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#190414

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

In re Application of:)
SAVER MEDIA, INC.)
For Application for Minor Modification to) File No. BMPH-20130725ADU
Construction Permit for)
KQTC (FM))
Eldorado, TX (Facility ID#190414))
TO: Chief, Media Bureau:

RECEIVED
2014 JAN 24 A 6:10

SUPPLEMENT TO INFORMAL OBJECTION

Danny Ray Boyer, ("Petitioner") hereby files this Supplement to Informal Objection ("Supplement") to the original Informal Objection ("*Initial Objections*") filed on September 20, 2013 to the above captioned application by Saver Media, Inc. ("Saver") for minor modification to an original construction permit for KQTC (FM) at Eldorado, TX (the "Modification Application") which seeks to modify the technical parameters of the original construction permit granted to the current permittee's principal (and prior permittee) Tony Cuellar ("Cuellar") by, inter alia, changing the coordinates of the transmitter site.

Standing

Petitioner has standing pursuant to Section 73.3587 to supplement his original informal objections to the Saver application, which is an application for an instrument of authorization.

Background

KQTC was originally permitted by BNPH-20120529ALB, granted February 20, 2013, at which time FCC staff dismissed this Petitioner's Petition to Deny that application, finding that Cuellar was qualified to be a Commission licensee, despite irregularities in the original construction permit application regarding Cuellar's prior First Degree Felony criminal conviction. Subsequent to the February 20, 2013 grant of the original construction permit, Cuellar filed an application to assign the now granted construction permit on February 28, 2013 to Saver Media, Inc., a Texas corporation (BAPH-20130228AKP, amended March 4, 2013) which was granted on April 10, 2013 and consummated on April 12, 2013 according to the Commission's records, to Saver Media, Inc. Thereafter the instant application to modify the technical parameters of the original construction permit, including but not limited to moving the site coordinates, was filed by the current permittee, Saver Media, Inc.

Supplement to Objections

Petitioner supplements his prior objections, as follows:

1. Saver, by and through its principal, Cuellar, has continued the wanton disregard for Commission rules and precedent by commencing construction of the facility proposed by the above captioned modification application prior to grant of the instant construction permit. Aerial photographs taken on December 16, 2013 and December 30, 2013, as more fully detailed and illustrated in Exhibits 1 and 2 hereto, evidence construction of the broadcast tower for the proposed facility at the new coordinates, together with transmitter building delivery and related work that have no intrinsic function other than for this proposed facility, which has yet to be authorized.¹ The ASR Registration (#1289229) for this facility references the FAA no hazard

¹ Indeed, Saver is promoting to the world that it is in the process of constructing its facility; See Exhibit 3 attached

determination (FAA 2013-ASW-3931-OE) which in turn reveals the only frequencies proposed for the facility to be 99.5 MHz (i.e. KQTC) and none other. Thus the tower has no other purpose other than to serve this proposed facility. In addition, as revealed in the attached photographs in Exhibit 1 and the testimony of others (see attached exhibits), the partially constructed tower **had already** exceeded 360' in height as of December 16th, 2013 and no temporary obstruction lighting was installed or is visible (see Exhibit 1 for further detail) in violation of FAA Advisory Circular 70/7460-1K, Chapter 4, Section 42(e), which states that:

“ As the height of the structure exceeds each level at which permanent obstruction lights would be recommended, two or more lights of the type specified in the determination should be installed at that level. Temporary high or medium intensity flashing white lights, as recommended in the determination, should be operated 24 hours a day until all permanent lights are in operation. In either case, two or more lights should be installed on the uppermost part of the structure any time it exceeds the height of the temporary construction equipment. They may be turned off for periods when they would interfere with construction personnel. If practical, permanent obstruction lights should be installed and operated at each level as construction progresses. The lights should be positioned to ensure that a pilot has an unobstructed view of at least one light at each level.”

In addition to the photographs in Exhibit 1 that reflect the status of the construction of the KQTC transmitting tower on 12-16-2013, showing no obstruction lighting during construction, the aerial photographs in Exhibit 2 shows the status of the KQTC tower on 12-30-2013.

The December 30, 2013 aerial photographs clearly show the tower at a height of approximately 440'- 445' height Above Ground Level (AGL) with no temporary or permanent obstruction lighting.

The Schleicher County Sheriff and his deputy who investigated the site during the nighttime hours on December 16, 2013 (360' AGL) at approximately 7:30 pm and on December 28, 2013 (440 - 445" AGL) at 8:32 pm, (both after local sunset) were unable to see the partially constructed tower, as there was no illumination of same (see Exhibit 4).

hereto, located at https://www.facebook.com/permalink.php?id=183470345193261&story_fbid=189597874580508

Furthermore, on January 2, 2014, an additional caller (Lonnie Allen Middleton) called and advised the Schleicher County Sheriff Department about a “tower on north side of Co. Rd. 312 does not have any lighting visible” (Exhibit 4.3).

