

Request for Continuation of Satellite Waiver

Hoak Media of Dakota License, LLC has commonly owned the following television stations in the Sioux Falls (Mitchell) and the Minot-Bismarck-Dickinson (Williston) Nielsen Designated Market Areas (each a “DMA”) pursuant to satellite waivers under the Commission’s local television multiple ownership rule:¹

Station	Community of License	DMA
KSFY-TV	Sioux Falls, South Dakota	Sioux Falls (Mitchell)
KABY-TV #	Aberdeen, South Dakota	Sioux Falls (Mitchell)
KPRY-TV #	Pierre, South Dakota	Sioux Falls (Mitchell)
KFYR-TV	Bismarck, North Dakota	Minot-Bismarck-Dickinson (Williston)
KMOT(TV) ϕ	Minot, North Dakota	Minot-Bismarck-Dickinson (Williston)
KQCD-TV ϕ	Dickinson, North Dakota	Minot-Bismarck-Dickinson (Williston)
KUMV-TV ϕ	Williston, North Dakota	Minot-Bismarck-Dickinson (Williston)

Station operates as a satellite of KSFY-TV, Sioux Falls, South Dakota.

ϕ Station operates as a satellite of KFYR-TV, Bismarck, South Dakota.

Each of the satellite stations has operated in that manner for most (and in some cases all) of its history.² Thus, Gray Television Group, Inc. (“Gray”), proposed transferee of the stations, respectfully requests continuation of those satellite waivers so the stations may maintain their historic operating status and continue to serve the public.

In *Television Satellite Stations Review of Policy and Rules*,³ the Commission set out three criteria under which the Commission will presume that the common ownership of a main and satellite station is in the public interest. Those criteria are that: (1) there is no City Grade overlap between the parent and satellite stations; (2) the proposed satellite will provide service to an underserved area; and (3) no alternative operator is ready and able to construct or purchase and operate the satellite as a full-service station.⁴ Alternatively, if the applicant cannot meet the

¹ 47 C.F.R. § 73.3555, Note 5.

² For KFYR-TV, see, e.g., *Hoak Media of Dakota License, LLC*, 21 FCC Rcd 13435 (2006) (granting satellite waiver for KMOT(TV), KQCD-TV, and KUMV-TV); *Letter from Barbara A. Kreisman*, File No. BALCT-2002-0807AAY *et seq.* (rel. Oct. 9, 2002) (same); *Meyer Broadcasting Co.*, 44 RR2d 339 (1978) (granting initial construction permit application for KQCD(TV) to operate as a satellite for KFYR-TV along with satellites KMOT(TV) and KUMV(TV))

For KSFY-TV, see, e.g., *Hoak Media of Dakota License, LLC*, 21 FCC Rcd 13438 (2006) (granting satellite waiver for KABY-TV and KPRY-TV); *Letter from Barbara A. Kreisman*, File No. BALCT-20031218AAH, *et seq.* (rel. Feb. 27, 2004); *Kelso Partners IV, L.P.*, 11 FCC Rcd 8764 (1996) (same); *Forum Communications Co.*, 33 RR2d 1163 (1975) (granting initial construction permit for KPRY-TV to operate as a satellite for KSFY-TV along with satellite KABY-TV).

³ *Television Satellite Stations Review of Policy and Rules*, 6 FCC Rcd 4212 (1991).

⁴ *Id.* at 4213.

requirements to qualify for the presumption, the Commission reviews proposals on an *ad hoc* basis to determine whether compelling circumstances warrant grant of the application.⁵

As a result of changes to the local television ownership rule, in certain instances, stations that historically have operated as satellites no longer qualify for satellite treatment because the contours for the stations do not overlap.⁶

Sioux Falls (Mitchell) DMA

Continued satellite treatment for the stations in the Sioux Falls (Mitchell) DMA is appropriate.⁷ The DMA covers a vast area. It is made of some 60 counties located in four different states and covers more than half of South Dakota. Each of the other top four network affiliates in the market is licensed to the population center of Sioux Falls and operates one or more satellite stations to achieve better coverage of the DMA. The enormous size of the DMA dictates that the station's licensed to Sioux Falls must rely on satellites to reach the widely-dispersed viewers throughout the market.

