

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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AUG 22 2001

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
)  
Petition for Rule Making to Modify )  
Channel Allotment for Television Station )  
KXLF-DT, Butte, Montana )  
(Amendment of Section 73.622(b) )  
Table of Allotments, )  
Digital Television Broadcast Stations )  
(Butte, Montana)) )

MM Docket No. \_\_\_\_\_

RM- \_\_\_\_\_

Petition for Rule Making )  
to Modify Channel Allotment )  
for Television Station KECI-DT )  
(Missoula, Montana) )

MM Docket No. \_\_\_\_\_

RM-10172

To: Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau

**MOTION TO STRIKE  
EAGLE COMMUNICATIONS, INC.'S  
REQUEST TO DENY PETITION FOR RULE MAKING**

Pursuant to Section 1.45 of the Commission's Rules,<sup>1</sup> KXLF Communications, Inc. ("KXLF Communications"), licensee of KXLF-TV, Butte, Montana, by its attorneys, hereby submits this Motion to Strike Eagle Communications, Inc.'s Request to Deny ("Eagle Request") KXLF Communications' Petition for Rule Making ("KXLF Petition") to amend Section 73.622(b), the DTV Table of Allotments, by substituting Channel 5 in lieu of Channel 15 for use by KXLF-DT.

<sup>1</sup> 47 C.F.R. § 1.45 (2000); *see also* 47 C.F.R. § 1.4.

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Eagle has discovered that the facilities proposed in its later-filed petition to change the DTV channel of station KECI-DT (Missoula, Montana) are mutually exclusive with those proposed for KXLF-DT. Rather than withdraw its later-filed petition or propose non-conflicting facilities, Eagle ignores the Commission's rules and, relying on unsupportable and meaningless arguments, submits an impermissible and unauthorized request to deny the KXLF Petition. As such, KXLF Communications respectfully asks the Commission to dismiss the Eagle Request forthwith and issue a Notice of Proposed Rule Making in response to the KXLF Petition.

### **BACKGROUND**

On January 10, 2001, KXLF Communications filed its petition for rule making requesting the substitution of Channel 5 for Channel 15 for use by KXLF-DT (Butte, Montana). As the KXLF Petition stated, operation on VHF Channel 5 would improve signal coverage for viewers in the Butte-Bozeman DMA, ensuring effective service replication. In addition, the proposed substitution of Channel 5 would allow KXLF Communications to reduce the impact of DTV build-out and operating costs by permitting the sharing of certain transmission equipment and facilities with the small market station's existing NTSC operations on Channel 4. This sharing also will facilitate the anticipated transfer of digital operations to the station's traditional Channel 4 at the close of the DTV transition. The KXLF Petition states that the proposed channel substitution accordingly would result in enhanced service and more efficient use of the broadcast spectrum, thereby serving the public interest.

Two and a half months later, on March 21, 2001, Eagle filed a petition for rule making proposing to substitute Channel 5 for KECI-DT ("Eagle Petition"). Both the KXLF Petition and the Eagle Petition request the use of Channel 5 and are mutually exclusive.

On August 7, 2001, Eagle filed its Request to Deny KXLF Communications, Inc.'s earlier-filed Petition for Rule Making in favor of its later-filed petition for rule making for KECI-DT. The Commission has not yet released a Notice of Proposed Rule Making in response to either petition for rule making.

**I. THE EAGLE REQUEST MUST BE DISMISSED AS AN UNAUTHORIZED PLEADING.**

The Eagle Request comments upon KXLF Communications' pending petition for rule making to amend the DTV Table of Allotments prior to the Commission's release of a Notice of Proposed Rule Making. Eagle says that its request for denial of the KXLF Petition is submitted pursuant to Section 1.41 of the Commission's rules, which governs informal requests for Commission action. That rule states quite clearly, however, that informal requests may be submitted "[e]xcept where formal procedures are required under the provisions of this chapter"<sup>2</sup> – such as for rulemakings. The Commission's Rules do not provide for premature submission of statements in response to a petition for rule making to amend the Television Table of Allotments.<sup>3</sup> Instead, parties are allowed to comment on such petitions during the period set forth in a formal Notice of Proposed Rule Making.<sup>4</sup> Such formality preserves the Commission's resources in concise and complete consideration of important matters while offering the public

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<sup>2</sup> 47 C.F.R. § 1.41.

<sup>3</sup> See 47 C.F.R. § 1.405(a); Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Fort Myers Beach, Florida), *Notice of Proposed Rule Making*, 3 FCC Rcd 5005, n.1 (1988). The Commission generally declined to establish new procedures for stations to change their DTV allotments. Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service, *Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order*, 13 FCC Rcd 7418, ¶¶ 142, 146 (1998). Indeed, the Commission relied on existing channel change procedures with noted exceptions (*see, e.g.*, 47 C.F.R. § 73.623(g)).

