

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.**

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

To: The Commission

LIMITED PETITION FOR RECONSIDERATION OF KEVN, INC.

KEVN, Inc. (“Licensee”), licensee of television satellite station KIVV-DT, NTSC Channel 5 and DTV Channel 29, Lead, South Dakota (“KIVV”),¹ by its undersigned counsel and pursuant to Section 1.429(a) of the Commission’s Rules, 47 C.F.R. § 1.429(a), respectfully requests reconsideration of the Seventh Report & Order² in the captioned proceeding to the limited extent described herein. Specifically, Licensee requests that the Commission revise its DTV Table of Allotments at Section 73.622(b) of the Rules to substitute DTV Channel 5 for DTV Channel 29 at Lead, South Dakota, in order to enable KIVV to use its current NTSC Channel 5 for permanent digital operation.

As this Petition demonstrates, the proposed modification is warranted by Licensee’s previously recognized history of financial hardship and the significant additional costs associated with post-transition operation on Channel 29. In addition, the modification will eliminate predicted interference to another post-transition channel and

¹ KEVN, Inc. is also the licensee of parent station KEVN-DT, DTV Channel 7, Rapid City, South Dakota [herein “KEVN”].

² *Seventh Report and Order and Eighth Further Notice of Proposed Rulemaking in the Matter of Advance Television Systems and their Impact Upon the Existing Television Broadcast Service*, MB Docket No. 87-268, FCC 07-138, released Aug. 6, 2007 [herein “Seventh Report & Order”].

thereby will facilitate the more efficient delivery of digital television service to viewers in the Rapid City DMA. Accordingly, grant of this Petition would serve the public interest.

I. Background

As the Commission is aware, Licensee's expenditures necessitated by the Commission's deadline for commercial television stations to construct digital facilities were the principal factor in its November 2003 decision to seek protection under Chapter 11 of the U.S. Bankruptcy Code. As Licensee told the Commission back in May of 2005 when it successfully sought an extension of the interim digital construction deadline, it spent "approximately \$375,000 to enable [KEVN and KIVV] to broadcast digitally at low power on their DTV frequencies in order to meet the Commission's deadline for commercial television stations to construct digital facilities."³ These costs depleted Licensee's financial resources without any return on investment, and rendered it incapable of making interest payments to its senior lender, Finova Capital Group, Inc. ("Finova"). When Finova commenced an action to foreclose on Licensee's assets, Licensee filed for bankruptcy in South Dakota. Throughout the bankruptcy proceeding, Licensee was required to pay 80 percent of its cash flow to Finova.⁴

Since emerging from bankruptcy protection in July 2005, Licensee has been operating pursuant to an Order of Final Decree⁵ which obligates it to remit much of its available cash flow to Finova's successor and for repayment of pre-Bankruptcy Petition

³ See Petition for Interim Relief, *In re KEVN, Inc., Debtor in Possession* (File Nos. BPCDT-19991019ABB *et al.* and BPCDT-19991019ABJ *et al.*) (May 13, 2005), at 2.

⁴ *Id.* at 3; see also Further Supplement to Petition for Relief, *In re KEVN, Inc.*, MB Docket No. 03-15 (July 7, 2006) [herein "Further Supplement"].

⁵ See *In re KEVN, Inc.* (File No. 03-50592) (Bankr. D.S.D. entered July 13, 2005).

general creditors, which has severely limited the funds available for upgrading to full-power digital operations.⁶ As Licensee noted in July 2006, building out both KEVN and KIVV to full-power digital facilities would have required it to divert resources from core public interest obligations such as its highly-rated, twice-daily local newscasts and local public affairs programming.⁷

On January 25, 2006, Licensee filed comments in the instant proceeding, demonstrating that these continuing financial constraints rendered it unable to construct full, authorized DTV facilities on the previously assigned DTV Channel 18 of KIVV parent station KEVN. Licensee demonstrated that build out of permanent digital facilities on KEVN's current analog Channel 7 would be both technically and financially advantageous and enable it to better serve viewers in the Rapid City market.⁸ In an order issued on August 6, 2007, the Commission granted Licensee's request, and digital Channel 7 was allotted to Rapid City and assigned to KEVN as its post-transition digital channel.⁹

⁶ See Supplement to Petition for Interim Relief, *In re KEVN, Inc.*, MB Docket No. 03-15 (Aug. 19, 2005), at 3.

⁷ See Further Supplement, *supra* note 4, at 7 (noting production costs for this programming in excess of \$600,000 annually).

⁸ See Comments of KEVN, Inc., *In the Matter of Advanced Television Systems And Their Impact Upon The Existing Television Broadcast Service*, MB Docket No. 87-268 (filed Jan. 25, 2006), at 4 (“[C]apital costs associated with the build-out of KEVN to full facilities on DTV Channel 18 will be forty percent higher than a build-out on its current NTSC Channel 7. . . . Altogether, Licensee estimates that it could avoid nearly \$500,000 in capital expense if it were able to use its current NTSC Channel 7 for KEVN's post-transition operations rather than its assigned DTV Channel 18.”). See *id.*

⁹ See Seventh Report & Order at Appendix D-5. KEVN, Inc. has moved expeditiously and spent significant funds to revise its engineering studies for KEVN's post-transition service as a result of the Commission's grant of relief and is prepared to (continued...)

Meanwhile, Licensee has complied with all FCC requirements associated with KIVV's transition to digital operations. On January 16, 2003, the Media Bureau granted Licensee's request for special temporary authority to operate KIVV on Channel 29 with reduced facilities, finding that "the public interest would be served" thereby.¹⁰ KIVV has been operating at low power on its digital channel since June 25, 2003. In addition, on July 7, 2006, Licensee advised the Commission of its intent to "flash-cut" to full digital facilities at the end of the transition period.¹¹

II. Analysis

As was the case with its KEVN channel election, Licensee has requested this relief, in part, because its previous financial condition resulted in its reliance on an initial engineering consultation that erroneously recommended Licensee select KIVV's assigned DTV Channel 29 for post-transition operation.¹² This consultation maintained that UHF frequencies would be operationally advantageous following the digital transition. Only later did Licensee learn of the costly ramifications of its initial channel election.

