

DOCKET FILE CCOPY ORIGINAL FILED/ACCEPTED
JUN 20 2008
Federal Communications Commission
Office of the Secretary

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of: }
 }
KPTH LICENSE, LLC, }
 }
To Amend the Post-Transition }
Digital Television Table of Allotment }
for Station KPTH-DT, Sioux City, IA }

MB Docket No.: _____
RM- _____

ORIGINAL

To: The Secretary
Attn: Chief, Video Division
Media Bureau

PETITION FOR RULEMAKING

KPTH License, LLC ("Petitioner"), by and through its attorneys, and pursuant to Section 73.623 of the Commission's rules, 47 C.F.R. § 73.623 (2007), hereby submits this Petition for Rulemaking to change the post-transition digital television ("DTV") channel allotment of Station KPTH-DT, Sioux City, Iowa (the "Station") to Channel 49, and to make related technical changes to the Station's technical parameters. This Petition is submitted pursuant to the Public Notice, dated May 30, 2008, lifting the freeze on the submission of DTV "maximization" applications and petitions for digital channel substitutions.¹

Currently, the Station has been allotted Channel 44 in the post-transition DTV Table of Allotments,² and the Station is currently authorized to operate on Channel 49 as its pre-transition digital channel. As set forth in the Engineering Statement, attached hereto as Exhibit A, Petitioner has determined that a requested change in the post-transition DTV allotment to retain

¹ Commission Lifts the Freeze on the Filing of Maximization Applications and Petitions for Digital Channel Substitutions, Effective Immediately, Public Notice, DA 08-1213 (May 30, 2008).

² Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service, Seventh Report and Order, Appendix B, 22 FCC Rcd 15,581 (2007) ("DTV Order"). The post-transition parameters for DTV facilities specified in Appendix B will be codified at 47 C.F.R. § 73.622(i). *Id.*, nt. 2.

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its currently-authorized Channel 49 allotment (and its fully constructed DTV facilities³) complies with the Commission's technical rules, and would result in substantial cost savings. Finally, the proposed facility complies with the Commission's processing guidelines established in the DTV Order regarding the permissible change in a post-transition DTV facility.

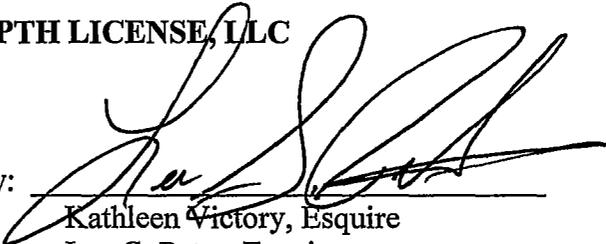
Therefore, Petitioner respectfully requests that the post-transition DTV Table of Allotments be amended for the Station to specify the following channel:

	<u>Present Allotment</u>	<u>Proposed Allotment</u>
Sioux City, IA	9, *28, 39, 41, <u>44</u>	9, *28, 39, 41, <u>49</u>

The requested changes comply with all applicable legal and technical requirements and would serve the public interest.

Respectfully submitted,

KPTH LICENSE, LLC

By: 

Kathleen Victory, Esquire

Lee G. Petro, Esquire

FLETCHER, HEALD & HILDRETH, PLC

1300 North 17th Street, 11th Floor

Arlington, Virginia 22209

703-812-0400 – Telephone

703-812-0486 – Telecopier

Its Attorneys

June 20, 2008

³ KPTH License, LLC, has a currently pending application for license to cover, File No. BLCDT-20061214ABC. In addition, KPTH License, LLC, has a currently pending application for assignment of license to KPTH License, LLC, Debtor-in-Possession (BALCT-2080612AAN).

EXHIBIT A

ENGINEERING STATEMENT

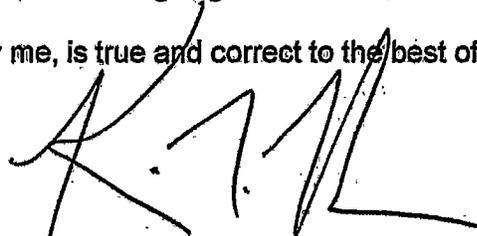
The engineering data contained herein have been prepared on behalf of KPTH LICENSE, LLC, licensee of KPTH-DT on Channel 49 in Sioux City, Iowa, in support of its Petition for Rulemaking to substitute Channel 49 for Channel 44 in the Commission's Digital Television Table of Allotments for post-transition operation. The proposed channel is currently the digital channel for KPTH-DT. If the Petition is granted, the station will simply continue to operate on Channel 49 with its licensed facility rather than convert its analog facility on Channel 44 to digital operation.

