



ORIGINAL

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In re: \_\_\_\_\_ }  
Pappas Telecasting of Central Nebraska, LP }  
Petition For Rulemaking to Amend DTV }  
Table Of Allotments for Station KWNB-DT }  
(Hayes Center, Nebraska) \_\_\_\_\_ }

MB Docket No. \_\_\_\_\_

RM- \_\_\_\_\_

FILED/ACCEPTED

To: The Secretary  
Attn: Chief, Media Bureau

JUN - 1 2011

PETITION FOR RULEMAKING AND  
REQUEST FOR WAIVER

Federal Communications Commission  
Office of the Secretary

Pappas Telecasting of Central Nebraska, LP ("Petitioner"), by and through its attorneys, and pursuant to Section 73.623 of the Commission's rules, 47 C.F.R. § 73.623(2009), hereby submits this Petition for Rulemaking (the "Petition") to amend the DTV Table of Allotments (47 C.F.R. § 73.622(i)) to change the post-transition, DTV channel assignment of Station KWNB-DT, Hayes Center, Nebraska (the "Station") from Channel 6 to Channel 18, and to make related technical changes to the Station's technical parameters.

As provided in the Engineering Statement of Smith and Fisher, dated May 18, 2011, and attached hereto as Exhibit A, the proposed change of the Station's post-transition DTV channel complies with the Commission's technical rules, and the processing guidelines established in the DTV Order regarding the permissible change in a post-transition DTV facility.<sup>1</sup> Moreover, the proposed channel change would move the Station back into the UHF Band, which has substantially greater propagation characteristics. Previously, the Commission permitted the Petitioner to change the DTV channel for the Station to specify its analog channel for post-transition digital television operation. This change permitted the Station to utilize portions of

<sup>1</sup> See *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").

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the analog transmission equipment, expediting the transition of the Station, and reducing the associated cost.

However, as detailed in the Engineering Statement, the propagation characteristics of digital television stations operating outside the UHF Band are significantly worse than for those stations authorized to operate within the UHF Band. The Commission has noted disparity between the digital television bands recently,<sup>2</sup> and has granted several petitions for rulemakings that permitted full-power television stations to move into the UHF band on this basis.<sup>3</sup>

In light of this disparity, and the availability of a fully-compliant UHF digital channel for the Station, the Petitioner had prepared to file a petition for rulemaking to change channels to the UHF Band. This is especially important in light of the Station's largely rural service area and the need for reliable over-the-air reception service to the public, particularly where cable service is not available and direct satellite service becomes unavailable during adverse weather conditions – exactly at the time when such service is most relied upon for the public's safety.

However, on May 31, 2011, the Commission released a Public Notice announcing the freeze on submission of petitions for digital television channel substitutions.<sup>4</sup> The *Public Notice* indicated that the purpose of the freeze on new petitions for rulemaking was to “evaluate its reallocation and repacking proposals and their impact on the Post-Transition Table of DTV Allotments.”<sup>5</sup> In deciding to impose the freeze “immediately”, the Commission stated that it believed “that those stations interested in changing channels have had sufficient time to evaluate

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<sup>2</sup> *In the Matter of Innovation in the Broadcast Television Bands: Allocations, Channel Sharing and Improvements to VHF*, 25 FCC Rcd 16,498, 16,511 (2010)(“We recognize that television broadcasters have had some difficulty in ensuring consistent reception of VHF signals”).

<sup>3</sup> *See e.g., Post-Transition DTV Table Of Allotments, El Paso, Texas*, Report and Order, 26 FCC Rcd 4013 (MB 2011). *See also Post-Transition DTV Table Of Allotments, Nashville, Tennessee*, Report and Order, MB Dkt. 11-29 (rel. May 25, 2011).

<sup>4</sup> *Freeze on the Filing of Petitions for Digital Channel Substitutions, Effective Immediately*, Public Notice, DA 11-959 (rel. May 31, 2011)(the “*Public Notice*”).

