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

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|---|---|---|
| In the Matter of | ) | |
| | ) | |
| DTV Build-Out | ) | MB Dockets No. 03-15, 87-268 |
| | ) | |
| Requests for Waiver of July 1, 2005 and July 1, 2006 "Use or Lose" Deadlines | ) | |
| | ) | |
| Requests for Waiver of the August 4, 2005 "Checklist" Deadline | ) | |

**PETITION FOR RECONSIDERATION OF COLORADO PUBLIC TELEVISION**

Colorado Public Television ("CPT") licensee of KBDI-TV and KBDI-DT, Denver-Broomfield, Colorado, requests that the FCC reconsider its denial in the above-referenced proceeding of CPT's request for waiver of the FCC's July 1, 2006 "use or lose" deadline for noncommercial educational public television station DTV facilities. The DTV Build-Out Order of May 18, 2007, FCC 07-90, which deals with CPT's requested waiver for KBDI-DT in paragraph 121, does not mention or take into account two formal docketed filings by CPT and an ex parte meeting with Media Bureau staff on this subject by a CPT representative, also memorialized in a Notice filed in MB Docket No. 03-15, all subsequent to the "use or lose" deadline waiver request which the May 18, 2007 Order found to provide insufficient grounds for a waiver.

Subsequent to the "use or lose" deadline waiver request filing referenced in paragraph 121 of the Build-Out Order, CPT filed a letter on October 5, 2006, also in MB Docket No. 03-15, formally requesting Channel 13 for its digital allotment. A copy of this request is included as an

attachment to this Petition. CPT filed this request at a late stage of the DTV channel allotment process for several reasons, explained in CPT's October 5, 2006 filing. Among these was that in order to request Channel 13 as its digital channel after the transition, CPT first had to negotiate a Channel Election Agreement with another non-commercial educational public television licensee in a neighboring state, Nebraska Educational Telecommunications ("NET"), which holds the license for a public station authorized to transmit its DTV service on Channel 13. KBDI attached a completed copy of that Channel Election Agreement, signed by both parties, to its October 5, 2006 request.

The May 18, 2007 DTV Build-Out Order states that KBDI-DT's original explanation of its failure to timely construct its authorized DTV facilities in its "use or lose" waiver request was inadequate. But that initial explanation was significantly expanded in CPT's subsequent letter filing of October 5, 2006, Exhibit A to that letter, and the associated completed Negotiated Channel Election Arrangement with NET.

Two other significantly expanded explanations by CPT to the FCC occurred after the Seventh FNPRM in MB Docket No. 87-268 was released on October 20, 2006. CPT realized that there had been inadequate time prior to the date this release occurred for the FCC to consider CPT's October 5, 2006 request that Channel 13 be designated for KBDI-DT. The Seventh FNPRM indicated that the Commissioners had adopted both it and the proposed new Table of Allotments on October 10, 2006, only five days after CPT had submitted its formal request for Channel 13. For that reason, a CPT representative, Byron St. Clair, met with Media Bureau personnel on November 16, 2006. It was suggested by Bureau personnel present[1], after St. Clair delivered a complete explanation of KBDI's situation, that KBDI file Comments on the Seventh

[1] Present at this meeting were Andrew Long, Eloise Gore, Gordon Godfrey, Evan Baranoff, and Nazifa Sawez. See Notice of Ex parte Presentation in MB Docket No. 03-15, filed November 21, 2006, by the undersigned.

FNPRM in January, 2007 explaining that situation and again formally requesting Channel 13. CPT filed timely Comments on the Seventh FNPRM in MB Docket No. 87-268 on January 24, 2007. A copy of these Comments is also attached to this petition.

For the reasons stated in CPT's October 5, 2006 letter request in MB Docket No. 03-15 and reiterated in CPT's January 24, 2007 Comments in MB Docket No. 87-268, the FCC would significantly serve the public interest and save scarce federal taxpayer and locally contributed funds by granting CPT authority to use Channel 13 as its permanent digital assignment for KBDI-DT. This will prevent the needless expenditure by a vital noncommercial public television operation of these much-needed federal and locally provided DTV conversion funds, without causing any adverse effect to any other commercial or noncommercial television licensees. As can be seen from the Channel Election Agreement, the use of Channel 13 by two non-commercial public television licensees -- one in Nebraska, one in Colorado -- will cause no interference to either one.[2]

Should the FCC seek further information in connection with this Petition, please contact the undersigned or Willard D. Rowland, Jr., KBDI President, using the contact information below. For engineering questions, please contact Byron St. Clair, KBDI Engineering Consultant, whose contact information is also provided below.

