

STATE OF ILLINOIS)
)
COUNTY OF PEORIA) SS:

F. W. Hannel, after being duly sworn upon oath, deposes and states:

He is a registered Professional Engineer, by examination, in the State of Illinois;

He is a graduate Electrical Engineer, holding Bachelor of Science and Master of Science degrees, both in Electrical Engineering;

His qualifications are a matter of public record and have been accepted in prior filings and appearances requiring scrutiny of his professional qualifications;

The attached Engineering Report was prepared by him personally or under his supervision and direction and;

The facts stated herein are true, correct, and complete to the best of his knowledge and belief.



March 14, 2000

F. W. Hannel, P.E.

F. W. Hannel, PE
10733 East Butherus Drive
Scottsdale, AZ 85259
480) 585-7475
Fax (815) 327-9559
<http://fwhannel.com>

Roy E. Henderson
Post Office Box 590209
Houston, Texas 77259

Engineering Statement
Caldwell, Texas
MM Docket 91-58
March 2000

This firm has been retained by Roy E. Henderson, permittee of Radio Station KLTR(FM), Caldwell, Texas, to prepare this engineering statement in the above captioned proceeding. The Commission has issued a Memorandum Opinion and Order in the above captioned proceeding dated February 15, 2000, which again denied Henderson's proposed upgrade of Radio Station KLTR(FM) from FM Channel 236A to FM Channel 236C2 and reaffirmed the competing proposal which allotted FM Channel 236C2 to Radio Station KTSR(FM), Bryan, Texas.

Initially, it should be noted that the original basis for the rejection of the Henderson proposal for the upgrade of KLTR(FM) is that the Henderson proposal only covers 94% of Caldwell, Texas with a city grade signal while the competing proposal provides city grade coverage to all of the community of College Station, Texas. The site specified for implementation for the upgraded channel at College Station, Texas, however, only provides city grade coverage to 94% of College Station, a far greater deficiency than the proposal for Caldwell.

In its most recent Decision released Feb 15, 2000, the FCC raised new questions as to the recognition of the existing tower and also the existence of record information that would support reasonable assurance of FAA approval of Henderson's tower. Throughout this proceeding Henderson has maintained that FAA clearance at his allotment site was not an issue for several reasons. Through informal conversations with the FAA this affiant was assured that clearance should not be a problem. There is an existing tower that is located approximately one mile from the site proposed by Henderson. The existing tower, with an overall height of 152 meters AGL is taller than the tower required for Henderson to implement the Class C2 facility at the reference site for Caldwell. The existing tower was authorized by the FAA in 1983,

FAA Study No. 83-ASW-0208 and the Commission was notified by the FAA that the tower was approved. The latest search of the Wireless Telecommunications database shows that it has 25 entries for FCC licensed facilities already located on that tower, (see Exhibit E-1). The Mass Media Bureau has entries for Radio Station KVJM(FM) on the tower and a pending application for FM Channel 220C3 which also specifies the existing tower for transmitter sites. While this tower was only registered in 1998, (the date required by the FCC for all tower registrations), that does not mean that the tower is a newly constructed tower. In the process of preparing the required tower registration information in 1998 the tower owner had to slightly correct the tower coordinates, however, this tower has been in operation for approximately 15 years at the same physical location and only minute changes in the geographic co-ordinates have been made by the tower owner.

In addition to the existing 152 meter tower approximately 1 mile from the Henderson allotment site, the FAA has also approved, and a new tower has been constructed, approximately 6 miles southeast of the Henderson allotment site. This tower was authorized by the FAA in 1996, FAA Study No. 96-ASW-0776-OE, and was only discovered during preparation of this statement. The newly discovered tower is 650 ft. (198 meters), above ground level, and it provides tower space for a number of facilities. The database record of this tower is attached as Exhibit E-1. With two FAA approved towers constructed in the immediate vicinity of the Henderson allotment site, it is obvious that the informal assurances from the FAA to Hendersons consulting engineer regarding a tower at the Henderson allotment site were more than mere conjecture. It would seem that two taller towers in the immediate vicinity of the allotment site would lay to rest any concern regarding the suitability of the allotment site specified by Henderson. Significantly, there has never been any claim that the FAA would not allow construction of a tower at the allotment site, only that Henderson had not formally requested FAA approval of a tower at that location. This affiant has had several informal conversations with the FAA regarding the tower construction approval in July 1996 and again in July of 1997, and those contacts are a matter of record in this case. The FAA issued a no hazard for a taller tower 6 miles southeast of the

Henderson site in 1996 and the Henderson allotment site tower is near an existing tower and both towers are taller than one required to implement FM Channel 236C2 at Caldwell, Texas. It would seem clear that these facts are more than sufficient to establish that construction of a tower at the allotment site would be approved by the FAA without asking that agency to formally approve construction of a tower at a hypothetical site.¹

Following the remand of the case from the DC Circuit Court of Appeals, the Commission considered a site change application at College Station, Texas which, according to the Memorandum Report and Order, simply reaffirmed the Commission decision to award the upgraded channel to College Station and to deny the upgraded channel assignment at Caldwell. Henderson has filed an application which removes completely any doubt regarding city grade coverage at Caldwell, (see Attachment C). The site specified in the application dated February 22, 2000, is located 11 miles, (19.2 km) northeast of Caldwell, and the proposed Class C2 facility provides complete coverage of the city of Caldwell with the required city grade coverage, and that coverage extends approximately 8 miles, (12 km), beyond the city of Caldwell. There is no doubt whatsoever that the proposed facility complies with the Commission's required city grade coverage. All other superior public interest aspects of the Henderson proposal as were recognized by the Commission in its initial Order remain unchanged by the location of the transmitter site for KLTR(FM) as is proposed in the application. See Attachment C.