Licensee has determined that the capital costs associated with the build-out of KIVV to full facilities on DTV Channel 29 will be more than twice the cost of a build-out on its current NTSC Channel 5. As demonstrated in the attached Declaration of KIVV

file the required modification application for KEVN as soon as permitted by the Commission.

¹⁰ See *In re KEVN, Inc.* (File No. BDSTA-20021223AGV), Letter from Clay Pendarvis, Associate Chief, Video Division, Media Bureau (Jan. 16, 2003).

¹¹ See KEVN, Inc., Notification by Satellite Licensee of its Intent to Activate Full Digital Facilities at the Conclusion of the Digital Transition, MB Docket No. 03-15 (filed July 7, 2006); see also KEVN, Inc., Statement in Support of an STA Extension, KIVV-DT, Facility ID No. 34348 (filed Sept. 4, 2007).

¹² See Further Supplement, *supra* note 4, at 4.

Chief Engineer Lance Cratty (Exhibit 1), a new digital UHF transmitter will cost \$379,216, while converting Licensee's existing Channel 5 analog transmitter and top-mounted VHF NTSC antenna for post-transition service will cost only \$165,000.¹³ Licensee also would incur an additional \$29,353 in transmission line and accessories costs, as well as \$57,000 in tower crew and engineering study costs, if required to operate on Channel 29 — costs that would be avoided by conducting the station's permanent DTV operations on Channel 5. In short, converting to permanent digital operations on Channel 29 will cost \$363,259 more than converting on Channel 5.¹⁴ For a small market satellite station that has suffered severe financial hardship, this difference is critical. To allow KIVV to construct its DTV facilities and operate on Channel 5 would be consistent with the Commission's previous recognition of Licensee's financial difficulties, which it has acknowledged as recently as May of this year.¹⁵

Continuing post-transition costs would also be appreciably greater for KIVV under Lead's current proposed allocation. KIVV's operating expenses for a higher-powered UHF DTV facility would be significantly higher — approximately \$40,000 per year — than for a lower-power VHF facility with comparable coverage.¹⁶ Indeed, these ongoing outlays would be even more burdensome than the aforementioned one-time

¹³ See Declaration of Lance Cratty, Chief Engineer, KIVV, at Exhibit 1.

¹⁴ *Id.* The Commission has previously recognized the significant efficiencies associated with a station's use of its "existing analog structures as the structures for [its] DTV facilities." See Order, *In the Matter of DTV Build-Out, Requests for Waiver of July 1, 2006 "Use or Lose" Deadlines*, FCC 07-90 (May 18, 2007), ¶¶ 80-104.

¹⁵ See *id.* ¶¶ 60, 63 (finding Licensee's bankruptcy proceeding met the requirements for a "use or lose" waiver on the grounds it was suffering financial hardship).

¹⁶ See Exhibit 1 at 1.

conversion costs for a satellite station striving to serve a rural population — an effort that is not currently being made by the NBC and CBS stations in the DMA, which do not have DTV facilities in the Western South Dakota and Eastern Wyoming region.

The Engineering Statement attached to this Petition at Exhibit 2 illustrates that substituting DTV Channel 5 for DTV Channel 29 in the Table of Allotments and assigning it to KIVV would not affect the integrity of the Table or cause any adverse effect to other operators. As the Statement notes, Channel 5 is “ideally suited as an allotment channel” for Lead, because operations on it would cause “no predicted interference” to any existing or proposed post-transition stations on co- or adjacent channels, or to the nearest Canadian co-channels or allotments.¹⁷ Indeed, digital operations on Channel 5 would not result in any predicted adverse technical effects on any other FCC-licensed facility.¹⁸

In fact, deleting Lead’s current DTV Channel allotment would enhance the integrity of the Table of Allotments, since, as the Statement also notes, doing so would eliminate predicted interference to post-transition station KSTF-DT, Channel 29, Scottsbluff, Nebraska.¹⁹ Therefore, substituting Channel 5 for Lead’s current Table allotment would be entirely consistent with, and supported by, the Commission’s interference-reducing goals for the digital channel allocation process.²⁰

¹⁷ Engineering Statement, Exhibit 2, at 3 and Table II.

¹⁸ *Id.* at 5.

¹⁹ *Id.* at 3.

²⁰ See *In the Matter of Unlicensed Operation in the TV Broadcast Bands Additional Spectrum for Unlicensed Devices Below 900 MHz and in the 3 GHz Band*, 21 F.C.C. Rcd. 12,226, 12,293 (2006) (“In developing the initial table of allotments for digital TV (continued...)”).

KIVV's status as a satellite of KEVN makes relief particularly appropriate in this case, as KIVV is one of only two stations that provides television service to Lead, which is located in a rural area in the Black Hills region of Western South Dakota, and surrounding rural areas. Licensee's adoption of a more cost-effective approach to KIVV's digital transition is critical to ensure that viewers in the Lead community and the surrounding region have access to high quality over-the-air digital service following the transition. While the population may be sparse in this area, they have grown accustomed to KIVV's news, weather and public service programming, which addresses their particular viewer needs and interests. If Licensee cannot find a cost-effective manner of upgrading KIVV's DTV service to full power, many over-the-air viewers in Western South Dakota and Eastern Wyoming will be left with only one local television service after the transition.