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[2] Nor will KBDI-DT's use of Channel 13 cause interference to KDEV-TV, Cheyenne, Wyoming, which has been assigned DTV Channel 11. The Engineering Statement on this subject by Byron St. Clair (attached to CPT's January 24, 2007 Comments) shows that the FCC's assignment of Channel 11 to KDEV-TV foreclosed the ability of CPT to follow through on its original plan to revert to using its analog channel, Channel 12, for its permanent digital channel for KBDI-DT.

Sincerely,

Frank W. Lloyd
Counsel for Colorado Public Television
Mintz, Levin, Cohn, Ferris, Glovsky & Popeo, P.C.
701 Pennsylvania Avenue, N.W., 9th Floor
Washington, D.C. 20004
(202) 434-7309
flloyd@mintz.com

June 18, 2007

cc: Rosemary Harold, Deputy Chief, FCC Media Bureau (rosemary.harold@fcc.gov)
Andrew Long, Associate Bureau Chief, FCC Media Bureau (andrew.long@fcc.gov)
Eloise Gore, FCC Media Bureau (eloise.gore@fcc.gov)
Evan Baranoff, FCC Media Bureau (evan.baranoff@fcc.gov)
Nazifa Sawez, FCC Media Bureau (nazifa.sawez@fcc.gov)
Alan Stillwell FCC OET (alan.stillwell@fcc.gov)
Gordon Godfrey, FCC Media Bureau (gordon.godfrey@fcc.gov)
Shaun Maher, FCC Media Bureau (shaun.maher@fcc.gov)
Rod Bates, Executive Director, Nebraska Educational Telecommunications (rodbates@netNebraska.org)

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November 21, 2006

**VIA EMAIL**

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, S.W.
Washington, D.C. 20554

Re: Notice of Ex Parte Presentation In Docket No. 3-15

Dear Ms. Dortch:

On November 16, 2006, on behalf of Colorado Public Television, licensee of KBDI-TV and KBDI-DT, Denver-Bloomfield, Colorado, Byron St. Clair met with the following members of the Media Bureau:

Andrew Long
Eloise Gore
Gordon Godfrey
Evan Baranoff
Nazifa Sawez

The purpose of the meeting was to discuss Colorado Public Television's request for allocation of Channel 13 as the permanent authorization for KBDI-DT.

Please contact the undersigned with any questions.

Sincerely,

Frank W. Lloyd
Counsel for
Colorado Public Television

3928835v.1

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

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | |
| Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service | ) | MB Docket No. 87-268 |
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| | ) | |

## SEVENTH FURTHER NOTICE OF PROPOSED RULEMAKING

## COMMENTS OF COLORADO PUBLIC TELEVISION

Colorado Public Television ("CPT") licensee of KBDI-TV and KBDI-DT, Denver-Broomfield, Colorado, requests that the DTV Table of Allotments proposed in the above-referenced rulemaking be altered to designate Channel 13 as the post-transition permanent digital channel for KBDI-DT.

Colorado Public Television filed a letter request on October 5, 2006 in MB Docket No. 03-15, the docket that produced the Seventh FNPRM and the Proposed New DTV Table of Allotments, requesting Channel 13 for its digital allotment. A copy of this request is included as an attachment to these Comments. CPT filed this request late in the DTV channel allotment process for several reasons, among them that in order to request Channel 13 as its digital channel after the transition, it first had to negotiate a Channel Election Agreement with another non-commercial educational public television licensee in a neighboring state, Nebraska Educational Telecommunications ("NET"), which holds the license for a public station authorized to transmit its DTV service on Channel 13.