The site specified in the application is in full compliance with the mileage separation requirements of the Rules except for sites specified in this proceeding and a proposed downgrade at Victoria, Texas, which has apparently been implemented. The downgrade of the Victoria, Texas channel was authorized in August of 1999 in connection with a series of changes which would allow a station at Comfort, Texas to be upgraded. As those changes are currently being implemented, the site specified in the Henderson application is fully compliant with all of the Commission's requirements.

¹ After allotment, the provisions of 73.215 allow substantial variation in tower placement so that licensees have some flexibility in actual tower location.

The site was obtained from a local realtor and Henderson has an option on the property. The FAA has been notified of the proposed construction and Henderson has attempted to register the tower with the Wireless Telecommunications Bureau. WTB has advised Henderson that he must obtain FAA approval prior to submitting tower registration information and Henderson will promptly submit that information as soon as the FAA issues its no hazard determination. The WTB return letter is attached to Exhibit E-1.

In summary, the the Commission has found that the Henderson proposal has significant public interest benefits superior to the competing proposal, and, with the recent downgrade of FM Channel 236 at Victoria, Texas, the Henderson proposal is the superior proposal and should be granted by the Commission.

Roy E. Henderson
Post Office Box 590209
Houston, Texas 77259

Engineering Statement
Caldwell, Texas
MM Docket 91-58
March 2000

Exhibit E-1

Federal Communications Commission

Latitude/Longitude Results [WTB LAND MOBILE DATABASE]

Callsign	Service	Station Class	Licensee Name	Xmtr City	Xmtr State	Freq Assign (MHz)
KCJ226	LJ	FB	HODGES TRUCKING COMPANY INC	BENCHLEY	TX	0000044.24000000
KNAM603	IS	FX1	BJ SERVICES COMPANY U.S.A.	BRYAN	TX	00000458.35000000
KNCN788	IP	MO	J W OPERATING CO	BRYAN	TX	0000030.70000000
KNCN788	IP	FB2	J W OPERATING CO	BRYAN	TX	0000033.24000000
KNEH991	IB	FB2	BUDDY HANEYS APPLIANCE INC	BRYAN	TX	00000463.77500000
KNHK507	IB	FB2	JOYCE, LLOYD	BRYAN	TX	00000463.77500000
WNUH616	IB	FB2	PUMPCO INC	BENCHLEY	TX	00000464.02500000
WNUH616	IB	MO	PUMPCO INC	BENCHLEY	TX	00000464.02500000
WNUH616	IB	MO	PUMPCO INC	BENCHLEY	TX	00000469.02500000
WNWP894	IP	FB2	CLAYTON WILLIAMS JR INC	BENCHLEY	TX	00000153.26000000
WNWP894	IP	MO	CLAYTON WILLIAMS JR INC	BENCHLEY	TX	00000158.44500000
WPBB496	IP	FB2	SUN SERVICES CORPORATION	BENCHLEY	TX	00000153.23000000
WPBB496	IP	MO	SUN SERVICES CORPORATION	BENCHLEY	TX	00000153.23000000
WPBB496	IP	MO	SUN SERVICES CORPORATION	BENCHLEY	TX	00000158.43000000
WPKT272	IB	FB6C	TEXAS COMMUNICATIONS OF BRYAN INC	BENCHLEY	TX	00000464.15000000
WPKT272	IB	FB6C	TEXAS COMMUNICATIONS OF BRYAN INC	BENCHLEY	TX	00000462.15000000
WPKT272	IB	FB6C	TEXAS COMMUNICATIONS OF BRYAN INC	BENCHLEY	TX	00000463.80000000
WPKT272	IB	FB6C	TEXAS COMMUNICATIONS OF BRYAN INC	BENCHLEY	TX	00000463.97500000
WPKT272	IB	MO	TEXAS COMMUNICATIONS OF BRYAN INC	BENCHLEY	TX	00000469.15000000
WPKT272	IB	MO	TEXAS COMMUNICATIONS OF BRYAN INC	BENCHLEY	TX	00000464.15000000
WPKT272	IB	MO	TEXAS COMMUNICATIONS OF BRYAN INC	BENCHLEY	TX	00000467.15000000
WPKT272	IB	MO	TEXAS COMMUNICATIONS OF BRYAN INC	BENCHLEY	TX	00000462.15000000
WPNX957	YG	FB6	TEXAS COMMUNICATIONS OF BRYAN INC	BENCHLEY	TX	00000462.15000000
WPNX957	YG	MO	TEXAS COMMUNICATIONS OF BRYAN INC	BENCHLEY	TX	00000462.15000000
WPNX957	YG	MO	TEXAS COMMUNICATIONS OF BRYAN INC	BENCHLEY	TX	00000467.15000000

25 Row(s) were Retrieved

Latitude/Longitude Results [MASS MEDIA DATABASE]



Latitude/Longitude Results [MASS MEDIA DATABASE]

Party Name	Callsign	Service	Facility Type	Party City	Party State	Facility Frequency	Facility Channel
MARSHALL MEDIA GROUP, INC.	KVJM	FM	H	BRYAN	TX	103.1	276

1 Row(s) were Retrieved

FM Radio Station Query



Mass Media Bureau

Audio Services Division

NEW COLLEGE STATION TX US
220C3 91.9 MHz BPED980515MO APP
Service Class : Full Service FM Station or Application

N Lat 30 45 35
W Lon 96 28 0

Not near the border.