2. Attached hereto as Exhibit 5 is the Declaration of James C. Doyle, the pilot who took the photographs in Exhibit 1 and Exhibit 2, as well as the Declaration of Francisco Mendez (Exhibit 6) who personally observed the construction of the KQTC broadcast tower from December 16, 2013 to January 2, 2014 each day on multiple occasions and did not see any evidence of obstruction lighting during that time. Also provided is the Declaration of Danny Ray Boyer (Exhibit 7) which further details the status of the height of the tower on 12-13-2013 and on several dates thereafter, when it was observed by him.

3. This permittee’s continued disregard for Commission regulations should not be countenanced. The prohibition against premature construction is embedded in the Communications Act (47 U.S.C. Section 319(a))² The Commission has for over 55 years interpreted the intent of Section 319 to mean that construction of facilities which had no intrinsic function other than to serve the proposed broadcast facility were prohibited prior to grant of a construction permit under Section 319(a).³ The Commission has established a policy of permitting preparatory work to be done (i.e. concrete footings for tower erection)⁴, which provides that work not considered premature is work that “generally having no intrinsic radio communications use related to a proposed facility, such as site clearance, pouring of concrete

² 47 U.S.C. §319(a) “No license shall be issued under the authority of this chapter for the operation of any station unless a permit for its construction has been granted by the Commission.”

³ *WSAV, Inc.*, 10 RR 402 (1955), *aff’d sub nom, WJIV-TV, Inc.*, 281 F.2d 725 (1956)

⁴ *In Re Patton Communications Corp.*, 81 FCC 2d 336 (1980)

footings for a tower....”⁵. However, as the tower in question for this facility has no intrinsic radio communications use OTHER than for this facility (as evidenced by the frequency specified in the FAA No Hazard Determination application) and since the applicant has no authority to construct a tower at these coordinates (the existing permit it holds is for other coordinates, which are the subject of the *Initial Objections* in that the site owner never provided the applicant authority to construct a facility at those original coordinates, *see* the *Initial Objections* filed in this proceeding) , the construction of the broadcast tower to date along with the other site work evident from the aerial photographs clearly exceeds the “preparatory” work permitted by the Commission and is at least as egregious as that done in *California State University, Sacramento*, 13 FCC Rcd 17960 (1998), where the work included installation of antenna, transmitter, transmission line and related wiring.

Conclusion

For the foregoing reasons evidencing the continued disregard for Commission rules and precedent by this applicant, Petitioner reiterates that it would not serve the public interest, convenience and necessity to grant the instant application for modification of the KQTC construction permit at Eldorado, TX and requests that the Commission designate the aforementioned application for public hearing for further inquiry regarding the issues raised herein as well as in the *Initial Objections*.

Respectfully Submitted,

By: 

Danny Ray Boyer
P.O. Box 717
Eldorado, TX 76936
Tel: 325-853-1049

January 17, 2014

⁵ See *Wendell & Associates*, 14 FCC Rcd 1671 at 1680 (1998); see also *Christian Broadcasting of Midlands, Inc.*, 2 FCC Rcd 6404 (1987); *IT&E Overseas, Inc.*, 4 FCC Rcd 3774 (1989);


CERTIFICATE OF SERVICE

I, Danny Ray Boyer, hereby certify that a copy of the foregoing "Informal Objection" was served this 17th day of January, 2014 by first class United States Mail, postage prepaid, upon the following:

Tony Cuellar
408 East 12th Street
San Angelo, TX 76903

Lee J. Peltzman, Esq.
Shainis & Peltzman
1850 M Street, Suite 240
Washington, DC 20036

Audio Division
Media Bureau
Federal Communications Commission
445 12th Street SW
Washington, DC 20554