Attached is the engineering portion of an FCC application for the proposed facility. In it, the operating parameters of the station are provided. As shown in the engineering report, operation on the new channel with the specified parameters will result in a facility that places the requisite city-grade contour over the city of license, meets the FCC's interference requirements to all post-transition DTV facilities (and Class A LPTV stations), and satisfies the Commission's human exposure guidelines to nonionizing electromagnetic radiation.

Accordingly, it is respectfully requested that the Commission substitute the allotment channel for KPTH-DT (with the specified operating parameters) in the digital television allotment table in Section 73.622(i) of the FCC Rules as follows:

<u>Present Allotment</u>	<u>Proposed Allotment</u>
Sioux City, IA 9, *28, 39, 41, 44	Sioux City, IA 9, *28, 39, 41, 49

I declare, under penalty of perjury, that the foregoing statements and attached engineering report, which was prepared by me, is true and correct to the best of my knowledge and belief.



KEVIN T. FISHER

June 16, 2008

Section III - D - DTV Engineering

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

Pre-Transition Certification Checklist: An application concerning a pre-transition channel must complete questions 1(a)-(c), and 2-5. A correct answer of "Yes" to all of the questions will ensure an expeditious grant of a construction permit application to modify pre-transition facilities. 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.

Post-Transition Expedited Processing. An application concerning a post-transition channel must complete questions 1(a), (d)-(e), and 2-5. A station applying for a construction permit to build its post-transition channel will receive expedited processing if its application (1) does not seek to expand the noise-limited service contour in any direction beyond that established by Appendix B of the Seventh Report and Order in MB Docket No. 87-268 establishing the new DTV Table of Allotments in 47 C.F.R. § 73.622(i) ("new DTV Table Appendix B"); (2) specifies facilities that match or closely approximate those defined in the new DTV Table Appendix B facilities; and (3) is filed on or before March 17, 2008 (45 days of the Report and Order in the Third DTV Periodic Review proceeding, MB Docket No. 07-91).

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 a pre-transition facility 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 a pre-transition facility 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
- (d) It will operate at post-transition facilities that do not expand the noise-limited service contour in any direction beyond that established by Appendix B of the Seventh Report and Order in MB Docket No. 87-268 establishing the new DTV Table of Allotments in 47 C.F.R. § 73.622(i) ("new DTV Table Appendix B"). Yes No
 N/A
- (e) It will operate at post-transition facilities that match or reduce by no more than five percent with respect to predicted population from those defined in the DTV Table Appendix B. Yes No
 N/A

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 49 Analog TV, if any 44

2. Zone: I II III

3. Antenna Location Coordinates: (NAD 27)

42° 35' 12" N S Latitude

96° 13' 18" E W Longitude

4. Antenna Structure Registration Number: 1057963

Not applicable FAA Notification Filed with FAA

5. Antenna Location Site Elevation Above Mean Sea Level: 406.3 meters

6. Overall Tower Height Above Ground Level: 605.9 meters

7. Height of Radiation Center Above Ground Level: 575 meters

8. Height of Radiation Center Above Average Terrain: 588 meters

9. Maximum Effective Radiated Power (average power): 1,000 kW

10. Antenna Specifications:

Manufacturer	Model
ERI	ATW25H3-HTP1-49H

a. Not Applicable

b. Electrical Beam Tilt: 0.75 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 73.685(c).

Exhibit No.
B

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	0.697	60	0.951	120	0.464	180	0.697	240	0.951	300	0.464
10	0.568	70	1.000	130	0.568	190	0.568	250	1.000	310	0.568
20	0.464	80	0.951	140	0.697	200	0.464	260	0.951	320	0.697
30	0.485	90	0.816	150	0.790	210	0.485	270	0.816	330	0.790
40	0.636	100	0.636	160	0.823	220	0.636	280	0.636	340	0.823
50	0.816	110	0.485	170	0.790	230	0.816	290	0.485	350	0.790
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.
B

11. Does the proposed facility satisfy the pre-transition 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.") and/or the post-transition interference protection provisions of 47 C.F.R. Section 73.616?