<sup>5</sup> *Id.*

engineering options and submit rulemaking petitions.” The Commission did state that it would “continue its processing of rulemaking petitions that are already on file.”<sup>6</sup>

The Petitioner respectfully requests a waiver of the freeze imposed by the *Public Notice* to permit the submission of the instant petition. As provided in Exhibit B, the Petitioner and its engineering consultant had been working on the preparation of the technical exhibit since early April 2011. The Petitioner’s engineering consultant had selected the proposed channel, and had prepared the Engineering Statement contained in Exhibit A by May 18, 2011. The Petitioner was arranging to submit the instant petition when the *Public Notice* was released.

The Commission will grant waiver requests upon a showing of good cause.<sup>7</sup> To support a waiver request, the Applicant must demonstrate that “the particular facts make strict compliance inconsistent with the public interest if applied to petitioner and when the relief requested would not undermine the policy objective of the rule in question.”<sup>8</sup> Moreover, the Commission’s staff must give all waiver requests the requisite “hard look.”<sup>9</sup>

In the instant case, the Petitioner had received the completed Engineering Statement prior to the *Public Notice*’s imposition of the freeze on new petitions for rulemaking. It was working towards the submission of the Petition when the *Public Notice* was released, but had already completed its evaluation of its “engineering options” referenced in the *Public Notice*.

To the extent that the Commission seeks to impose an immediate freeze, the Petitioner requests that the Commission also take into consideration those parties that had already completed their studies, but had not yet submitted a petition for rulemaking. The imposition of the immediate freeze in the instant case will likely prevent the Petitioner from changing DTV

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<sup>6</sup> *Id.*

<sup>7</sup> 47 C.F.R. §1.3 (2011).

<sup>8</sup> See *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969); *aff’d*, 459 F.2d 1203 (1972) *cert. denied*, 409 U.S. 1027 (1972) (citing *Rio Grande Family Radio Fellowship, Inc. v. FCC*, 406 F.2d 664 (D.C. Cir. 1968)); See also *Birach Broadcasting Corporation*, 18 FCC Rcd 1414 (2003); *Family Stations, Inc. v. DirecTV, Inc.*, 17 FCC Rcd 25,333 ¶ 7 (2002).

<sup>9</sup> See *WAIT Radio*, *supra* nt. 6.

channels for the foreseeable future due to the factors outlined in the *Public Notice*, i.e., possible repacking of full-power television stations.

As evidenced in Exhibit B, the Petitioner had been working towards the submission of instant petition far in advance of the release of the *Public Notice*. As such, the Commission's goal stated in the *Public Notice* of preventing new initiatives by television licensees to commence an evaluation of new channel changes would not be undermined by the instant request since the studies were prepared in advance of the release of the *Public Notice*. In fact, those steps had already been taken by the Petitioner, with only the ministerial act of submitting a petition for rulemaking remaining. The instant petition is being submitted only one day after the release of the *Public Notice*, demonstrating the fact that the Engineering Statement had already been prepared, and minimizing the impact of the grant of a waiver given the unique circumstances explained herein.

The Commission's stated intent in issuing the *Public Notice* was to balance (i) the need to minimize the impact of channel changes on the Commission's future repacking proposals against (ii) the protection of those that had taken steps to evaluate their engineering options prior to May 31, 2011. Since the Petitioner had already taken steps to evaluate its options prior to May 31, 2011, the grant of a waiver of the filing freeze in the instant matter would not undermine the Commission's goals articulated in the *Public Notice*.

Therefore, Pappas Telecasting of Central Nebraska, LP, respectfully requests that the post-transition DTV Table of Allotments be amended for Station KWNB-DT to specify Channel 18, and the technical parameters provided in the Engineering Statement. The requested changes comply with all applicable legal and technical requirements and the grant of a waiver of the *Public Notice* would serve the public interest.

Respectfully submitted,

**PAPPAS TELECASTING OF  
CENTRAL NEBRASKA, LP**

By: 

