas,)
to Change channel from 221A and)
297C3 (Unbuilt C.P.) to 236C2 and to change)
Transmitter Site and Parameters)

To: Chief, Mass Media Bureau
Audio Services Division

REPLY TO OPPOSITION TO
INFORMAL OBJECTION AND
MOTION TO DENY APPLICATION OR
DESIGNATE APPLICATION FOR EVIDENTIARY HEARING

*File
copy*

Respectfully Submitted,

ROY E. HENDERSON

by: Robert J. Buenzle
His Attorney

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June 16th, 1999

S U M M A R Y

Bryan Broadcast License Subsidiary ("Bryan") is the licensee of KTSR(FM) in College Station, Texas. In an Informal Objection filed by Roy E. Henderson on May 14, 1999, Henderson suggested that Bryan had been guilty of a pattern of abuse of process in filing applications related to FM Rulemaking Docket 91-58 and that its most recent application for modification of permit, being the most recent of actions in that scheme by Bryan, should either be denied or set for hearing.

Bryan in an Opposition filed June 4, 1999, claimed that all of the false and misleading statements referred to by Henderson had been the result of various amounts of "confusion". Henderson in the instant Reply claims that the Ineptness defense should be rejected and that the Opposition itself provides even further examples of untrue and factually inconsistent statements having been made by Bryan. For the reasons stated therein Henderson renews his request that the subject application by Bryan be either denied or dismissed, or designated for an evidentiary hearing.

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1. Ben Downs Certification from form 301, Jan. 21, 1997
2. William R. Hicks Certification Pages from form 301 and Form 307, both filed Jan 21, 1997, And Certification in Lieu of Ownership Report dated March 25, 1996.

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**REPLY TO OPPOSITION TO
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DESIGNATE APPLICATION FOR EVIDENTIARY HEARING**

On May 14, 1999, Roy E. Henderson ("Henderson") filed his Informal Objection to the above application that had been filed by Bryan Broadcasting License Subsidiary, Inc. ("Bryan"), alleging that the subject application was the most recent act in a protracted history of lack of candor or outright deception by Bryan in the course of FM allocation Docket 91-58 and in the applications filed pursuant to various Orders and Actions in that proceeding. 1/ At the time Henderson filed his Informal Objection he indicated that the fact situation established by Bryan was such that there was virtually no plausible explanation

1/ At various times throughout the Bryan Opposition, it strains to plead with the Bureau to take no notice of its actions or representations in that proceeding but they are in fact inextricably linked in one proceeding, starting with the rulemaking request and ending with the applications filed with the Bureau as required by the rulemaking Order. The Commission has referred to it as a "comparative rulemaking proceeding" and that is what it is.

for it other than a deliberate deception and abuse of process. At the time that the suggestion was first made by Henderson in his Second Supplement pleading (filed September 29, 1997), Bryan filed an Opposition pleading but made no attempt at that time to explain the undisputed major discrepancies in its applications, directing its efforts solely to its claim that, at this stage of the proceeding, it could fail to comply with 73.315(a) with impunity, and fully intended to do so. It made no effort to offer any explanation whatsoever of its prior "inconsistent" and patently untrue statements. Having now been forced to respond to the issue in its Opposition, we now understand Bryan's reluctance. The defense du jour is apparently terminal ineptness, somewhat beyond "the dog ate my homework" but not quite as believable.

I. The Ineptness Defense

In the first place, we have to recognize some basic facts here: Bryan is a very experienced broadcast licensee, controlled by William Hicks, a name not unknown in broadcasting. Bryan has been controlled in one way or another by Mr. Hicks ^{2/} for over the past ten years with the company operating KTSR in the City of College Station, Texas for that same time period. One must assume that they know broadcasting and that they know their community of College Station. Against this background we have a licensee that

^{2/} The original name of the licensee over ten years ago was Hicks Broadcasting, which has since been transmogrified in a myriad of virtually impenetrable holding company/subsidiary company incarnations to its current name, but always with Mr. Hicks at control.

now claims everything, and we do mean everything, was all just one big colossal mistake. Mr. Downs now claims that he was really not competent to do the engineering on the form 301 filed January 21, 1997, and he has the Affidavit of Mr. Stype to back him up on that. In addition to not being competent to do the job, it seems that Mr. Downs also couldn't read the map correctly and did not know where the city limits of HIS OWN CITY OF LICENSE FOR THE PAST TEN YEARS were. That's pretty believable. But there's more. It is now revealed for the first time ever that they weren't REALLY going to build the tower themselves as indicated in BOTH applications filed on January 21, 1997. Oh no, they were really going to let their old friend Chet Fry build a new tower, and they were just going to be a tenant.