Yes No

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

Exhibit No.
D

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.
C

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

Exhibit No.
E

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 radio frequency 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.

13. **Petition for Rulemaking/Counterproposal to Add New FM Channel to FM Table of Allotments.** If the application is being submitted concurrently with a Petition for Rulemaking or Counterproposal to Amend the FM Table of Allotments (47 C.F.R. Section 73.202) to add a new FM channel allotment, petitioner/counter-proponent certifies that, if the FM channel allotment requested is allotted, petitioner/counter-proponent will apply to participate in the auction of the channel allotment requested and specified in this application.

Yes No N/A

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	Relationship to Applicant (e.g., Consulting Engineer)	
KEVIN T. FISHER	Broadcast Consultant	
Signature	Date	
	June 15, 2008	
Mailing Address		
SMITH and FISHER, 2237 Tackett's Mill Drive, Suite A		
City	State or Country (if foreign address)	ZIP Code
Lake Ridge	Virginia	22191
Telephone Number (include area code)	E-Mail Address (if available)	
(703) 494-2101	Kevin@smithandfisher.com	

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).

EXHIBIT A

ENGINEERING STATEMENT

The engineering data contained herein have been prepared on behalf of KPTH LICENSE, LLC, licensee of KPTH-DT, Channel 49 in Sioux City, Iowa, in support of its Application for Construction Permit to operate with a post-transition DTV facility on Channel 49. The operating parameters and channel are identical to those proposed in the station's Petition for Rulemaking, as well as those of the presently licensed KPTH-DT facility.

It is proposed to utilize the existing ERI directional antenna, which is mounted at the 575-meter level of an existing 606-meter tower. Exhibit B provides elevation and azimuth pattern data for the licensed antenna. Exhibit C is a map upon which the predicted service contours are plotted. As shown, the city of license is completely contained within the proposed 48 dBu service contour. An interference study is included in Exhibit D, and it is important to note that the study utilized a cell size of 1.0 kilometers and an increment spacing of 0.1 kilometers. A power density calculation is provided in Exhibit E.

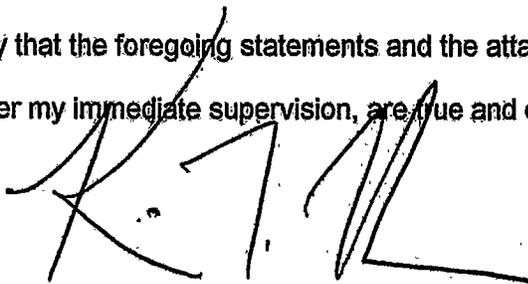
It is important to note that, while the proposed effective radiated power of 1000 kw exceeds that allowable in Section 73.622(f)(8)(i) of the Commission's Rules, the coverage of the facility proposed herein does not exceed that of the largest station in the market (KMEG-DT, Channel 39 in Sioux City, Iowa), as allowed in Section 73.622(f)(5) of the Rules.

It is not expected that the proposed facility would cause objectionable interference to any other broadcast or non-broadcast station authorized to operate at or near the KPTH-DT site.

However, if such should occur, the owner of this station recognizes its obligation to take whatever corrective actions are necessary.

Since no change in overall height or location of the existing tower is proposed herein, the FAA has not been notified of this application. The FCC issued Antenna Structure Registration Number 1057963 to this tower.

I declare under penalty of perjury that the foregoing statements and the attached exhibits, which were prepared by me or under my immediate supervision, are true and correct to the best of my knowledge and belief.

A handwritten signature in black ink, appearing to read 'KEVIN T. FISHER', is written over the printed name below.

