

June 23, 2008

VIA COURIER

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

FILED/ACCEPTED
JUN 23 2008
Federal Communications Commission
Office of the Secretary

Attention: Video Division
Media Bureau

Re: KXVO-DT, Omaha, Nebraska
Facility I.D. No. 23277
Petition to Amend the DTV Table of Allotments

Dear Ms. Dortch:

On behalf of Mitts Telecasting Company, licensee of commercial television station KXVO-DT, Omaha, Nebraska, we hereby transmit an original and four copies of a *Petition for Rule Making* requesting the substitution of Channel 38 for Channel 15 at Omaha, Nebraska in the DTV Table of Allotments.

If any additional information is needed in connection with this matter, please contact me.

Respectfully submitted,



Michael D. Basile

Enclosure

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MB 08-74

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

FILED/ACCEPTED
JUN 23 2008
Federal Communications Commission
Office of the Secretary

In the Matter of)
)
Amendment of Section 73.622(i)) MB Docket No. _____
Post-Transition Table of Allotments,) RM- _____
Digital Television Broadcast Stations)
(Omaha, Nebraska))
)

To: Office of the Secretary
Attn: Chief, Video Division
Media Bureau

PETITION FOR RULE MAKING
TO AMEND THE DTV TABLE OF ALLOTMENTS

By its attorney and pursuant to Sections 1.401, 73.616, and 73.622(a) of the Commission's Rules,¹ Mitts Telecasting Company ("Licensee"), licensee of KXVO-DT, Omaha, Nebraska (the "Station"), hereby respectfully petitions the Commission to institute a rulemaking to amend Section 73.622(i), the Post-Transition DTV Table of Allotments, by substituting Channel 38, the Station's pre-transition channel, as its post-transition DTV channel in lieu of Channel 15. This instant petition is submitted following the Commission's announcement that it would resume acceptance of channel change petitions.²

Specifically, the Post-Transition DTV Table of Allotments would be amended as follows:

¹ 47 C.F.R. §§ 1.401, 73.616, 73.622(a) as amended by Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television, 23 FCC Rcd 2994, ¶ 128 (rel. Dec. 31, 2007).

² Commission Lifts the Freeze on the Filing of Maximization Applications and Petitions for Digital Channel Substitutions, Effective Immediately, *Public Notice*, DA 08-1213 (rel. May 30, 2008).

Present

Proposed

Omaha, NE

15, *17, 20, 22, 43, 45

*17, 20, 22, **38**, 43, 45

Licensee is seeking the channel substitution because continuing existing operations on Channel 38 would provide substantial cost savings while ensuring service to all of the Station's current DTV service population. As set forth in the attached Engineering Statement, the proposed facility complies with the Commission's rules for post-transition DTV operation. The Station's proposed service area encompasses its community of license, and the proposed parameters comply with the Commission's interference standards.³ The Engineering Statement also demonstrates that the proposed facility would reach a greater number of people than the current allotment.⁴

For the convenience of the Commission, we hereby provide the present and proposed "Appendix B" parameters (the antenna is non-directional):

Present:

Facility ID	State and City		NTSC		DTV				
			Ch	Ch	ERP kW	HAAT (m)	Antenna ID	Latitude (DDMMSS)	Longitude (DDMMSS)
23277	NE	OMAHA	15	15	295	475		410416	961331

Proposed:

23277	NE	OMAHA	15	<u>38</u>	<u>490</u>	475		410416	961331
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³ See Attachment A, Engineering Statement at 9-10; 47 C.F.R. §§ 73.616(b),(e), 73.623(d), 73.625(a).

⁴ See Attachment A, Technical Exhibit at 9 (estimating a 41 dBu contour population of 1,243,334); Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service, *Memorandum Opinion and Order on Reconsideration of the Seventh Report and Order and Eighth Report and Order*, FCC 08-72, App. B (rel. Mar. 6, 2008) (allotting the Station a post-transition DTV service population of 1,240,000).