When they filed the form 301 Bryan indicated not only that the FAA had been notified but gave the actual date of the notification as October 6, 1996, two days before the date that Mr. Downs and Mr. Hicks signed the application, attesting to its truth and accuracy. But that was just an "assumption" that Mr. Fry had done that act on that particular date. They then sat on the application for over THREE MONTHS before filing it and let it sit with the FCC for another FOUR MONTHS, making a total of over SEVEN Months without ever checking with Mr. Fry on the FAA filing and clearance. Yeah, that seems reasonable. Even better, during that time, Mr. Fry went ahead and built a new tower but not where Bryan wanted it to be. Isn't it a little odd that the person they claim to have expected to build a tower for them at one site would proceed to build a tower at a different location, and not

even tell them, AND that they would never even notice? Was it a stealth tower? Yeah, that seems pretty believable.

Actually it does not seem believable at all. But without other extrinsic facts to assist us, we would be left with the question of whether this was in fact a case of deception with an agenda and purpose, or whether it was just a case of world-class ineptness. To be sure, even if the ineptness defense were credited, that in itself would represent such a tangled web of "mistakes" and "assumptions" that it would raise a question as to whether Bryan has the necessary qualifications to be trusted with a radio receiver, let alone a radio station. The Commission has recognized in the past that at some point it must recognize a pattern of sloppiness and ineptitude and consider whether providing a broadcast license to such an applicant is in the public interest. See Metro Broadcasting, 56 RR 2d 238 (1984); Bay Television, Inc., 95 FCC 2d 181 (1983); Merrimack Valley Broadcasting, Inc., 55 RR 2d 23,25 (1983); Broadcast Communications, Inc., 93 FCC2d 1162 at para 25 (1983); and Minority Broadcasters of St. Louis, Inc., 56 RR 2d 275 (1984).

II. Deception versus Ineptness

In the instant case there are, however, other things to consider. First of all, in its current "explanation" of its actions, Bryan now claims that it was never planning to build a new tower itself, just to locate its antenna as a tenant on a new tower to be built by Mr. Fry. It says that now, but it did not say that in January of 1997. Reference to the form 301 filed that

day shows (at paragraph 3) that the tower being proposed by Bryan was for Bryan only and was not going to be shared with any other licensee including Mr. Fry. Doesn't that seem a little odd if it was to be Fry's tower and not one to be built by Bryan as the Commission was led to believe by Bryan's form 301.

Even in the scenario presented in the Bryan Opposition it claims that it was to be the "principal" tenant on the FRY tower. That would clearly imply other "non-principal" tenants (in addition to Fry himself) and would appear to be yet another deceptive statement by Bryan in its form 301, if we are to believe the current story. But there is more, a lot more, on this point, and it is flatly contrary to the facts claimed by Bryan in its Opposition.

As noted earlier, there were two applications filed by Bryan on January 21, 1997, the form 301 and also a form 307 requesting an extension of time on Bryan's other construction permit (for an upgrade on channel 297C3). In that application Bryan told the Commission the following, clearly for the Commission's reliance:

The upgrade of KTSR to Channel 236C2 will require the construction of a new tower different from that proposed in the instant construction permit. Bryan has located a suitable site to erect the new tower and has discussed the construction with tower construction companies. . . . Although Bryan stands ready to expend the large sum of money necessary to erect the tower, it has yet to decide whether to risk the construction costs only to be told later that the tower must be dismantled.

So who is kidding whom here? Bryan claimed to be building a tower in the form 301 it filed on January 21, 1997, and removed

any doubt on that point by its reference and reliance on the costs it would be bearing in constructing the tower, and how that cost was such that it should be allowed to wait for finality of the Rulemaking case before building anything. According to Bryan, IT had located a site, IT had discussed the construction with tower construction companies (not Mr.FRY), and IT was on the hook for the "large sum of money required to build the tower.