The reasons CPT is seeking Channel 13 to replace its current analog signal on Channel 12 and its current interim DTV signal on Channel 38 are spelled out in CPT's October 5, 2006 letter, Exhibit A to that letter, and the Negotiated Channel Election Arrangement with NET, as well as in CPT's July 7, 2006 request for FCC waiver of the July 1, 2006 replication/maximization interference protection deadline. When the Seventh FNPRM was released on October 20, 2006, CPT realized that there had been inadequate time for the FCC to consider its request that Channel 13 be designated for KBDI-DT. The Seventh FNPRM indicated that the Commissioners had adopted it and the proposed new Table of Allotments on October 10, 2006, only five days after CPT had submitted its request.

For the reasons stated in CPT's October 5, 2006 request, the FCC would serve the public interest by granting CPT authority to use Channel 13 as its permanent digital assignment for KBDI-DT. This will save a vital noncommercial public television operation significant and much needed federal and locally provided DTV conversion funds, without causing any adverse effect to any other commercial or noncommercial television licensees. As can be seen from the Channel Election Agreement, the use of Channel 13 by two non-commercial public television licensees -- one in Nebraska, one in Colorado -- will not cause interference to either one. Nor will using Channel 13 cause interference to KDEV-TV, Cheyenne, Wyoming, which has been assigned DTV Channel 11. The attached Engineering Statement by Byron St. Clair shows that KDEV-TV's assignment of Channel 11 foreclosed the ability of CPT to follow through on its original plan to revert to its analog channel, Channel 12, as its permanent digital channel.

Should the FCC seek further information in connection with this request, please contact the undersigned or Willard D. Rowland, Jr., KBDI President, using the contact information

below. For engineering questions, please contact Byron St. Clair, KBDI Engineering Consultant, whose contact information is also provided below.

Sincerely,

Frank W. Lloyd
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January 24, 2007

cc: Donna Gregg, Chief, FCC Media Bureau (donna.gregg@fcc.gov)
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Thomas Horan, Chief of Staff, FCC Media Bureau (thomas.horan@fcc.gov)
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Rod Bates, Executive Director, Nebraska Educational Telecommunications (rodbates@netNebraska.org)

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**B. W. St. Clair**

# ENGINEERING STATEMENT IN SUPPORT OF THE REQUEST OF COLORADO PUBLIC TELEVISION LICENSEE OF KBDI, BROOMFIELD, CO FOR THE ASSIGNMENT OF CHANNEL 13 AS ITS DIGITAL CHANNEL

## Background

Colorado Public Television (CPT), licensee of KBDI, channel 12, Broomfield Colorado made comprehensive plans to revert to channel 12 as its permanent digital channel. Broomfield is in the Denver metropolitan area. At the time there was no digital channel 12 assignment in the CPT coverage area. KDBI serves and draws support from the Denver metropolitan area and the surrounding rural areas.

Subsequent to the CPT plan for using DT-12, the licensee of KDEV-TV, Cheyenne, WY, channel 33, has been assigned channel 11 as its digital channel. The licensee of KDEV-TV was able to position its digital station at an elevated site 64 km south of Cheyenne and 74 km north of Broomfield, CO.[1] As shown in the attached diagram the protected contour of KDEV-DT encompasses most of the Denver metropolitan area.

KRDO-TV, Colorado Springs, CO, analog channel 13, has opted to retain its original digital assignment, channel 24. This station will give up channel 13 at the transition and thus will not limit the future use of channel 13 by CPT.

## Discussion

It is not possible to come even close to replicating the analog coverage of KBDI with a digital transmission on channel 12 without causing in excess of 4% population loss by KDEV-DT. Thus KBDI is foreclosed from carrying out its original plan of reverting to channel 12 for its permanent digital assignment

As explained in more detail in other documents in this pleading, it is unusually important for KBDI to be able to stay on a high band VHF channel. Its transmitting site is at 11,430 feet, the highest TV transmitting site in the United States. Tube type transmitters operate with very high voltages and manufacturers of such transmitters have advised KBDI that

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[1]BLCDT-20040513ABA

significant derating is required for operation at this altitude.[2] An all solid state transmitter with the power required to fulfill CPT's UHF channel 38 CP is prohibitively expensive for CPT which is a stand-alone non-profit organization with no supporting parent organization.

## Conclusion

Given the unusual circumstances present here it is important that a way be found for KBDI-DT to operate on a high band VHF channel. The use of channel 13 meets this requirement and is backed up by a consent agreement from the only other channel 13 digital station close enough to be of concern.

