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July 3, 2006

VIA ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: MB Docket No. 03-15
*In the Matter of Second Periodic Review of the Commission's Rules and Policies
Affecting the Conversion to Digital Television*
Waiver of July 1, 2006 Digital Replication Deadline
KHAS-TV, Hastings, Nebraska, Facility ID No. 48003

Dear Ms. Dortch:

Hoak Media of Nebraska License, LLC ("Hoak"), the licensee of KHAS-TV and permittee of KHAS-DT, Hastings, Nebraska, Facility ID No. 48003 ("Station"), by its attorneys, hereby submits this request for a waiver and six month extension of the July 1, 2006 deadline by which a station outside of the top-100 markets must replicate or lose interference protection ("Replication Deadline").¹ As further set forth herein, Hoak cannot serve 80% of the viewers served by the 1997 facility on which its replication coverage is based because its digital antenna is side-mounted below its top-mounted analog antenna and it will use its current analog antenna as its digital antenna post-transition. For these and other reasons set forth herein, Hoak submits that grant of a waiver and extension of the Replication Deadline would be in the public interest.

Licenses, like Hoak, that receive a tentative DTV channel designation on a channel that is not their current digital channel must serve at least 80% of the number of viewers served by the 1997 facility on which their replication coverage was based by July 1, 2006. In its June 14, 2006 Public Notice, the Federal Communications Commission ("Commission") stated five

¹ See Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television, *Order*, 19 FCC Rcd 18,279 (rel. Sept. 7, 2004) ("*Second Periodic Review Order*").

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factors that stations like KHAS-DT should address in their requests for waivers and extensions.² Each of these factors is addressed in turn below.

1. How close to full replication/maximization the licensee will be as of the deadline;

In its *Second Periodic Review Order*, the Commission stated that “licensees that receive a tentative DTV channel designation on a channel that is not their current DTV channel must serve at least 80 percent of the number of viewers served by the 1997 facility on which there replication coverage was based.”³ According to the Commission table designated for use in replication calculations, the population served by KHAS-DT’s initial DTV allotment is 229,680.⁴ As shown in the attached Engineering Statement, KHAS-DT’s reduced power facility serves 107,725 persons.⁵ Thus, KHAS-DT’s replication percentage is 46.9.

2. The reason the licensee is unable to fully comply;

KHAS-DT is unable to fully comply with the 80% replication standard (“Replication Standard”) at this time because of the current position of its antenna. The top position on the tower is occupied by the KHAS-TV antenna. As a result, Hoak had to side-mount the Station’s digital antenna on the tower’s lower and wider base. Unfortunately, the width of the tower at this lower position partially impedes KHAS-DT’s signal, and thus reduces the number of viewers that KHAS-DT can reach. Hoak cannot move the Station’s digital antenna to another position on the tower because the tower, a relatively small tower, cannot support the weight of the antenna at another location. Moreover, Hoak cannot modify its operations to replicate in accordance with the *Second Periodic Review* because it intends to use its current analog antenna post-transition. Specifically, because Hoak elected to use its current NTSC channel as its post-transition DTV channel, it will be able to use the current KHAS-TV antenna as its antenna for KHAS-DT. However, KHAS-DT must wait until KHAS-TV ceases operation before it can assume use of the

² See DTV Channel Election Issues – Compliance with the July 1, 2006 Replication/Maximization Interference Protection Deadline; Stations Seeking Extension of the Deadline, DA 06-1255, *Public Notice*, at 5 (rel. June 14, 2006).

³ *Second Periodic Review Order*, at ¶ 78.

⁴ See Table II of 1998 Station NTSC and DTV Replication Information, at 23 (rel. Dec. 21, 2004).

⁵ See Engineering Statement, attached hereto as Exhibit A.

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KHAS-TV antenna. For these reasons, Hoak is unable to fully comply with the Replication Standard.

3. The cost to the licensee and the impact on viewers if the licensee is unable to fully comply;

Hoak believes that it is currently impossible for it to comply with the Replication Standard using KHAS-DT's current DTV antenna and still maintain current levels of service to its analog viewers. In order to attempt to satisfy the Replication Standard at this time, Hoak first would have to switch the positions of its analog and DTV antennas. Even if physically possible, this switch would result in loss of service to analog viewers, who far outnumber digital viewers at this time. Moreover, the KHAS-TV signal is currently the Station's main source of revenue; loss of this signal would result in significant financial harm to Hoak.

4. Whether the licensee will be able to modify its operation to comply fully after analog operation terminates (e.g., relocate its DTV antenna to the top of the tower);

Hoak will be able to modify its operations to comply substantially after analog operation terminates. At this time, Hoak will complete construction of its digital facilities in accordance with its DTV construction permit.⁶ This DTV construction permit specifies facilities that are predicted to replicate in accordance with the Replication Standard but nevertheless do not fully replicate the Station's certified facilities. Specifically, the facilities specified in the DTV construction permit are predicted to serve 205,453 persons, approximately 89.5% of the number of viewers predicted to be served by the Station's certified facilities. This percentage of replication will be accomplished by KHAS-DT's eventual use of the current KHAS-TV antenna. The antenna will remain top-mounted and thus serve the viewers currently served by the Station's analog facilities.

5. Any other relevant factors.

KHAS-DT has been on the air with a reduced power DTV signal since December 2002. KHAS-DT is committed to substantially replicating but is unable to do so at this time due to its side-mounted antenna and its need to use the current NTSC antenna as its DTV antenna post-transition. As demonstrated above, KHAS-DT will be able to substantially replicate using its

⁶ See FCC File No. BMPCDT-20020221AAT.