Finally, Licensee emphasizes that, prior to the Commission's grant of relief allowing KEVN to remain on its analog channel (for which Licensee is most grateful), Licensee had not thought it economically feasible to offer full-power DTV service on its satellite facility. Accordingly, it had intended to request a waiver from the Commission to permit continued low power operations on Channel 29 post-transition and thereby not incur further expenses for KIVV. However, when the Commission granted Licensee's request to retain Channel 7 in Rapid City, Licensee realized after further engineering analysis that the cost savings resulting from KEVN's digital operations on Channel 7 could be applied to KIVV if the satellite station also remained on its analog frequency,

stations, the channels were selected to minimize or prevent interference between digital stations and between analog and digital stations.”).

thereby permitting the expansion of full-power DTV service throughout Western South Dakota and Eastern Wyoming's rural areas. With the additional relief requested herein, Licensee can, and is committed to, establish two full-power DTV stations in this DMA at roughly the same cost as that which it expected to incur for KEVN's UHF digital facilities alone.

Conclusion

For the reasons stated herein, Licensee respectfully requests that the Commission amend its DTV Table of Allotments by changing Lead, South Dakota's allotted digital channel designation from DTV Channel 29 to KIVV's currently used Channel 5.

Respectfully submitted,

KEVN, INC.

By: _____



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Its Attorneys

October 26, 2007

Exhibit 1
Declaration
Lance Cratty
Chief Engineer, KIVV

**Declaration of Lance Cratty
Chief Engineer
KIVV**

I, Lance Cratty, hereby declare under penalty of perjury that the following is correct to the best of my knowledge, information and belief:

1. I am the Chief Engineer of KIVV-DT Lead, South Dakota ("KIVV"), satellite station of Fox affiliate KEVN-DT in Rapid City, South Dakota ("KEVN"). My responsibilities include the management and supervision of all engineering-related requirements for both stations, including administration of the stations' transition to digital operations.

2. I have served in my current position since June 12, 2007. Prior to becoming Chief Engineer at KIVV, I worked for California Broadcasting, Inc. as Chief Engineer. In all, I have more than 8 years' experience in broadcast engineering.

3. I am submitting this Declaration to provide information regarding the costs of the digital transition for KIVV. I understand that this statement will be provided to the Federal Communications Commission (FCC) in support of a Limited Petition for Reconsideration of the DTV Table of Allotments found at Section 73.622(b) of the Commission's rules. I also understand that the Petition is requesting that the FCC change one of the allotted digital channels for Lead from DTV Channel 29 to DTV Channel 5, KIVV's current analog channel.

4. KIVV serves the small community of Lead, South Dakota, as well as the rural areas of Western South Dakota and Eastern Wyoming. KIVV is one of only two stations licensed to the Lead community, and has been offering service to this region since 1976. KIVV provides news, weather and public service that is specific to this rural region. The station has been operating digitally at low power on its assigned DTV Channel 29 since June 2003, and has informed the Commission of its intent to flash-cut at the digital transition deadline.

5. As Table A below illustrates, digital operations on DTV Channel 29 would require an outlay of \$564,739 in conversion costs. There will also be additional power costs of approximately \$40,000 per year to replicate our current analog service on Channel 29 UHF. Given KIVV's financial condition, which has previously been recognized by the Commission, such a significant capital expenditure could result in the diversion of significant resources that could be spent on locally-focused programming and other service to the Lead community.

Table A: KIVV Outlay for Digital Operations on Channel 29

Item	Cost
new digital transmitter	\$379,216
antenna	\$47,600
transmission line and accessories	\$29,353
tower crew expenses	\$50,000
technical services	\$20,150
engineering study for tower	\$7,000
sales tax (6%)	\$31,420
Total	\$564,739

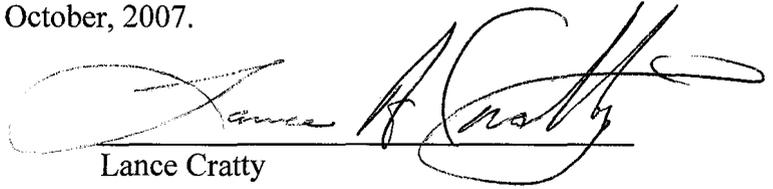
6. As Table B below shows, operating on KIVV's current analog Channel 5 after the digital transition would result in a cost savings to KIVV of \$363,259.

Table B: KIVV Outlay for Digital Operations on Channel 5

Item	Cost
conversion of current Larcen analog transmitter to digital	\$165,000
line and antenna optimization costs	\$15,000
technical services	\$10,075
sales tax (6%)	\$11,405
Total	\$201,480

7. It is my professional opinion that allowing KIVV to operate on its current analog Channel 5 after the digital transition would facilitate a more effective digital transition and result in better service to the Lead community and to the rural areas of Western South Dakota and Eastern Wyoming.

Executed on this 24 th day of October, 2007.



Lance Cratty

Exhibit 2

Engineering Statement: KIVV-DT
Cohen, Dippell and Everist, P.C.

ENGINEERING STATEMENT
RE PETITION FOR RECONSIDERATION TO
SUBSTITUTE DTV CHANNEL 5 FOR DTV CHANNEL 29
IN DTV TABLE OF ALLOTMENTS, SECTION 73.622(b)
KIVV-DT, LEAD, SOUTH DAKOTA
DTV CHANNEL 5 9.2 KW ERP 561 METERS

OCTOBER 2007

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)

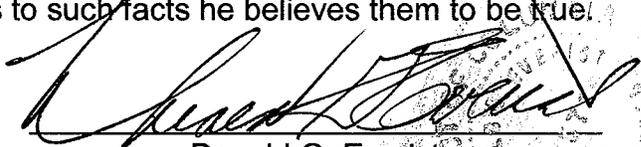
Donald G. Everist, being duly sworn upon his oath, deposes and states that:

He is a graduate electrical engineer, a Registered Professional Engineer in the District of Columbia, and is President, Secretary and Treasurer 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;

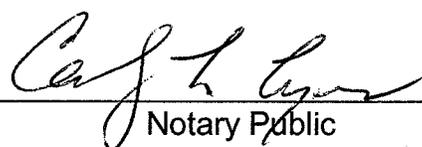
That his qualifications are a matter of record in the Federal Communications Commission;

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 10th day of October, 2007.