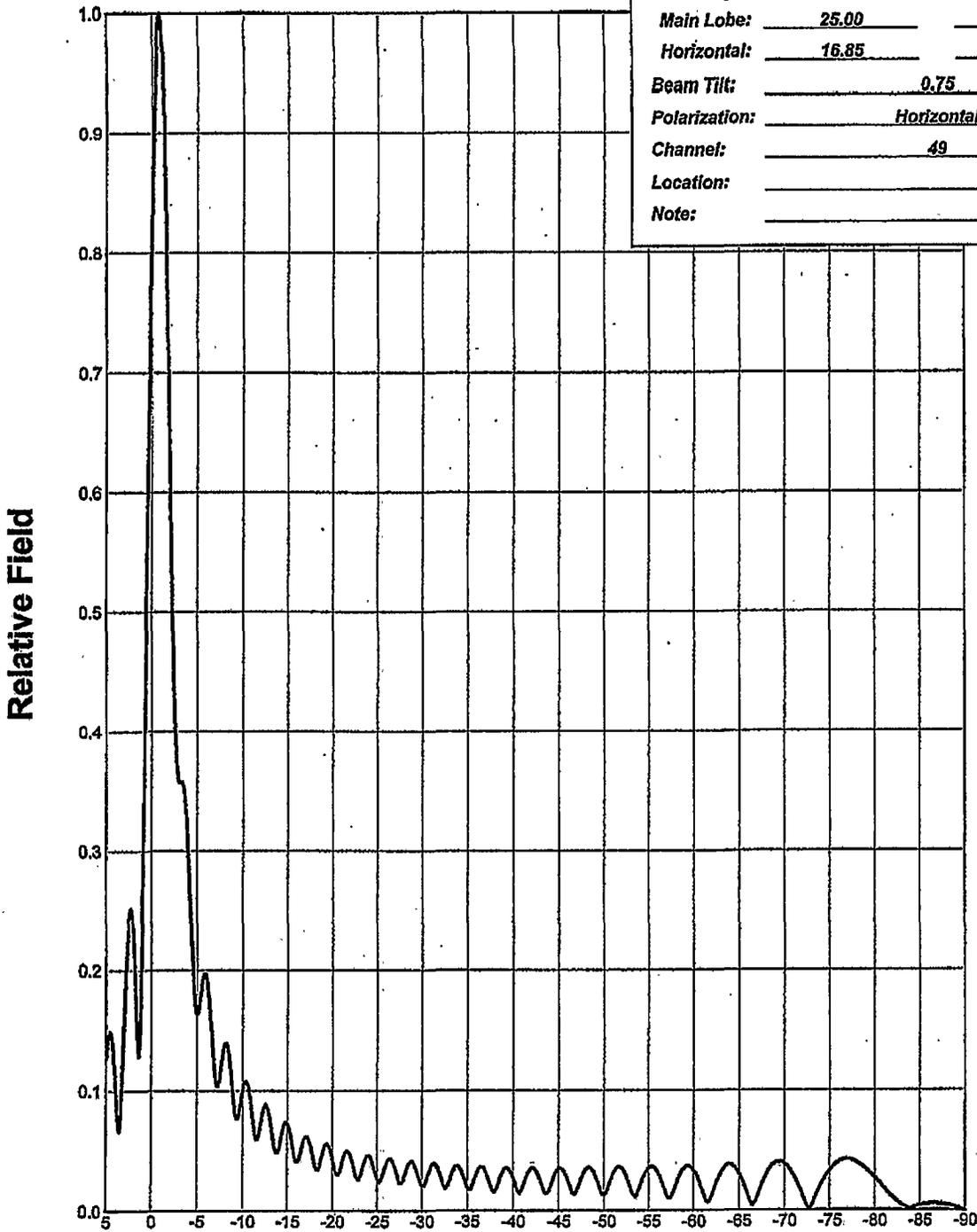
KEVIN T. FISHER

June 16, 2008



ELEVATION PATTERN

Type:	ATW25H3H	
Directivity:	Numeric	dBd
Main Lobe:	25.00	13.98
Horizontal:	16.85	12.27
Beam Tilt:	0.75	
Polarization:	Horizontal	
Channel:	49	
Location:		
Note:		