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current analog antenna. For these and other reasons set forth herein, Hoak submits that grant of the instant waiver and extension request is in the public interest. Thus, Hoak respectfully requests that the Commission grant a waiver and extension of the Replication Deadline. Hoak also requests that the Commission extend the term of its DTV STA so that Hoak may continue to serve its viewers with a digital signal.⁷

Please direct any questions or inquiries regarding this matter to the undersigned.

Respectfully submitted,

/s/

Tom W. Davidson, Esq.

cc: Shaun Maher, Esq. (via e-mail)

⁷ Per the informal advice of the FCC staff, Hoak is filing a separate letter request seeking extension of its DTV STA.

ENGINEERING STATEMENT
TO PROVIDE POPULATION AND AREA SERVED BY
ANALOG AND DIGITAL TV OPERATIONS OF
KHAS-TV, HASTINGS, NEBRASKA
JUNE 2006

This engineering statement has been prepared on behalf of Hoak Media of Nebraska License, LLC, licensee of TV station KHAS-TV, Hastings, Nebraska, to provide population and area served by the TV station's analog and digital TV (DTV) operations.

Station KHAS-TV, Facility ID Number 48003, currently operates on analog TV Channel 5 (76-82 MHz) with 100 kW effective radiated power (ERP) and 223 meters antenna height above average terrain (HAAT). The station was allotted TV Channel 21 (512-518 MHz) by the Commission for its DTV operation with 1000 kW ERP and 223 meters HAAT. KHAS-TV holds a construction permit (CP) to operate its DTV facility on Channel 21 with 1000 kW ERP and 218 meters HAAT using a directional TV antenna. At present KHAS-TV is operating its DTV facility under a special temporary authority (STA) from the Commission with 1.355 kW ERP and 82.7 meters HAAT from the station's licensed antenna site.

The attached map shows the predicted coverage contours for the licensed analog TV, CP DTV and STA DTV operations. Table I lists the population (2000 census) and area data for the analog TV and DTV service provided by KHAS-TV within the pertinent coverage contours including the DTV allotment facility. The analog TV contour is predicted according to Section 73.684 of the Commission's rules while the DTV contours have been computed as per Section 73.625 of the Commission's rules. The DTV service area is based on 2 km/side cells excluding any interference caused by the analog TV stations within the noise limited contours. The DTV service areas and any potential

interference have been computed according to the FCC OET Bulletin 69 methodology.
The population data is based on 2000 census of the United States.

Under penalty of perjury the undersigned states that the foregoing statement has been prepared by him or under his supervision 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.

29 June 2006

S. K. Khanna
Professional Engineer
District of Columbia, PE License No.8057

TABLE I
POPULATION AND AREA DATA FOR
KHAS-TV, HASTINGS, NEBRASKA
JUNE 2006

Facilities:

Analog TV:	Channel 5	100 kW ERP	223 meters HAAT
DTV Allotment:	Channel 21	1000 kW ERP	223 meters HAAT
DTV CP:	Channel 21	1000 kW ERP	218 Meters HAAT DA
DTV STA:	Channel 21	1.355 kW ERP	82.7 meters HAAT

<u>Operation</u>	<u>TV Service</u> <u>Area</u>	<u>Population</u> 2000 census	<u>Area</u> Sq. km	<u>% of DTV Allot.</u>	
				Pop	Area
KHAS-TV Lic. Analog	Grade B	230,056	28,787	---	---
KHAS-DT Allot. DTV	Noise Limited ¹	229,680 ²	28,567.6 ²	---	---
KHAS-DT CP DTV	Noise Limited ¹	205,453	21,902	89.5	76.7
KHAS-DT STA DTV	Noise Limited ¹	107,725	6,733.5	46.9	23.6

¹ Predicted service within the noise limited contour based on consideration of intervening terrain and interference from other analog TV stations.

² Population and area as listed in the FCC Public Notice (DA 04-3922), DTV Channel Election Information and First Round Election Filing Deadline, Table II, dated December 21, 2004

KHANNA & GUILLE, Inc. - Consulting Engineers

JUNE 2005

KHASTV
BLCT2417
Latitude: 40-39-06 N
Longitude: 098-23-04 W
ERP: 100.00 kW
Channel: 05-
Frequency: 78.5 MHz
AMSL Height: 805.0 m
Elevation: 592.0 m
Horiz. Pattern: Omni
Vert. Pattern: Yes
Elec Tilt: 0.0
Prop Model: None

ANALOG GRADE B

CP DTV NOISE LIMITED

STA DTV NOISE LIMITED

BMPCDT20020221AAT
Latitude: 40-38-56 N
Longitude: 098-23-01 W
ERP: 1000.00 kW
Channel: 21
Frequency: 515.0 MHz
AMSL Height: 805.0 m
Elevation: 591.82 m
Horiz. Pattern: Directional
Vert. Pattern: Yes
Elec Tilt: 0.5
Prop Model: None

KHASTV

BDSTA2002112200A
Latitude: 40-38-56 N
Longitude: 098-23-01 W
ERP: 1.355 kW
Channel: 21
Frequency: 515.0 MHz
AMSL Height: 714.0 m
Elevation: 591.82 m
Horiz. Pattern: Omni
Vert. Pattern: Yes
Elec Tilt: 0.0
Prop Model: None

Scale 1:1,500,000

0 20 40 km
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COMPUTED CONTOURS FOR THE ANALOG, CP AND STA DTV OPERATIONS OF KHAS-TV, HASTINGS, NE