Given the sheer size of the DMA, the consistent historic treatment of the stations as satellites, and the fact that the other major network affiliates in the DMA also rely on satellites, KABY-TV and KPRY-TV satisfy the *ad hoc* satellite test. Nevertheless, because Gray can also demonstrate compliance under the presumptive satellite waiver test, Gray submits that continued satellite authority serves the public interest based on the satisfaction of that test.

With respect to the first criterion of the presumptive satellite waiver test, due to the digital transition, the City Grade contour no longer exists.⁸ Nevertheless, the Commission will consider whether the station's analog City Grade contours overlapped prior to the transition.⁹ As shown in Exhibit A, neither the digital principal community contours for the stations nor the

⁵ *Id.* at 4214.

⁶ See 73.3555(b)(1) (permitting common ownership of two stations in the same DMA if the relevant contours do not overlap).

⁷ In these instances, to maintain the historic satellite operating arrangement, the Commission will waive the main studio rule if the circumstances otherwise would justify granting a request for continued satellite authority. See *Shareholders of CBS Corp.*, 15 FCC Rcd 8230, 8244, ¶ 40 (2000) (granting a main studio waiver based on factors that otherwise would justify continued satellite authority under the *ad hoc* test). As shown in Exhibit A, the noise limited contour for KPRY-TV does not overlap the noise limited contours for either KABY-TV or KSFY-TV. Therefore, to the extent necessary, Gray requests a main studio waiver for KPRY-TV.

⁸ *New Young Broadcasting Holding Company, Inc.*, 25 FCC Rcd 7518, 7519 (MB 2010).

⁹ *ION Media Networks Liquidating Trust*, 24 FCC Rcd 14579 (MB 2009) (noting that the stations previous analog City Grade contours of the respective stations did not overlap prior to the transition to digital broadcasting). No facility modifications were made after the FCC last granted the satellite waivers for these stations until the stations began broadcasting in digital format.

analog City Grade contours for the stations overlap.¹⁰ Therefore, both stations satisfy the first prong of the presumptive satellite waiver test.

With respect to the second criterion, each of the communities of license of the satellite stations is underserved. An applicant may demonstrate that a proposed satellite station serves an underserved area by demonstrating either (a) that there are two or fewer television stations (including commercial, noncommercial, and satellite stations) licensed to the station's community of license (the "transmission test") or (b) that 25 percent or more of the area within the satellite station's Grade B contour, but outside the parent station's Grade B contour, is served by four or fewer full-power television station (the "reception test"). The transmission test is satisfied here because only two television stations are licensed to each community of license. Specifically, Aberdeen is underserved because KABY-TV and KDSD-TV are Aberdeen's only local television stations; Pierre is underserved because KPRY-TV and KTSD-TV are Pierre's only local television stations.

As the FCC has determined time and again, operation of KABY-TV and KPRY-TV as satellites of KSFY-TV meets the third prong of the FCC's presumptive standard.¹¹ During the sale process that culminated in the proposed transaction, no potential buyer expressed interest in purchasing KABY-TV or KPRY-TV as a standalone station.¹² Of note, major broadcast television networks, including, ABC, CBS, NBC, FOX, and CW already have full-power affiliates in the market. In addition, one independent broadcaster also already provides service to the market. According to the Television Factbook, Nielsen estimates that the Sioux Falls (Mitchell) DMA has approximately 261,000 TV households. KSFY-TV covers approximately 185,000 households while KABY-TV and KPRY-TV cover approximately 40,000 and 6,700 households respectively. Both satellite stations cover small outlying communities in the market and no buyers expressed interest in either station as a standalone station.

Based on the foregoing, Gray asserts that the Commission should find that Gray has met the presumptive satellite waiver test. In the alternative, Gray asks that the Commission grant the request for continuation of the satellite waiver because Gray meets its burden under the *ad hoc* test.