Electronics Research, Inc.
7777 Gardner Road
Chandler, Indiana U.S.A 47610

EXHIBIT B-1

ANTENNA ELEVATION PATTERN

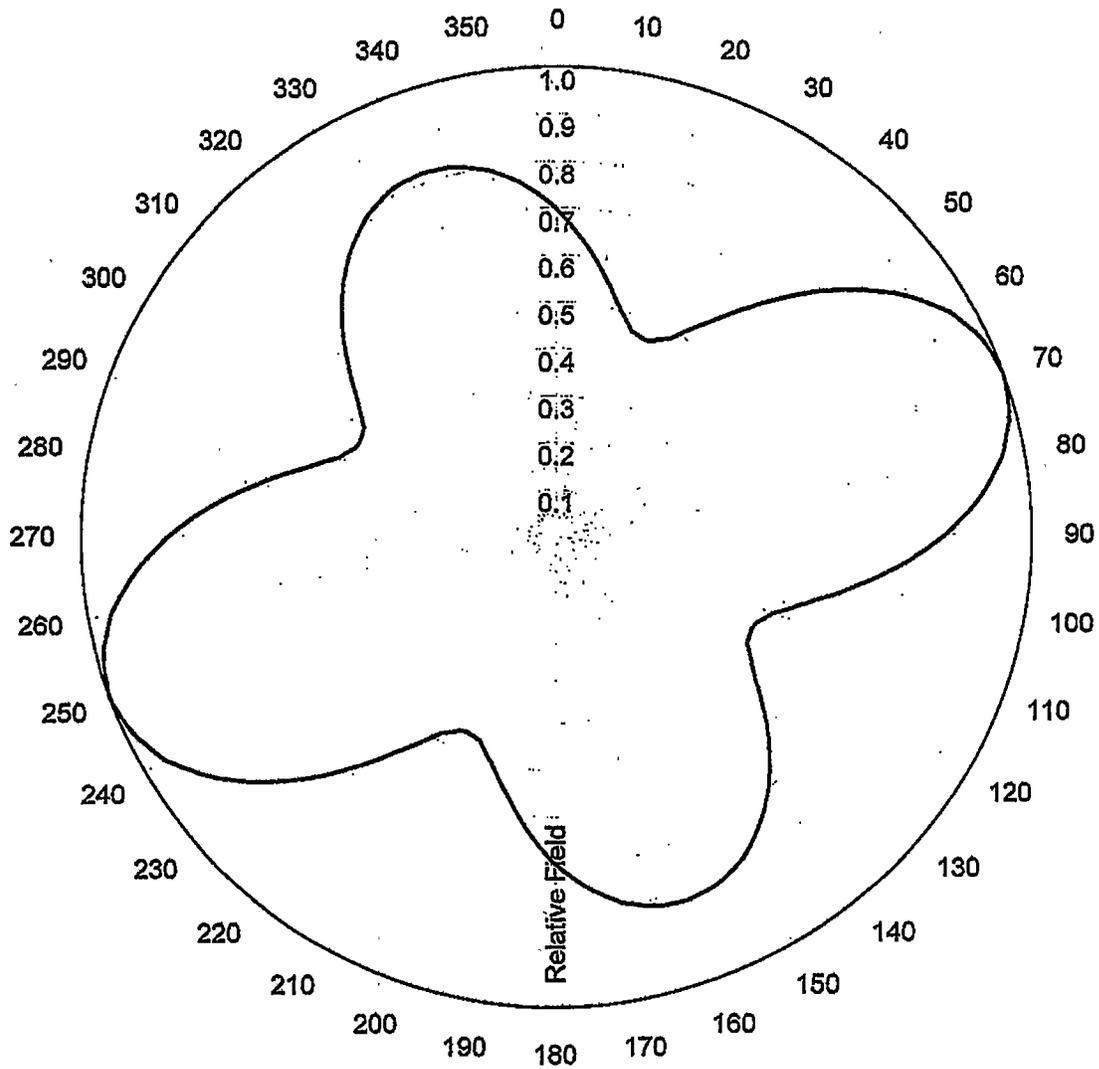
PROPOSED KPTH-DT
CHANNEL 49 - SIOUX CITY, IOWA

SMITH AND FISHER



AZIMUTH PATTERN

Type:	ATW/P1	
	Numeric	dBd
Directivity:	1.82	2.60
Peak(s) at:		
Polarization:	Horizontal	
Channel:	49	
Location:		
Note:		