Kathleen Victory, Esquire

Lee G. Petro, Esquire

**FLETCHER, HEALD & HILDRETH, PLC**

1300 North 17<sup>th</sup> Street, 11<sup>th</sup> Floor

Arlington, Virginia 22209

703-812-0400 - Telephone

Its Attorneys

June 1, 2011

**EXHIBIT A**

ENGINEERING STATEMENT

The engineering data contained herein have been prepared on behalf of PAPPAS TELECASTING OF CENTRAL NEBRASKA, L. P., licensee of KWNB-DT on Channel 6 in Hayes Center, Nebraska, in support of its Petition for Rulemaking to substitute digital Channel 18 for Channel 6 in the Commission's digital television Table of Allotments for post-transition operation. KWNB-DT ceased analog operation on Channel 6 on February 17, 2009, and began operating as a digital station on the same channel. Immediately, the station began receiving complaints from viewers who could no longer receive KWNB programming. It has been determined that the loss of viewership was due to the low power associated with digital VHF full-service stations (compared with the corresponding analog power levels) and the Commission's optimistic planning factors concerning the amount of signal required at a particular receive site in order to translate a digital VHF signal into a useable picture. In addition, reception of the station's signal is significantly hampered by interference from natural and man-made sources.

While the predicted service contour of KWNB-DT appears to replicate the coverage of the previous analog station, the reality is that actual coverage is much less extensive than that of analog KWNB-TV. This same scenario has been documented by many digital VHF licensees, who have requested a change in operation from a VHF channel to a UHF channel. By moving to a UHF channel, the owners of KWNB-DT also hope to take advantage of the better reception characteristics (over those of VHF operation) for mobile/handheld devices, which have or will have receive antennas that operate much more efficiently at UHF frequencies than at VHF frequencies.

SMITH AND FISHER

Attached is the engineering portion of the 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 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 KWNB-DT (with the specified operating parameters) in the digital television allotment table in Section 73.622(i) of the FCC Rules as follows:

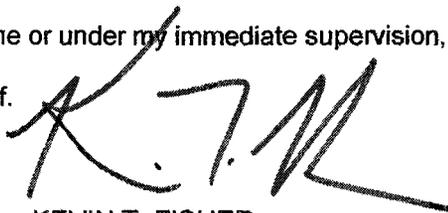
Present Allotment

Hayes Center, NE 6

Proposed Allotment

Hayes Center, NE 18

I declare under penalty of perjury that the foregoing statements and the attached engineering report, 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

May 18, 2011

**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 <input type="text" value="18"/> Analog TV, if any <input type="text" value="6"/>
2.	Zone: <input type="checkbox"/> I <input checked="" type="checkbox"/> II <input type="checkbox"/> III
3.	Antenna Location Coordinates: (NAD 27) Latitude: Degrees <input type="text" value="40"/> Minutes <input type="text" value="37"/> Seconds <input type="text" value="32"/> <input checked="" type="checkbox"/> North <input type="checkbox"/> South Longitude: Degrees <input type="text" value="101"/> Minutes <input type="text" value="01"/> Seconds <input type="text" value="45"/> <input checked="" type="checkbox"/> West <input type="checkbox"/> East
4.	Antenna Structure Registration Number: <input type="text" value="1026527"/> <input type="checkbox"/> Not Applicable <input type="checkbox"/> Notification filed with FAA
5.	Antenna Location Site Elevation Above Mean Sea Level: <input type="text" value="995"/> meters
6.	Overall Tower Height Above Ground Level: <input type="text" value="178.8"/> meters
7.	Height of Radiation Center Above Ground Level: <input type="text" value="168"/> meters
8.	Height of Radiation Center Above Average Terrain : <input type="text" value="224"/> meters
9.	Maximum Effective Radiated Power (average power): <input type="text" value="1000"/> kW
10.	Antenna Specifications: a. Manufacturer <input type="text" value="DIE"/> Model <input type="text" value="TFU-30GTH 04"/> b. Electrical Beam Tilt: <input type="text" value="1.00"/> degrees <input type="checkbox"/> Not Applicable c. Mechanical Beam Tilt: <input type="text" value=""/> degrees toward azimuth <input type="text" value=""/> degrees True <input checked="" type="checkbox"/> Not Applicable  Attach as an Exhibit all data specified in 47 C.F.R. Section 73.625(c).

