

Before the  
Federal Communications Commission  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Amendment of Section 73.202(b) ) MM Docket No. 98-155  
Table of Allotments, ) RM-9082  
FM Broadcast Stations ) RM-9133  
(Alva, Mooreland, Tishomingo, Tuttle, and )  
Woodward, Oklahoma) )  
  
To: The Commission

**SUPPLEMENT TO APPLICATION FOR REVIEW**

Ralph Tyler ("Tyler"), by his attorneys, and pursuant to Section 1.115 of the Commission's Rules, respectfully supplements his Application for Review filed May 31, 2001, wherein Tyler requested the Commission to review the action of the Chief, Allocations Branch<sup>1</sup>, made under delegated authority in the Report and Order, *Alva, Mooreland, Tishomingo, Tuttle and Woodward, Oklahoma*, DA 00-2885, released December 22, 2000, 65 Fed. Reg. 82296, published December 28, 2000 (herein "*R&O*"), *recon. denied* Memorandum Opinion and Order, released April 13, 2001, 66 Fed. Reg. 21681, published May 1, 2001 (herein *MO&O*). The *R&O* denied Tyler's petition for rule making that sought to reallocate FM Channel 259C3 from Tishomingo to Tuttle, Oklahoma.<sup>2</sup> The *MO&O*, upholding the reasoning set forth in the *R&O*, denied Tyler's Petition for Reconsideration. The sole basis for the denial was the Branch's view that the remaining local service in Tishomingo, noncommercial Station KAZC is not an adequate substitute for the removal of KTSH from Tishomingo. Events have occurred and circumstances have changed since Tyler's last opportunity to present such matters to the Commission. In

<sup>1</sup> Now Assistant Chief, Audio Services Division, Media Bureau.

<sup>2</sup> Tyler is today in a separate pleading seeking leave to file this Supplement.

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particular, Station KAZC has commenced program tests using its higher powered (Class C2) facilities. If the Commission were to deny Tyler's application for review, Tyler could raise these matters again in a petition for reconsideration of the Commission's action.<sup>3</sup> That would be a waste of the Commission's scarce resources, so Tyler urges the Commission to consider the new facts now.

Tyler, in his Application for Review, *inter alia*, showed that the Commission should reverse the Allocations Branch's finding in the *MO&O* that the proposed KAZC existing service is not an adequate substitute for the removal of Station KTSH from Tishomingo, and that the Allocations Branch also erred in failing to consider the pending KAZC application which will replicate the service currently provided by KTSH in Tishomingo.

On January 26, 2001, KAZC filed an application for minor modification of its construction permit. That application was granted on February 15, 2002. On April 29, 2002, KAZC began operation on program test authority with its new Class C2 facilities as authorized by Construction Permit File No. BPED-20010126ABC<sup>4</sup>. An application (File No. BLH-20020430AAD) was filed today for a license to cover the construction permit. KAZC operates from the same tower as KTSH. As a result of the commencement of program tests, KAZC now more than replicates 100% of the service provided by KTSH. (KTSH is a Class C3 station.) The predicted 70 dBu contour of KAZC encompasses 100% of Tishomingo and all the people who

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<sup>3</sup> Section 1.115 (g) of the Rules provides in pertinent part that the:

Commission may grant the application for review in whole or in part, or it may deny the application with or without specifying reasons therefor. A petition requesting reconsideration of a ruling which denies an application for review will be entertained only if one or more of the following circumstances is present:

(1) The petition relies on facts which related to events which have occurred or circumstances which have changed since the last opportunity to present such matters;

<sup>4</sup> See attached copy of letter to the Commission from KAZC's counsel (Attachment A).

receive service from KTSH within the KTSH 60 dBu contour now can receive at least the same or a greater level of service from KAZC. Attachment B is a Technical Statement showing that the predicted 60 dBu (1 mV/m) contour of the licensed facilities of KTSH covers 4,515.33 square kilometers in which 39,431 persons reside. The predicted 60 dBu contour of the construction permit facilities of KAZC covers 5,900.8 square kilometers in which 59,642 persons reside. A map submitted with the Technical Statement graphically depicts the comparison of contours. Therefore, it can be readily observed that KAZC's new facilities provide a predicted 60 dBu signal to a greater area and population that does KTSH's licensed facilities.