<sup>4</sup> See 47 C.F.R. § 1.415.

an ample opportunity to submit well-reasoned comments.<sup>5</sup> With the formality of a rulemaking proceeding, the Commission avoids reviewing an extensive, lengthy, and unfocused cycle of informal proceedings and instead can equitably and efficiently address the permissible requests of parties.

The Eagle Request attempts an end-run around these long-standing regulatory principles. Willfully ignoring the Commission's procedural requirements, Eagle declines to wait for the issuance of a Notice of Proposed Rulemaking and instead insists that the Commission promptly deny the KXLF Petition. The Commission must reject this impermissible demand. Indeed, the substance of the Eagle Request demonstrates the wisdom of the Commission's prohibition of such premature filings. While extensively "supporting" a manufactured and fanciful standard that it would have the Commission apply, Eagle skips over analysis of the mutual exclusivity. Instead of developing and proposing reasonable solutions to the mutual exclusivity, Eagle jumps to an analysis of the initially proposed KXLF-DT facilities. While disregarding the comparative benefits of the KXLF Petition, Eagle scrambles to create ones for KECI-DT. The Commission's rules provide Eagle with the formal opportunity in the future to respond to the KXLF Petition, including submitting a counterproposal. However, the Eagle Request simply rushes past important procedural protections and substantive questions regarding the apparent mutual exclusivity – a mutual exclusivity that Eagle itself created in submitting its later-filed petition.

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<sup>5</sup> See Amendment of Policies and Procedures for Amending the FM Table of Assignments, Section 73.202(b) of the Commission's Rules, *First Report and Order*, 88 FCC 2d 631, ¶¶ 7-8 (1981) (eliminating the pre-Notice of Proposed Rule Making comment period for the FM and Television Table of Assignments); Amendment of Section 73.202(b), Table of Assignments, FM Broadcast Stations (Atlanta, Blackshear, Georgia), *Memorandum Opinion and Order*, 55 FCC 2d 62 (1975) ¶ 15 (1975) ("In accordance with generally accepted principles in administrative (and judicial) proceedings, the opportunity for an interested party to make his arguments is limited to specific times").

Accordingly, the Commission should dismiss the Eagle Request forthwith as an unauthorized pleading.

**II. EAGLE'S SUPERIORITY ARGUMENTS ARE FACTUALLY INCORRECT AND, IN ANY EVENT, MEANINGLESS.**

Although Eagle offers no explanation or support as to why the Commission should consider the merits of the Eagle Request, KXLF Communications nonetheless is compelled to address the possibility and respectfully requests that the Commission accordingly accept these remarks. As such, even if the Commission chooses to waive the requirements of its rules and consider the Eagle Request, it still must be denied. Eagle's claims of superiority cannot be supported. To demonstrate the supposed comparative benefits of the proposed KECI-DT facilities, Eagle primarily offers two arguments: (1) that regionalized electrical noise on Channel 5 somehow present around Butte but not Missoula renders its use inadequate; and (2) that KXLF-DT would cause greater than *de minimis* interference to another station. Although Eagle never explains why the standard it implicitly adopts should stand as dispositive, KXLF Communications will address the merits of these points in turn.

**A. Eagle Provides No Actual Evidence of Comparatively Worse Interference Around Butte.**

Eagle asserts without actual support that Channel 5 impulse noise around the Butte, Montana area precludes use of the allotment for KXLF-DT. The bases for this claim are the presence of its own petition to change the channel of Eagle station KTVM-DT, a competitor of KXLF Communications also located in Butte, and the existence of television translators to supplement KTVM-TV's coverage.<sup>6</sup> Such reasoning cannot withstand scrutiny. Eagle offers no

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<sup>6</sup> Eagle Request at 3.

technical measurement information documenting the level of electrical interference from power lines and irrigation pumps and the impact such would have on a DTV station operating on Channel 5 in Butte.<sup>7</sup> Moreover, to support its necessarily comparative argument, Eagle offers no technical evidence of impulse noise on Channel 5 in the Missoula area. Eagle offers no data on loss of service (or gain, for that matter) and no explanation on why the alleged noise is localized. Eagle fails to explain why, if the noise is so harmful, KTVM-TV continues to operate on Channel 6. Eagle fails to note that area stations, such as KXLF-TV, employ translators primarily to overcome terrain limitations. And Eagle fails to explain why other stations voluntarily seek to move their DTV channels from VHF to UHF.<sup>8</sup> Eagle leaves so many questions unanswered, it would be unreasonable for the Commission to accept its claim of “serious and documented reception difficulties”<sup>9</sup> on Channel 5 in Butte.

Most significant of all, however, is that Eagle fails to mention that KXLF Communications already operates KXLF-TV’s analog facilities on low band VHF Channel 4. KXLF Communications and its parent company Cordillera Communications have had abundant experience with KXLF-TV and other television operations on low band VHF channels and have not found any substantive documentation that concludes that the impact of electrical interference on a low-band DTV signal would be materially different from the impact on the current low-band NTSC signal.<sup>10</sup> To the contrary, the substitution of Channel 5 will result in a more efficient

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<sup>7</sup> See Engineering Statement prepared by Cohen, Dippell and Everist, P.C., August 2001, attached as Exhibit A (“Engineering Statement”).