For the foregoing reasons, Licensee respectfully requests that the Commission amend the Post-Transition DTV Table of Allotments as proposed. Adoption would serve the public interest by permitting the Station to conserve its resources while continuing to serve current DTV viewers.

Respectfully submitted,

MITTS TELECASTING COMPANY

By: 
Michael Basile

Its Attorney

Dow Lohnes PLLC
1200 New Hampshire Avenue, N.W.
Suite 800
Washington, D.C. 20036-6802
(202) 776-2000

Dated: June 23, 2008

ATTACHMENT A

Engineering Statement

ENGINEERING STATEMENT

The engineering data contained herein have been prepared on behalf of MITTS TELECASTING COMPANY, licensee of KXVO-DT on Channel 38 in Omaha, Nebraska, in support of its Petition for Rulemaking to substitute Channel 38 for Channel 15 in the Commission's Digital Television Table of Allotments for post-transition operation. The proposed channel is currently the digital channel for KXVO-DT. If the Petition is granted, the station will not have to convert the present analog facility to digital operation and will simply continue to operate with the presently licensed digital facility on Channel 38.

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 KXVO-DT (with the specified operating parameters) in the digital television allotment table in Section 73.622(i) of the FCC Rules as follows:

Present Allotment

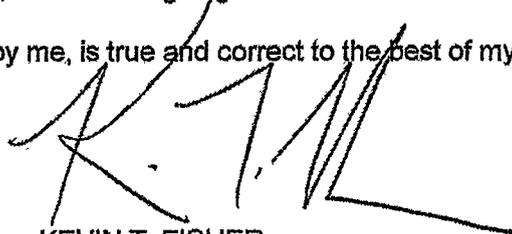
Omaha, NE
15, *17, 20, 22, 43, 45

Proposed Allotment

Omaha, NE
*17, 20, 22, 38, 43, 45

SMITH AND FISHER

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.

A handwritten signature in black ink, appearing to read 'K. T. Fisher', written over the printed name.

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 <u>38</u>	Analog TV, if any <u>15</u>			
2. Zone:	<input type="checkbox"/> I	<input checked="" type="checkbox"/> II	<input type="checkbox"/> III		
3. Antenna Location Coordinates: (NAD 27)					
	<u>41</u> ° <u>04</u> ' <u>16</u> "	<input checked="" type="checkbox"/> N	<input type="checkbox"/> S Latitude		
	<u>96</u> ° <u>13</u> ' <u>31</u> "	<input type="checkbox"/> E	<input checked="" type="checkbox"/> W Longitude		
4. Antenna Structure Registration Number:	<u>1026025</u>				
	<input type="checkbox"/> Not applicable	<input type="checkbox"/> FAA Notification Filed with FAA			
5. Antenna Location Site Elevation Above Mean Sea Level:	<u>369.8</u> meters				
6. Overall Tower Height Above Ground Level:	<u>464</u> meters				
7. Height of Radiation Center Above Ground Level:	<u>452.3</u> meters				
8. Height of Radiation Center Above Average Terrain:	<u>475</u> meters				
9. Maximum Effective Radiated Power (average power):	<u>490</u> kW				
10. Antenna Specifications:					
a.	<table border="1"><tr><td>Manufacturer <u>ERI</u></td><td>Model <u>ETU-P4H16-(15-51)</u></td></tr></table>		Manufacturer <u>ERI</u>	Model <u>ETU-P4H16-(15-51)</u>	
Manufacturer <u>ERI</u>	Model <u>ETU-P4H16-(15-51)</u>				
b. Electrical Beam Tilt:	<u>0.75</u> degrees	<input type="checkbox"/> Not Applicable			
c. Mechanical Beam Tilt:	_____ degrees toward azimuth	_____ degrees True	<input checked="" type="checkbox"/> Not Applicable		
Attach as an Exhibit all data specified in 47 C.F.R. Section 73.685(c).			<table border="1"><tr><td>Exhibit No. <u>B</u></td></tr></table>	Exhibit No. <u>B</u>	
Exhibit No. <u>B</u>					
d. Polarization:	<input checked="" type="checkbox"/> Horizontal	<input type="checkbox"/> Circular	<input type="checkbox"/> 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 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**

Yes No N/A

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.