Danny Ray Boyer

EXHIBIT 1

**Aerial Photographs
Taken on December 16, 2013
By James C. Doyle
Schleicher County Justice Of The Peace**

Exhibit 1-1 – Base of KQTC Tower & Transmitter Building

Exhibit 1-2 – KQTC Tower Showing Workers on Ground

Exhibit 1-3 – Top of KQTC Tower With Gin Pole – 360 Feet

Exhibit 1-4 – Top One Third of KQTC Tower – 360 Feet



EXHIBIT 1, PAGE 1

12-16-2013

Base of KQTC Tower & Transmitter Building



EXHIBIT 1, PAGE 2

12-16-2013

KQTC Tower Showing Workers on Ground



EXHIBIT 1, PAGE 3

12-16-2013

Top of KQTC Tower With Gin Pole – 360 Feet



EXHIBIT 1, PAGE 4

12-16-2013

Top One Third of KQTC Tower – 360 Feet

EXHIBIT 2

**Aerial Photographs
Taken on December 30, 2013
By James C. Doyle
Schleicher County Justice Of The Peace**

Exhibit 2-1 – Ground View – KQTC 440' Tower Close Up #1

Exhibit 2-2 – Ground View – KQTC 440' Tower Close Up #2

Exhibit 2-3 – Top of KQTC 440' Tower – With No Obstruction Light – Close Up #1