Without waiving or modifying any of the reasons Tyler has advanced for reversal of the Allocation Branch's prior actions, Tyler notes that the public interest reason cited by the Commission for refusing to grant Tuttle its own radio station has now been resolved. In light of this new matter, Tyler respectfully urges the Commission to reverse the action of the Allocations Branch, and reallocate Channel 259C3 to Tuttle as that community's first aural service and modify the license of KTSH for operation at Tuttle.

Respectfully submitted,

**RALPH TYLER**

By:



Gary S. Smithwick  
Arthur V. Belendiuk  
His Attorneys

**SMITHWICK & BELENDIUK, P.C.**  
5028 Wisconsin Avenue, N.W.  
Suite 301  
Washington, D.C. 20016  
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April 30, 2002

**ATTACHMENT A**

**CRISPIN & BRENNER, P.L.L.C.**

1156 15<sup>TH</sup> STREET, N.W.  
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WASHINGTON, D.C. 20005  
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April 29, 2002

**BY HAND**

Ms. Marlene Dortch  
Secretary  
Federal Communications Commission  
236 Massachusetts Avenue, N.E.  
Washington, D.C. 20002

**Re: KAZC (FM), Tishomingo, OK**

Dear Ms. Dortch:

On behalf of my client South Central Oklahoma Christian Broadcasting, Inc. ("SCOCBI"), and pursuant to Section 73.1620 (a)(1) of the Commission's Rules, this is to notify the Commission that KAZC (FM) has commenced conducting program tests with modified facilities. On February 15, 2002, the Commission granted a construction permit to SCOCBI to make these modifications. See FCC File No. BPED-20010126ABC.

Sincerely yours,



Dean R. Brenner  
Attorney for South Central Oklahoma  
Christian Broadcasting, Inc.

**ATTACHMENT B**

**TECHNICAL STATEMENT  
IN SUPPORT TO APPLICATION FOR REVIEW  
KTSH Radio Station  
Ralph Tyler  
Tishomingo, Oklahoma  
April 2002**

The 60 dBu Construction Permit contour for KAZC completely encompasses the same contour of KTSH. KAZC is authorized to operate under BPED-20010126ABC on Channel 202C2 with 5.5 kW at 281 meters HAAT. KTSH operates on Channel 259C3 with 25 kW at 100 meters HAAT. See attached contour map.