HERP	6.00 kW	HHAAT: 123.0 m	HRCAMSL: 218.0 m	HRCAGL: 104.0 m
VERP	6.00 kW	VHAAT: 123.0 m	VRCAMSL: 218.0 m	VRCAGL: 104.0 m

Non directional
No beam tilt

SITE NAME
BRYAN #4

LATITUDE
30-41-18.71

LONGITUDE
96-25-35.87

ASL
650

GRID ANSL
360

TOWER TYPE
Guyed

ADDRESS

CITY

COUNTY

STATE

REGION

BRYAN

BRAZOS

TX

SW



Federal Communications Commission
Wireless Telecommunications Bureau
1270 Fairfield Road
Gettysburg, PA 17325-7245

NOTICE OF APPLICATION DISMISSAL

ROY E. HENDERSON
PO Box 948
HOUSTON TX 77001

Date: 03-03-2000
Reference No.: 40530
File No.: A0116036
FAA Study No.:
Latitude: 30-38-59.0N
Longitude: 96-32-47.0W

Re: Roy E. Henderson

Your application for antenna structure registration is **DISMISSED** effective 03-03-2000 without prejudice for the reason(s) indicated below.

If you still want to construct or modify an antenna structure, you must file a new application with the Commission. The file number that was assigned to this application is not a Registration Number and is not an authorization to construct or modify an antenna structure.

To file a new application electronically, connect to the antenna structure registration system by pointing your web browser to <http://www.fcc.gov/wtb/antenna>. **Electronic filing is recommended.** However, if you wish to file your application manually, submit a paper copy of FCC Form 854. **If you file a new application electronically, do not manually submit the same application.** Application forms can be obtained from the FCC's web site @ <http://www.fcc.gov/formpage.html>, by calling the FCC's Forms Distribution Center 1-800-418-FORM (1-800-418-3676), or from fax-on-demand by dialing (202) 418-0177 from the handset of a fax machine. For general information, call the FCC's National Call Center at 1-888-CALLFCC (1-888-225-5322).

Application has an invalid or missing signature.

Missing FAA Aeronautical Study Number.

The determination date issued is invalid.

SEE REVERSE

1
FCC 689
October 1999

Petition for Reconsideration of
FCC Decision FCC 00-58, 2-15-2000
MM Docket no. 91-58
Caldwell, Texas et al
March 15, 2000

ATTACHMENT C

Application for Site Change
Filed February 24, 2000

LAW OFFICES

ROBERT J. BUENZLE

12110 SUNSET HILLS ROAD

SUITE 450

RESTON, VIRGINIA 20190-3223

E-MAIL: buenzle@buenzlelaw.com

FACSIMILE
(703) 430-4994

TELEPHONE
(703) 715-3006

February 24, 2000

Federal Communications Commission
Mass Media Services
P.O. Box 358195
Pittsburgh, Pa 15251-5195

Dear Sir or Madam:

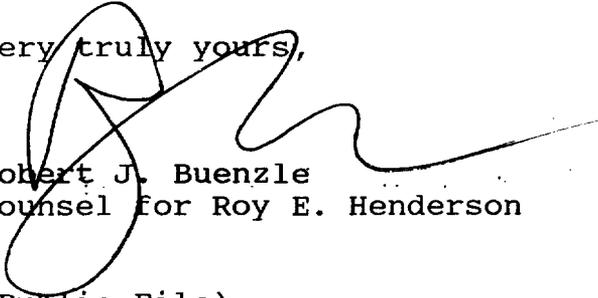
Transmitted herewith in triplicate on behalf of Roy E. Henderson, Permittee of Radio Station KLTR(FM) is his application for a minor change in that facility.

In addition, there is also included herewith FCC form 159 along with a check for the required filing fee in the amount of \$725.00. Please note also that the fee code for this application is **MPR**.

It is also noted that this application which requests a new site location for KLTR(FM) is filed as a one-step upgrade of channel 236A and is subject to a final determination of FM rulemaking Docket 91-58. In that proceeding the Commission has proposed changing Henderson's operating channel from 236A to 297A, but that change remains currently under appeal by Henderson.

Should any additional information be required, please contact this office.

Very truly yours,



Robert J. Buenzle
Counsel for Roy E. Henderson

cc w/enc: Roy E.Henderson (Public File)

READ INSTRUCTIONS CAREFULLY BEFORE PROCEEDING
(1) LOCKBOX #

FEDERAL COMMUNICATIONS COMMISSION
REMITTANCE ADVICE

APPROVED BY OMB 3060-0589

SPECIAL USE
FCC USE ONLY

PAGE NO 1 OF 1

SECTION A - PAYER INFORMATION

(1) PAYER NAME (if paying by credit card, enter name exactly as it appears on your card) **Roy E. Henderson** (13) TOTAL AMOUNT PAID (dollars and cents) **\$ 725.00**

(2) STREET ADDRESS LINE NO. 1 **P.O. Box 948**

(3) STREET ADDRESS LINE NO. 2

(4) CITY **Houston** (7) STATE **Texas** (8) ZIP CODE **77001-0948**

(5) DAYTIME TELEPHONE NUMBER (include area code) **(713) 227-2600** (10) COUNTRY CODE (if not in U.S.A.)