	<p>d. Polarization:  <input checked="" type="checkbox"/> Horizontal   <input type="checkbox"/> Circular   <input type="checkbox"/> Elliptical</p> <p>e. Directional Antenna Relative Field Values:   <input checked="" type="checkbox"/> Not applicable (Nondirectional)</p> <p>[For a composite directional (not off-the-shelf) antenna, press the following button to fill in the relative field values subform.]</p> <p>If a directional antenna is proposed, the requirements of 47 C.F.R. Sections 73.625(c) must be satisfied. <b>Exhibit required.</b></p>
11.	<p>Does the proposed facility satisfy the pre-transition interference protection provisions of 47 C.F.R. Section 73.623(a) (Applicable only if <b>Certification Checklist</b> 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?   <input checked="" type="checkbox"/> Yes   <input type="checkbox"/> No</p> <p>If "No," attach as an Exhibit justification therefor, including a summary of any related previously granted waivers.</p>
12.	<p>If the proposed facility will not satisfy the coverage requirement of 47 C.F.R. Section 73.625, attach as an Exhibit justification therefore. (Applicable only if <b>Certification Checklist</b> item 3 is answered "No.")</p>
13.	<p><b>Environmental Protection Act. Submit in an Exhibit the following:</b></p> <p>If <b>Certification Checklist</b> 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.</p> <p>By checking "Yes" to <b>Certification Checklist</b> 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.</p> <p>If <b>Certification Checklist</b> Item 2 is answered "No," an Environmental Assessment as required by 47 C.F.R Section 1.1311.</p>

ENGINEERING STATEMENT

The engineering data contained herein have been prepared on behalf of PAPPAS TELECASTING OF CENTRAL NEBRASKA, L.P., licensee of KWNB-DT, Channel 6 in Hayes Center, Nebraska, in support of its Application for Construction Permit to operate with a maximized DTV facility on Channel 18. It is important to note that the operating parameters specified in this proposal are the same as those in a KWNB-DT Petition for Rulemaking to substitute Channel 18 for Channel 6.

It is proposed to mount a standard Dielectric omnidirectional antenna at the 168-meter level of the existing 179-meter KWNB-DT tower. An elevation pattern for the proposed antenna is included as Exhibit B. Operating parameters for the new KWNB-DT facility are tabulated in Exhibit C. Exhibit D 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 E, and it is important to note that the study utilized a cell size of 2.0 kilometer and an increment spacing of 1.0 kilometer. A power density calculation is provided in Exhibit F.

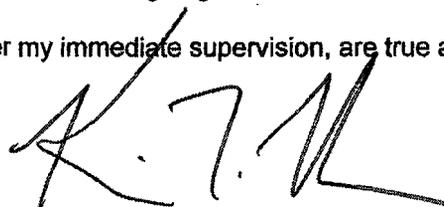
It is not expected that the proposed facility would cause objectionable interference to any other broadcast or non-broadcast station authorized to operate at or near the KWNB-DT site. However, if such should occur, the owner of this station recognizes its obligation to take whatever corrective actions are necessary.

SMITH AND FISHER

EXHIBIT A

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 has issued Antenna Structure Registration Number 1026527 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 'K.T. Fisher', with a stylized flourish at the end.