There is simply no mistaking what Bryan told the FCC in January of 1997, and it is not what it is telling the FCC here. In fact, it makes things worse. If it is true that Bryan was talking to Fry about HIM building a tower on which Bryan would only be a tenant, then Bryan lied to the FCC in both its form 301 AND its form 307 when it indicated, no, STRESSED, that it was **BRYAN** that was building a tower, meeting with construction companies, and bearing such heavy tower construction costs. It is worth noting that the great burden of expense by **BRYAN** in building the new tower was the main argument presented by Bryan in form 307 for an extension of time on their permit, and they made the most of it. The argument would obviously have not been available to them at all if someone else (such as Mr. Fry) were to build the tower, but they were very specific in form 307 that it was **Bryan** that was building the tower. They can't have it both ways on this, and either way, it is not good. This unexplained inconsistency with what it said in January of 1997 and what it says now is yet another matter that indicates the problem here is deception and not just ineptness.

III. The Chet Fry Declaration

At this point we should say a word about the Declaration of Mr. Fry. In the first place, Mr Fry is no stranger to this proceeding. On June 11, 1992, Bryan filed a pleading in Docket 91-58 entitled "Supplemental Response". This pleading included, inter alia, a "Statement" by the same Mr. Fry claiming that he spoke to "Mrs. Drydan", the property owner of Henderson's proposed site, and that she "told him" that the site was not available to Henderson and she "was only interested in dealing with Mr.Fry" (whose tower is also on her land). When she was shown what Fry had said, Mrs. Drydan refuted it completely and sent a letter to the FCC confirming the availability of the site to Henderson. There was never any further effort to try to explain Mr.Fry's statement at that time but we would suggest that, at the very least, it raises questions as to his credibility in this proceeding on Bryan's behalf.

Having said that, we would also note some points in Mr. Fry's declaration. First of all, he makes it clear that the discussion with Bryan was only that Bryan would be one tenant on the tower along with other tenants, not consistent with what Bryan said at paragraph 3 of form 301. Moreover, Fry indicates only that he "discussed" the specifications of KTSR and discussed the possibility of his building his new tower a few hundred feet away. He offered no statement that any agreement was ever reached with Bryan on any of that.

IV. The Roy P. Stype Affidavit

We also have some comments on the Affidavit of Mr. Stype, the professional engineer now employed by Bryan. Mr. Stype indicates that he was hired by Bryan to start a search for a new site on August 19, 1998. Bryan had been happy with its prior site since it specified it in its "corrective" amendment filed July 15, 1997 and received the construction permit at that site on March 20, 1998. Of course, this site did not comply fully with 73.315(a) but Bryan had claimed that it did not matter at this stage of the proceeding. Why did Bryan contact Mr. Stype to start a search for a new fully-compliant site on August 19, 1998? We would just note that Henderson filed his Notice of Appeal in this case on August 14, 1998. With service by mail, that would be in Bryan's hands right around August 19. Some coincidence.

We also note that Mr. Stype on page two of his Affidavit notes that he had been previously retained in June of 1997, shortly after Bryan had received the letter from the FCC questioning Bryan's "new tower" proposal. Stype indicates that during his analyses of the January 21, 1997, application at that time, "...the firm, and the licensee of KTSR, first became aware [of the non-compliance of the proposal with 73.315(a)]. While we certainly do not question Mr. Stype's speaking for himself or his firm, we do not believe him to be qualified to speak for the "licensee" or to state in an affidavit what the licensee knew or when the licensee knew it. We have similar objections to Mr. Stype's further statements as to how "the preparer" of the

application concluded [wrongly] that the city was properly covered by the proposed station signal, whether it "was inadvertent", "mistaken", or whether the application had in fact been certified "in good faith". Such statements can only be properly advanced by the person who took the action (in this case, Mr. Downs) and Mr. Stype is not competent to say those things for Mr. Downs or in place of Mr. Downs.