<sup>8</sup> See Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Hazleton, Pennsylvania), *Report and Order*, MM Docket No. 00-119 (rel. Feb. 1, 2001) (granting the substitution of DTV Channel 45 for DTV Channel 9).

<sup>9</sup> Eagle Request at 5.

<sup>10</sup> See Engineering Statement.

use of spectrum.<sup>11</sup> No party is better suited to make that determination than KXLF Communications. Given the lack of any evidence to substantiate Eagle's claim, the Commission should easily deny the Eagle Request.

**B. The Proposed KXLF-DT Facilities Now Comply with the Commission's *De Minimis* Interference Standard.**

KXLF Communications' Amendment and Supplement to its Petition for Rule Making ("Amendment") renders moot Eagle's arguments regarding interference and loss of service as a basis for denial of the KXLF Petition. The Amendment, which is being filed concurrently with this submission and is attached for reference as Exhibit B, amends the KXLF Petition to demonstrate that KXLF-DT's proposed channel substitution will protect KFBB-TV in accordance with the Commission's *de minimis* interference standard. KXLF Communications has been unable thus far to reach a mutually acceptable interference agreement with the licensee of KFBB-TV. As a result of the Amendment, KXLF-DT's proposed allotment parameters will comply with the Commission's *de minimis* interference standard and its other rules. Accordingly, Eagle's arguments regarding interference to KFBB-TV are meaningless.<sup>12</sup>

**CONCLUSION**

In light of the foregoing, KXLF Communications respectfully requests that the Commission dismiss the Eagle Request and release a Notice of Proposed Rule Making proposing the substitution of Channel 5 for Channel 15 for use by KXLF-DT in Butte, Montana. To

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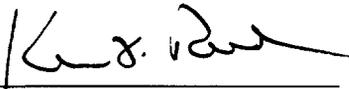
<sup>11</sup> *See id.*

<sup>12</sup> It should be noted that had Eagle waited until the Commission's rules permit raising such issues, KXLF Communications would not be forced to expend its resources needlessly in response – further demonstrating why premature informal requests are prohibited in formal proceedings.

comply with the Commission's rules regarding formal proceedings, KXLF Communications will wait until the Commission issues a responsive Notice of Proposed Rule Making to raise the comparative merits of the proposed KXLF-DT facilities. However, should the Commission dismiss this instant Motion to Strike, KXLF Communications hereby reserves the right to respond in the manner of the Eagle Request.

Respectfully submitted,

KXLF COMMUNICATIONS, INC.

By:   
Kevin F. Reed  
Scott S. Patrick  
Nam E. Kim

Its Attorneys

Dow, Lohnes & Albertson, PLLC  
1200 New Hampshire Avenue, N.W.  
Suite 800  
Washington, D.C. 20036-6802  
(202) 776-2000

Dated: August 22, 2001

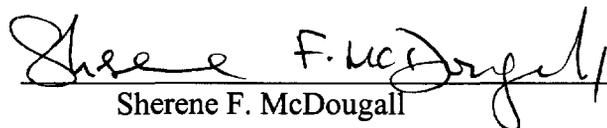
## CERTIFICATE OF SERVICE

I, Sherene F. McDougall, hereby certify that a true and correct copy of the foregoing "Motion to Strike Eagle Communications, Inc.'s Request to Deny Petition for Rule Making" was sent on this 22<sup>nd</sup> day of August, 2001 via first-class United States mail, postage pre-paid, to the following:

Arthur B. Goodkind  
David A. O'Connor  
Holland & Knight LLP  
2099 Pennsylvania Avenue, N.W.  
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Washington, DC 20006  
(*Counsel for Eagle Communications, Inc.*)

Pamela Blumenthal \*  
Mass Media Bureau  
Federal Communications Commission  
445 12th Street, SW  
Washington, D.C. 20554

\*denotes hand delivery

  
Sherene F. McDougall

**EXHIBIT A**

**Engineering Statement**

ENGINEERING STATEMENT  
IN SUPPORT OF  
RESPONSE TO REQUEST TO DENY  
ON BEHALF OF  
KXLF COMMUNICATIONS, INC.  
KXLF-DT, BUTTE, MONTANA

AUGUST 2001

COHEN, DIPPELL AND EVERIST, P.C.  
CONSULTING ENGINEERS  
RADIO AND TELEVISION  
WASHINGTON, D.C.