Minot-Bismarck-Dickinson (Williston) DMA

Continued satellite treatment for the stations in the Minot-Bismarck-Dickinson (Williston) DMA also is appropriate. The DMA covers counties in the western half of North Dakota as well as counties in South Dakota and Montana. Similar to the Sioux Falls (Mitchell) DMA, each of the other top four network affiliates in the market is licensed to Bismarck and

¹⁰ See Exhibit A.

¹¹ See, e.g., *Hoak Media of Dakota License, LLC*, 21 FCC Rcd 13438 (2006) (granting satellite waiver for KABY-TV and KPRY-TV); *Letter from Barbara A. Kreisman*, File No. BALCT-20031218AAH, *et seq.* (rel. Feb. 27, 2004); *Kelso Partners IV, L.P.*, 11 FCC Rcd 8764 (1996) (same); *Forum Communications Co.*, 33 RR2d 1163 (1975) (granting initial construction permit for KPRY-TV to operate as a satellite for KSFY-TV along with satellite KABY-TV).

¹² See Exhibit B.

operates one or more satellite stations to provide better coverage of the DMA. The geographic area that each of the stations licensed to Bismarck must cover forces each to rely upon satellite stations to reach viewers in more remote parts of the DMA. With respect to the Minot-Bismarck-Dickinson DMA, applicant hereby provides an *ad hoc* analysis supporting its request for continuation of the satellite waiver for KMOT(TV), KQCD-TV, and KUMV-TV.

Again, as the digital transition has been completed, there is no equivalent contour to the City Grade contour for purposes of the waiver standard.¹³ Prior to the digital transition, the stations' analog City Grade contours did not overlap, and no overlap exists among the current digital principal community contours of KFYZ-TV and its three satellite stations.¹⁴ Thus, the stations would satisfy the first criterion of the presumptive satellite waiver test.

The stations satisfy the *ad hoc* satellite test because continued satellite authority serves the public interest. Currently, KFYZ-TV and the three satellite stations provide strong broadcast signals to the vast majority of the DMA. Without continued satellite status for KMOT(TV), KQCD-TV, and KUMV-TV, a significant number of households would lose the over-the-air signal of the NBC affiliate for the DMA. Moreover, many cable headends in the DMA receive a good quality signal over the air via the satellite stations. These cable systems no longer would be able to provide NBC programming to their subscribers without substantial new expense of obtaining the signal from Bismarck. As a result, many viewers would be left with one less local news outlet to provide important news and weather updates. Furthermore, loss of the satellite stations would put KFYZ-TV at a significant disadvantage to compete for advertising revenue in the DMA. Currently, all major network affiliates operate with at least one satellite station in order to reach important communities within the DMA. Without the satellite stations, KFYZ-TV would not be able to reach many of those important communities and advertisers might leave KFYZ-TV, putting the station's ability to continue serving its local viewers at risk.

The Commission determined in its last review of the satellite waivers for these stations that the satellites could not survive as standalone stations. The current marketplace agrees with the FCC's findings. No potential buyers expressed interest in purchasing the satellite stations on a standalone basis.¹⁵ According to Nielsen data provided in the Television Factbook, the Minot-Bismarck-Dickinson (Williston) DMA covers approximately 137,000 households and KFYZ-TV covers approximately 84,500 of those households. Meanwhile, KQCD-TV, KMOT(TV), and KUMV-TV cover approximately 11,000, 41,000 and 16,000 households respectively. Due to the small size of the DMA¹⁶ and the smaller number of households covered by each satellite station due to low-population density, it is unlikely that the stations could obtain network affiliations or survive as standalone full-power independent stations.

¹³ *New Young Broadcasting Holding Company, Inc.*, 25 FCC Rcd 7518, 7519 (MB 2010).

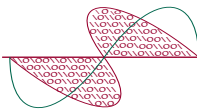
¹⁴ See Exhibit C.

¹⁵ See Exhibit B.