Exhibit 2-4 – Top of KQTC 440' Tower – With No Obstruction Light – Close Up #2

Exhibit 2-5 – Top of KQTC 440' Tower – With No Obstruction Light – Close Up #3

Exhibit 2-6 – Top of KQTC 440' Tower – With No Obstruction Light – Close Up #4



EXHIBIT 2, PAGE 1

12-30-2013

Ground View – KQTC 440' Tower

Close up #1



EXHIBIT 2, PAGE 2
12-30-2013
Ground View – KQTC 440' Tower
Close up #2

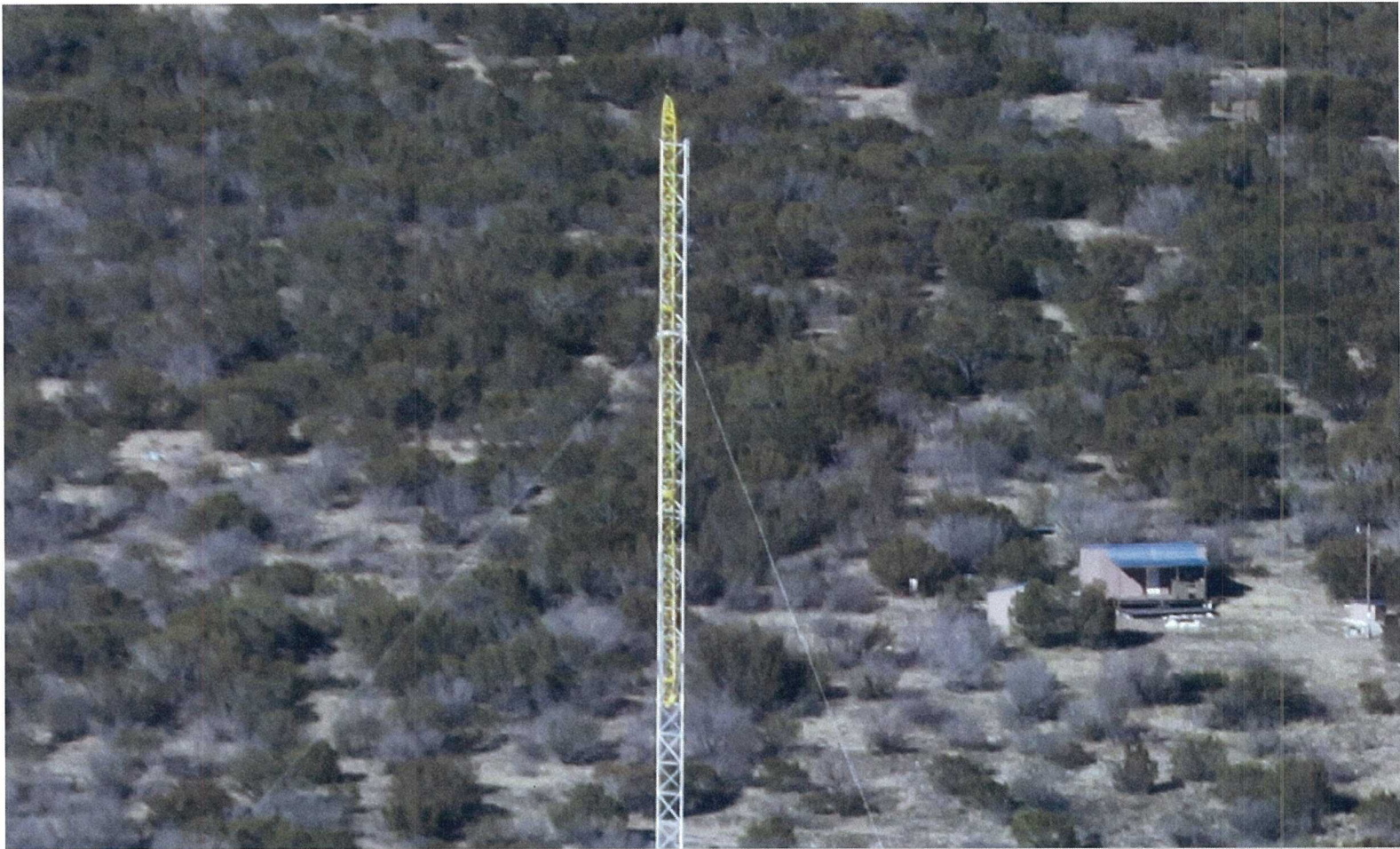


EXHIBIT 2, PAGE 3

12-30-2013

Top of KQTC 440' Tower – With No
Obstruction Light – Close Up #1

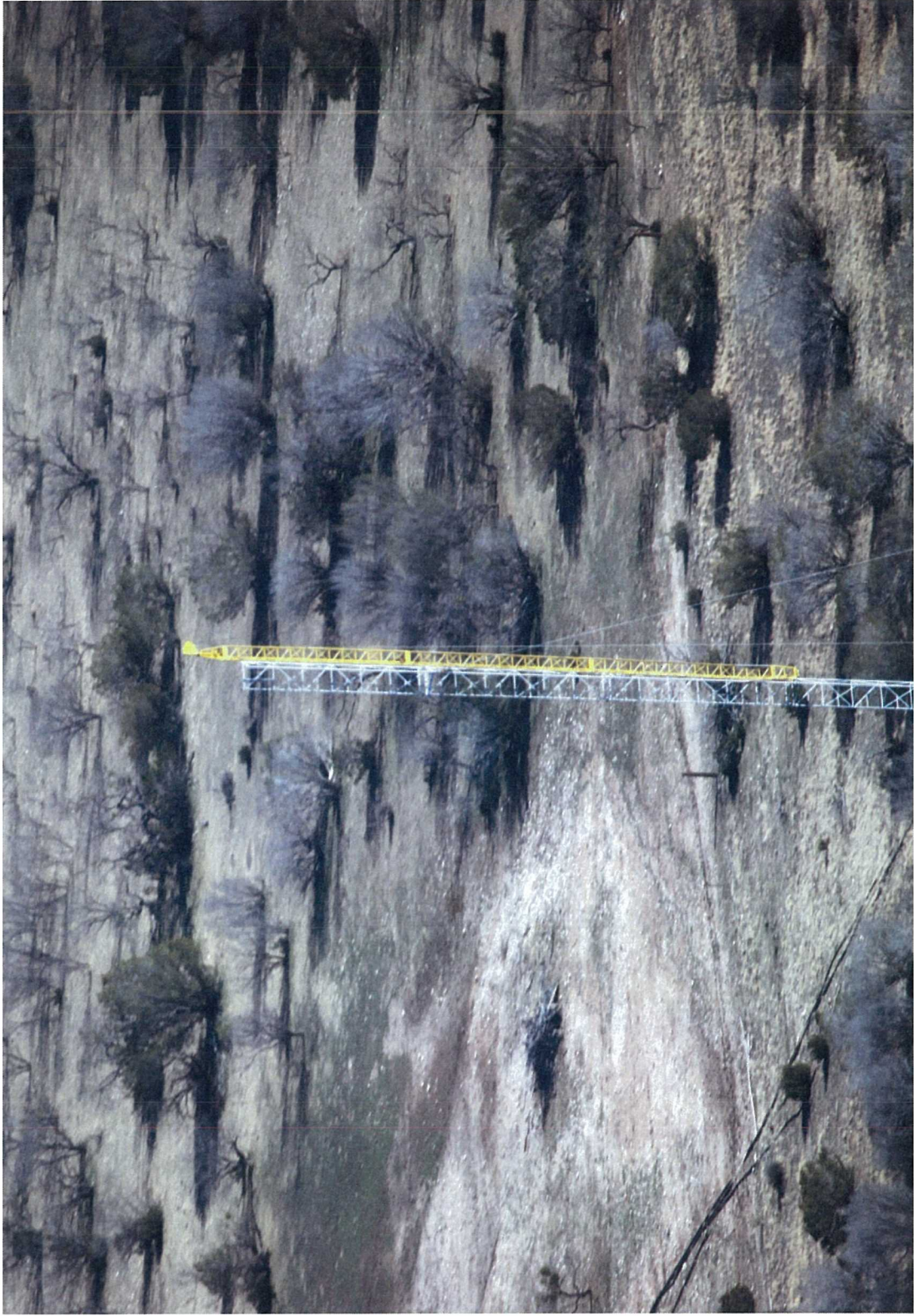


EXHIBIT 2, PAGE 4

12-30-2013

Top of KQTC 440' Tower – With No
Obstruction Light – Close Up #2

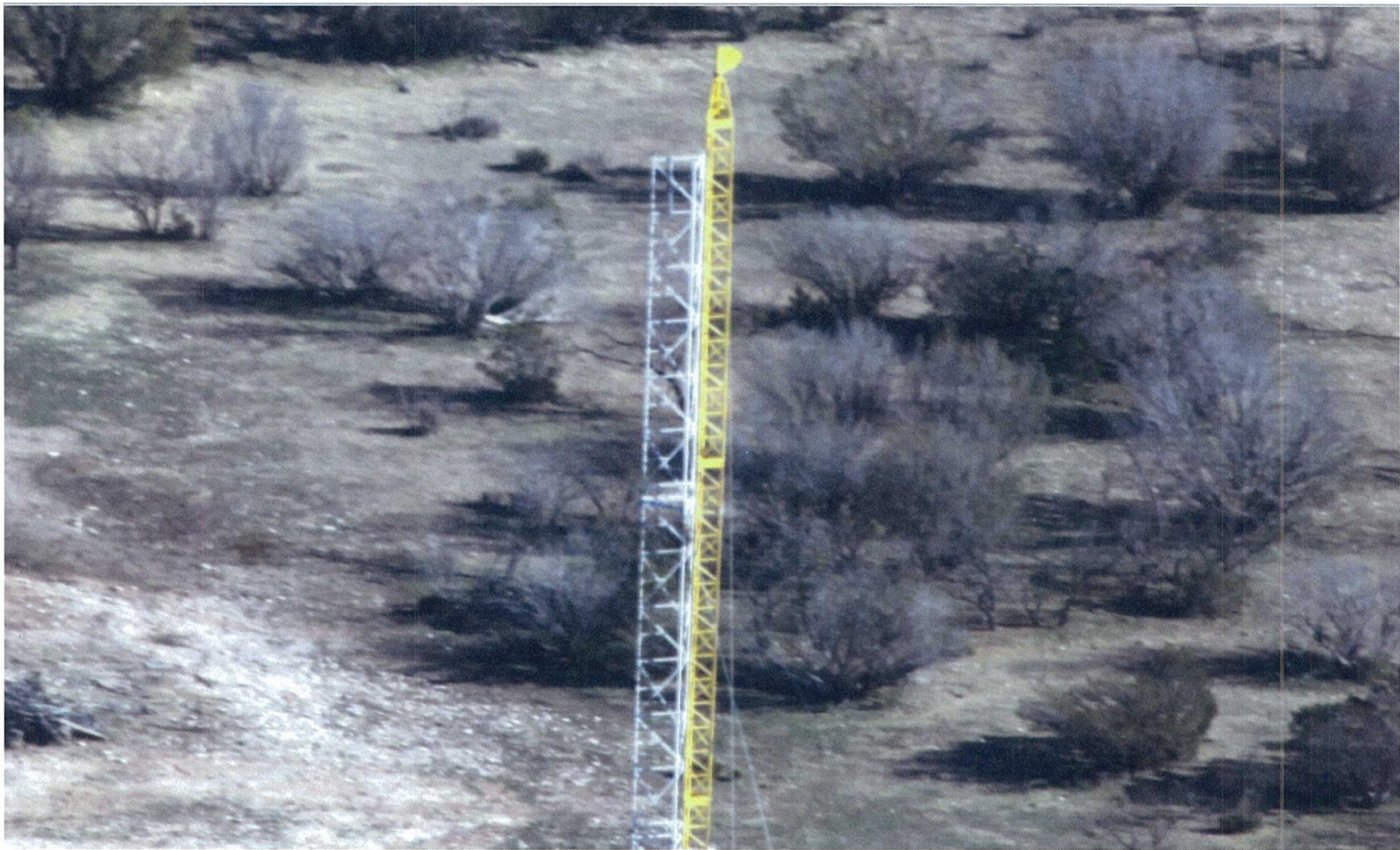


EXHIBIT 2, PAGE 5

12-30-2013

Top of KQTC 440' Tower – With No
Obstruction Light – Close Up #3

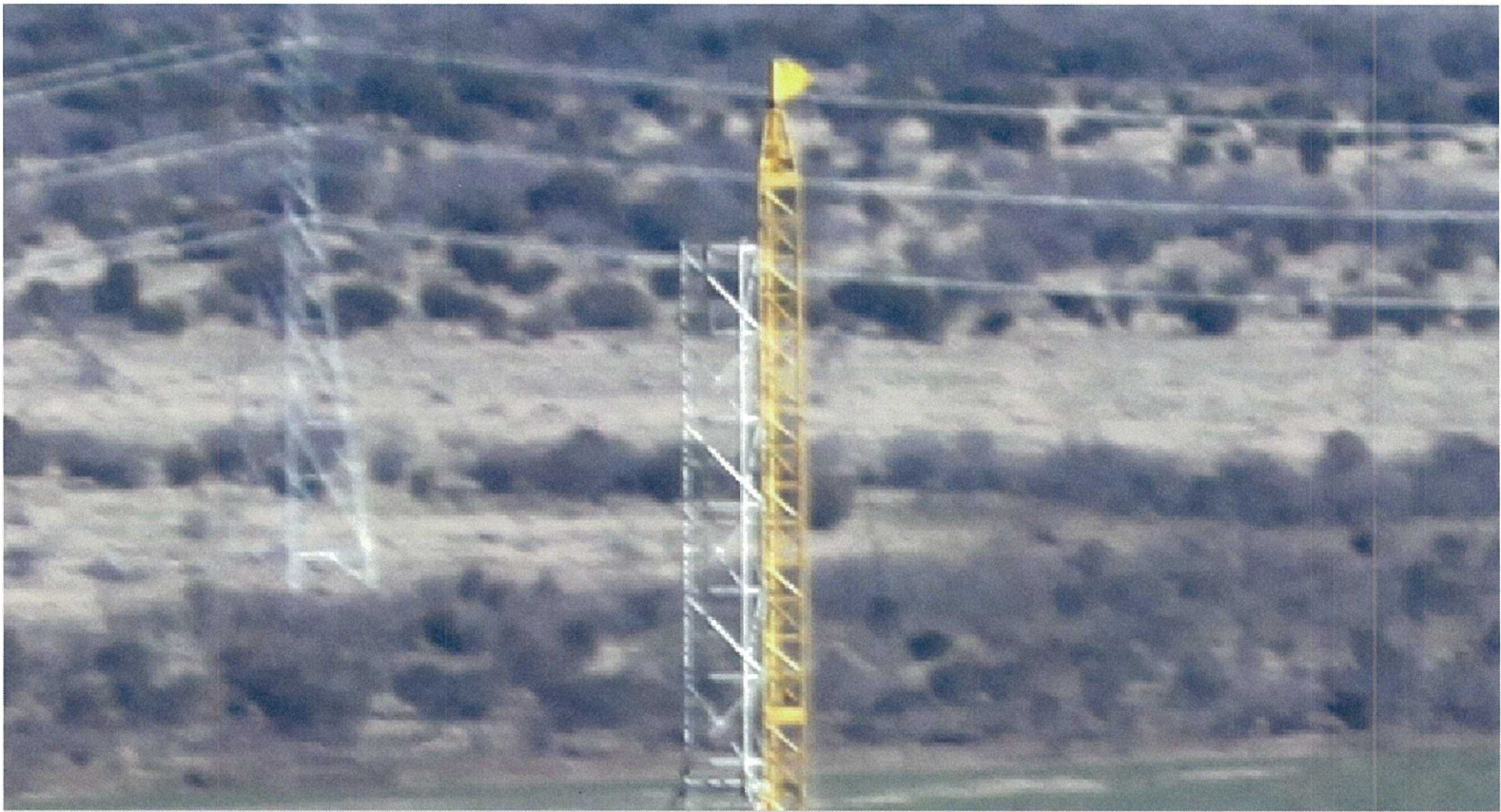


EXHIBIT 2, PAGE 6

12-30-2013

Top of KQTC 440' Tower – With No
Obstruction Light – Close Up #4

EXHIBIT 3

Facebook Postings by Saver Media - KQTC