This engineering statement has been prepared on behalf of KXLF Communications, Inc., petitioner for the substitution of DTV Channel 5 for DTV Channel 15 in Butte, Montana, in the Table of Allotment, CFR Part 47 §73.622. This statement specifically addresses the issue of electrical noise as raised by Eagle Communications, Inc. ("Eagle") in its request to deny notes that KXLF-DT, Butte, Montana, proposes DTV Channel 5.<sup>1</sup> It further makes the representation that the use of a low-band VHF channel in the Butte, Montana, area would be subject to unacceptable interference from such sources as electrical power lines and irrigation pumps. However, Eagle fails to note that KXLF-TV operates on NTSC Channel 4. In addition, Cordillera Communications ("Cordillera") owns and operates several other low band NTSC VHF stations<sup>2</sup>. Some of these stations are located in high-electrical noise zones of Texas and Louisiana. Cordillera is supporting the NAB/MST investigation of low-band VHF operation by DTV facilities.

Eagle offers no technical measurement information which documents the level of electrical interference from power lines and irrigation pumps and its impact on DTV signals. KXLF-TV operating on NTSC Channel 4 is very familiar with such interference within its service area based on discussions with its technical director, Andy Suk. KXLF-TV has found no substantive

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<sup>1</sup>KXLF was assigned DTV Channel 15 in Appendix B in MM Docket 87-268 entitled, "In the Matter of Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service", Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order (FCC 98-24), 2/12/98.

<sup>2</sup>Cordillera Communications owns KVOA(TV), Tucson, Arizona, NTSC CH.4; KVOA-TV, Pueblo, Colorado, NTSC CH.5; KIVI(TV), Nampa, Idaho, NTSC CH.6; KATC(TV), La Fayette, LA, NTSC CH.3; KTRV(TV), Great Falls, Montana, NTSC CH.3, and KRIS-TV, Corpus Christi, Texas, NTSC CH.6.

documentation which concludes that the impact of electrical interference on a low-band DTV signal would be materially different from the impact on the current low-band NTSC signal.

Therefore, in absence of compelling evidence to the contrary, KXLF-TV believes that the assignment of DTV Channel 5 will result in more efficient use of the spectrum by taking advantage of the superior signal coverage of the low-band VHF channel while permitting operation of its NTSC signal and proposed DTV signal from a common antenna.

**EXHIBIT B**

**KXLF Communications, Inc.  
Amendment and Supplement to Petition for Rule Making**

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Amendment of Section 73.622(b)	)	MM Docket No. _____
Table of Allotments,	)	RM- _____
Digital Television Broadcast Stations	)	
(Butte, Montana)	)	
	)	

To: Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau

**AMENDMENT AND SUPPLEMENT  
TO PETITION FOR RULE MAKING  
TO AMEND THE DTV TABLE OF ALLOTMENTS**

KXLF Communications, Inc. (“KXLF Communications”), licensee of KXLF-TV, Butte, Montana, by its attorneys and pursuant to Sections 1.401 and 73.622(a) of the Commission’s Rules,<sup>1</sup> hereby respectfully amends and supplements its January 10, 2001 Petition for Rule Making (“Petition”) to amend Section 73.622(b), the DTV Table of Allotments, by substituting Channel 5 for Channel 15 for use by KXLF-DT. By this submission, KXLF Communications demonstrates that the proposed channel substitution will comply with the Commission’s *de minimis* interference standard and will not impact any Class A or potential Class A low power television stations.

In its Petition, KXLF Communications stated that with the exception of interference to KFBB-TV, Channel 5 (Great Falls, Montana), the proposed facility would comply with the

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<sup>1</sup> 47 C.F.R. §§1.401, 73.622(a) (2000).

Commission's *de minimis* interference standard.<sup>2</sup> KXLF Communications stated that KFBB-TV and KXLF-DT had agreed in principle to accept mutual interference, and KXLF Communications would provide a copy of a written agreement as soon as finalized.

KXLF Communications hereby notifies the Commission that it does not expect to reach a final agreement with KFBB-TV. Accordingly, KXLF Communications is amending its Petition to propose facilities that will satisfy the Commission's *de minimis* interference standard, rendering consent from KFBB-TV unnecessary. As detailed in the attached Engineering Statement, KXLF Communications is proposing a directional antenna instead of the non-directional antenna initially proposed.<sup>3</sup> All other parameters of the proposed facilities remain the same,<sup>4</sup> and KXLF-DT's proposed service area will encompass the community of license as required.<sup>5</sup>

By this submission, KXLF Communications provides additional information in support of its Petition, which stated that the proposed allotment parameters will not impact any Class A or potential Class A low power television stations. Recently, the Commission's staff informally requested information regarding the impact of the proposed KXLF-DT facilities on Class A station K05CJ (Challis, Idaho). Although the relevant KXLF-DT contour would reach the protected contour of K05CJ, the sites are separated by over 200 kilometers and are shielded by

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<sup>2</sup> 47 C.F.R. §73.623(c)(2).

<sup>3</sup> See attached "Engineering Statement to Amend Petition for Rule Making" prepared by Cohen, Dippell and Everist, P.C., August 2001 ("Engineering Statement").

<sup>4</sup> Engineering Statement.

<sup>5</sup> 47 C.F.R. §73.623(c)(1). See Petition at p.2.

two intervening mountain ranges.<sup>6</sup> Accordingly, KXLF-DT's proposed allotment will not impact K05CJ or any other potential Class A low power television station.