IF PAYER NAME AND THE APPLICANT NAME ARE DIFFERENT, COMPLETE SECTION B
IF MORE THAN ONE APPLICANT, USE CONTINUATION SHEETS (FORM 159-C)

SECTION B - APPLICANT INFORMATION

(11) APPLICANT NAME (if paying by credit card, enter name exactly as it appears on your card) **N/A**

(12) STREET ADDRESS LINE NO. 1

(13) STREET ADDRESS LINE NO. 2

(14) CITY (18) STATE (16) ZIP CODE

(17) DAYTIME TELEPHONE NUMBER (include area code) (19) COUNTRY CODE (if not in U.S.A.)

COMPLETE SECTION C FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEETS (FORM 159-C)

SECTION C - PAYMENT INFORMATION

(117A) FCC CALL SIGN/OTHER ID	(118A) PAYMENT TYPE CODE (PTC)	(117A) QUANTITY	(118A) FEE DUE FOR (PTC) IN BLOCK 20A	FCC USE ONLY
KJLTR (FM)	M P R	1	725.00	
(117B) FCC CODE 1	(118B) FCC CODE 1	(117C) FCC CODE 2	(118C) FCC CODE 2	
(117D) FCC CALL SIGN/OTHER ID	(118D) PAYMENT TYPE CODE (PTC)	(117D) QUANTITY	(118D) FEE DUE FOR (PTC) IN BLOCK 20B	FCC USE ONLY
(117E) FCC CODE 1	(118E) FCC CODE 1	(117F) FCC CODE 2	(118F) FCC CODE 2	
(117G) FCC CALL SIGN/OTHER ID	(118G) PAYMENT TYPE CODE (PTC)	(117G) QUANTITY	(118G) FEE DUE FOR (PTC) IN BLOCK 20C	FCC USE ONLY
(117H) FCC CODE 1	(118H) FCC CODE 1	(117I) FCC CODE 2	(118I) FCC CODE 2	
(117J) FCC CALL SIGN/OTHER ID	(118J) PAYMENT TYPE CODE (PTC)	(117J) QUANTITY	(118J) FEE DUE FOR (PTC) IN BLOCK 20D	FCC USE ONLY
(117K) FCC CODE 1	(118K) FCC CODE 1	(117L) FCC CODE 2	(118L) FCC CODE 2	

SECTION D - TAXPAYER INFORMATION (REQUIRED)

(119) PAYER TIN **0741079916** (120) COMPLETE THIS BLOCK ONLY IF APPLICANT NAME IS DIFFERENT FROM PAYER NAME IN A.1) APPLICANT TIN **0**

SECTION E - CERTIFICATION

(121) CERTIFICATION STATEMENT
 I, **Roy E. Henderson**, Certify under penalty of perjury that the foregoing and supporting information
 (PRINT NAME)
 are true and correct to the best of my knowledge, information and belief. SIGNATURE *Roy E. Henderson*

SECTION F - CREDIT CARD PAYMENT INFORMATION

(122) MASTERCARD OR VISA ACCOUNT NUMBER: **[REDACTED]** EXPIRATION DATE: **1/2001**
 MONTH YEAR
 MASTERCARD
 VISA
 I hereby authorize the FCC to charge my VISA or MASTERCARD for the service(s) authorization(s) herein described. AUTHORIZED SIGNATURE: *Roy E. Henderson* DATE: **2/22/2000**

SEE PUBLIC BURDEN ESTIMATE ON REVERSE

FCC FORM 159 JULY 1997 (REVISED)

Filing Fee Paid by Check attached hereto

Federal Communications Commission
Washington, D. C. 20554

Approved by OMB
3060-0027

FOR
FCC
USE
ONLY

FCC 301

APPLICATION FOR CONSTRUCTION PERMIT FOR COMMERCIAL BROADCAST STATION

FOR COMMISSION USE ONLY
FILE NO.

Section I - General Information

1. Legal Name of the Applicant Roy E. Henderson		
Mailing Address P.O. Box 948		
City Houston	State or Country (if foreign address) Texas	ZIP Code 77001-0948
Telephone Number (include area code) (713) 227-2600	E-Mail Address (if available)	
	Call Sign KLTR (FM)	Facility ID Number 57803

2. Contact Representative (if other than applicant) Robert J. Buenzle, Esq.	Firm or Company Name Law Offices of Robert J. Buenzle
Telephone Number (include area code) (703) 715-3006	E-Mail Address (if available)

3. If this application has been submitted without a fee, indicate reason for fcc exemption (see 47 C.F.R. Section 1.1114):

Governmental Entity Other _____

4. Application Purpose.

- New station
- Major Change in licensed facility
- Minor Change in licensed facility
- Major Modification of construction permit
- Minor Modification of construction permit
- Major Amendment to pending application
- Minor Amendment to pending application

a. File number of original construction permit: BPH-871113MK N/A

b. Service Type: AM FM TV DIV

c. Community of License:

City Caldwell	State Texas
------------------	----------------

d. Facility Type: Main Auxiliary

If an amendment, submit as an Exhibit a listing by Section and Question Number of the portions of the pending application that are being revised.

Exhibit No.

Feb-22-00 05:01P

NOTE: In addition to the information called for in this section, an explanatory exhibit providing full particulars must be submitted for each question for which a "No" response is provided.