This Engineering Statement is based on the technical characteristics of KDEV-DT as derived from the CDBS database. The interference calculations follow the Longley-Rice Terrain Dependent Algorithm is accordance with OET Bulletin 69. The information and conclusion are true and correct to be best of my knowledge and belief.

Respectfully submitted

B. W. St. Clair
Engineering Consultant[3]

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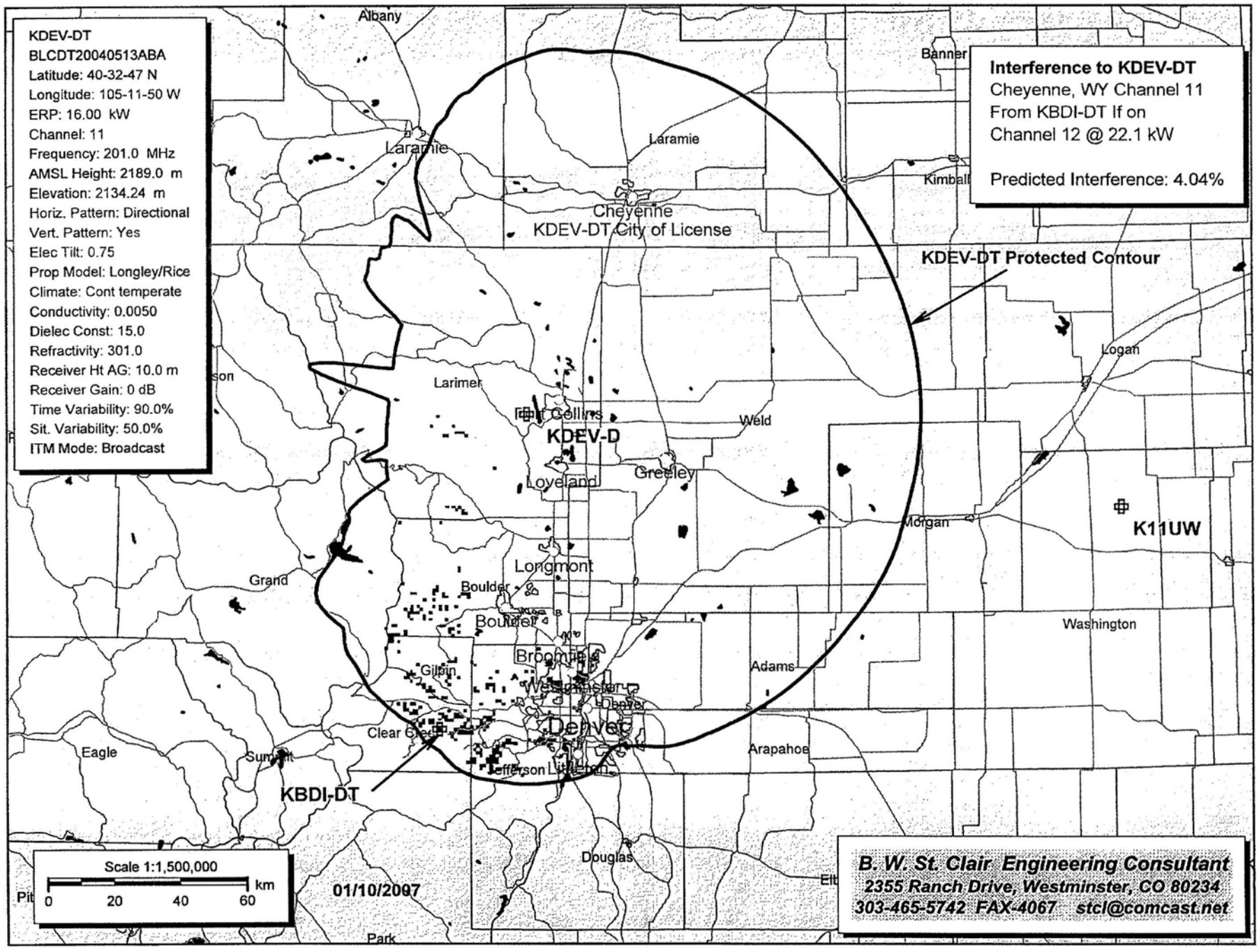
[2]The suggest derating is based on theoretical considerations as there is no known actual experience at this altitude with any of the klystrode family of high power UHF tubes.