As stated in KXLF Communications' Petition, the proposed substitution of DTV Channel 5 would allow KXLF Communications to reduce the impact of DTV build-out and operating costs by permitting the sharing of certain transmission equipment and facilities with the station's existing NTSC operations on Channel 4. This sharing also will facilitate the anticipated transfer of digital operations to the station's traditional Channel 4 at the close of the DTV transition. Importantly, operation on the VHF channel would improve signal coverage for viewers in the Butte-Bozeman DMA. Accordingly, the proposed channel substitution would result in enhanced service and more efficient use of the broadcast spectrum and would serve the public interest.

For the reasons set forth above, KXLF Communications respectfully requests that the Commission initiate a rule making proceeding to amend Section 73.622(b) of its Rules to substitute Channel 5 for Channel 15 for use by KXLF-DT in Butte, Montana.

Respectfully submitted,

KXLF COMMUNICATIONS, INC.

By: 

Kevin F. Reed  
Scott S. Patrick  
Nam E. Kim

Its Attorneys

Dow, Lohnes & Albertson, PLLC  
1200 New Hampshire Avenue, N.W., Suite 800  
Washington, D.C. 20036-6802  
(202) 776-2000

Dated: August 22, 2001

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<sup>6</sup> Engineering Statement.

## CERTIFICATE OF SERVICE

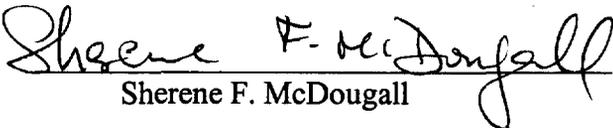
I, Sherene F. McDougall, hereby certify that a true and correct copy of the foregoing "Amendment and Supplement to Petition for Rule Making" was sent on this 22<sup>nd</sup> day of August, 2001 via first-class United States mail, postage pre-paid, to the following:

Pamela Blumenthal \*  
Mass Media Bureau  
Federal Communications Commission  
445 12th Street, SW  
Washington, D.C. 20554

Nazifa Naim \*  
Mass Media Bureau  
Federal Communications Commission  
445 12th Street, SW  
Washington, D.C. 20554

Arthur B. Goodkind  
David A. O'Connor  
Holland & Knight LLP  
2099 Pennsylvania Avenue, N.W.  
Suite 100  
Washington, DC 20006  
(*Counsel for Eagle Communications, Inc.*)

\*denotes hand delivery

  
Sherene F. McDougall

**ATTACHMENT**

**Engineering Statement**

ENGINEERING STATEMENT  
TO AMEND PETITION FOR RULE MAKING  
[BPRM20010110ABH]  
TO CHANGE DTV CHANNEL  
ON BEHALF OF  
KXLF COMMUNICATIONS, INC.  
KXLF-TV, BUTTE, MONTANA

AUGUST 2001

COHEN, DIPPELL AND EVERIST, P.C.  
CONSULTING ENGINEERS  
RADIO AND TELEVISION  
WASHINGTON, D.C.

COHEN, DIPPELL AND EVERIST, P. C.

City of Washington )  
 ) ss  
District of Columbia )

Donald G. Everist, being duly sworn upon his oath, deposes and states that:

He is a graduate electrical engineer, a Registered Professional Engineer in the District of Columbia, and is President of Cohen, Dippell and Everist, P.C., Consulting Engineers, Radio - Television, with offices at 1300 L Street, N.W., Suite 1100, Washington, D.C. 20005;

That his qualifications are a matter of record in the Federal Communications Commission;

That the attached engineering report was prepared by him or under his supervision and direction and

That the facts stated herein are true of his own knowledge, except such facts as are stated to be on information and belief, and as to such facts he believes them to be true.



Donald G. Everist  
District of Columbia  
Professional Engineer  
Registration No. 5714

Subscribed and sworn to before me this 17<sup>th</sup> day of August, 2001.

  
Notary Public

My Commission Expires: 2/28/2003

COHEN, DIPPELL AND EVERIST, P. C.

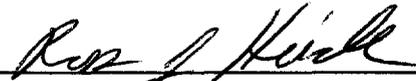
City of Washington )  
 ) ss  
District of Columbia )

Ross J. Heide, being duly sworn upon his oath, deposes and states that:

He is a graduate of the Massachusetts Institute of Technology in Operations Research and Management Science, and is a staff engineer of Cohen, Dippell and Everist, P.C., Consulting Engineers, Radio - Television, with offices at 1300 L Street, N.W., Suite 1100, Washington, D.C. 20005;

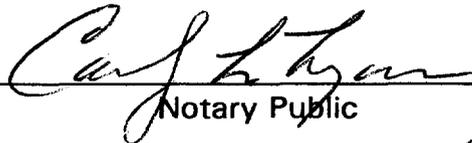
That the attached engineering report was prepared by him or under his supervision and direction and

That the facts stated herein are true of his own knowledge, except such facts as are stated to be on information and belief, and as to such facts he believes them to be true.