V. The Ben Downs Declaration

We now turn to the Declaration of Ben Downs, the Executive Vice-President and holder of over 10% ownership interest of Bryan, certainly not a disinterested third party. Nor is Mr. Downs new to this proceeding. Mr. Downs provided Bryan with a Declaration in an Opposition filed in Docket 91-58 on May 4, 1992, which seemed to "shade" the truth somewhat 3/ in favor of Bryan. In his current Declaration, he acknowledges that he is the Executive Vice-President of Bryan 4/ He indicates that he spoke

3/ For example, Downs claimed that there was a motel located in an area of the city not served with a city-grade signal by Henderson. Closer inspection (with photographs) by Henderson established that the structure existed all right, but that it had been long-closed and abandoned, and surrounded by an anchor fence with "no trespassing signs" which had to have been clear and obvious to Mr. Downs. The statement submitted by Downs to the FCC was factually true to the extent that a building structure marked "motel" still stood, but it was clearly deceptive, and meant to be so. This is but one of several other wrong or misleading "facts" that were contained in that Declaration See Henderson Opposition June 1, 1995.

4/ It is interesting to note that in signing the Engineering portion of FCC Form 301 filed January 21, 1997, Mr. Downs referred to his position with Bryan simply as "Technical Advisor"(sic) to Bryan. See Attachment hereto of the Ben Downs signature page to Form 301 filed January 21, 1997.

with Chet Fry about Fry (not Bryan) building a tower, and claimed that he left that meeting believing that Bryan would be the "principal tenant" on that tower and that Fry would build it at a location to suit Bryan. To the contrary, the Declaration of Chet Fry, attached to the same Opposition, says that Bryan would be considered as only one of several tenants on the new Fry tower, and only that they had "discussed" (not agreed) constructing the tower at a site specified by Bryan.

Downs then indicated that he prepared the Form 301 application and included a specific representation in that form that the FAA had been notified of the tower construction, even providing a specific date of the notification, allegedly two days before his own certification of that "fact" in the engineering portion of form 301. To support what he said there, Downs indicates in his Declaration that it was his "understanding" that Mr. Fry had in fact notified the FAA of tower construction, but Downs provides no clue as to where he got that "understanding" or the specific date of that "understanding" and he receives no support on this from Mr. Fry whose Declaration is totally silent on the subject of notifying the FAA or any "understanding" on that by Downs.

Mr. Downs also provides no explanation at all as to why the FAA questions were answered in ink while the rest of the application was typed, nor does he say why the application was then held for approximately 3 months after signing on October 8, 1996 until filing with the FCC on January 21, 1997, or what

additional "review" may have taken place during that time. Nor does Downs provide any further explanation as to why, for a total period of seven months, he never made any further inquiry to Mr. Fry as to the alleged FAA notification, or the status of such "notification".

Nor does Downs offer any further explanation as to how Mr. Fry could have, during that same period of time, proceeded to build a new tower at a different site in the same community as Bryan's station without Bryan being in any way aware of that fact. Nor does Downs offer any explanation as to why Fry, who has been very cooperative with Bryan during the entire course of the rulemaking proceeding, suddenly stopped communicating with them, building a tower and not even letting Bryan, allegedly a prospective tenant, know that the tower was being constructed. It seems almost like Fry may have thought Bryan was planning to build its own tower, as it had already so represented to the FCC in its two January 21, 1997, applications.

As to the false statement in the January 21, 1997, application that the proposal would be in full compliance with rule 73.315(a), Mr Downs claims that Mr. Stype later "determined" that the misrepresentation resulted from "an aeronautical chart that I had used to determine the city boundaries of College Station did not accurately portray those boundaries". To the contrary, reference to Mr. Stypes affidavit makes it clear that the map was in fact fully accurate and he assumes that the

"inexperienced" Mr. Downs simply read it wrong. Another "mistake" in favor of Bryan.

Mr. Downs notes that at some point in mid-1998, he and Mr. Hicks became concerned about the cost of placing its antenna upon the existing tower authorized in their construction permit and concluded that it would be a good idea to build a new tower at a new site that would just happen to also be in full compliance with 73.315(a). This good idea was solidified on August 19, 1998, four days after Henderson filed his Notice of Appeal of this case to the U.S. Court of Appeals. Mr. Downs does not offer any comment upon this amazing coincidence.