[3]Also a member of the Board of Directors of CPT


KDEV-DT
BLCDT20040513ABA
Latitude: 40-32-47 N
Longitude: 105-11-50 W
ERP: 16.00 kW
Channel: 11
Frequency: 201.0 MHz
AMSL Height: 2189.0 m
Elevation: 2134.24 m
Horiz. Pattern: Directional
Vert. Pattern: Yes
Elec Tilt: 0.75
Prop Model: Longley/Rice
Climate: Cont temperate
Conductivity: 0.0050
Dielec Const: 15.0
Refractivity: 301.0
Receiver Ht AG: 10.0 m
Receiver Gain: 0 dB
Time Variability: 90.0%
Sit. Variability: 50.0%
ITM Mode: Broadcast
Interference to KDEV-DT
Cheyenne, WY Channel 11
From KBDI-DT If on
Channel 12 @ 22.1 kW
Predicted Interference: 4.04%
KDEV-DT Protected Contour
Cheyenne
KDEV-DT City of License
Albany
Laramie
Banner
Kimball
Logan
Larimer
Weld
Fort Collins
KDEV-D
Loveland
Greeley
Morgan
K11UW
Longmont
Boulder
Grand
Washington
Broomfield
Gilpin
Adams
Westminster
Denver
Clear Creek
Eagle
Summit
Arapahoe
Jefferson
Littleton
KBDI-DT
Douglas
Elbert
Pitkin
Park
Scale 1:1,500,000
0 20 40 60 km
01/10/2007
B. W. St. Clair Engineering Consultant
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October 5, 2006

Marlene H. Dortch, Secretary
Federal Communications Commission
The Portals, TW-A325
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: MB Docket No. 3-15: Request for Allocation of Channel 13 as the Permanent Authorization for KBDI-DT for Colorado Public Television (CPT), licensee of KBDI-TV (Channel 12) and KBDI-DT (Channel 38), Denver - Broomfield, Colorado

Dear Mrs. Dortch:

By this letter and the accompanying documents, Exhibit A and a Negotiated Channel Election Arrangement ("NCA") signed August 4, 2006, Colorado Public Television ("CPT") is seeking permanent authorization of Channel 13 for KBDI-DT.

Parties to the Arrangement are Colorado Public Television ("CPT"), licensee of KBDI-TV and KBDI-DT, Denver-Broomfield, CO ("KBDI") and Nebraska Educational Telecommunications ("NET"), Lincoln, NE, licensee of several public television stations in Nebraska, including KTNE-DT, Alliance NE. Both parties are noncommercial, educational ("NCE"), public television licensees.

NET holds FCC authorization to transmit NET's digital ("DTV") service on frequencies that include KTNE-DT, Alliance, NE, on transitional channel 34, and post-transition channel 13.

CPT currently holds FCC authorizations to transmit KBDI's analog television signal on channel 12 and its DTV signal on channel 38. CPT seeks FCC permission to have its permanent KBDI-DT channel assignment transferred from channel 38 to channel 13. The reasons for this request are detailed in Exhibit A and CPT's July 7, 2006 request for waiver

of the July 1, 2006 Replication/ Maximization Interference Protection Deadline.

In summary, those reasons are:

- CPT's transmission site is at a very high altitude (11,200 feet) on Squaw Mountain in Clear Creek County, Colorado.

- At such heights the operating costs of UHF transmitters are considerably higher than operating costs for VHF transmitters.

- In recognition of that fact, in 1999 CPT developed a six-phase DTV conversion plan designed to use DT channel 12 as the permanent CPT allocation for KBDI-DT.

- Simultaneously CPT developed a fundraising campaign to meet the costs of that plan, with the use of channel 12 for its DTV signal as its core assumption.

- Subsequently the FCC made a decision unanticipated by CPT to permit the relocation to Colorado of the transmission site of a Wyoming commercial DT channel 11 assignment, KDEV-DT, which would cause interference with CPT's DT channel 12 plan.