Notary Public

My Commission Expires: 2/28/2008



This engineering statement has been prepared in support of a petition for reconsideration on behalf of KEVN, Inc., licensee of KIVV-TV, Lead, South Dakota (“KIVV”). The purpose of the petition is to substitute DTV Channel 5 for DTV Channel 29, Lead, South Dakota, in the DTV Table of Allotments, Section 73.622(b).

KIVV-TV is licensed to operate on NTSC television Channel 5 with a maximum visual effective radiated power of 100 kW and a HAAT of 564 meters (1850 feet). KIVV has been allotted DTV Channel 29 with facilities of 1000 kW (max DA) and HAAT of 564 meters in the DTV Table of Allotments¹. KIVV proposes to substitute DTV facilities of 9.2 kW (non-directional) at the existing height. This non-directional power provides a DTV service area that lies wholly within the NTSC Channel 5 Grade B contour. The existing NTSC antenna will be used as the DTV antenna system.

There are no AM stations located within 3.2 km of the existing KIVV tower site. There will be no other FM or DTV stations on the KIVV tower when KIVV-DT Channel 5 commences post-transition operation.

The antenna is top-mounted on the existing tower with total overall structure height above ground of 194.4 meters (638 feet). The existing transmitter site is located on Terry Peak, South Dakota. The registration number for the existing tower is 1042277. A vertical sketch of the tower is included as Exhibit E-1.

The geographic coordinates of the existing site are as follows:

North Latitude: 44° 19' 30"

West Longitude: 103° 50' 14"

NAD-27

¹“Seventh Report and Order and Eighth Further Notice of Proposed Rulemaking”, released August 6, 2007, Appendix B.

Equipment Data

Antenna: RCA, Model TF-6BM antenna with 1.0° electrical beam tilt. The vertical plane pattern required by Section 73.625(c) is herein included.

Transmission Line: 180 meters (590 ft) of RCA, 3-1/8" coaxial, 75 ohm or equivalent

Power Data

Transmitter output	1.72 kW	2.37 dBk
Transmission line loss	-11.1%	-0.51 dB
Input power to the antenna	1.53 kW	1.86 dBk
Antenna power gain, Main Lobe	6.00	7.78 dB
Effective Radiated Power, Maximum	9.20 kW	9.64 dBk

Elevation Data

Vertical dimension for Channel 5 antenna	25.3 meters 83 feet
Overall height above ground of the proposed antenna structure (including beacon)	194.4 meters 638 feet
Center of radiation of Channel 5 antenna above ground	180.0 meters 590.6 feet
Elevation of site above mean sea level	2101 meters 6893 feet
Center of radiation of Channel 5 antenna above mean sea level	2281 meters 7483.6 feet
Overall height above mean sea level of proposed tower and stacked antenna (including beacon)	2295.4 meters 7531 feet
Antenna height above average terrain	561 meters

Note: Slight height differences may result due to conversion to metric.

Allocation

An allocation study from the proposed site has been performed. DTV Channel 5 at this location is fully spaced according to the separation distances of Section 73.623(d)(2). The site is 519 km from the closest point on the Canadian border, and therefore, outside the 400 km coordination zone. The allocation results and closest stations are shown in Table II. DTV Channel 5 is ideally suited as an allotment channel at this location as it will cause no predicted interference to any existing or proposed post-transition station, either U.S. or Canadian. Moreover, deletion of the current DTV Channel 29 allotment will eliminate more than 0.1% interference (the channel election threshold) to post-transition station KSTF-DT, Channel 29, Scottsbluff, NE.

Interference Analysis

A study of predicted interference caused by the proposed DTV service has been performed using a version of the Longley-Rice program as described in OET Bulletin No. 69 (Revised February 6, 2004) and the Public Notice, "Additional Application Processing Guidelines for Digital Television (DTV)" (August 1998). The FCC's FORTRAN-77 code was modified only to the extent necessary (primarily input/output handling) for the program to run on a Windows XP/Intel platform. Comparison of service/interference areas and populations indicates that this model closely matches the FCC's evaluation program. Best efforts have been made to use data and calculations identical to the FCC's program. Any slight differences are attributable to compiler, operating system and/or processor characteristics. The effect of any variance in calculated population values versus the FCC's program is minimized when differencing a given model's results, such as calculating new interference as total interference less baseline interference. Any variance effect is further reduced when using ratios of calculated population values such as measuring the incremental population affected as a percent of the total population served. The model employs the Longley-Rice propagation methodology and evaluates in grid cells of approximately 4 km² using 3-second terrain

data sampled approximately every 0.1 km at one degree azimuth intervals with 1990 census centroids.

The FCC Public Notice Dated August 10, 1998, entitled "Additional Application Processing Guidelines for Digital Television", outlines the station selection criteria "culling distances" for considering potential interferers. There are no post-transition DTV stations to be considered according to these criteria. There are currently no potentially affected post-transition stations predicted to receive interference.

Coverage

The average elevation data for 3.2 to 16.1 km along each radial are based upon 3-second terrain data. The F(50,90) DTV coverage contour has been computed from reference to the propagation data for Channels 2-6, as published by the FCC in Figure 9 and Figure 9a, Section 73.699 of the FCC Rules and Regulations.

Utilizing the formula in Section 73.625(b)(2) of the Rules for the effective heights, it is found that the depression angle, A_h , varies from 0.59 to 0.75 degrees. Since the relative vertical field is greater than 90% of the maximum at these depression angles, the maximum power was used in determining the distance to the DTV contour.

Table I includes the distances to the 28 dBu and 35 dBu F(50,90) coverage contours, the average elevation 3 to 16 km, and the antenna height above average terrain for the eight radials.

Population and Area Data

The population within the predicted DTV coverage contour was determined by employing the OET Bulletin 69 methodology and using the 2000 census data. The computer program established the 28 dBu service contour, ignoring terrain-blocked cells and determined the service population by using the centroids for the pertinent census blocks. A population of 164,000 people was determined in the service area of 46,370 sq. km.