KEVIN T. FISHER

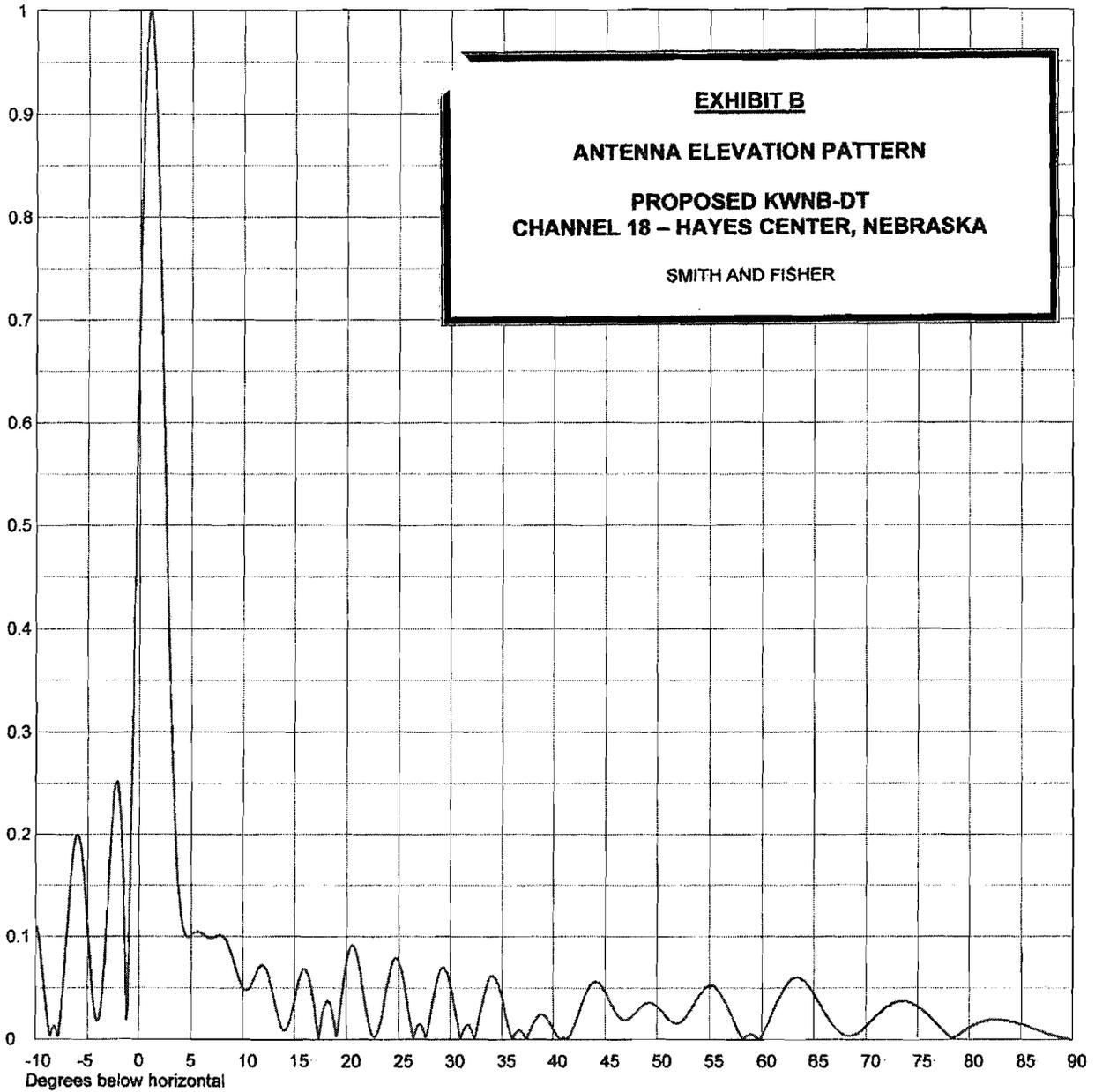
May 18, 2011



Date **18 May 2011**  
Call Letters **Channel 18**  
Location  
Customer  
Antenna Type **TFU-30GTH 04**

**ELEVATION PATTERN**

RMS Gain at Main Lobe **26.0 (14.15 dB)** Beam Tilt **1.00 Degrees**  
RMS Gain at Horizontal **12.9 (11.11 dB)** Frequency **497.00 MHz**  
Calculated / Measured **Calculated** Drawing # **30G260100-90**



Remarks:

PROPOSED OPERATING PARAMETERS  
PROPOSED KWNB-DT  
CHANNEL 18 – HAYES CENTER, NEBRASKA

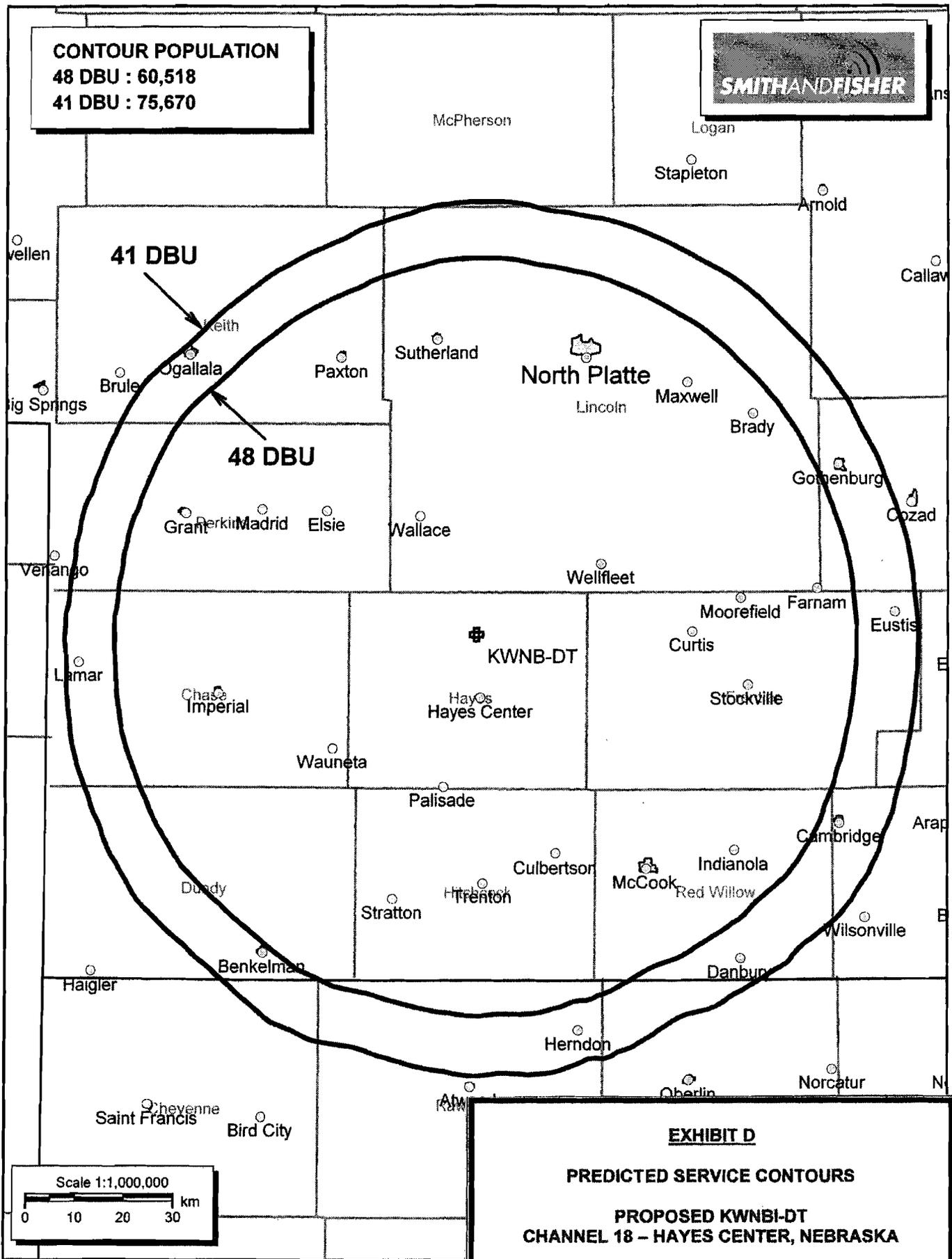
Transmitter Power Output:	44.4 kw
Transmission Line Efficiency:	86.7%
Antenna Power Gain – Main Lobe:	26.0
Effective Radiated Power – Main Lobe:	1000 kw
Transmitter Make and Model:	Type-accepted
Transmission Line Make and Model:	Dielectric EIA
Size and Type:	6-1/8" rigid
Length:	575 feet*
Antenna:	
Make and Model:	Dielectric TFU-30GTH O4
Orientation:	Omnidirectional
Beam Tilt:	1.0 degrees
Radiation Center Above Ground:	168 meters
Radiation Center Above Mean Sea Level:	1163 meters

\*estimated

**CONTOUR POPULATION**

**48 DBU : 60,518**

**41 DBU : 75,670**



**EXHIBIT D**

**PREDICTED SERVICE CONTOURS**

**PROPOSED KWNBI-DT  
CHANNEL 18 - HAYES CENTER, NEBRASKA**

**SMITH AND FISHER**

INTERFERENCE STUDY  
PROPOSED KWNB-DT  
CHANNEL 18 – HAYES CENTER, NEBRASKA

The instant application specifies an ERP of 1000 kw (omnidirectional) at 224 meters above average terrain, which we have determined to be allowable under the FCC's interference standards with respect to various post-transition digital television facilities.