- To stay on DT channel 38 would require CPT to:

    - Incur much higher operating costs than if it could use a VHF channel;
    - Discard its new channel 12 analog/digital transmitter; and
    - Purchase a new full-power channel 38 transmitter, thereby increasing CPT's conversion costs by thirty-four percent ($1.2 million) and invalidating substantial portions of the reasons for two large federal DTV conversion grants to CPT.

- CPT has developed an antenna design that will permit both CPT and NET to use DT channel 13 with interference levels well within the FCC's limits.

Accordingly, as noted in the accompanying NCA:

- CPT is seeking FCC permission to elect channel 13 as KBDI's post-DTV transition channel.

- CPT has agreed to be responsible for the antenna design and other factors that will ensure that KBDI-DT will not cause interference levels above the FCC standard to channel 13 operations by KTNE-DT.

For the reasons stated above and in Exhibit A, the FCC would serve the public interest by granting Colorado Public Television authority to use channel 13 for KBDI-DT as its permanent digital assignment. This will save a vital public television operation in Colorado much needed federal and locally provided DTV conversion funds, without causing adverse effect to any other commercial or noncommercial television licensees.

CPT also requests a waiver of the FCC's past deadlines for the filing of NCAs, for the same reasons provided above and in Exhibit A.

Should the FCC seek further information in connection with this request, please contact the undersigned or Willard D. Rowland, Jr., KBDI President, using the contact information below. For engineering questions, please contact Byron St. Clair, Engineering Consultant to KBDI, whose contact information is also provided below.

Sincerely,

_____

Frank W. Lloyd
Counsel for Colorado Public
Television

cc: Donna Gregg, Chief, FCC Media Bureau (donna.gregg@fcc.gov)
Andrew Long, Associate Bureau Chief, FCC Media Bureau (andrew.long@fcc.gov)
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Rod Bates, Executive Director, Nebraska Educational Telecommunications (rodbates@netNebraska.org)

KBDI Contacts:

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Email: stcl@comcast.net

## EXHIBIT A

*Explanation of the Digital Channel Reallocation Request*
*by*
*Colorado Public Television, KBDI-TV/12, KBDI-DT/38*

This Exhibit provides the background to the Negotiated Channel Election Arrangement ("NCA") between Colorado Public Television ("CPT"), Denver, CO, licensee of KBDI-TV and KBDI-DT, and Nebraska Educational Telecommunications ("NET"), Lincoln, NE, licensee of several stations in Nebraska, including KTNE-DT, Alliance, NE.

CPT's original six-phase DTV conversion plan was prepared in 1999. It called for KBDI to elect channel 12 for its permanent DTV assignment in Phase Three, and all of the subsequent phases were premised on that central assumption. At that time CPT also prepared a fundraising campaign ($3.5 million) to complete the conversion, again with the plan for converting analog channel 12 to digital channel 12 at its core.

CPT had adopted the channel 12 plan because for both economic and engineering reasons it is vitally important that KBDI be able to remain on a VHF channel. The KBDI transmitter site is at 11,200 feet, which makes a full power UHF transmitter considerably more expensive to operate than if used at a lower elevation.

Accordingly, CPT had planned to accept the FCC's allocation of channel 38 as a temporary, interim assignment, while it continued to broadcast the KBDI analog service on channel 12. It had intended to apply for allocation of DT-12 at such time as the FCC opened its digital channel allocation window, which the FCC subsequently did with its First Round of the DTV Channel Election Process in 2005.

In preparing its original DTV plan, CPT had studied the FCC's table of DTV allocations and determined that there would be no interference questions regarding the use of channel 12 for KBDI's DTV service. There were no

DT channel 12 assignments, nor any DT channel assignments for adjacent channels 11 and 13, close enough to cause interference.

There was a DT channel 11 assignment to KDEV, a commercial station in Cheyenne, WY. But CPT reasonably assumed that the KDEV-DT transmitter and tower would be constructed and located to serve Cheyenne from its Wyoming tower site for its KDEV analog channel 33. In that case there would be no interference issue.

Accordingly, from 1999 to 2004, CPT proceeded with implementation of the first four phases of its DTV conversion plan according to the initial design. It also proceeded with its fundraising efforts, which were closely tied to and explained to private and federal funders in terms of the six-phase conversion plan.