Other Licensed and Broadcast Facilities

No adverse technical effect is anticipated by the proposed DTV operation to any other FCC licensed facility. If required, the applicant will install filters or take other measures as necessary to resolve the problem.

FCC Rule, Section 1.1307

The proposed 9.2 kW horizontal operation will utilize an RCA, TF-6BM supertunstile antenna or the equivalent with a center of radiation above ground of 180 meters. The proposed antenna will be top-mounted on the existing guyed, uniform, cross-section, steel lattice tower with an overall height of 194.4 meters AGL.

As previously indicated, there are no AM stations located within 3.2 km of the proposed tower site. According to the FCC data base, there are no other stations located within 100 meters of the site. The existing property for the existing tower is located on Terry Peak near Lead, South Dakota. Access to the tower property is prevented by a chain link fence with a locked gate.

The proposed operation based upon the current OET Bulletin No. 65, Edition 97-01 dated August 1997 and Supplement A meets the provisions of the FCC radio frequency field ("RFF") guidelines, and thus, complies with Section 1.1307 of the FCC Rules. Provisions will be made to reduce power or to terminate the transmitter emissions, as appropriate, when it is necessary for authorized personnel to be on the tower.

For DTV operation KIVV proposes to use a RCA, TF-6BM or equivalent antenna horizontally polarized (9.2 kW horizontal) with 1° electrical beam tilt with a radiation center of 180 meters above ground. The elevation pattern for this antenna shows a maximum relative field of 0.28 or less towards the ground (60° to 90° below the horizontal) in the vicinity of the tower. Using this relative field factor and the procedures prescribed in OET Bulletin 65 (Edition 97-01 and Supplement A), the maximum RFF resulting from the proposed operation is less than 0.8 $\mu\text{W}/\text{cm}^2$

two meters above ground. This is less than 0.4 percent of the 200 $\mu\text{W}/\text{cm}^2$ maximum human exposure to RFF recommended by the current FCC guidelines for the general population.

Authorized personnel and rigging contractors will be alerted to the potential zone of high radiation on the tower, and if necessary, the station will operate with reduced power or terminate the operation of the transmitter as appropriate when it is necessary for authorized personnel or contractors to perform work on the tower. Workers and the general public, therefore, will not be subjected to RFF levels in excess of the current FCC guidelines.

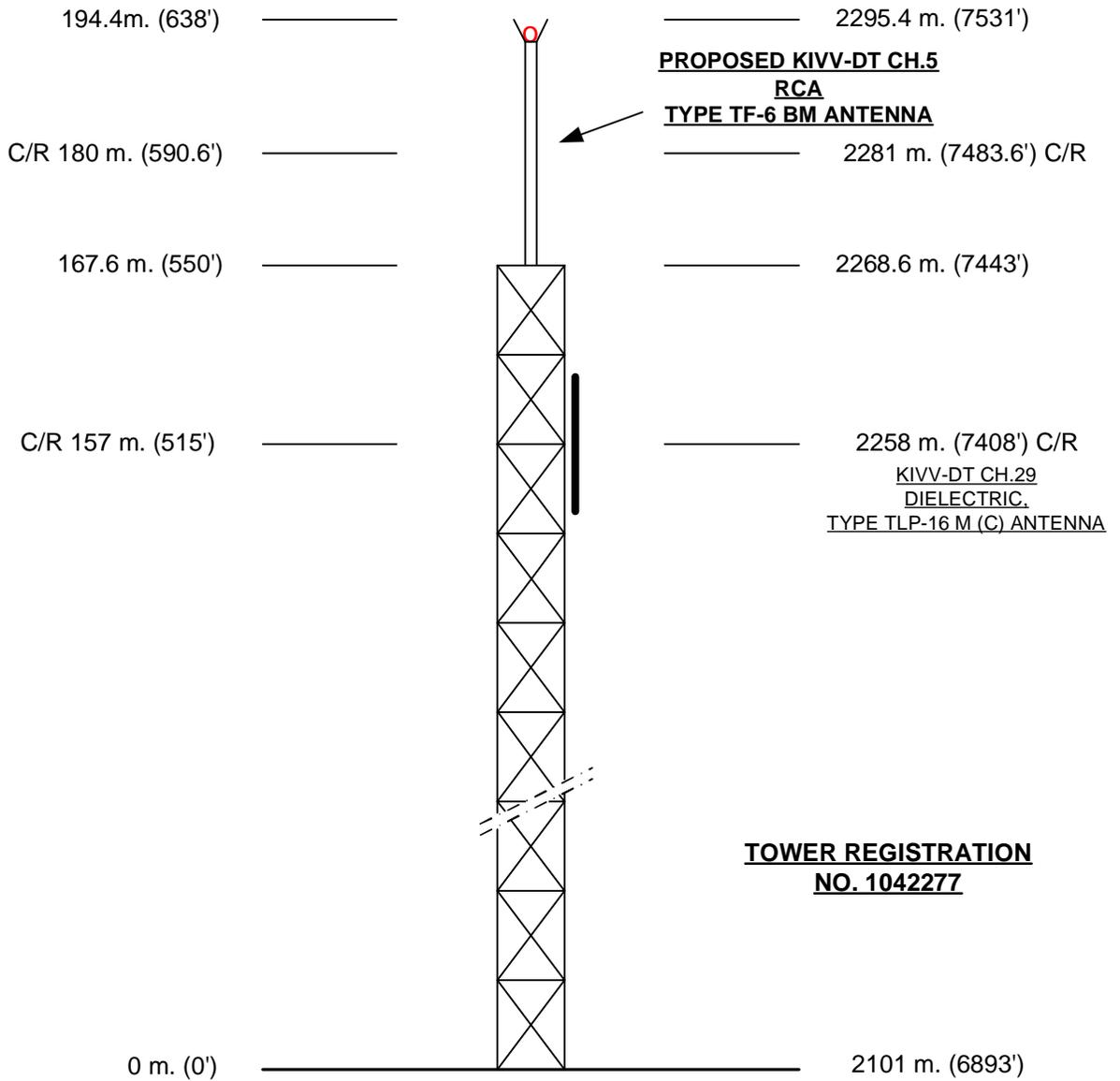
An environmental assessment (“EA”) is categorically excluded under Section 1.1306 of the FCC Rules and Regulations as the tower was constructed prior to the requirements specified in WT Docket No. 03-128 and the licensee indicates:

- (a)(1) The proposed facilities are not located in an officially designated wilderness area.
- (a)(2) The proposed facilities are not located in an officially designated wildlife preserve.
- (a)(3) The proposed facilities will not affect any listed threatened or endangered species or habitats.
- (a)(3)(ii) The proposed facilities will not jeopardize the continued existence of any proposed endangered or threatened species or likely to result in the destruction or adverse modification of proposed critical habitats.
- (a)(4) The proposed facilities located on a tower which was built prior to the adoption of WT Docket No. 03-128 and is grandfathered and has not affected any known districts, sites, buildings, structures, or objects significant in American history, architecture, archaeology, engineering, or culture.
- (a)(5) The proposed facilities are not located near any known Indian religious sites.
- (a)(6) The proposed facilities are not located in a flood plain.
- (a)(7) The installation of the DTV facilities on an existing tower at an existing site will not involve a significant change in surface features of the ground in the vicinity of the tower.
- (a)(8) The existing tower lighting will remain unchanged.

- (b) Workers and the general public will not be subjected to RFF levels in excess of the current FCC guidelines contained in OET Bulletin 65 (Edition 97-01) and Supplement A. Authorized personnel will be alerted to areas of the antennas where potential radiation levels are in excess of the FCC guidelines. A security fence with a locked gate precludes access to the tower site.

ABOVE GROUND

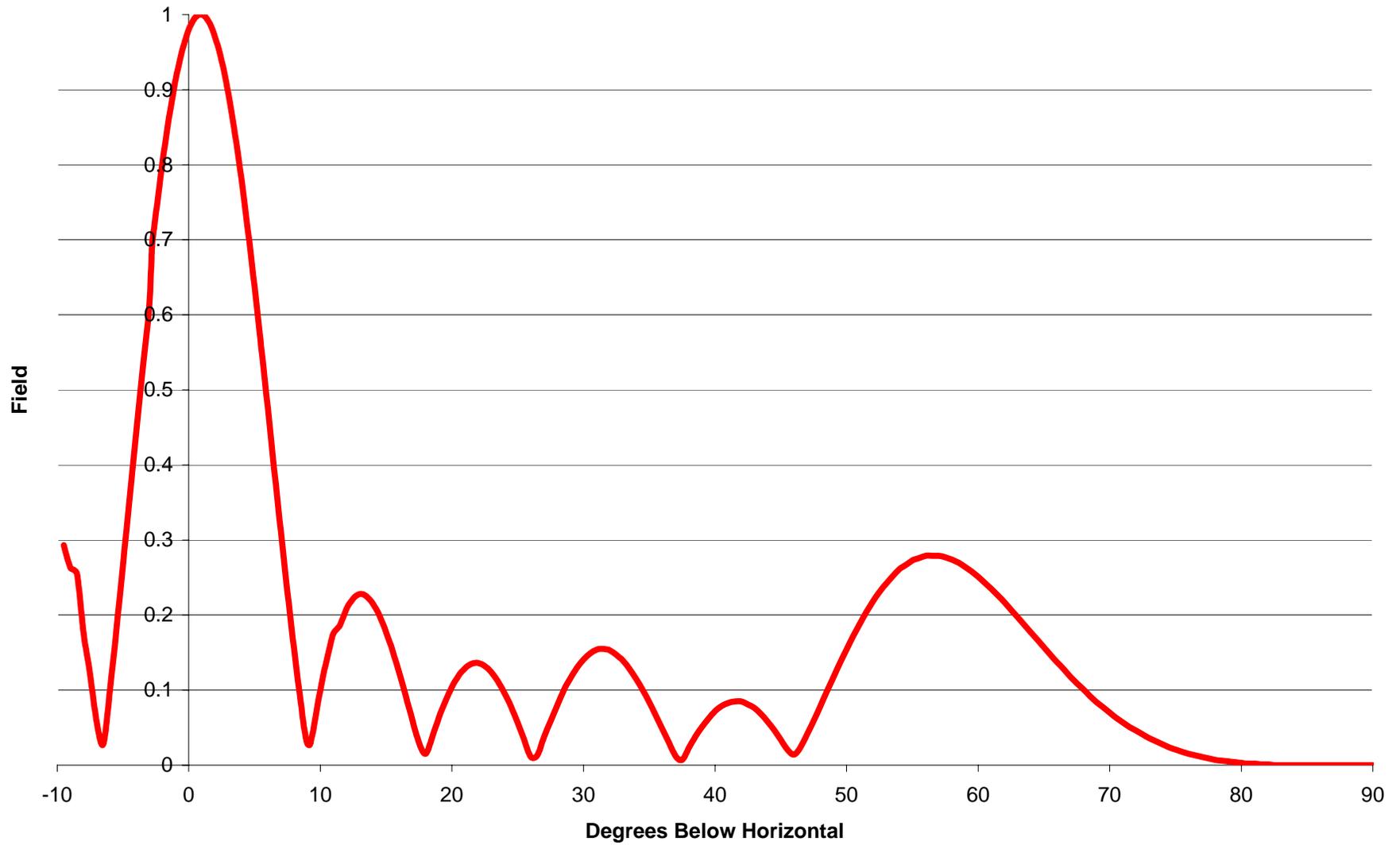
ABOVE MEAN SEA LEVEL



(NOT TO SCALE)

EXHIBIT E - 1
VERTICAL SKETCH
FOR
KIVV-DT, LEAD, SOUTH DAKOTA
SEPTEMBER 2007

RCA TF-6 BM ELEVATION PATTERN



Cohen, Dippell and Everist, P.C.