Electronics Research, Inc.
7777 Gardner Road
Chandler, Indiana U.S.A 47610

EXHIBIT B-2

ANTENNA AZIMUTH PATTERN
PROPOSED KPTH-DT
CHANNEL 49 - SIOUX CITY, IOWA
SMITH AND FISHER



**AZIMUTH PATTERN
FCC FILING FORMAT**

Type: ATW-P1
Polarization: Horizontal

Angle	Field	ERP (kW)	ERP (dBk)
0	0.697	485.815	26.865
10	0.568	322.628	25.087
20	0.464	215.299	23.330
30	0.485	235.228	23.715
40	0.636	404.501	26.069
50	0.816	665.864	28.234
60	0.951	904.412	29.564
70	1.000	1000.012	30.000
80	0.951	904.412	29.564
90	0.816	665.864	28.234
100	0.636	404.501	26.069
110	0.485	235.228	23.715
120	0.464	215.299	23.330
130	0.568	322.628	25.087
140	0.697	485.815	26.865
150	0.790	624.107	27.953
160	0.823	677.337	28.308
170	0.790	624.107	27.953
180	0.697	485.815	26.865
190	0.568	322.628	25.087
200	0.464	215.299	23.330
210	0.485	235.228	23.715
220	0.636	404.501	26.069
230	0.816	665.864	28.234
240	0.951	904.412	29.564
250	1.000	1000.012	30.000
260	0.951	904.412	29.564
270	0.816	665.864	28.234
280	0.636	404.501	26.069
290	0.485	235.228	23.715
300	0.464	215.299	23.330
310	0.568	322.628	25.087
320	0.697	485.815	26.865
330	0.790	624.107	27.953
340	0.823	677.337	28.308
350	0.790	624.107	27.953



Electronics Research, Inc.
7777 Gardner Road
Chandler, Indiana U.S.A 47610

EXHIBIT B-3

ANTENNA RELATIVE FIELD VALUES

**PROPOSED KPTH-DT
CHANNEL 49 - SIOUX CITY, IOWA**

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CONTOUR POPULATION
48 DBU : 371,244
41 DBU : 618,928