Section II - Legal

1 **Certification.** Applicant certifies that it has answered each question in this application based on its review of the application instructions and worksheets. Applicant further certifies that where it has made an affirmative certification below, this certification constitutes its representation that the application satisfies each of the pertinent standards and criteria set forth in the application instructions and worksheets. Yes No

2. **Parties to the Application.**

a. List the applicant, and, if other than a natural person, its officers, directors, stockholders with attributable interests, non-insulated partners and/or members. If a corporation or partnership holds an attributable interest in the applicant, list separately its officers, directors, stockholders with attributable interests, non-insulated partners and/or members. Create a separate row for each individual or entity. Attach additional pages if necessary.

- (1) Name and address of the applicant and, if applicable, its officers, directors, stockholders, or partners (if other than individual also show name, address and citizenship of natural person authorized to vote the stock). List the applicant first, officers next, then directors and, thereafter, remaining stockholders and partners.
- (2) Citizenship.
- (3) Positional Interest: Officer, director, general partner, limited partner, LLC member, etc.
- (4) Percentage of votes.
- (5) Percentage of equity.

(1)	(2)	(3)	(4)	(5)

b. Applicant certifies that equity interests not set forth above are non-attributable. Yes No N/A See Explanation in Exhibit No.

3. **Other Authorizations.** List call signs, locations, and facility identifiers of all other broadcast stations in which applicant or any party to the application has an attributable interest. Exhibit No. N/A

4. **Multiple Ownership.**
 a. Applicant certifies that the proposed facility: Yes No See Explanation in Exhibit No.

1. complies with the Commission's multiple and cross-ownership rules;
2. does not present an issue under the Commission's cross-interest policy;
3. does not present an issue under the Commission's policies relating to media interests of immediate family members;
4. complies with the Commission's policies relating to future ownership interests; and
5. complies with the Commission's restrictions relating to the insulation and non-participation of non-party investors and creditors.

Section II - Legal

- b Radio Applicants Only. If the grant of the application would result in certain principal community service contour overlaps, see Local Radio Ownership Worksheet, Question 1, applicant certifies that all relevant information has been placed in public inspection file(s) and submitted to the Commission. Yes No N/A See Explanation in Exhibit No.
- 5. **Character Issues.** Applicant certifies that neither applicant nor any party to the application has or has had any interest in, or connection with:
 - a. any broadcast application in any proceeding where character issues were left unresolved or were resolved adversely against the applicant or party to the application, or
 - b. any pending broadcast application in which character issues have been raised. Yes No See Explanation in Exhibit No.
- 6. **Adverse Findings.** Applicant certifies that, with respect to the applicant and any party to the application, no adverse finding has been made, nor has an adverse final action been taken by any court or administrative body in a civil or criminal proceeding brought under the provisions of any law related to the following: any felony; mass media-related antitrust or unfair competition; fraudulent statements to another governmental unit; or discrimination. Yes No See Explanation in Exhibit No.
- 7. **Alien Ownership and Control.** Applicant certifies that it complies with the provisions of Section 310 of the Communications Act of 1934, as amended, relating to interests of aliens and foreign governments. Yes No See Explanation in Exhibit No.
- 8. **Program Service Certification.** Applicant certifies that it is cognizant of and will comply with its obligations as a Commission licensee to present a program service responsive to the issues of public concern facing the station's community of license and service area. Yes No
- 9. **Local Public Notice.** Applicant certifies that it has or will comply with the public notice requirements of 47 C.F.R. Section 73.3590. Yes No
- 10. **Auction Authorization.** If the application is being submitted to obtain a construction permit for which the applicant was the winning bidder in an auction, then the applicant certifies, pursuant to 47 C.F.R. Section 73.5005(a), that it has attached an exhibit containing the information required by 47 C.F.R. Sections 1.2107(d), 1.2110(j), 1.2112(a) and 1.2112(b), if applicable. Yes No N/A

Exhibit No.

An exhibit is required unless this question is inapplicable.
- 11. **Anti-Drug Abuse Act Certification.** Applicant certifies that neither applicant nor any party to the application is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862. Yes No

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. I acknowledge that all certifications and attached Exhibits are considered material representations. I hereby waive any claim to the use of any particular frequency as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and request an authorization in accordance with this application. (See Section 304 of the Communications Act of 1934, as amended.)

Typed or Printed Name of Person Signing Roy E. Henderson	Typed or Printed Title of Person Signing Permittee/Applicant
Signature 	Date 2/22/2000

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).

SECTION III-B FM Engineering

TECHNICAL SPECIFICATIONS

Ensure that the specifications below are accurate. Contradicting data found elsewhere in this application will be disregarded. All items must be completed. The response "on file" is not acceptable.

TECH BOX

1. Channel: 236

2. Class: A B1 B C3 C2 C1 C D

3. Antenna Location Coordinates: (NAID 27)
30 ° 38 ' 59 " N S Latitude
96 ° 32 ' 47 " E W Longitude

4. One-Step Proposal Allotment Coordinates: (NAID 27) Not applicable
30 ° 38 ' 59 " N S Latitude
96 ° 32 ' 47 " E W Longitude

5. Antenna Structure Registration Number: _____
 Not applicable FAA Notification Filed with FAA

6. Antenna Location Site Elevation Above Mean Sea Level: 70 meters

7. Overall Tower Height Above Ground Level: 170 meters

8. Height of Radiation Center Above Ground Level: 163 meters (II) 163 meters (V)

9. Height of Radiation Center Above Average Terrain: 150 meters (II) 150 meters (V)

10. Effective Radiated Power: 50.0 kW (II) 50.0 kW (V)

11. Maximum Effective Radiated Power: Not applicable _____ kW (II) _____ kW (V)
 (Beam-Tilt Antenna ONLY)

12. Directional Antenna Relative Field Values: Not applicable (Nondirectional)
 Rotation: _____ ° No rotation

Degree	Value	Degree	Value	Degree	Value	Degree	Value	Degree	Value	Degree	Value
0		60		120		180		240		300	
10		70		130		190		250		310	
20		80		140		200		260		320	
30		90		150		210		270		330	
40		100		160		220		280		340	
50		110		170		230		290		350	
Additional Azimuths											

NOTE: In addition to the information called for in this section, an explanatory exhibit providing full particulars must be submitted for each question for which a "No" response is provided.