TABLE I
COMPUTED COVERAGE DATA
FOR THE PROPOSED DTV OPERATION OF
KIVV-DT, LEAD, SOUTH DAKOTA
CHANNEL 5 9.2 KW 561 METERS HAAT
OCTOBER 2007

Radial Bearing N ° E, T	Average*	Effective Height meters	Depression Angle	ERP At Radio Horizon kW	Distance to Contour F(50,90)	
	Elevation 3.2 to 16.1 km meters				35 dBu City Grade km	28 dBu Noise-Limited km
0	1556.3	724.7	0.746	9.2	115.8	133.7
45	1542.6	738.4	0.753	9.2	116.5	134.2
90	1672.6	608.4	0.683	9.2	109.5	127.1
135	1820.4	460.6	0.594	9.2	100.3	115.6
180	1901.5	379.5	0.540	9.2	95.5	109.6
225	1803.1	477.9	0.606	9.2	101.5	117.0
270	1781.9	499.1	0.619	9.2	103.1	118.7
315	1683.4	597.6	0.677	9.2	109.0	126.3
Average	1720.2	560.8				

*Based on data from FCC 3-second data base

DTV Channel 5 (76-82 MHz)
Average Elevation 3.2 to 16.1 km 1720.2 meters AMSL
Center of Radiation 2281 meters AMSL
Antenna Height Above Average Terrain 561 meters
Effective Radiated Power 9.2 kW (9.64 dBk) Max.

North Latitude: 44° 19' 30"
West Longitude: 103° 50' 14"

(NAD-27)

TABLE II
SPACING AND PREDICTED INTERFERENCE FOR
THE PROPOSED DTV OPERATION OF
KIVV-DT, LEAD, SOUTH DAKOTA
CHANNEL 5 9.2 KW 561 METERS HAAT
OCTOBER 2007

<u>Post-Transition Station</u>	<u>Distance / Bearing</u>	<u>Longley-Rice Predicted Interference</u>
KHAS-DT Ch. 5 Hastings, NE (nearest co-channel)	606.2 km / 130.5° (fully spaced)	None
CKX-TV Ch. 5 Brandon, MB (nearest Canadian co-channel TV)	661.5 km / 24.7° (beyond coordination zone)	None
Ch. 5 DTV Allot. Weyburn, SK (nearest Canadian DTV allotment)	593.8 km / 0° (beyond coordination zone)	None
KPTW-DT Ch. 6 Casper, WY (nearest 1 st adjacent)	269.4 km / 230° (fully spaced)	None
K06JM-CA Ch. 6 Gillette, WY (nearest 1 st adj. Class A)	148.4 km 267.7° (no contour overlap)	None