VI. The Missing Declaration of William R. Hicks

As noted above, the Bryan Opposition included the Declaration or Affidavit of three different people, Ben Downs who prepared the engineering portion of FCC Form 301, Chet Fry, who discussed Bryan being a tenant on a tower Fry was intending to build, and Roy P. Stype, consulting engineer to Bryan. What is missing here is a Declaration from William Hicks, the President of Bryan, who executed both applications, certifying that he had reviewed the statements therein and that such statements were "true, complete, and correct to the best of his knowledge and belief..." Did he inquire as to the FAA notification; did he inquire as to compliance with 73.315(a), the rule so important in this case? What was he thinking when he made specific statements in the two applications as to the tower HE was building, only to find Mr. Downs claiming now that that was never true, that it was

always their plan to simply put their antenna on Mr. Fry's tower as a tenant. Who's in charge here?

If Mr Fry's latest version of the facts is indeed true, then how can Mr. Hicks explain his own most specific statements in FCC Form 307 as to the tremendous cost HE was going to bear in building HIS tower, and how that should be considered as an important factor in extending his old construction permit on 297C3. Mr Fry made no appearance in FCC form 307 filed January 21, 1997, but Mr. Hicks did and his statements there as to HIS own tower construction were specific, unequivocal, and totally contrary to what Mr. Downs now claims as "the facts"

Perhaps that leads us to the most puzzling aspect of it all. Two applications were filed by Bryan on January 21, 1997. Both were signed by the President of Bryan. Set forth below is a copy of the Certification portion of those two applications:

FCC FORM 301

I certify that the statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith.

Name William R. Hicks	Signature <i>William R. Hicks</i>
Title President	Date 10/8/96
Typed or Printed Name of Person Signing William R. Hicks	

WILLFUL FALSE STATEMENTS ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. CODE, TITLE 47, SECTION 312(a)(1)), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).

FCC FORM 307

2. I certify that the statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith.

Name Bryan Broadcasting License Subsidiary, Inc.	Signature <i>[Signature]</i>
Title <i>PRESIDENT</i>	Date 11/15/97

We do not claim to be forensic handwriting specialists but cannot escape the conclusion that one of the signatures is not the true signature of William R. Hicks, President of Bryan, as represented to the Commission. 5/ Nor is this in itself a small matter. Section 73.3513 of the Commission's rules is very specific as to the requirement of an actual signature on any application filed with the FCC, and underscores the importance of that requirement by allowing an attorney to sign for such an applicant only upon the applicant's own physical disability or absence from the Country, and in those closely defined exceptions requires a separate statement and certification of facts by the attorney himself. It is not ever a small matter and in view of the circumstances of this case, with its ever growing disclosure of facts alleged in the applications that were in fact not true, it is of substantially more importance.

VII. Summary And Conclusion

The summary of false statements included in the applications filed by Bryan, as known today, and as of this writing, include the following:

1. Bryan represented in both applications that it, Bryan, was building a new tower for construction of channel 236C2. That is now indicated in the Bryan Opposition as a false statement.

5/ A full copy of the entire signature page of both applications is attached hereto along with a Certification of No Change (in lieu of Ownership Report) signed by William R. Hicks, President of Bryan, on March 25, 1996. The signature there appears to match the signature on the form 307 but is totally dissimilar to the alleged signature of William R. Hicks on form 301.

2. Bryan indicated in FCC Form 301 that it had notified the FAA of its own proposed tower construction two days prior to Bryan's execution of the application. That was not true. It never notified the FAA.

3. Bryan represented to the FCC in the Form 301 that the application, specifying a new tower, was in full compliance with FCC Rule 73.315(a). Bryan admits here in its Opposition, for the first time ever, that that was also not true.

4. Bryan represented to the FCC that the application form 301 had been reviewed, certified as correct and signed by William R. Hicks, President of Bryan, and that was also apparently not true.

These are not small matters in and of themselves, and any one of these major misrepresentations should be a cause for concern to the Commission. Taken together, the cumulative effect of four major affirmative deceptions (not omissions) made at one time is simply staggering.

In considering these misrepresentations, it is important to know that this licensee did not just "come in from the farm". It is a broadcaster of some sophistication, operating for over ten years as a broadcaster, with more than ten years familiarity with its own city of license, represented by skilled professional communications legal counsel, as well as a skilled professional communications engineering consultant. Under these circumstances, it is simply not sufficient nor is it believable for the licensee to simply claim the legal equivalent of "the dog ate my homework". That doesn't even work in grammar school and it should not work here.