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).

ENGINEERING STATEMENT

The engineering data contained herein have been prepared on behalf of MITTS TELECASTING COMPANY, licensee of KXVO-DT, Channel 38 in Omaha, Nebraska, in support of its Application for Construction Permit to operate with a post-transition DTV facility on Channel 38. This proposal specifies the same operating parameters as those contained in the station's Petition for Rulemaking as well as those of the presently licensed KXVO-DT facility.

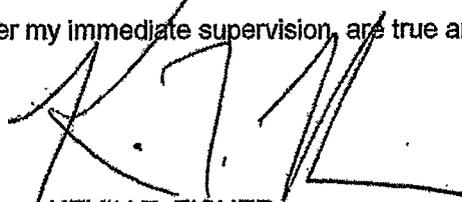
It is proposed to utilize the existing ERI omnidirectional antenna which is mounted at the 452-meter level of an existing 464-meter tower. Exhibit B provides an elevation pattern for the licensed antenna. Exhibit C is a map upon which the predicted service contours are plotted. As shown, the city of 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 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 KXVO-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. In addition, the FCC issued Antenna Structure Registration Number 1026025 to this tower.

EXHIBIT A

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.



KEVIN T. FISHER

June 16, 2008

ELEVATION PATTERN

TYPE:	ETU16H3H-CH38	
Directivity:	Numeric	dBd
Main Lobe:	45.30	16.56
Horizontal:	17.25	12.37
Beam Tilt:	0.75	
Polarization:	Horizontal	
Frequency:	38 (DTV)	
Location:	Omaha, NE	