In Phase Three the plan called for replacement of the existing but highly antiquated channel 12 transmitter with a new analog transmitter that would carry the channel 12 analog service through the transition period and then be converted to DTV in Phase Six, at the time of the final conversion. Phase Three was completed in 2002.

Phase Four of the plan called for the acquisition of a moderate-power channel 38 DTV transmitter, which was to be used to meet the FCC's deadline for commencing DTV transmission in 2003. That new transmitter was to be used throughout the transition and then relocated to one of the CPT translator sites to replace an existing KBDI analog translator and to serve as the translator for the KBDI-DT signal on the Front Range. Phase Four was completed in 2003.

The costs of Phases Three and Four of the CPT DTV plan were met in large part by grants from the Public Telecommunications Facilities Program ("PTFP") in the National Telecommunications Information Administration of the Department of Commerce, and the Digital Distribution Fund ("DDF") of the Corporation for Public Broadcasting ("CPB").

The costs for Phases Three and Four totaled $1,292,000, of which $742,000 were the PTFP and DDF grants for the new channels 12 and 38 transmitters. The remaining $550,000 was raised from Colorado foundations and the local community. All those grants for Phases Three and Four were premised on the CPT plan for the conversion of the new analog channel 12 transmitter to DT channel 12 and the relocation of the DT channel 38 transmitter.

Meanwhile, unknown to CPT, Denver Broadcasting, Inc., licensee of KDEV, applied for a construction permit to relocate its DT transmission site to an elevated site in the foothills above Horsetooth Reservoir, slightly west of Fort Collins in Northern Colorado. That relocation application had the apparent intent of allowing KDEV to add much of the Denver Metropolitan area to its DT service profile.

The FCC approved the Denver Broadcasting application, and KDEV began its DTV channel 11 service from its new Colorado site (Facility ID #18287) in 2004. CPT was surprised to find that with the FCC's approval the new KDEV-DT site would now be 45 miles south-southwest of Cheyenne, KDEV's city of license, only 57 miles north of Denver, and only 43.5 miles north of Broomfield, CO, KBDI's city of license.

CPT discovered the relocation and the existence of a new DT channel 11 propagation pattern that reached so extensively into Colorado only after KDEV-DT had been constructed and was operating. At that point it became clear this would create an interference issue with CPT's KBDI-DT channel 12 plan. It was further determined that CPT would have no recourse because, although the new location of the KDEV-DT channel 11 transmission site was not part of the original FCC table of DTV allocations, channel 11 was the primary allocation for KDEV, and the FCC had approved the relocation.

With the discovery of the channel 11 problem, CPT faced a choice. It could accept the DT channel 38 allocation as the permanent KBDI-DT assignment. Or it could find another frequency.

If CPT were to accept channel 38 permanently, it would have to accept the much higher operating costs of a UHF transmitter at high altitude. It also

would have to dispose of its recently purchased new channel 12 analog/digital transmitter and purchase yet another channel 38 transmitter.

The existing channel 38 transmitter is lower power and incapable of being upgraded to full power. It therefore would not meet FCC service requirements.[1] The costs of acquiring and installing a new channel 38 full-power transmitter would be on the order of $1.2 million, a major, 34-percent increase in the total CPT digital conversion budget. The rate of return on the disposal of the channel 12 transmitter would be a fraction of its original cost. Together these two events would constitute a large financial burden for CPT, and it would be wasteful of the investment of federal funds in the prior purchases.

Finding another frequency proved more feasible, and far less costly. If CPT could acquire a channel 13 for its KBDI-DT assignment, it would be able to convert its new analog channel 12 transmitter to that frequency, just as it had planned to do for DT channel 12.

The discovery of the channel 11 problem had occurred only shortly before the FCC's deadline for the first round of DTV channel elections and assignments. CPT did not have enough time to fully study and implement the options for a channel 13 solution, nor to work out an NCAs with any affected party.

In its subsequent research CPT found that the NCE, public television licensee for Nebraska, Nebraska Educational Telecommunications, had been assigned channel 13 for its post-transition frequency for KTNE-DT in Alliance, NE. NET had initially been assigned channel 34 for KTNE-DT, but in the First Round it elected to retain channel 13, and the FCC approved that request. After learning of the NET election of channel 13 for Alliance, CPT began working with NET on an arrangement that would allow CPT to also use channel 13 in Colorado. But there was insufficient time to work out the Channel 13 interference mitigation details by the deadlines for the First and Second Rounds.