Ross J. Heide  
District of Columbia

Subscribed and sworn to before me this 17<sup>th</sup> day of August, 2001.

  
Notary Public

My Commission Expires: 2/28/2003

This engineering statement has been prepared on behalf of KXLF Communications, Inc., licensee of Television Station KXLF-TV, NTSC Channel 4, Butte, Montana. In its original petition, KXLF Communications, Inc. proposed to change the current digital television channel allotment contained in Section 73.622 of the FCC Rules from UHF Channel 15 to VHF Channel 5 with an ERP of 12.7 kW. This amendment to the petition proposes a directional reference pattern in place of the non-directional facilities originally requested. The directional pattern is tabulated in Table I and is plotted in Exhibit 1. All other parameters of the petition remain the same and are repeated below for convenience.

The proposed site is at the same coordinates as the Channel 15 DTV allotment. The proposed height is equivalent to that of the Channel 15 CP (BPCDT-19991029AHG). The resulting service area encompasses the entire community of license with the 35 dBu F(50,90) contour.

This request is supported by an analysis of the impact of this proposal on other authorized NTSC stations, DTV stations, and other proposed DTV allotment changes. An allocation analysis has been performed using the Federal Communications Commission OET Bulletin 69 dated July 2, 1997 and the FCC supplemental processing guidelines dated August 1998. The analysis was performed by using the FCC Longley-Rice model adapted for use for an Intel computer with the Windows 2000 operating system. The results of this adapted program have been compared to other known FCC studies and have been found to give comparable results.

<u>DTV Channel</u>	<u>Effective Radiated Power (kW)</u>	<u>Height Above Average Terrain (meters)</u>	<u>Radiation Center AMSL (meters)</u>
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Existing DTV Table of Allotments, Page B-33<sup>1</sup>

15	1000	576	2563
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Proposed DTV Facilities

5	12.7 (max)	540	2540
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Proposed coordinates NAD-27 (same as allotment):

North Latitude: 46° 00' 27"

West Longitude: 112° 26' 30"

Table II shows the stations to be considered according to the processing guidelines<sup>2</sup>. None of these stations exceed the allowed cumulative interference level of 10%. For the proposed Channel 5 operation, all authorized stations listed in the FCC data base (CDBS 8/15/01) are fully spaced or collocated except for KFBB-TV, Channel 5, Great Falls, Montana. At the time of the original petition, it was anticipated that a mutual interference agreement would be reached between KXLF-DT and KFBB(TV). The proposed reference pattern in this amendment adequately protects KFBB(TV), thereby eliminating the need for an interference agreement.

With 2.4% interference caused to KECI-DT's petition for use of DTV Channel 5 in Missoula, Montana, this amended petition and KECI-DT's petition [BPRM20010322ACG] remain mutually exclusive.

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<sup>1</sup>In the Matter of Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service", MM Docket No. 87-268, Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order (FCC 98-24), 2/12/98.

<sup>2</sup>"Additional Application Processing Guidelines for Digital Television (DTV)", Public Notice 84889 (August 10, 1998).

A single Class A station's protected contour is reached by the interfering contour of the proposed facility. This station, K05CJ, Channel 5, Challis, Idaho [BLTTV1310] is separated by over 200 km and is shielded by two intervening mountain ranges as shown in the attached profile (Exhibit E-2).

Therefore, the request for DTV Channel 5 is consistent with the FCC Rules.

COHEN, DIPPELL AND EVERIST, P. C.

TABLE I  
REFERENCE AZIMUTH PATTERN FOR THE  
PROPOSED KXLF-DT, CHANNEL 5, BUTTE, MONTANA  
AUGUST 2001

<u>Azimuth</u> N ° E, T	<u>Relative Field</u>	<u>Azimuth</u> N ° E, T	<u>Relative Field</u>
0	0.6	180	1.0
10	0.6	190	1.0
20	1.0	200	1.0
30	1.0	210	1.0
40	1.0	220	1.0
50	1.0	230	1.0
60	1.0	240	1.0
70	1.0	250	1.0
80	1.0	260	1.0
90	1.0	270	1.0
100	1.0	280	1.0
110	1.0	290	1.0
120	1.0	300	1.0
130	1.0	310	1.0
140	1.0	320	1.0
150	1.0	330	1.0
160	1.0	340	1.0
170	1.0	350	1.0