All of the people involved in this matter, Mr. Hicks, Mr. Downs, and Mr. Fry, have been long-time participants in the

Rulemaking proceeding 91-58, know first-hand the profound importance of compliance with 73.315(a) in that proceeding, and the relationship to applications filed pursuant to that proceeding. Absent their prior claim of full compliance with 73.315(a), Bryan would not have prevailed in that proceeding and would not have received any upgrade on channel 236C2 at all. The importance of their non-compliance is the very reason that the case was remanded back to the FCC by the Court. To now come before the Commission and claim that it all just 'slipped by', the failure to notify the FAA, the failure to comply with 73.315(a) while telling the FCC another story, is simply unacceptable and unbelievable.

It is noted that all of the "errors" went in the same "right" direction for Bryan, to paint a false picture of the applicant 'bearing the heavy costs' of building its new tower in full compliance with all FCC rules. It was simply not true and the new "facts" in the Opposition just make it worse, not better, injecting a new claim now that Bryan never intended to build a tower of its own, and that all it said in the Form 307 as well as the Form 301 as to the heavy costs of its construction was just so much baloney. The new claim now put forth in the Opposition that Bryan never intended to build a tower of its own but only to lease a space on a tower to be built by Mr. Fry is totally inconsistent with what the applicant told the FCC in both applications filed January 21, 1997. Those applications made it crystal clear that Bryan was telling the FCC then that IT was building a tower, that IT had found a site, that IT had discussed

construction with tower building contractors, and that IT was bearing the substantial costs of the construction of ITs new tower.

It is simply not possible to now seek to describe such explicit statements as some kind of huge "mistake" and, indeed, Bryan has offered no further explanation as to how it could have honestly made such representations then to square up with its new story now. It is a quagmire of false and untrue statements and it has only become more so and worse with the further representations of the Opposition.

The deceptions are patent and irrefutable. Moreover, each deception falls as a piece in the same direction, the same pattern, to portray a false image of Bryan in compliance with the city grade coverage requirements of 73.315(a). The facts are clear and the motive is equally clear.

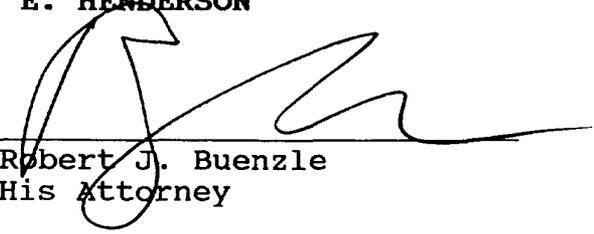
Wherefore Henderson submits that the Opposition of Bryan has not only failed to rebut the original charges contained in the Informal Objection but that it has actually added further reasons demonstrating that the application for modification of license of the construction permit for channel 236C2 of Bryan Broadcast License Subsidiary is not in the public interest, is in fact part of a continuing pattern of abuse of process by Bryan relative to this permit, and that the application should be denied or dismissed on that basis, or, in the alternative, designated for hearing to fully determine the facts and circumstances of Bryan's

actions and the effects of those actions upon Bryan as a
Commission licensee.

Respectfully Submitted,

ROY E. HENDERSON

by



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His Attorney

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June 16th, 1999

ATTACHMENT ONE

21. Terrain and coverage data (to be calculated in accordance with 47 C.F.R. Section 73.313)

Source of terrain data: (check only one box below)

- Linearly interpolated 30-second database 7.5 minute topographic map
 (Source: NG DC 30-second database)
 Linearly interpolated 3-second database Other (summarize)

Radial bearing (degrees True)	Height of radiation center above average elevation of radial from 3 to 16 km (meters)	Predicted Distances	
		To the 3.16 mV/m contour (kilometers)	To the 1 mV/m contour (kilometers)
141	145.3	32.1	51.6
0	129.8	30.4	49.4
45	133.0	30.8	49.8
90	143.7	31.9	51.3
135	143.5	31.9	51.3
180	158.5	33.5	53.3
225	173.0		9
270	168.0		4
315	150.5		3

*FCC FORM 301
FILED
JANUARY 21, 1997*

of HAAT.
 Yes No

Exhibit No.

radial through principal community, if not one of the major ra

22. Environmental Statement. (See 47 C.F.R. Section 1.1.)
 Would a Commission grant of this application come
 have a significant environmental impact, including e
 of RF radiation exceeding identified health and sa
 Standards Institute?