Located at https://www.facebook.com/permalink.php?id=183470345193261&story_fbid=189597874580508

Sample copies of several KQTC Facebook pages are attached as follows:

Exhibit 3-1 - "Picture of our tower getting built for Saver Media KQTC/Q99.5 !!!"

Exhibit 3-2 - "A sneak peak of the studio.. Q99 THE BEST IN ENGLISH AND SPANISH!!!"

Exhibit 3-3 – Main Facebook page for Q99 San Angelo - KQTC

EXHIBIT 3, PAGE 1

"Picture of our tower getting built for Saver Media KQTC/@99.5!!!"

Pictures of our tower getting built for... - Q99sanangelo- KQTC | Facebook - Mozilla Firefox

File Edit View History Bookmarks Tools Help

f Pictures of our tower getting built for... - Q9... +

https://www.facebook.com/permalink.php?id=183470345193261&story_fbid=189597874580508

logmein - Google Sear... SiController.Ink LogMeIn Central

facebook Sign Up


Email or Phone Password

Keep me logged in Forgot your password? Log In

Q99.5 KQTC - KAT MEDIA

Q99sanangelo- KQTC · 566 like this
December 26, 2013 at 11:22am ·

Pictures of our tower getting built for Saver Media KQTC/Q99.5 !!!



Like · Comment

Juan Ibarra, Katie Clark-perez, Amy Martinez and 14 others like this.

Facebook © 2014
English (US) · Privacy · Terms · Cookies · More

EXHIBIT 3, PAGE 2

*"A sneak peak of the studio..Q99 THE BEST
IN ENGLISH AND SPANISH!!!"*

A sneak peak of the studio.. Q99 THE... - Q99sanangelo- KQTC | Facebook - Mozilla Firefox

File Edit View History Bookmarks Tools Help

f Pictures of our tower getting built for... x New Tab x f A sneak peak of the studio.. Q99 THE... x +

https://www.facebook.com/permalink.php?id=183470345193261&story_fbid=189618527911776

logmein - Google Sear... SiController.Ink LogMeIn Central

facebook Sign Up

Email or Phone Password Log In

Keep me logged in Forgot your password?

Q99sanangelo- KQTC · 566 like this
December 26, 2013 at 12:11pm ·

A sneak peak of the studio.. Q99 THE BEST IN ENGLISH AND SPANISH!!!

Like · Comment

Amy Martinez, Jel Lozano, Orlando Cardenas and 19 others like this.

