

# **EXHIBIT D**

### **DECLARATION OF GURDIAL S. BADH**

My name is Gurdial (Dale) S. Badh. I have worked as a real estate agent for 24 years. For more than three years, I have represented BBC Broadcasting ("BBC") in its efforts to find a suitable parcel on which to relocate KRPI's transmission facilities. I am making this Declaration in support of BBC's Request for Waiver of Section 73.24(i) of the Federal Communications Commission ("FCC" or "Commission") Rules. I base this Declaration on my personal knowledge and on information available to me in my position as a real estate agent representing KRPI.

On or around May 2007, BBC approached me seeking representation to identify and secure a parcel of land on which to relocate its transmission facilities. At that time, BBC informed me that it had just faced substantial opposition to the renewal of its license by an organized group of community residents (supported by letters of opposition from elected officials in local, state, and federal government) who had experienced interference to their various electrical devices and equipment as a result of Station KRPI's current location. In light of the continuing interference problems, BBC sought to identify a new transmission site that would repair ties with the Ferndale community and relieve residents of the problems that the current location had caused.

Over the course of more than three years, I conducted an extensive search for parcels in Whatcom County that would be suitable for the relocation of KRPI's transmission site. Based on conversations with BBC, I identified the following criteria for any possible site: (1) proximity to Ferndale in order to provide adequate daytime and nighttime coverage, (2) at least 10 acres of land to accommodate five directional towers and a ground terminal, (3) a location suitable for permitting by the county and the FCC, and (4) a location which avoided certain areas identified by KRPI's engineering consultant, Hatfield & Dawson, as problematic due to a variety of interference concerns ("exclusion zones").

To identify possible sites, I adopted two approaches. First, I and/or a representative from KRPI drove around Whatcom County on several occasions looking for sites available for purchase or lease. Second, I regularly consulted the multiple listing service ("MLS") for listings that met the criteria identified above. Large parcels, however, are difficult to come by in this area, and all of the sites available for purchase or lease have failed at least one of the criteria. A true and accurate list of all available parcels 10 acres or larger in mainland Whatcom County that I encountered during my search is attached hereto as Exhibit D-1.

All of the parcels 10 acres or larger available for purchase or lease in mainland Whatcom County since I began my search in May 2007 are located in exclusion zones due to their proximity to Bellingham Airport to the south of Ferndale, the Ferndale Oil Refinery and Tanker Terminal to the west of Ferndale, the FCC's Ferndale Monitoring Station to the north of Ferndale, the BC Hydro/BPA 500 kV Intertie transmission line that runs just east of Ferndale, and/or several existing broadcast facilities to the northwest and southeast of Ferndale. A true and accurate map prepared by Hatfield & Dawson which shows that all of the available parcels of land 10 acres or larger that I have identified in my search are located within exclusion zones is attached hereto as Exhibit D-2.

My search was further complicated by the large amount of land occupied by the Lummi Indian Reservation southwest of downtown Ferndale. The Lummi tribe is recognized by the U.S. government as a sovereign nation and, although I attempted to negotiate for a site on the Reservation, the tribe was not interested.

After eliminating the Lummi Indian Reservation and all of the exclusion zones identified by Hatfield and Dawson, there are five remaining areas in which KRPI could relocate its transmission site if it could find available land: Marietta, Van Wyck, the area East of Van Wyck, Birch Point, and Point Roberts. After searching for more than three years,

however, Point Roberts is the only area in which I have been able to identify a suitable parcel of land for purchase or lease.

The area in Marietta that is not located in an exclusion zone is very small, is located in a floodplain, and lies immediately adjacent to the Lummi Indian Reservation. There are approximately 12 parcels of land in the Marietta section, only two of which are suitable for KRPI's use based on my communications with KRPI and Hatfield & Dawson. However neither of these two parcels have been available for purchase or lease.