¹⁶ Nielsen ranks the Minot-Bismarck-Dickinson (Williston) DMA as the 145th largest market.

Exhibit A

Contour Maps of Stations Located in the
Sioux Falls (Mitchell) DMA

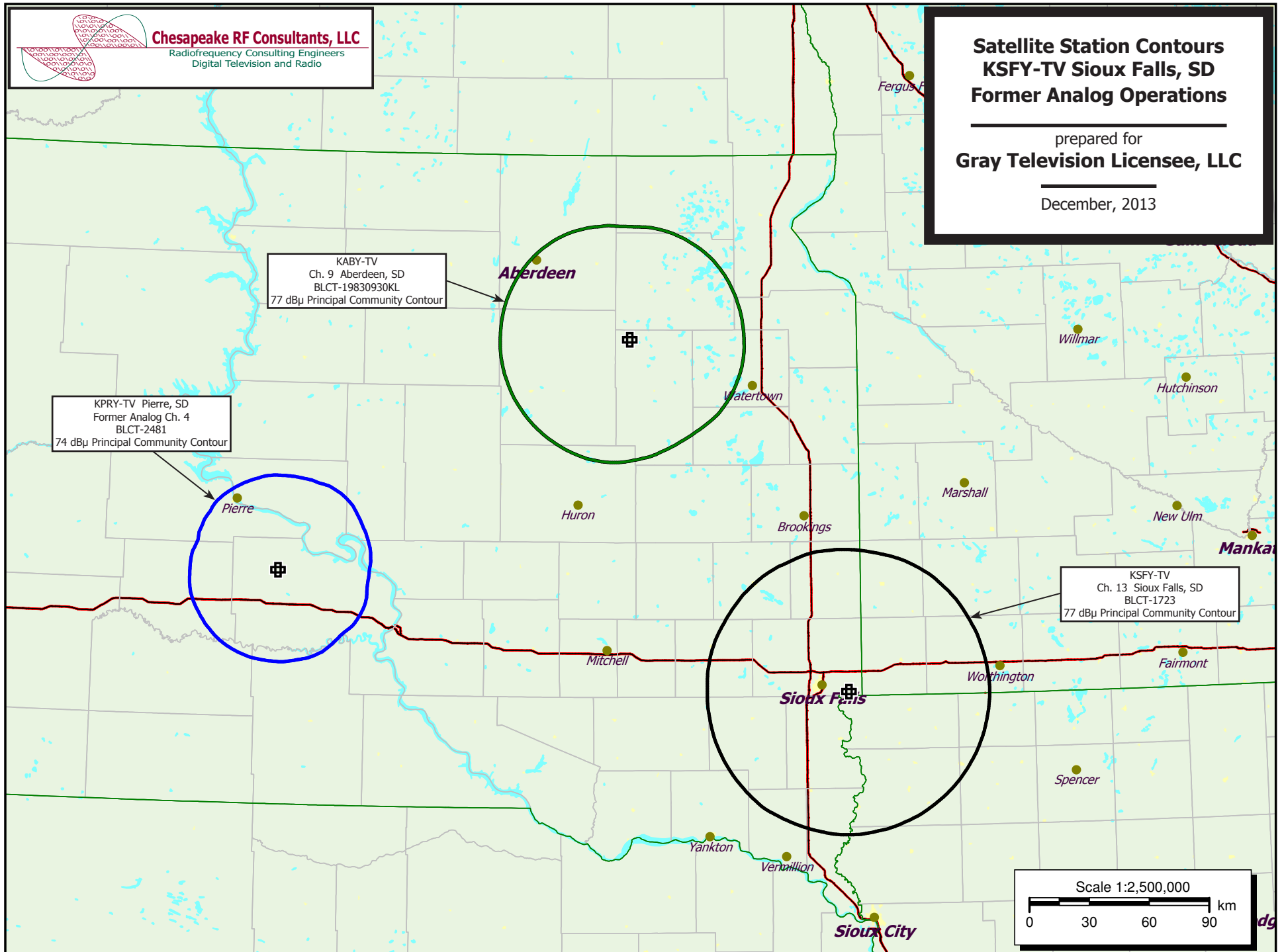


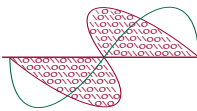
Chesapeake RF Consultants, LLC
Radiofrequency Consulting Engineers
Digital Television and Radio