CERTIFICATION

AUXILIARY ANTENNA APPLICANTS ARE NOT REQUIRED TO RESPOND TO ITEMS 13-16.
PROCEED TO ITEM 17.

13. **Allotment.** The proposed facility complies with the allotment requirements of 47 C.F.R. Section 73.203. Yes No

See Explanation in Exhibit No.

14. **Community Coverage.** The proposed facility complies with 47 C.F.R. Section 73.315. Yes No

See Explanation in Exhibit No.

15. **Main Studio Location.** The proposed main studio location complies with 47 C.F.R. Section 73.1125. Yes No

See Explanation in Exhibit No.

16. **Interference.** The proposed facility complies with all of the following applicable rule sections. Check all those that apply. Yes No

See Explanation in Exhibit No. E-1
--

Separation Requirements.

a. 47 C.F.R. Section 73.207. **See Exhibit E-1**

Grandfathered Short-Spaced.

b. 47 C.F.R. Section 73.213(a) with respect to station(s): _____

Exhibit No.

Exhibit Required.

c. 47 C.F.R. Section 73.213(b) with respect to station(s): _____

Exhibit No.

Exhibit Required.

d. 47 C.F.R. Section 73.213(c) with respect to station(s): _____

Exhibit No.

Exhibit Required.

Contour Protection.

e. 47 C.F.R. Section 73.215 with respect to station(s): _____

Exhibit No.

Exhibit Required.

17. **Environmental Protection Act.** The proposed facility is excluded from environmental processing under 47 C.F.R. Section 1.1306 (i.e., the facility will not have a significant environmental impact and complies with the maximum permissible radiofrequency electromagnetic exposure limits for controlled and uncontrolled environments). Unless the applicant can determine compliance through the use of the RF worksheets in Appendix A, an **Exhibit is required.** Yes No

See Explanation in Exhibit No.

By checking "Yes" above, the applicant also certifies that it, in coordination with other users of the site, will reduce power or cease operation as necessary to protect persons having access to the site, tower or antenna from radiofrequency electromagnetic exposure in excess of FCC guidelines.

PREPARER'S CERTIFICATION ON PAGE 3 MUST BE COMPLETED AND SIGNED.

SECTION III PREPARER'S CERTIFICATION

I certify that I have prepared Section III (Engineering Data) 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 F. W. Hannel, PE		Relationship to Applicant (e.g., Consulting Engineer) Consulting Engineer	
Signature <i>F. W. Hannel</i>		Date February 22, 2000	
Mailing Address 10733 East Butherus Drive			
City Scottsdale	State or Country (if foreign address) AZ		ZIP Code 85259
Telephone Number (include area code) (480) 585-7475		E-Mail Address (if available) fred@fwhannel.com	

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).

Engineering Exhibit E-1
FM Channel 236C2
Caldwell, Texas
February 22, 2000

This application is not in compliance with the Commission's minimum mileage separation requirements with respect to KVIC(FM), Victoria, Texas and with respect to an ongoing proceeding MM Docket 91-58.

With regard to KVIC(FM), it should be noted that this facility requested an immediate downgrade from Class C1 to Class C3 in 1999. The authorization to commence operation on the C3 channel was granted on August 13, 1999. The proposed facility fully protects that downgraded facility.

With regard to MM Docket 91-58, the proposed site is short spaced to a facility proposed by Bryan Broadcasting License Subsidiary, Inc., licensee of Radio Station KTSR(FM) at College Station, Texas, which is the subject of ongoing litigation.

The site proposed in this application has been secured by the applicant for its use in this one step upgrade application. It is fully spaced in all respects, except as is noted above. It is located at N30-38-59, W96-32-47, and the site fully complies with the Commission's requirement of 100% coverage of the city of license as specified in Section 73.315(a) of the Commission's Rules.

Application for FAA approval of the site has been filed with that agency as well as the tower registration as is required by the FCC.

FCC Application for Antenna Structure Registration

Purpose of Filing (Select only one) (**NE**)

1) NE - Registration of an antenna structure that has not been registered MD - Modification of registered antenna structure CA - Cancel Registered Structure AU - Administrative Update DI - Notification of antenna structure dismantlement (structure no longer exists)	WD - Withdraw pending application(s) for registration AM - Amend pending application for registration NT - Required Construction/Alteration Notification DU - Request for Duplicate Registration - no changes OC - Ownership Change
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2A) For purpose codes of WD or AM , provide the file number of the pending application currently on file with the FCC.	
2B) For purpose codes of MD , CA , AU , DI , NT , DU or OC , provide FCC Registration Number.	
2C) If purpose code is MD or NT , provide date constructed or last altered (mmddyy).	
2D) If purpose code is DI , give date of dismantlement (mmddyy).	