The Van Wyck search area contains approximately 474 parcels of land zoned R(5), meaning the majority of the parcels are five acres in size or larger, but most of which are still too small to accommodate KRPI's directional antenna. The area is largely rural residential. Approximately nine parcels are of the correct size and orientation to accommodate the KRPI array, but the majority of these parcels are in the northeast corner of the search area, and are owned by or proximate to the privately owned Shuksan Golf Club. After searching for more than three years, I have not been able to identify any parcels of land 10 acres or larger available for purchase or lease in the Van Wyck search area.

The area East of Van Wyck is an extensive area that includes the communities of Everson, Nooksack, and Sumas. Hatfield & Dawson advised me that areas near the high terrain of the Cascade Mountain Range are unsuitable for AM station use. Nevertheless, after searching for more than three years, I have not been able to identify any parcels of land 10 acres or larger available for purchase or lease in the Van Wyck search area.

Most of the potential sites in Birch Point are located in an exclusion area due to their proximity to the existing seven tower array for AM Stations KARI, 550 kHz, Blaine and KVRI, 1600 kHz, Blaine. Furthermore, the Birch Point area is a desirable location for large vacation homes and has several extensive resort communities in the vicinity. Large


areas are used for golf courses, recreation areas, and beaches, limiting the availability of land suitable for KRPI's transmission facilities. After searching for more than three years, I have not been able to identify any parcels of land 10 acres or larger available for purchase or lease in the Birch Point search area.

Point Roberts is not without its own problems. Among the sites that I initially identified, one was only seven acres, and thus not large enough for KRPI's facilities, and another was zoned residential and broken into one acre parcels for residential construction. Even if I were able to assemble 10 or more of those parcels, KRPI expressed concern that this proximity to residential development would cause many of the same blanketing interference problems that are causing it to move in the first place. I identified the site of KRPI's present application on Tyee Drive. This site appeared to meet KRPI's criteria: it was zoned for use consistent with large AM towers and was surrounded by other large parcels with little or no residential homes in the area. While Point Roberts has a small airport located to the south of the application site, the FAA has advised us that this airport will not prevent KRPI from erecting a tower at the Tyee Road site.

After more than three years searching for available parcels, given the many and serious restrictions limiting the available sites for a large AM radio transmission site, I believe that Point Roberts is the closest site to Ferndale suitable for KRPI's needs.

I hereby declare under penalty of perjury that, to the best of my knowledge, information, and belief, the information contained herein is true and accurate.

Signed on March 29, 2011.



Gurdial (Dale) S. Badh

## **EXHIBIT 1**

### **List of Available Parcels 10 Acres or Larger in Mainland Whatcom County**

1. xxxx Haynie Road, Custer, WA 98240
2. 3780 Birch Terrace Drive, Custer, WA 98240
3. 7225 Kickerville Road, Custer, WA 98240
4. 30 XX Fox Road, Ferndale, WA 98248
5. 3000 Kickerville Road, Ferndale, WA 98248
6. xx Church Road, Ferndale, WA 98248
7. 158 x Paradise Road, Ferndale, WA 98248
8. 7949 Custer School Road, Custer, WA 98240
9. 3xxx Haynie Road, Custer, WA 98240
10. xxxx Harborview Road, Blaine, WA 98230
11. xx Burke Road, Lynden, WA 98264



[illegible]

Area KRPI must stay out of to avoid increasing the field strength at the Ferndale Monitoring Station, based on 50 kW omni and/or the daytime power and pattern used in the application.

Area KRPI must stay out of to avoid increasing the field strength at the Ferndale Monitoring Station, based on 50 kW omni and/or the daytime power and pattern used in the application.

Potential Site Search Area  
Point Roberts  
See Detail Map #4

This area is undesirable, due to potential interaction with the KARI 550 kHz / KVRI 1600 kHz array at the south end of Drayton Harbor.

Potential Site Search Area  
Birch Point  
See Detail Map #3

Area KRPI must be inside to put the nighttime interference-free contour over roughly 50% of the female, based on the nighttime power and pattern used in the application.

Blue boxes indicate all parcels over 10 acres in size that have been available for sale or lease in mainland Whatcom County from 2008 to now. All positions approximated, based on information from BBC and Mr. Badth.