Satellite Station Contours KSFY-TV Sioux Falls, SD Former Analog Operations

prepared for
Gray Television Licensee, LLC

December, 2013





Chesapeake RF Consultants, LLC
Radiofrequency Consulting Engineers
Digital Television and Radio

Satellite Station Contours KSFY-TV Sioux Falls, SD

prepared for
Gray Television Licensee, LLC

December, 2013

KABY-TV
Ch. 9 Aberdeen, SD
BLC DT-20090223ABF
43 dBu Principal Community Contour
36 dBu Contour (NLSC)

KPRY-TV
Ch. 19 Pierre, SD
BLC DT-20080806AAT
48 dBu Principal Community Contour
41 dBu Contour (NLSC)

KSFY-TV
Ch. 13 Sioux Falls, SD
BLC DT-20090223ABE
43 dBu Principal Community Contour
36 dBu Contour (NLSC)

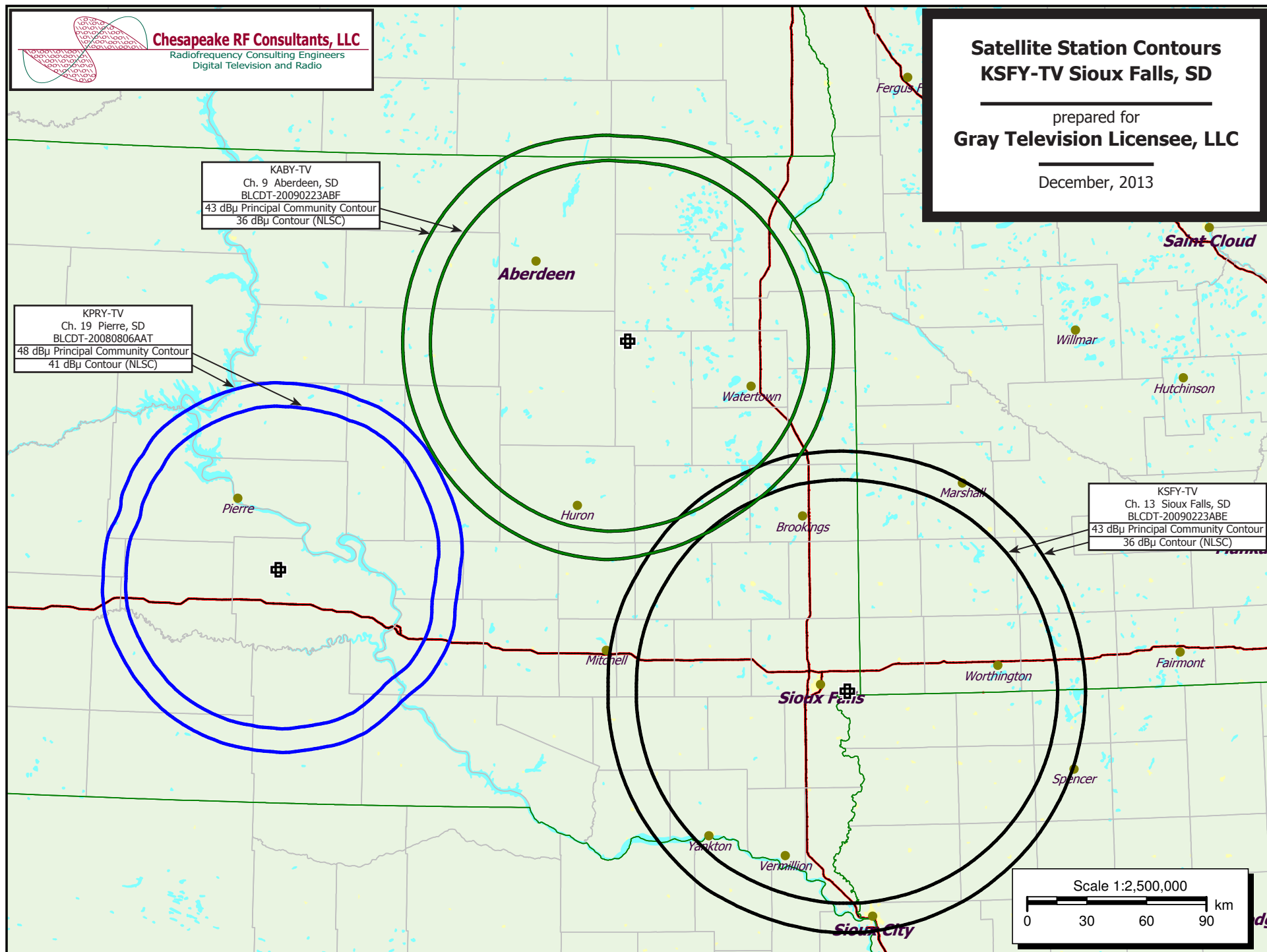


Exhibit B

Letter from Moelis & Company

1999 AVENUE OF THE STARS
SUITE 1900
LOS ANGELES, CALIFORNIA 90067

MOELIS & COMPANY

T 310.443.2300
F 310.443.8700

December 18, 2013

Moelis & Company LLC ("Moelis") is a global investment bank that provides financial advisory, capital raising, and asset management services to a broad client base including companies in the television and media industries. Moelis has been asked to provide its views concerning the feasibility of selling KABY-TV, Aberdeen, South Dakota and KPRY-TV, Pierre, South Dakota in the Sioux Falls (Mitchell) Nielsen Designated Market Area (DMA); KMOT(TV), Minot, North Dakota; KQCD-TV, Dickinson, North Dakota; and KUMV-TV, Williston, North Dakota in the Minot-Bismarck-Dickinson (Williston) DMA; and KREG-TV, Glenwood Springs, Colorado and KREY-TV, Montrose Colorado in the Grand Junction-Montrose DMA (collectively the "Satellite Stations").

In June 2013, Hoak Media Corporation ("Hoak") retained Moelis to advise Hoak on the sale of its television stations, including the seven Satellite Stations listed above, and to conduct a broad sale process. Beginning in August 2013, Moelis approached 52 buyers regarding a purchase of Hoak in whole or in part. During the sale process, which lasted several months, Moelis received no expressions of interest in the Satellite Stations, as standalone stations. To our knowledge, all interested parties evaluated the Satellite Stations only as satellites of KSFY-TV, KFYZ-TV, and KREX-TV, respectively, and Moelis would not recommend that the Satellite Stations be marketed for sale as standalone stations.