Antenna Structure Ownership Information

3A) Taxpayer Identification Number (TIN) of Owner/Assignee: 074-1079916		3B) Sub Group Identification Number (SGIN) of Owner/Assignee (if applicable):	
4A) Taxpayer Identification Number (TIN) of Assignor (for purpose code OC only):		4B) Sub-Group Identification Number (SGIN) of Assignor (if applicable):	
5) Legal Owner of Structure/Assignee (if individual):	First Name: Roy	MI: E.	Last Name: Henderson
6) Business Name (if other than individual):			
7) Attention To:			
8) P.O. Box: 948	And /Or	9) Street Address:	
10) City: Houston	11) State: TX	12) ZIP Code: 77001	
13) Telephone Number: (409) 567-3271		14) E-Mail Address:	

Contact Representative Information (If the Owner/Assignee is a business or contact representative is different from the Owner/Assignee)

15) First Name:	MI:	Last Name:	Suffix:
16) Business Name:			
17) P.O. Box:	And /Or	18) Street Address:	
19) City:	20) State:	21) ZIP Code:	
22) Telephone Number: ()		23) E-Mail Address:	

Antenna Structure

24) NAD 83 Antenna Structure Latitude (DD-MM-SS.S): 30-38-59 (N) <u>N</u> or <u>S</u>		25) NAD 83 Antenna Structure Longitude (DDD-MM-SS.S): 96-32-47 (W) <u>E</u> or <u>W</u>	
26) Address or Geographical Location: 4950 FM Highway 50			
27) City: Caldwell		28) State: TX	
29) Elevation of site above mean sea level (refer to 'a' in antenna structure examples):			<u>70</u>
30) Overall (highest) height above ground (AGL) of antenna structure INCLUDING all appurtenances (antennas, dishes, lightning rods, obstruction lighting, etc.) (refer to 'c' in antenna structure examples):			<u>170</u>
31) Overall height above mean sea level (sum total of Items 29 and 30):			<u>240</u>
32) Overall height above ground (AGL) of the supporting structure itself WITHOUT appurtenances (refer to 'b' in antenna structure examples):			<u>170</u>
33) Indicate the code for the type of structure on which antenna will be mounted: (i.e. pole, building, water tank, silo, tower, etc.) (See instructions.) Vertical Tower			
34-35) If type of structure is an Array, provide coordinates for center of array below:			
34) NAD 83 Array Center Latitude (DD-MM-SS.S): () <u>N</u> or <u>S</u>		35) NAD 83 Array Center Longitude (DDD-MM-SS.S): () <u>E</u> or <u>W</u>	

FAA Notification

36) FAA Study Number: On File with ASW	37) Date Issued (mmddyy):
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Environmental Assessment

38) (N) Yes No Would a Commission grant of Authorization for this location be an action which may have a significant environmental effect? See Section 1.1307 of 47 CFR. If 'Yes', submit an environmental assessment as required by 47 CFR, Sections 1.1308 and 1.1311.

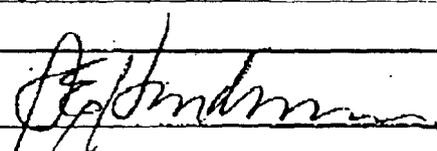
Certification Statements

1) The applicant certifies that all statements made in this application and in the exhibits, attachments, or documents incorporated by reference are material, are part of this application, and are true, complete, correct, and made in good faith.

2) The applicant certifies that neither the applicant nor any other party to the application is subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862, because of a conviction for possession or distribution of a controlled substance. See Section 1.2002(b) of the rules, 47 CFR § 1.2002(b), for the definition of "party to the application" as used in this certification.

Signature

39) Typed or Printed Name of Party Authorized to Sign

First Name: Roy	MI: E.	Last Name: Henderson	Suffix:
40) Title:			
41) Signature: 		42) Date: 2/22/2000	

WILLFUL FALSE STATEMENTS MADE ON THIS FORM OR ANY ATTACHMENTS 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 603).