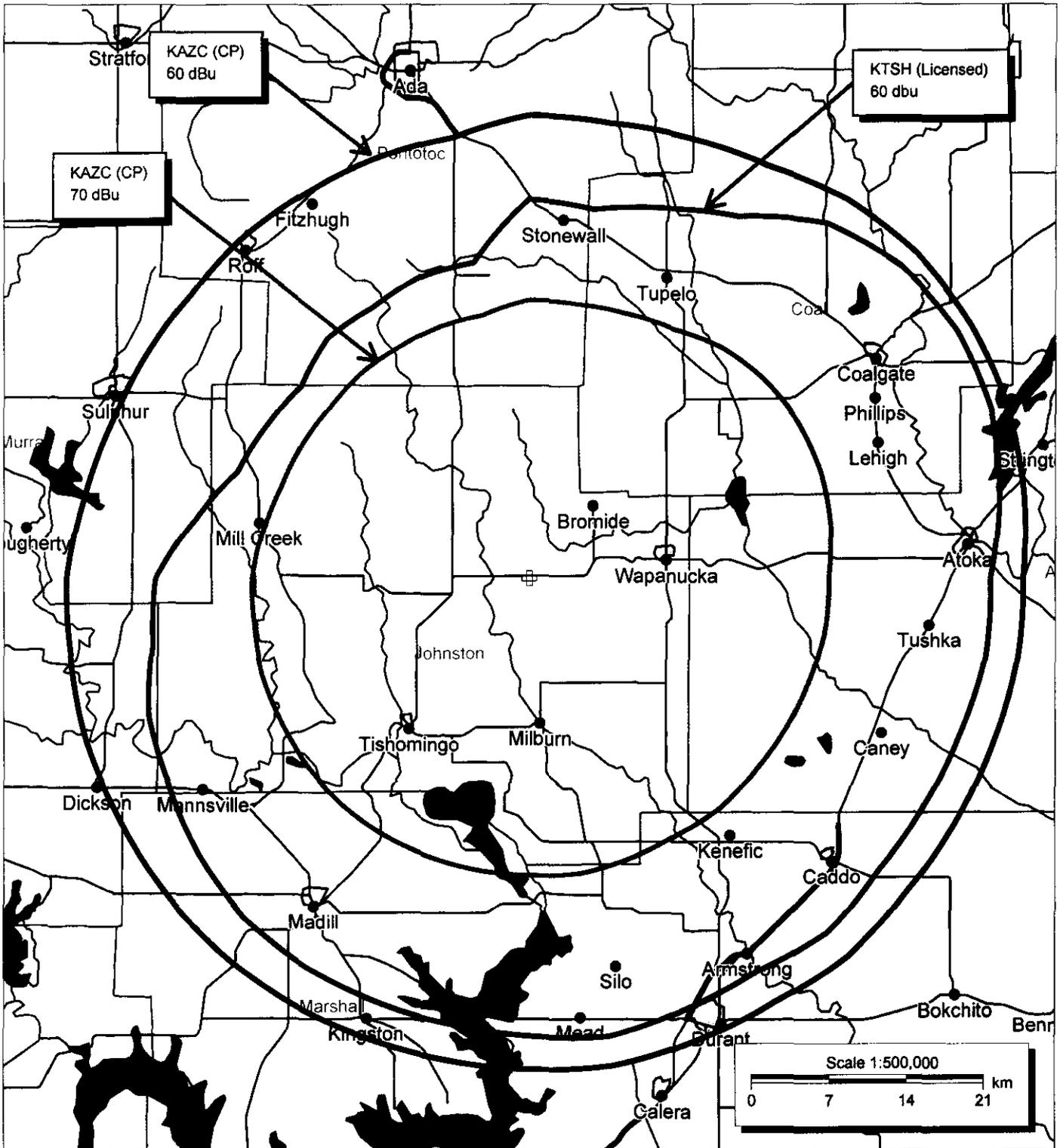
The KAZC Construction Permit Facilities will provide service to 59,642 persons over an area of 5,900.8 square kilometers. In addition, KAZC provides a 70 dBu contour over its entire city of license.

The KTSH licensed facility provides service to 39,431 persons over an area of 4,515.33 square kilometers.

Bromo Communications, Inc.

A handwritten signature in black ink that reads "William G. Brown". The signature is written in a cursive style and is positioned above the printed name.

William G. Brown



**CONTOUR COMPARISON**  
**KTSH (Licensed) and KZC (CP)**  
**Tishomingo, Oklahoma**

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**Bromo Communications, Inc.**  
 Atlanta, Georgia  
 April 2002

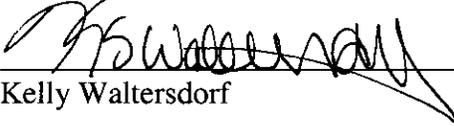
**CERTIFICATE OF SERVICE**

I, Kelly Waltersdorf, a legal assistant in the law offices of Smithwick & Belendiuk, P.C., certify that on this 30th day of April, 2002, copies of the foregoing Supplement to Application for Review were mailed, postage prepaid, to the following:

John A. Karousos, Esquire\*  
Assistant Chief, Audio Services Division  
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Federal Communications Commission  
The Portals II  
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Counsel for Chisholm Trail Broadcasting Co.

  
\_\_\_\_\_  
Kelly Waltersdorf

(\*) By hand delivery