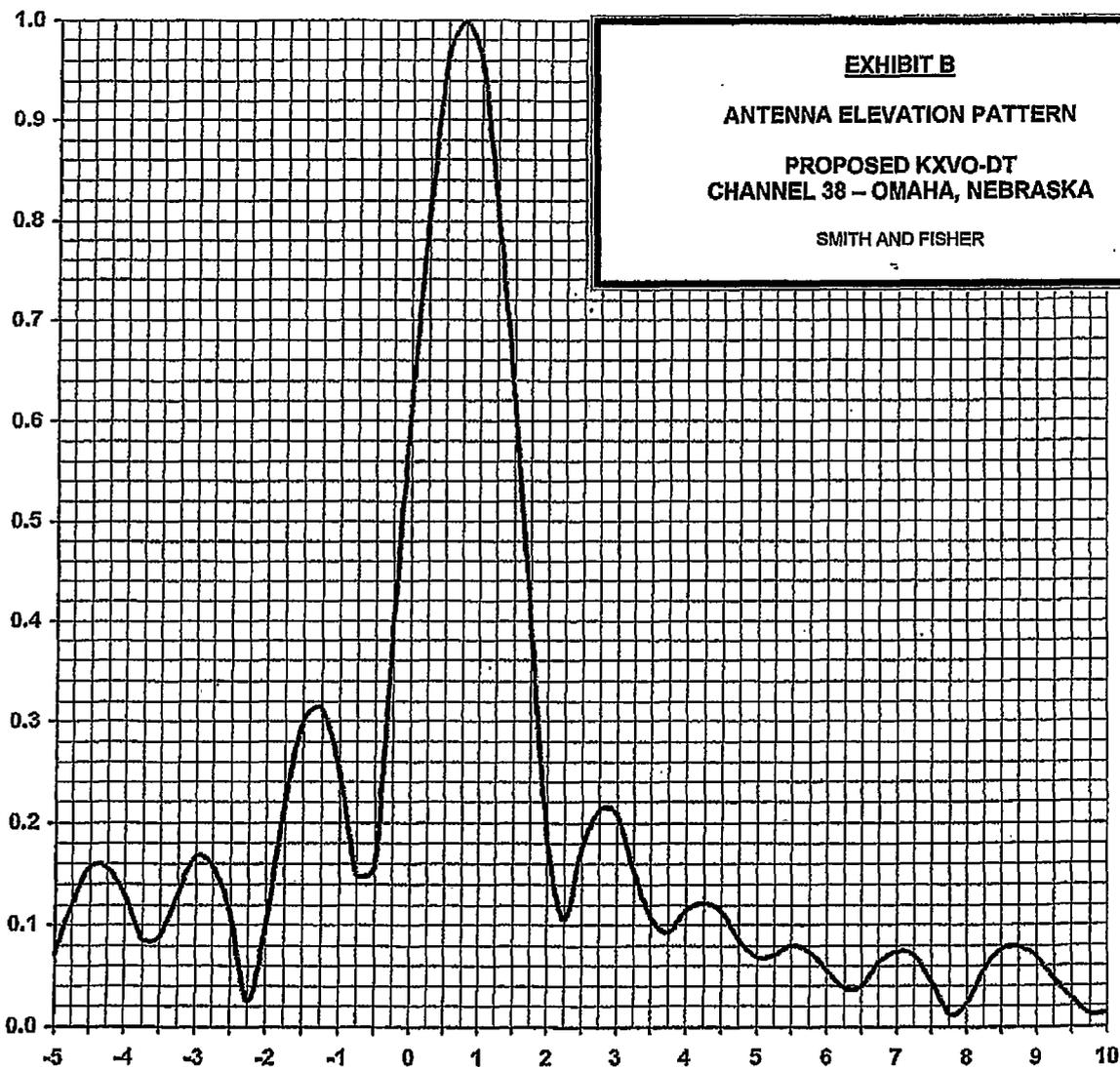


EXHIBIT B
ANTENNA ELEVATION PATTERN
PROPOSED KXVO-DT
CHANNEL 38 – OMAHA, NEBRASKA
 SMITH AND FISHER

CONTOUR POPULATION
48 DBU : 1,151,962
41 DBU : 1,243,334

SMITH and FISHER

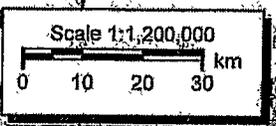
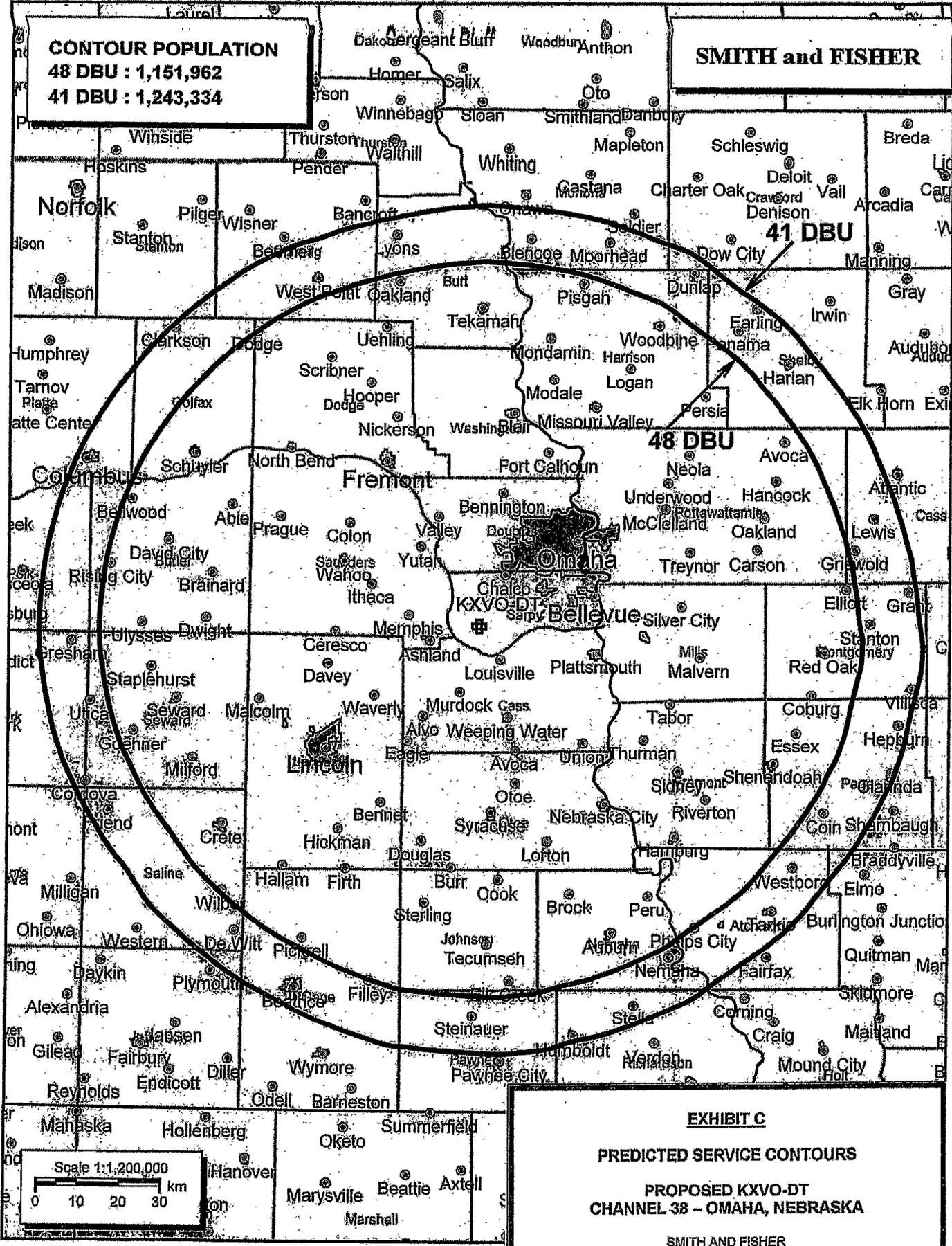


EXHIBIT C
PREDICTED SERVICE CONTOURS
PROPOSED KXVO-DT
CHANNEL 38 - OMAHA, NEBRASKA
SMITH AND FISHER

INTERFERENCE STUDY

PROPOSED KXVO-DT
CHANNEL 38 – OMAHA, NEBRASKA

The instant application specifies an ERP of 490 kw (omnidirectional) at 475 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 KXVO-DT to other pertinent stations are tabulated in Exhibit D-2.

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

A Longley-Rice interference study also reveals that the proposed KXVO-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 KXVO-DT
CHANNEL 38 - OMAHA, NEBRASKA

<u>Call Sign</u>	<u>City, State</u>	<u>CH.</u>	<u>Coverage Population</u>	<u>Interference Population From KXVO-DT*</u>	<u>%</u>
KMEG-DT	Sioux City, IA	39	665,537	2,457	0.4

*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.

EXHIBIT E

POWER DENSITY CALCULATION
PROPOSED KXVO-DT
CHANNEL 38 - OMAHA, NEBRASKA

Since the FCC considers the possible biological effects of RF transmissions in its environmental determinations, we have studied the matter with respect to this Omaha facility. Employing the methods set forth in *OET Bulletin No. 65* and considering a main-lobe effective radiated power of 490 kw, an antenna radiation center 452 meters above ground, and the elevation pattern of the ERI antenna, maximum power density two meters above ground of 0.0020 mw/cm^2 is calculated to occur 304 meters from the base of the tower. Since this is only 0.5 percent of the 0.41 mw/cm^2 reference for uncontrolled environments (areas with public access) surrounding a facility operating on Channel 38 (614-620 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.