In evaluating the interference effect of this proposal, we have relied upon the V-Soft Communications Probe 3 computer program, which mimics the FCC's interference program. In conducting our study, we employed a cell size of 2.0 kilometer and an increment spacing of 1.0 kilometer along each radial. In addition, we utilized the 2000 U.S. Census. Changes in interference caused by proposed KWNB-DT to other pertinent stations are summarized in Exhibit E-2.

As shown, the proposed KWNB-DT facility would not contribute more than 0.5% interference to the service population of any potentially affected DTV station.

A Longley-Rice interference study also reveals that the proposed KWNB-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.

SMITH AND FISHER

EXHIBIT E-2

INTERFERENCE SUMMARY  
 PROPOSED KWNB-DT  
 CHANNEL 18 – HAYES CENTER, NEBRASKA

<u>Call Sign</u>	<u>Status</u>	<u>City, State</u>	<u>Ch.</u>	<u>Longley-Rice Service Population</u>	<u>Unmasked Interference From Proposed Facility</u>	<u>%</u>
KRMA-DT BMPED-20091026AEC	CP	Denver, CO	18	3,022,441	47	<0.1
KLBY-DT BMPCDT-20080603ACE	CP	Colby, KS	17	37,391	9	<0.1
KWKS-DT BLEDT-20070601ATA	Lic.	Colby, KS	19	42,908	13	<0.1

POWER DENSITY CALCULATION  
PROPOSED KWNB-DT  
CHANNEL 18 – HAYES CENTER, 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 Hayes Center 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 168 meters above ground, and the specific elevation pattern for the proposed Dielectric antenna, maximum power density two meters above ground of  $0.0035 \text{ mw/cm}^2$  is calculated to occur 83 meters from the base of the tower. Since this is only 1.1 percent of the  $0.33 \text{ mw/cm}^2$  reference for uncontrolled environments (areas with public access) surrounding a facility operating on Channel 18 (494-500 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.

**EXHIBIT B**

## Lee Petro

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**From:** Kevin Fisher [kevin@smithandfisher.com]  
**Sent:** Thursday, May 12, 2011 2:39 PM  
**To:** 'Pappas, Harry J.'  
**Cc:** Kathleen Victory  
**Subject:** RE: VHF Stations

Dear Harry,

I came back from lunch and got your voice mail message.

I am in the midst of the preparation of the engineering portions of all three Petitions For Rulemaking.

Kevin



2237 Tacketts Mill Drive  
Suite A  
Lake Ridge, Virginia 22192  
(703) 494-2101  
(703) 494-2132 (fax)

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**From:** Pappas, Harry J. [mailto:HJP@PappasTV.com]  
**Sent:** Monday, April 18, 2011 3:20 PM  
**To:** Fisher, Kevin (E-Mail)  
**Cc:** Victory, Kathleen @ fhhlaw  
**Subject:** RE: VHF Stations  
**Importance:** High

Dear Kevin,

What good news. I agree we should apply for Channel 21 for KGHI-DT. It's got better propagation characteristics anyway.

Harry J. Pappas



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**From:** Kevin Fisher [mailto:kevin@smithandfisher.com]  
**Sent:** Monday, April 18, 2011 11:45 AM  
**To:** Pappas, Harry J.; Victory, Kathleen @ fhlaw  
**Subject:** VHF Stations

Dear Harry,

I wanted to follow up on a conversation we had a week ago about converting the following stations from VHF channels to UHF channels:

KHGI-DT, Channel 13 in Kearney, Nebraska (originally allotted on Channel 36)  
KWNB-DT, Channel 6 in Hayes Center, Nebraska (originally allotted on Channel 18)  
KSWT-DT, Channel 13 in Yuma, Arizona (originally allotted on Channel 16)

I have conducted detailed interference studies and find that each of the above stations could move back to their original UHF channels with an omnidirectional ERP of 1000 kW and meet the FCC's interference protection requirements to all pertinent full-power digital and Class A LPTV facilities. Therefore, we can file Petitions for Rulemaking to change these stations operating channels.



Follow Us On Twitter: [Link](#)  
Like Us On Facebook: [Link](#)  
**\*\*NEW\*\*** Smith and Fisher Blog: [Link](#)

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