If you answer Yes, submit as an Exhibit an Environ
 1.1311.

If No, explain briefly why not. See Exhibit E

CERTIFICATION

I certify that I have prepared this Section of this application on behalf of the applicant, and that after such preparation, I have
 examined and found it to be accurate and true to the best of my knowledge and belief.

Name (Typed or Printed) Ben Downs	Relationship to Applicant (e.g., Consulting Engineer) Technical Advisor
Signature <i>Ben Downs</i>	Address (include ZIP Code) P. O. Box 3248, Bryan, TX 77805
Date 10/8/96	Telephone No. (include Area Code) (409) 846-1150

ATTACHMENT TWO

6. EXTENT OF CONSTRUCTION

a. Has equipment been delivered?

Yes No

If No, submit as an Exhibit a description of what equipment has been ordered, from whom and when it was ordered, and the promised delivery date (if any). If no order has been placed, so indicate and explain.

Exhibit No. I

b. Has installation commenced?

Yes No

If Yes, submit as an Exhibit a description of the extent of installation, the date on which installation commenced, and the estimated date by which construction can be completed.

Exhibit No. DNA

7.(a) If application is for extension of construction permit, submit as an Exhibit any additional construction progress not specified above and reason(s) why construction has not been completed.

Exhibit No. I

(b) If application is to replace an expired construction permit, submit as an Exhibit the reason for not submitting a timely extension application, together with any additional construction progress not specified above and the reason(s) why construction was not completed during the period specified in the construction permit or subsequent extension(s).

Exhibit No. DNA

8. Are the representations, including environmental, contained in the application for construction permit still true and correct?

Yes No

If No, give p:

Exhibit No. II

9. Since the filing any court or administrative proceeding, brought antitrust or unfair c

FCC FORM 307

n made or final action been taken by the applicant in a civil or criminal ig: any felony; mass media-related it; or discrimination?

Yes No

If the answer is Yes identification of the of the litigation. W as required by 47 submission by refer the application or previously reported

FILED
JANUARY 21, 1997

is and matters involved, including an nd file numbers), and the disposition nnection with another application or i) an identification of that previous letters of the station regarding which ling; and (ii) the disposition of the

Exhibit No. DNA

The APPLICANT her the United States b: application. (See Se

ir of the electromagnetic spectrum as against the regulatory power of or otherwise, and requests an authorization in accordance with this

The APPLICANT acknowledges that all the statements made in this application and attached exhibits are considered material representations and that all the exhibits are a material part hereof and are incorporated herein as set out in full in the application.

WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. CODE, TITLE 47, SECTION 312(a)(1)), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503)

CERTIFICATION

1. By checking Yes, the applicant certifies, that, in the case of an individual applicant, he or she is not subject to a denial of federal benefits that includes FCC benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862, or, in the case of a non-individual applicant (e.g., corporation, partnership or other unincorporated association), no party to the application is subject to a denial of federal benefits that includes FCC benefits pursuant to that section. For the definition of a "party" for these purposes, see 47 C.F.R. Section 1.2002(b).

Yes No

2. I certify that the statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith.

Name	Bryan Broadcasting License Subsidiary, Inc.	Signature	
Title	President	Date	1/15/97

BROADCAST EQUAL EMPLOYMENT OPPORTUNITY PROGRAM

Does the applicant propose to employ five or more full-time employees?

Yes No

If Yes, the applicant must include an EEO program called for in the separate Broadcast Equal Employment Opportunity Program Report (FCC Form 396-A).

SECTION VII - CERTIFICATIONS

1. Has or will the applicant comply with the public notice requirements of 47 C.F.R. Section 73.3580?

Yes No

2. Has the applicant reasonable assurance, in good faith, that the site or structure proposed in Section V of this form, as the location of its transmitting antenna, will be available to the applicant for the applicant's intended purpose?

Yes No

If No, attach as an Exhibit, a full explanation.

Exhibit No.

3. If reasonable assurance is not based on applicant's ownership of the proposed site or structure, applicant certifies that it has obtained such reasonable assurance by contacting the owner or person possessing control of the site or structure.