Note: Channel 4 is not adjacent to Channel 5

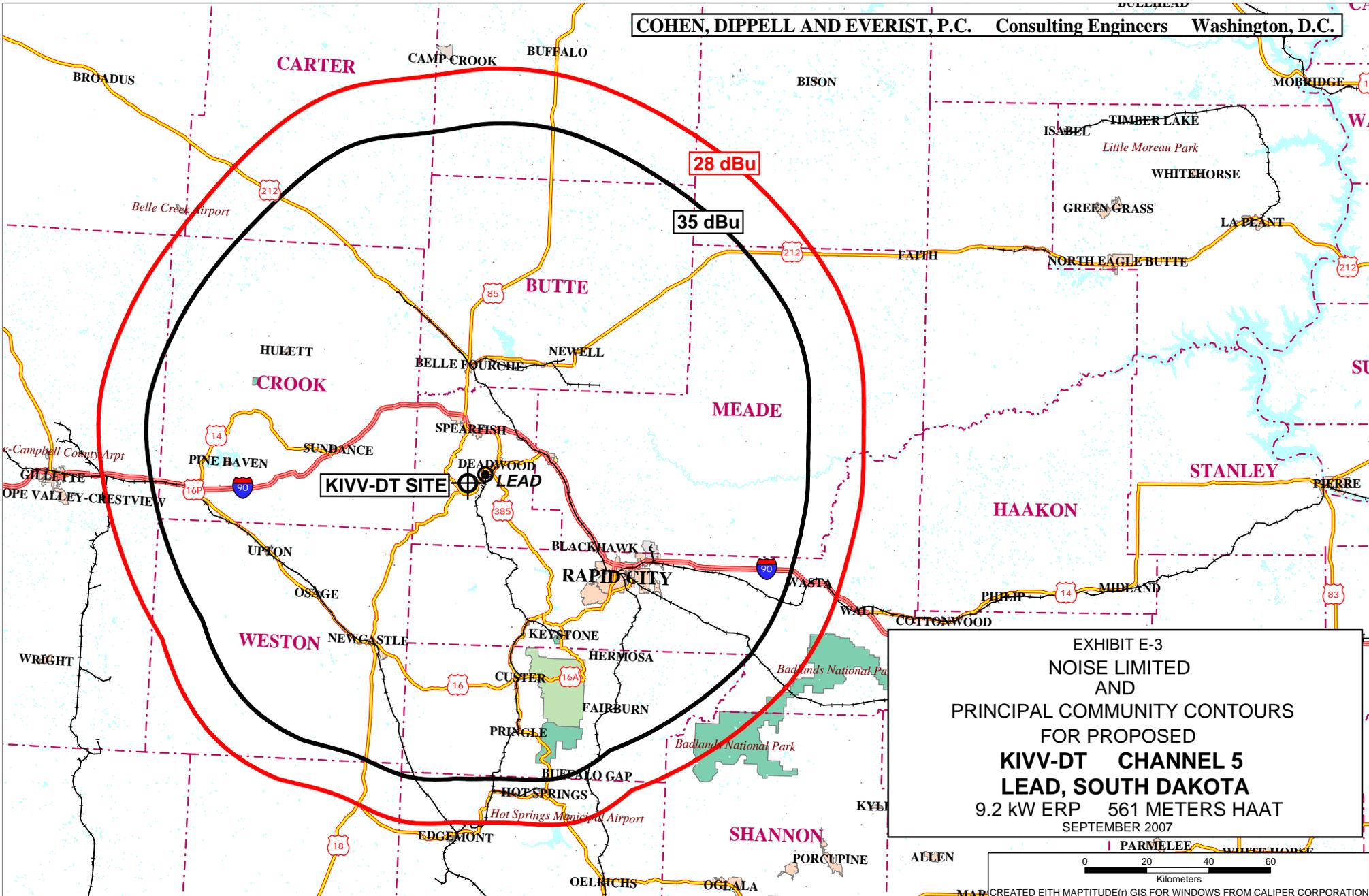


EXHIBIT E-3
NOISE LIMITED
AND
PRINCIPAL COMMUNITY CONTOURS
FOR PROPOSED
KIVV-DT CHANNEL 5
LEAD, SOUTH DAKOTA
9.2 kW ERP 561 METERS HAAT
SEPTEMBER 2007



SECTION III-D - DTV Engineering

Complete Questions 1-5 of the Certification Checklist and provide all data and information for the proposed facility, as requested in Technical Specifications, Items 1-13.

Certification Checklist: A correct answer of "Yes" to all of the questions below will ensure an expeditious grant of a construction permit. However, if the proposed facility is located within the Canadian or Mexican borders, coordination of the proposal under the appropriate treaties may be required prior to grant of the application. An answer of "No" will require additional evaluation of the applicable information in this form before a construction permit can be granted.

1. The proposed DTV facility complies with 47 C.F.R. Section 73.622 in the following respects:

- (a) It will operate on the DTV channel for this station as established in 47 C.F.R. Section 73.622. Yes No
- (b) It will operate from a transmitting antenna located within 5.0 km (3.1 miles) of the DTV reference site for this station as established in 47 C.F.R. Section 73.622. Yes No
- (c) It will operate with an effective radiated power (ERP) and antenna height above average terrain (HAAT) that do not exceed the DTV reference ERP and HAAT for this station as established in 47 C.F.R. Section 73.622. Yes No

2. The proposed facility will not have a significant environmental impact, including exposure of workers or the general public to levels of RF radiation exceeding the applicable health and safety guidelines, and therefore will not come within 47 C.F.R. Section 1.1307. Yes No

Applicant must **submit the Exhibit** called for in Item 13.

- 3. Pursuant to 47 C.F.R. Section 73.625, the DTV coverage contour of the proposed facility will encompass the allotted principal community. Yes No
- 4. The requirements of 47 C.F.R. Section 73.1030 regarding notification to radio astronomy installations, radio receiving installations and FCC monitoring stations have either been satisfied or are not applicable. Yes No
- 5. The antenna structure to be used by this facility has been registered by the Commission and will not require reregistration to support the proposed antenna, OR the FAA has previously determined that the proposed structure will not adversely effect safety in air navigation and this structure qualifies for later registration under the Commission's phased registration plan, OR the proposed installation on this structure does not require notification to the FAA pursuant to 47 C.F.R. Section 17.7. Yes No

SECTION III-D DTV 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 Number: DTV _____ Analog TV, if any _____

2. Zone: I II III

3. Antenna Location Coordinates: (NAD 27)

_____ ° _____ ' _____ " N S Latitude
_____ ° _____ ' _____ " E W Longitude

4. Antenna Structure Registration Number: _____

Not applicable FAA Notification Filed with FAA

5. Antenna Location Site Elevation Above Mean Sea Level: _____ meters

6. Overall Tower Height Above Ground Level: _____ meters

7. Height of Radiation Center Above Ground Level: _____ meters

8. Height of Radiation Center Above Average Terrain: _____ meters

9. Maximum Effective Radiated Power (average power): _____ kW

10. Antenna Specifications:

a.	Manufacturer	Model
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b. Electrical Beam Tilt: _____ degrees Not Applicable

c. Mechanical Beam Tilt: _____ degrees toward azimuth _____ degrees True Not Applicable

Attach as an Exhibit all data specified in 47 C.F.R. Section 73.625(c).

Exhibit No.

d. Polarization: Horizontal Circular Elliptical

TECH BOX

e. 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											

If a directional antenna is proposed, the requirements of 47 C.F.R. Section 73.625(c) must be satisfied. **Exhibit required.**

Exhibit No.

11. Does the proposed facility satisfy the interference protection provisions of 47 C.F.R. Section 73.623(a)? (Applicable only if **Certification Checklist** Items 1(a), (b), or (c) are answered "No.") Yes No

If "No," attach as an Exhibit justification therefor, including a summary of any related previously granted waivers.

Exhibit No.

12. If the proposed facility will not satisfy the coverage requirement of 47 C.F.R. Section 73.625, attach as an Exhibit justification therefor. (Applicable only if **Certification Checklist** Item 3 is answered "No.")

Exhibit No.

13. **Environmental Protection Act. Submit in an Exhibit** the following:

Exhibit No.

a. If **Certification Checklist** Item 2 is answered "Yes," a brief explanation of why an Environmental Assessment is not required. Also describe in the Exhibit the steps that will be taken to limit RF radiation exposure to the public and to persons authorized access to the tower site.

By checking "Yes" to **Certification Checklist** Item 2, 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.

If **Certification Checklist** Item 2 is answered "No," an Environmental Assessment as required by 47 C.F.R. Section 1.1311.

PREPARER'S CERTIFICATION IN SECTION III MUST BE COMPLETED AND SIGNED.

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	Typed or Printed Title of Person Signing
Signature	Date

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 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 Ross J. Heide	Relationship to Applicant (e.g., Consulting Engineer) Consulting Engineer	
Signature 	Date October 10, 2007	
Mailing Address Cohen, Dippell and Everist, P.C., 1300 L Street, NW, Suite 1100		
City Washington	State or Country (if foreign address) DC	ZIP Code 20005
Telephone Number (include area code) (202) 898-0111	E-Mail Address (if available) cde@attglobal.net	

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