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[1] In this regard CPT has filed a *Request for Waiver of the Replication/Maximization Interference Protection Deadline for Colorado Public Television (CPT), licensee of KBDI-TV (Channel 12) and KBDI-DT (channel 38), Denver – Broomfield, Colorado*, July 7, 2006, in MB Docket No. 3-15.

Although it did not have a proper NCA with NET, CPT nonetheless filed a Form 382 in the First Round, as a notice of intent to develop the channel 13 plan. However, since the FCC did not contemplate the proposal of such tentative plans in the First Round, it rejected KBDI's request on procedural grounds, for lack at that time of a duly executed NCA.[2]

By mid-2006 CPT had found an antenna design that would meet the FCC's interference prevention standards. The fully executed NCA with Nebraska Educational Telecommunications now submitted by the parties notes the engineering details of the plan for the use of the two DT channels and how it will prevent impermissible interference with the KTNE-DT service.

If CPT's request for the assignment of channel 13 to KBDI-DT as its post-transition allocation is approved, CPT will continue to operate on channel 38 as an interim digital assignment throughout the rest of the transition. Then at the time of the final DTV conversion, it will convert its current analog channel 12 transmitter to digital channel 13 and switch its digital service to that frequency. The costs of so doing are comparable to the channel 12 analog-to-digital conversion costs in the Phase Six budget for CPT's original DTV conversion plan, and a fraction of the costs of purchasing and installing a new full power channel 38 transmitter.



[2] See *In re Negotiated Channel Election Arrangement*, MM No. 03-15, DA 05-1619 (rel. June 8, 2005), at n. 8.

# NEGOTIATED CHANNEL ELECTION ARRANGEMENT
## Regarding the Use of DT Channels 13 in Northeastern Colorado and Southwestern Nebraska

Parties to this Negotiated Channel Election Arrangement ("Arrangement") are Colorado Public Television ("CPT"), licensee of KBDI-TV and KBDI-DT, Denver-Broomfield, CO ("KBDI"), and Nebraska Educational Telecommunications ("NET"), Lincoln, NE, licensee of several stations in Nebraska, including KTNE-DT, Alliance NE. Both parties are noncommercial, educational ("NCE"), public television licensees.

NET holds FCC authorizations to transmit its KTNE-TV analog signal in Alliance, NE on channel 13 and its KTNE-DT, digital ("DTV") signal there on channel 24. NET has elected to retain channel 13 as its post-transition digital channel in Alliance.

CPT currently holds FCC authorizations to transmit its KBDI-TV analog signal on channel 12 and its DTV signal on channel 38, both from a site in Clear Creek County, Colorado.

CPT is seeking FCC permission to transfer its permanent, post-transition DTV channel assignment from channel 38 to channel 13. The reasons for this request are fully detailed in the cover letter and accompanying Exhibit submitted with this Arrangement.

Because CPT's use of channel 13 in Colorado could cause interference with NET's channel 13 in Alliance, NE, it is necessary for the two parties to have an understanding about the mitigation of that interference.

The Arrangement is as follows:

1. NET will retain channel 13 as its post-transition digital channel in Alliance, NE.

2. After the transition CPT will operate on digital channel 13 from its present analog site using a maximum ERP of 16.9 kW and a special antenna pattern designed to protect the NET digital operation on channel 13. The pattern, calculated by antenna manufacturer Electronics Research, Inc., is included in this agreement as Attachment A.

3. CPT has presented the results of an interference calculation showing that the proposed CPT operation on channel 13 will cause less than 0.1% interference. The calculation was performed using the Techware, Inc. implementation of the FCC's OET Bulletin 69 interference analysis program.

4. NET is satisfied with this calculation and has no objection to CPT's proposed digital operation on channel 13.

5. Both parties affirm their belief that this Arrangement will serve the public interest.

**Colorado Public Television,**
**KBDI-TV/12**

By: _____
Willard D. Rowland, Jr.

Title: President

Date: 8/4/06

**Nebraska Educational Telecommunications**

By: _____
Rod Bates

Title: Executive Director

Date: 8/1/06