Name of person contacted: Chet Fry

Telephone No. (include area code): (409) 775-6239

Person contacted: (check one box below:

Owner Owner's Agent Other (specify)

4. By checking Yes, the applicant certifies, that, in the case of a subject to a denial of federal benefits that includes FCC ben Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862, or, in (e.g., corporation, partnership or other unincorporated assoc subject to a denial of federal benefits that includes FCC ben definition of a "party" for these purposes, see 47 C.F.R. Section

No

*FCC FORM 301
FILED
JANUARY 21, 1997*

The APPLICANT hereby waives any claim to the use of any partic tes because of the previous use of the same, whether by license or this application. (See Section 304 of the Communications Act of 193

United e with

The APPLICANT acknowledges that all the statements made in thi representations, and that all Exhibits are a material part hereof and in

terial

The APPLICANT represents that this application is not filed for th on any other application with which it may be in conflict.

nination

In accordance with 47 C.F.R. Section. 1.65, the APPLICANT has : amendments, of any substantial and significant changes in informati

ough

I certify that the statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith.

Name William R. Hicks	Signature <i>William R. Hicks</i>
Title President	Date 10/8/96
Typed or Printed Name of Person Signing William R. Hicks	

WILLFUL FALSE STATEMENTS ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. CODE, TITLE 47, SECTION 312(a)(1)), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).

CERTIFICATION OF NO CHANGE

I, William R. Hicks, President of Bryan Broadcasting License Subsidiary, Inc., licensee of WTAW(AM) and KTSR(FM), College Station, Texas, hereby certify that there have been no reportable changes in the FCC Form 323 Ownership Report dated as of December 14, 1994, which is on file for these stations with the Commission. This Certification is being filed in lieu of a full FCC Form 323 Ownership Report to satisfy the annual reporting requirements specified in Section 73.3615 of the rules and regulations of the Federal Communications Commission.

Respectfully submitted,

**BRYAN BROADCASTING LICENSE
SUBSIDIARY, INC.**

By: 
William R. Hicks
Its President

Date: 3/25/96

CERTIFICATE OF SERVICE

I, Robert J. Buenzle, do hereby certify that copies of the foregoing REPLY TO OPPOSITION TO INFORMAL OBJECTION AND MOTION TO DENY APPLICATION OR DESIGNATE APPLICATION FOR EVIDENTIARY HEARING have been served by United States mail, postage prepaid this 16th day of June, 1999, upon the following:

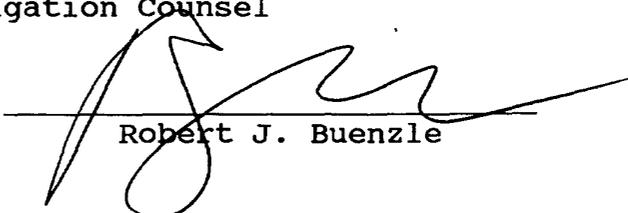
*Robert Hayne, Esq.
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*James Crutchfield, Esq.
FM Branch
Mass Media Bureau
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445 12th Street S.W.
Washington, D.C. 20024
FCC Litigation Counsel


Robert J. Buenzle

* Served by Hand

CERTIFICATE OF SERVICE

I, Robert J. Buenzle, do hereby certify that copies of the foregoing REPLY COMMENTS IN RESPONSE TO COMMENTS OF BRYAN BROADCASTING LICENSE SUBSIIARY, INC. AND FCC ORDER DA 99-1050 SUBSEQUENT TO JUDICIAL REMAND have been served by United States mail, postage prepaid this 18th day of June, 1999, upon the following:

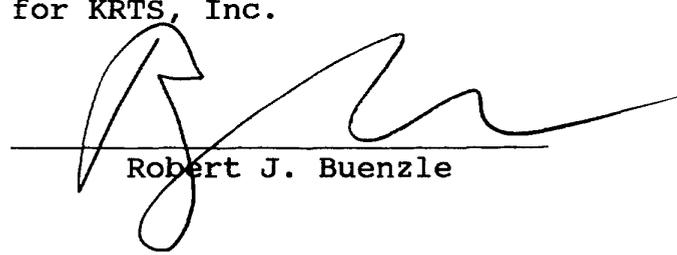
*Robert Hayne, Esq.
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Robert J. Buenzle

* Served by Hand