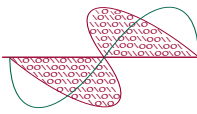
John Momtazee

Moelis & Company LLC

Date: 12/18/13

Exhibit C

Contour Maps of Stations Located in the
Minot-Bismarck-Dickinson (Williston) DMA

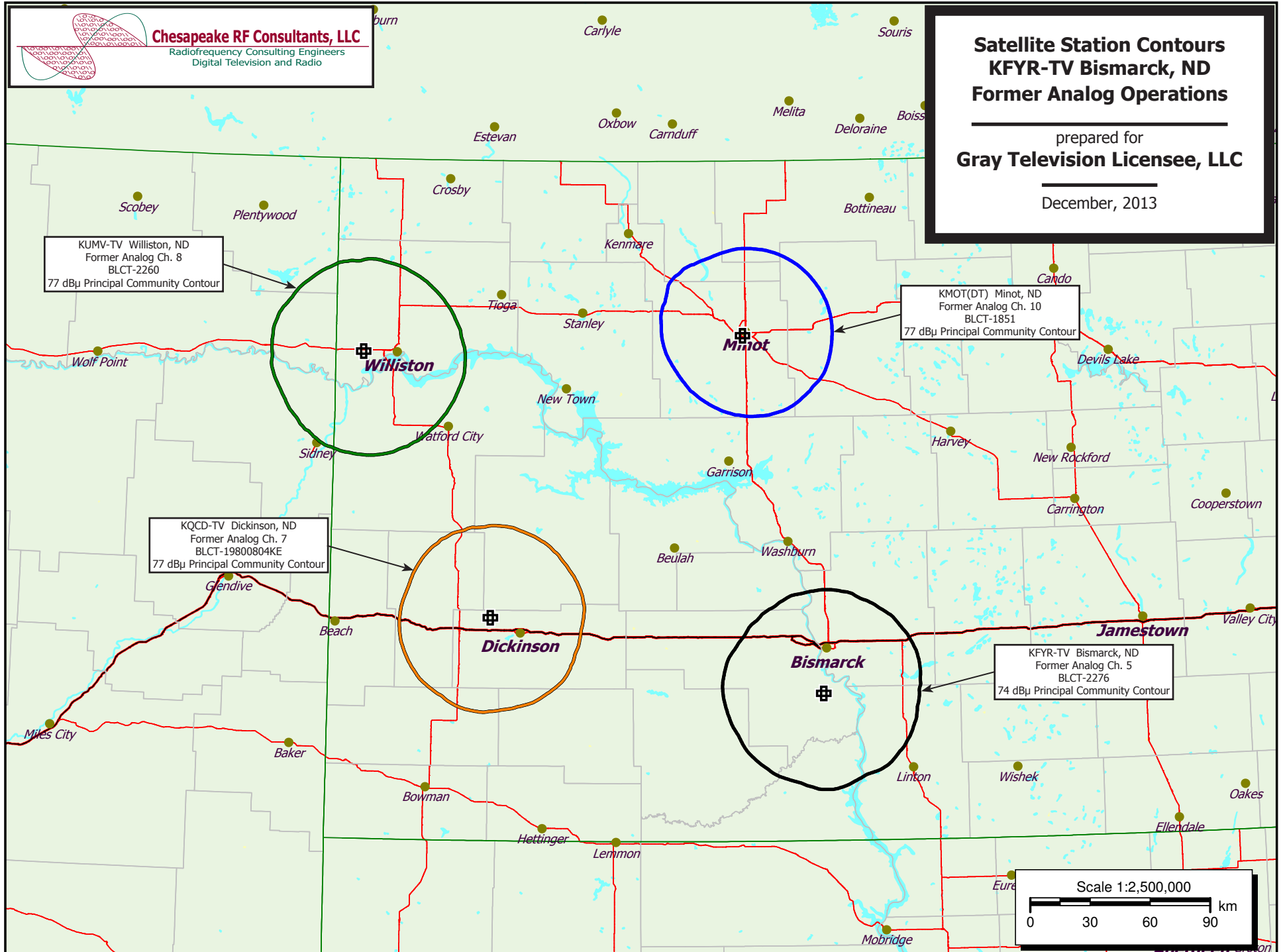


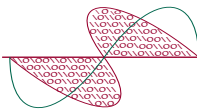
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Radiofrequency Consulting Engineers
Digital Television and Radio

Satellite Station Contours KFYR-TV Bismarck, ND

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KUMV-TV
Ch. 8 Williston, ND
BLCDT-20090223ABG
43 dBu Principal Community Contour
36 dBu Contour (NLSC)

KMOT(DT)
Ch. 10 Minot, ND
BLCDT-20090127AAR
43 dBu Principal Community Contour
36 dBu Contour (NLSC)

KFYR-TV
Ch. 31 Bismarck, ND
BLCDT-20071108ADF
48 dBu Principal Community Contour
41 dBu Contour (NLSC)

KQCD-TV
Ch. 7 Dickinson, ND
BLCDT-20090223ABH
43 dBu Principal Community Contour
36 dBu Contour (NLSC)