Nikk B. Martinez Looking good brother....
1 · December 27, 2013 at 5:48am via mobile

Facebook © 2014
English (US) · Privacy · Terms · Cookies · More

EXHIBIT 3, PAGE 3
Main Facebook page for Q99
San Angelo-KQTC

Q99sanangelo- KQTC | Facebook - Mozilla Firefox

File Edit View History Bookmarks Tools Help

f Pictures of our tower getting built for... x New Tab f A sneak peak of the studio.. Q99 THE... x f Q99sanangelo- KQTC | Facebook x +

https://www.facebook.com/pages/Q99sanangelo-KQTC/183470345193261 ☆ Google

logmein - Google Sear... SiController.Ink LogMeIn Central

facebook

Email or Phone Password Log In

Keep me logged in Forgot your password?

THE BEST IN ENGLISH & SPANISH!

Q99sanangelo- KQTC is on Facebook.

To connect with Q99sanangelo- KQTC, sign up for Facebook today.

Sign Up Log In

LIKE US

Q99sanangelo- KQTC

566 likes · 83 talking about this

Community

Q99 is the all new KQTC 99.5fm serving San Angelo and the Concho Valley with the best in English and Spanish!

About

Photos Likes

566

Highlights

EXHIBIT 4
Schleicher County Sheriff Department
Call For Service – Call Information Sheets

Exhibit 4-1 – 12-16-2013 @ 19:00 - “Caller reported new tower construction 2.8 miles East of US 277 of Co. Rd. 312, north side of roadway. Caller gave a reference of 11.7 statute miles north to north east of the Eldorado Texas Airport.”

“Unit No 901 responded at approx. 7:30 PM and noted no tower visible on northside of County Rd. 312 at location given by said caller. The only visible tower was noted on the south side of 312 known as the Huldale Gas Plant.”

(Note 1: - The Huldale Gas Plant tower is an existing 300' tower that has been erected for many years and is properly painted and is lit at night by red obstruction lighting. See Google Earth Screen Prints in Exhibit 8 for the exact locations of the newly constructed KQTC tower and the existing 300' Huldale Gas Plant Tower, along with County Road 312 and U.S. Highway 277.

(Note 2: - This call was serviced by Unit 901- Sheriff David Doran of the Schleicher County Sheriff Department

Exhibit 4-2 – 12-28-2013 @ 20:32:00 - “Caller reported a tower without lights on county road 312. 11.7 statute miles north-northeast of the Eldorado, Texas airport

Officer responded – Units 905 - Located the only visible tower sitting south of County Road 312, located at the Huldale Gas Plant, **no other visible tower.**”

Exhibit 4-3 – 1-02-2014 @ 07:36:50 - “Caller Stated Tower On North Side of County Road 312 Does Not Have Any Lighting Visible.”

Date : 01/02/2014

Page : 1

CALLS FOR SERVICE - CALL INFORMATION SHEET

SCHLEICHER COUNTY SHERIFF'S OFFICE

CALL FOR SERVICE INFORMATION				
CALL NUMBER 2014000007	REPORTED DATE/TIME 12/16/2013 - 19:00:	DISPATCHER 913 - ROMERO, LESA M		INCIDENT NUMBER
REPORTED INCIDENT OTHER- TOWER WITH NO LIGHTING			HOW CALL WAS RECEIVED Phone Call	
LOCATION 2.8 MILES EAST OF US HWY 277 ON NORTH SIDE OF CO. RD. 312				
ADDRESS 277 N			CITY ELDORADO	
TIME RECEIVED 19:00:	TIME DISPATCHED : :	TIME 1ST UNIT ARRIVED : :	TIME CLEARED : :	
<div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> Fire Fighters Dispatched <input type="checkbox"/> Ambulance Dispatched <input type="checkbox"/> Wrecker Dispatched </div> <div> <input type="checkbox"/> Hazardous Material(s) Involved <input type="checkbox"/> Hold from Press <input type="checkbox"/> Arrest(s) Made during this call </div> <div> <input type="checkbox"/> Call was dangerous to Officers </div> </div>				
CALLER INFORMATION				
CALLER'S NAME , BOYER DANNY			FILE NUMBER	
ADDRESS 710 N DIVIDE			CITY ELDORADO	
PHONE NUMBER 325-853-1049				
COMMENTS NOTED				
<p>Caller reported new tower construction 2.8 miles East of US 277 off of Co. Rd. 312, north side of roadway. Caller gave a reference of 11.7 statute miles north to north east of the Eldorado Texas Airport.</p> <p>Unit No. 901 responded at approx. 7:30pm and noted no tower visible on northside of Co. Rd 312 at location given by said caller. the only visible tower was noted on the south side of 312 known as the Huldade Gas Plant.</p>				
UNIT(S) ASSIGNED				
<u>Agency</u>	<u>Unit</u>	<u>Dispatch Time</u>	<u>Arrival Time</u>	<u>Time Cleared</u>