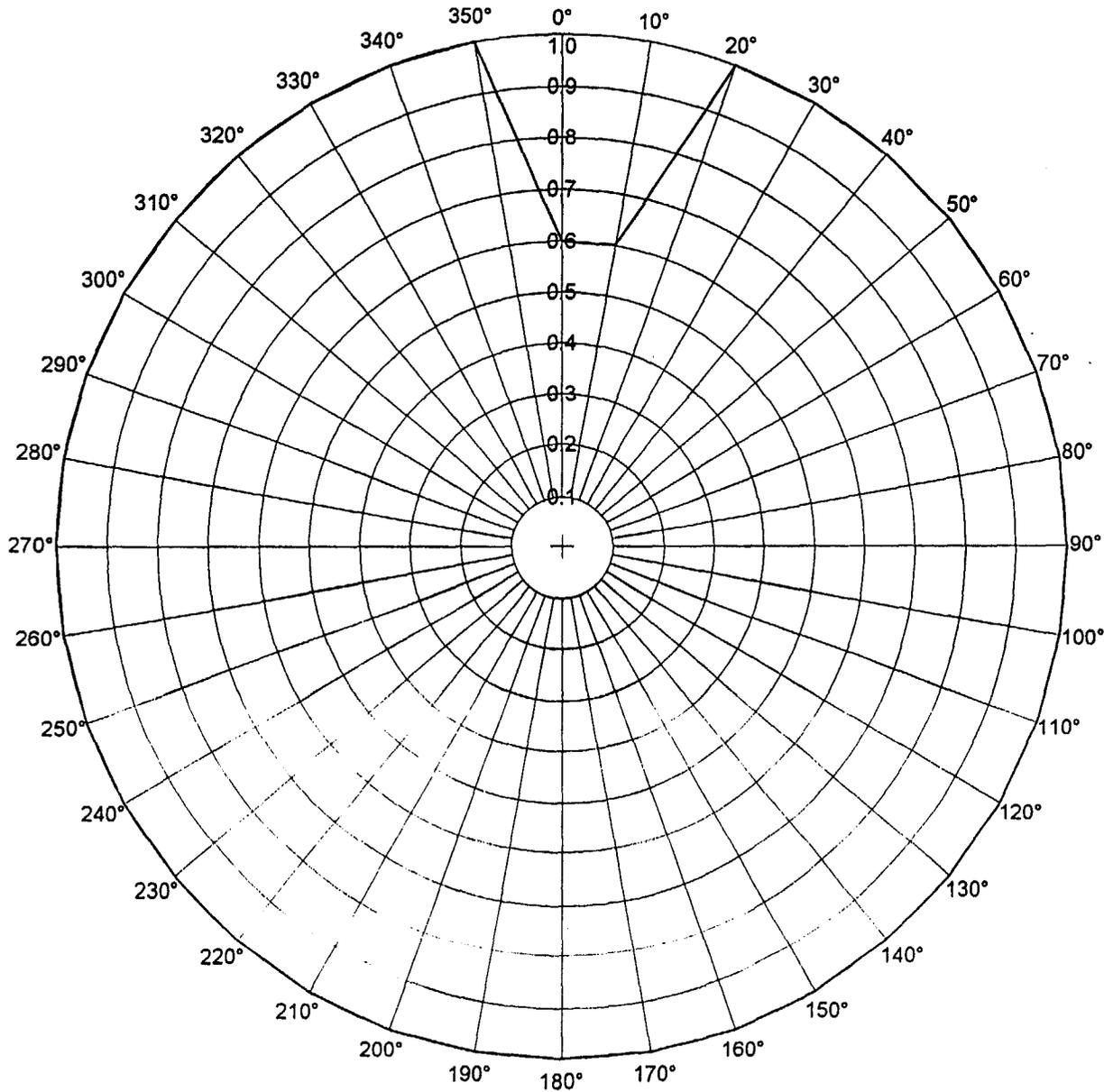
TABLE II  
POTENTIAL INTERFEREES OF  
PROPOSED KXLF-DT, BUTTE, MONTANA  
CHANNEL 5, 12.7 KW (MAX DA) 540 METERS  
AUGUST 2001

<u>NTSC</u>	<u>Channel</u>	<u>Status</u>	<u>City/State</u>	<u>Power kW</u>	<u>Bearing/Distance from KXLF-DT</u>	<u>New Interference</u>
KFBB-TV	5	Lic	Great Falls, MT	100	27°/192 km	1.9%
KIDA(TV)	5	CP	Sun Valley, ID	4.0	210°/298 km	0.0%
KTVM(TV)	6	Lic	Butte, MT	100	0°/0 km	0.0%
<u>DTV</u>						
KECI-DT	5	PRM	Missoula, MT	9.83	314°/165 km	2.4%
KTVR-DT	5	CP	La Grande, OR	6.0	261°/420 km	0.0%
KTVR-DT	5	Allot	La Grande, OR	1.0	261°/420 km	0.0%
<u>CLASS A</u>						
K05CJ	5	Lic	Challis, ID	0.01	219°/207 km	terrain shielded

COHEN, DIPPELL AND EVERIST, P. C.