Notice of Proposed Construction or Alteration <i>Failure To Provide All Requested Information May Delay Processing Of Your Notice</i>		Aeronautical Study Number
1. Nature of Proposal A. Type <input checked="" type="checkbox"/> New Construction <input type="checkbox"/> Alteration * B. Class <input checked="" type="checkbox"/> Permanent <input type="checkbox"/> Temporary (Duration _____ months) C. Work Schedule Dates Beginning Upon FCC Grant End Within 6 mos		2. Complete Description of Structure Please describe the proposed construction or alteration. A. For proposals involving transmitting stations, include effective radiated power (ERP) and assigned frequency. If not known, give frequency band and maximum ERP. B. For proposals involving overhead wire, transmission lines, etc., include the size and the configuration of the wires and their supporting structures. C. For buildings, include site orientation, dimensions, and construction materials. D. Optional— Describe the type of obstruction marking and lighting system desired. The FAA will consider this in their study. FM Channel 236C2, 50 kw at 530 ft. AGL. (95.1 mHz)
* If Alteration, provide previous FAA Aeronautical Study Number, if available: 3A. Name, address, and telephone number of individual, company corporation, etc. proposing the construction or alteration. (Number, Street, City, State, and Zip Code) <p style="text-align: center;"> Roy E. Henderson %F. W. Hannel, PE 10733 East Butherus Drive Scottsdale, AZ 85259 </p> (480) 585-7475 Area Code Telephone Number		
3B. Name, address and telephone number of proponent's representative, if different than 3A. above. (Area Code) Telephone Number		
4. Location Of Structure A. Coordinates (to hundredths of seconds, if known) Latitude 0 30 38 59. Longitude 0 96 32 47. B. Nearest City or Town and State <p style="text-align: center;">Caldwell</p> C. Nearest public or military airport, heliport, flightpark, or seaplane base <p style="text-align: center;">Easterwood Field</p> (1). Distance to 4B <p style="text-align: center;">11.8 miles</p> (2). Direction to 4B <p style="text-align: center;">Southwest</p> (1). Distance from structure to nearest point of nearest runway <p style="text-align: center;">10 miles</p> (2). Direction from structure to airport <p style="text-align: center;">Southeast</p> D. Source for item 4A data <input type="checkbox"/> USGS 7.5' Quad Chart <input type="checkbox"/> Survey <input checked="" type="checkbox"/> Other Specify <p style="text-align: center;">GPS measurement</p> Indicate the reference datum <input checked="" type="checkbox"/> NAD 27 <input type="checkbox"/> NAD 83 <input type="checkbox"/> Other Specify		5. Height and Elevation (to nearest foot) A. Elevation of ground above mean sea level. <p style="text-align: right;">230</p> B. Height of structure including all appurtenances and lighting above ground or water. <p style="text-align: right;">558</p> C. Overall height above mean sea level. <p style="text-align: right;">788</p> 4E. Description of site location with respect to highways, street, airports, prominent terrain, features, existing structures, etc. Please attach a U.S. Geological Survey Map (or equivalent) showing the construction site. If available, attach a copy of a documented site survey with the surveyor's certification.
Notice is required by Part 77 of the Federal Aviation Regulations (14 C.F.R. Part 77) pursuant to Section 1101 of the Federal Aviation Act of 1958, as amended (49 U.S.C. app. § 1501). Persons who knowingly and willfully violate the Notice requirements of Part 77 are subject to a civil penalty of \$1,000 per day until the notice is received, pursuant to Section 901(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. app. § 1471(a)) as well as the fine (criminal penalty) of not more than \$500 for the first offense and not more than \$2,000 for subsequent offenses, pursuant to Section 902(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. app. § 1472(a)).		
I HEREBY CERTIFY that all of the above statements made by me are true, complete, and correct to the best of my knowledge. In addition, I agree to obstruction mark and/or light the structure in accordance with established marking & lighting standards as necessary.		
Date	Typed or Printed Name and Title of Person Filing Notice	Signature
February 22, 2000	F. W. Hannel, PE	
FOR FAA USE ONLY		<i>FAA will either return this form or issue a separate acknowledgement.</i>
The Proposal: <input type="checkbox"/> Does not require a notice to FAA. It is not identified as an obstruction under any standard of FAR, Part 77, Subpart C, and would not be a hazard to air navigation. <input type="checkbox"/> Is identified as an obstruction under the standards of FAR, Part 77, Subpart C, but would not be a hazard to air navigation. <input type="checkbox"/> Should be obstruction <input type="checkbox"/> marked <input type="checkbox"/> lighted per FAA Advisory Circular 70/7460-1, Chapter 1. <input type="checkbox"/> Obstruction marking and lighting are not necessary.		
Supplemental Notice of Construction, FAA Form 7460-2, is required any time the project is abandoned, or <input type="checkbox"/> At least 48 hours before the start of construction. <input type="checkbox"/> Within five days after the construction reaches its greatest height. This determination expires on _____ unless: (a) extended, revised or terminated by the issuing office. (b) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit is filed to the FCC on or before the above expiration date. In such cases the determination expires on the date prescribed by the FCC for completion of construction, or on the date the FCC denies the application. NOTE: Request for extension of the effective period of this determination must be postmarked or delivered to the issuing office at least 15 days prior to the expiration date. If the structure is subject to the licensing authority of the FCC, a copy of this determination will be sent to that agency.		
Remarks		
NAD 83 Coordinates (Use these coordinates for the construction when the FAA is based in _____)		
Latitude	Longitude	Date
Signature	Date	

CERTIFICATE OF SERVICE

I, Robert J. Buenzle, do hereby certify that copies of the foregoing PETITION FOR RECONSIDERATION have been served by United States mail, postage prepaid this 15th day of March, 2000, upon the following:

*Robert Hayne, Esq.
Federal Communications Commission
Mass Media Bureau
Portals II, Room 3-A266
445 12th Street SW
Third Floor
Washington, D.C. 20024

David D. Oxenford, Esq.
Fisher, Wayland, et. al.
2001 Pennsylvania Avenue, N.W.
Suite 400
Washington, D.C. 20006-1851
Counsel for Bryan Broadcasting

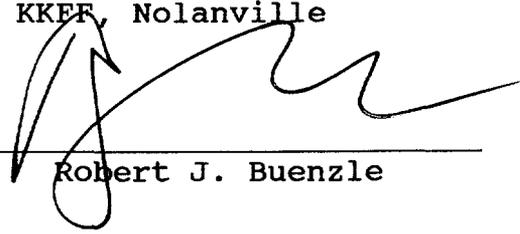
Christopher Sprigman, Esq.
U.S. Department of Justice
Antitrust Division
Appellate Section, Room 10535
Patrick Henry Building
601 D Street N.W.
Washington, D.C.

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Robert J. Buenzle

* Served by Hand