SMITH and FISHER

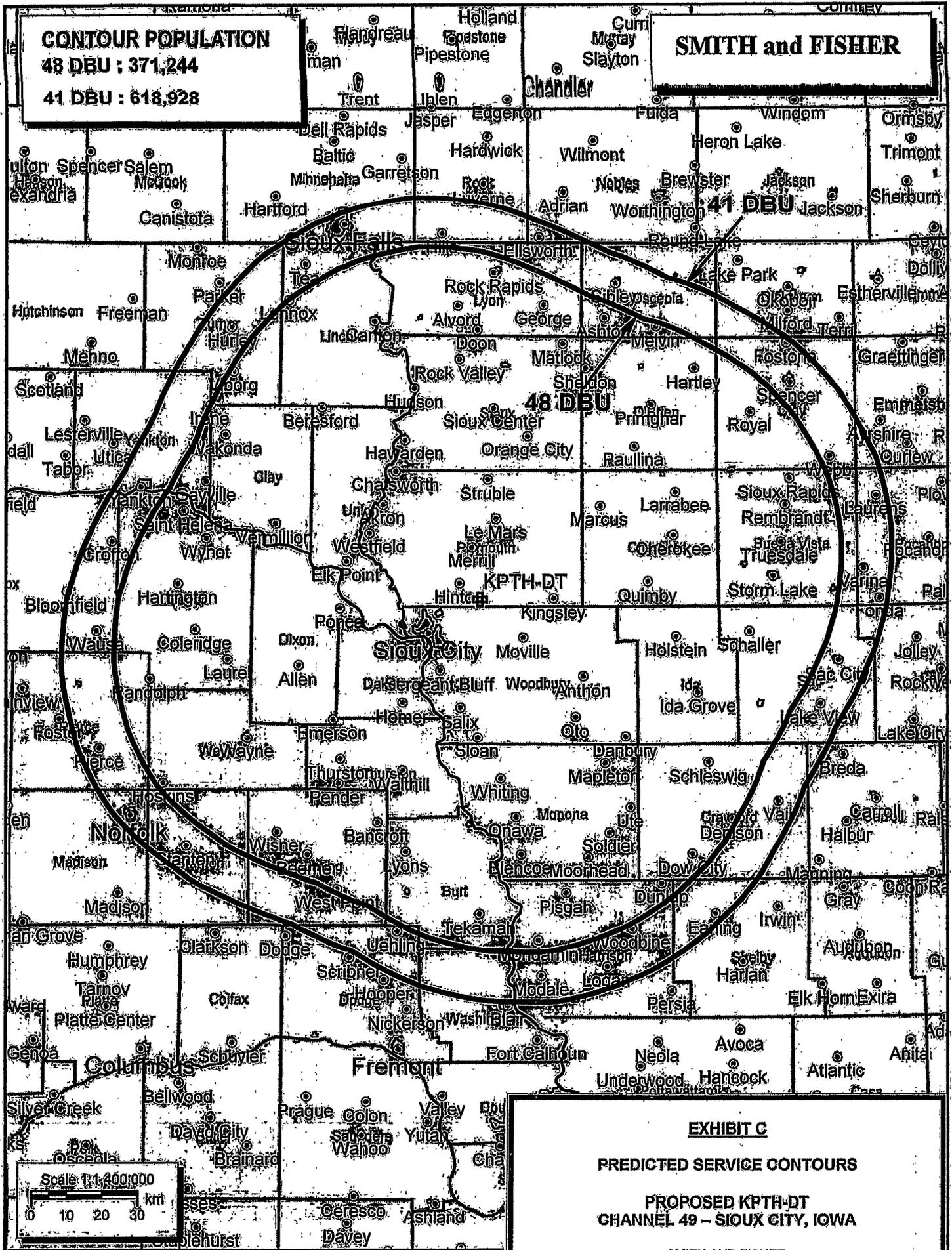


EXHIBIT C

PREDICTED SERVICE CONTOURS

**PROPOSED KPTH-DT
CHANNEL 49 - SIOUX CITY, IOWA**

SMITH AND FISHER

INTERFERENCE STUDY
PROPOSED KPTH-DT
CHANNEL 49 – SIOUX CITY, IOWA

The instant application specifies an ERP of 1000 kw (directional) at 588 meters above average terrain, which we have determined to be allowable under the FCC's recently approved interference standards with respect to various post-transition digital television facilities as they will exist on or before February 17, 2009, the date by which all stations must operate with the parameters recently adopted in the Commission's DTV Table of Allotments.

In evaluating the interference effect of this proposal, we have relied upon the V-Soft Communications "Probe III" computer program, which has been found generally to mimic the FCC's program. In conducting our studies, we employed a cell size of 1.0 kilometers and an increment spacing of 0.1 kilometer along each radial. In addition, we utilized the 2000 U.S. Census. Changes in interference caused by proposed KPTH-DT to other pertinent stations are tabulated in Exhibit D-2.

As shown, the proposed KPTH-DT facility would not contribute more than 0.5% interference (beyond that which is caused by the allotted KPTH-DT facility) to the service population of any potentially affected post-transition DTV station.

A Longley-Rice interference study also reveals that the proposed KPTH-DT facility does not cause significant (0.5%) interference within the protected service contour of any potentially affected Class A low power television station.

Therefore, this proposal meets the FCC's *de minimis* interference standards for DTV operations.

EXHIBIT D-2

INTERFERENCE STUDY SUMMARY

PROPOSED KPTH-DT
CHANNEL 49 - SIOUX CITY, IOWA

<u>Call Sign</u>	<u>City, State</u>	<u>CH.</u>	<u>Coverage Population</u>	<u>Interference Population From KPTH-DT*</u>	<u>%</u>
K54GK	Sioux City, IA	51	115,880	1	<0.1

*Above that caused by the allotment facility.

Note: This study utilized a cell size of 1.0 km and an increment spacing of 0.1 km.

POWER DENSITY CALCULATION

PROPOSED KPTH-DT
CHANNEL 49 - SIOUX CITY, IOWA

Since the FCC considers the possible biological effects of RF transmissions in its environmental determinations, we have studied the matter with respect to this Sioux City facility. Employing the methods set forth in *OET Bulletin No. 65* and considering a main-lobe effective radiated power of 1000 kw, an antenna radiation center 575 meters above ground, and the elevation pattern of the ERI antenna, maximum power density two meters above ground of 0.00017 mw/cm^2 is calculated to occur 132 meters from the base of the tower. Since this is less than 0.1 percent of the 0.45 mw/cm^2 reference for uncontrolled environments (areas with public access) surrounding a facility operating on Channel 49 (680-686 MHz), a grant of this proposal may be considered a minor environmental action with respect to public and occupational ground-level exposure to nonionizing electromagnetic radiation.

Further, the station owner will take whatever precautionary steps are necessary, such as reducing power or leaving the air temporarily, to ensure that workers operating in the vicinity of the antenna are not exposed to excessive nonionizing radiation.