Source: FCC CDBS 8/14/2001

HORIZONTAL PLANE PATTERN



Relative Intensity

EXHIBIT E-1

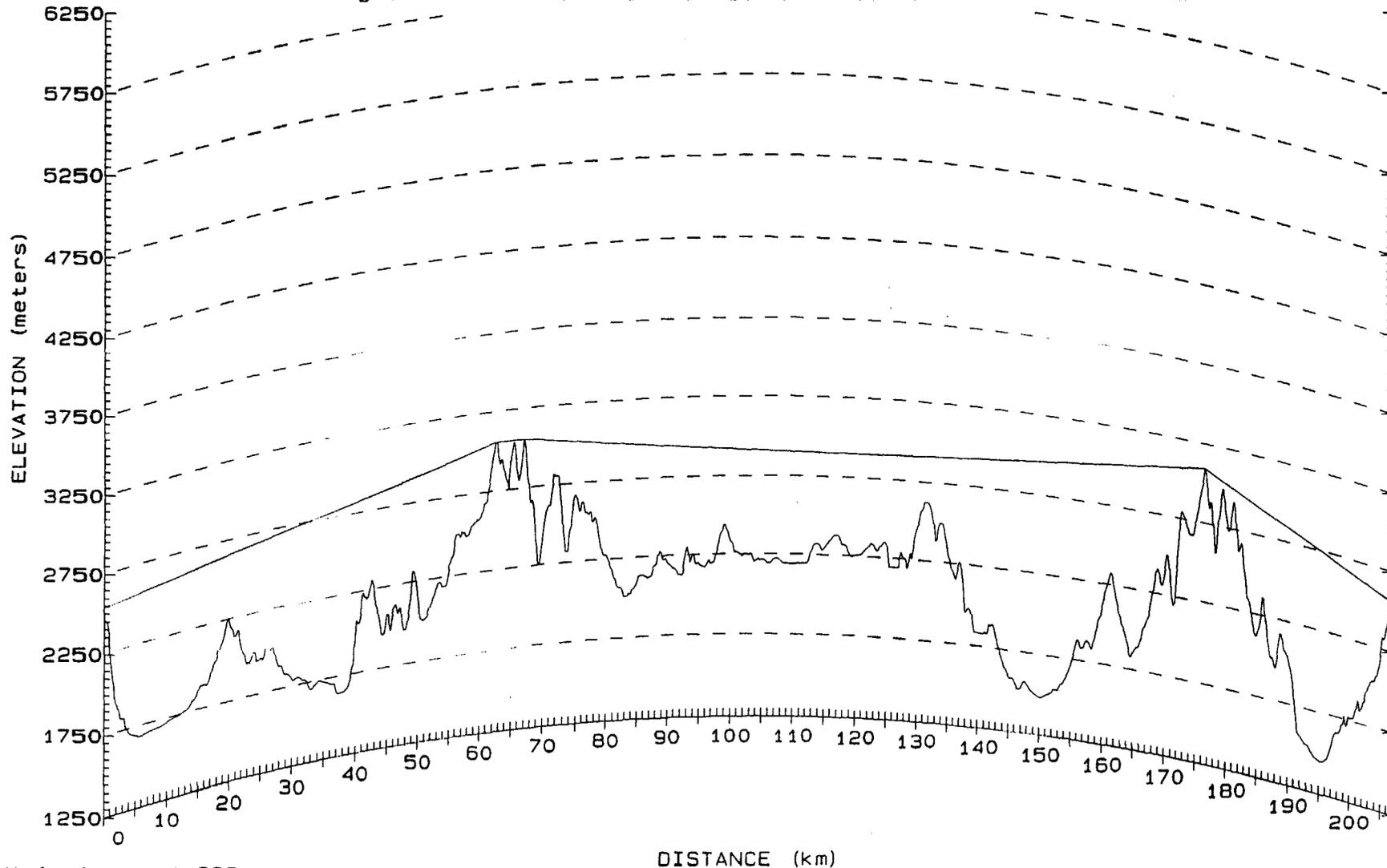
AMENDED PATTERN  
FOR  
**KXLF-DT (PRM) CHANNEL 5**  
**BUTTE, MONTANA**  
12.7 kW(MAX. DA) 540 m. HAAT  
AUGUST 2001

**COHEN, DIPPELL AND EVERIST, P.C.**  
CONSULTING ENGINEERS  
WASHINGTON, D.C.

Site: KXLF-DT SITE  
 N 46 0 27 W 112 26 30  
 Ant. Elev.(AMSL): 2540.0 m  
 Path azimuth: 218.90 degs.

Frequency: 77.3 MHz  
 Path Length: 207.0 km  
 Total Path Loss: 174.0 dB  
 Excess Path Loss: 57.5 dB

Site: K05CJ SITE  
 N 44 32 46 W 114 4 57  
 Ant. Elev.(AMSL): 2537.0 m  
 Path azimuth: 37.73 degs.



K factor: 1.333

3 Second Database - NAD 27  
 Rain loss: .0 dB  
 Urban loss: .0 dB  
 Foliage loss: .0 dB

COHEN, DIPPELL & EVERIST  
 Consulting Engineers  
 Washington, D.C.

# TERRAIN PROFILE

3 Second Terrain Database

AUGUST 2001

EXHIBIT E-2