Date : 01/02/2014

Page : 1

CALLS FOR SERVICE - CALL INFORMATION SHEET

SCHLEICHER COUNTY SHERIFF'S OFFICE

CALL FOR SERVICE INFORMATION									
CALL NUMBER 2014000006	REPORTED DATE/TIME 12/28/2013 - 20:32:00	DISPATCHER 913 - ROMERO, LESA M		INCIDENT NUMBER					
REPORTED INCIDENT OTHER-NO TOWER LIGHTS / NEW CONSTRUCTION			HOW CALL WAS RECEIVED Phone Call						
LOCATION 2.8 MILES EAST OF US HWY 277 ON NORTH SIDE OF CO. RD 312									
ADDRESS 4 N DIVIDE			CITY ELDORADO						
TIME RECEIVED 20:32:00	TIME DISPATCHED : :	TIME 1ST UNIT ARRIVED : :	TIME CLEARED : :						
<input type="checkbox"/> Fire Fighters Dispatched <input type="checkbox"/> Hazardous Material(s) Involved <input type="checkbox"/> Call was dangerous to Officers <input type="checkbox"/> Ambulance Dispatched <input type="checkbox"/> Hold from Press <input type="checkbox"/> Wrecker Dispatched <input type="checkbox"/> Arrest(s) Made during this call									
CALLER INFORMATION									
CALLER'S NAME , BOYER DANNY			FILE NUMBER						
ADDRESS 710 N DIVIDE			CITY ELDORADO						
PHONE NUMBER 325-853-1049									
COMMENTS NOTED									
<p>caller reported a tower without lights on county road 312. 11.7 statute miles north - northeast of the Eldorado Texas airport.(according to caller)</p> <p>officer responded Units 905 located the only visible tower sitting south of Co. road 312 located at the Huldale Gas Plant, no other visible tower.</p>									
UNIT(S) ASSIGNED									
<table><thead><tr><th>Agency</th><th>Unit</th><th>Dispatch Time</th><th>Arrival Time</th><th>Time Cleared</th></tr></thead><tbody></tbody></table>					Agency	Unit	Dispatch Time	Arrival Time	Time Cleared
Agency	Unit	Dispatch Time	Arrival Time	Time Cleared					

CALLS FOR SERVICE - CALL INFORMATION SHEET

SCHLEICHER COUNTY SHERIFF'S OFFICE

CALL FOR SERVICE INFORMATION				
CALL NUMBER 2014000005	REPORTED DATE/TIME 01/02/2014 - 07:36:50	DISPATCHER 915 - SIFUENTEZ, BARBARA R	INCIDENT NUMBER	
REPORTED INCIDENT OTHER--TOWER WITHOUT LIGHTS			HOW CALL WAS RECEIVED Phone Call	
LOCATION COUNTY ROAD 312				
ADDRESS			CITY	
TIME RECEIVED 07:36:50	TIME DISPATCHED : :	TIME 1ST UNIT ARRIVED : :	TIME CLEARED : :	
<input type="checkbox"/> Fire Fighters Dispatched <input type="checkbox"/> Hazardous Material(s) Involved <input type="checkbox"/> Call was dangerous to Officers <input type="checkbox"/> Ambulance Dispatched <input type="checkbox"/> Hold from Press <input type="checkbox"/> Wrecker Dispatched <input type="checkbox"/> Arrest(s) Made during this call				
CALLER INFORMATION				
CALLER'S NAME MIDDLETON, LONNIE ALLEN			FILE NUMBER 1257	
ADDRESS 2103 CR 312 / P.O. BOX U			CITY ELDORADO	
PHONE NUMBER 915-853-2330				
COMMENTS NOTED CALLER STATED TOWER ON NORTH SIDE OF CO RD. 312 DOES NOT HAVE ANY LIGHTING VISIBLE.				
UNIT(S) ASSIGNED				
Agency	Unit	Dispatch Time	Arrival Time	Time Cleared

EXHIBIT 5

DECLARATION OF JAMES C. DOYLE

The undersigned hereby declares, under penalty of perjury, as follows:

1. My name is James C. Doyle.
2. I am the duly elected Justice of the Peace of Schleicher County, Texas and have continuously held that elected office for over the past 10 years.
3. I am a licensed by the Federal Aviation Administration as a Private Pilot.
4. The Photographs in **Exhibit 1, that are part of this Exhibit were taken on Monday, December 16, 2013 at approximately 1:30 pm CST** from my aircraft while flying over the site located at the following coordinates: 31 degrees, 0 minutes, 32.3 seconds North, 100 degrees, 30 minutes, 54.6 seconds West (NAD 27) or approximately 11.7 statute miles North North/East of the Eldorado TX Airport.
5. The Photographs in **Exhibit 2, that are part of this Exhibit were taken on Monday, December 30, 2013 at approximately 3:30 pm CST** from my aircraft while flying over the site located at the following coordinates: 31 degrees, 0 minutes, 32.3 seconds North, 100 degrees, 30 minutes, 54.6 seconds West (NAD 27) or approximately 11.7 statute miles North North/East of the Eldorado TX Airport
6. The preceding photographs accurately represent the condition and status of the site at those dates and times.

Dated this 16 day of January, 2014

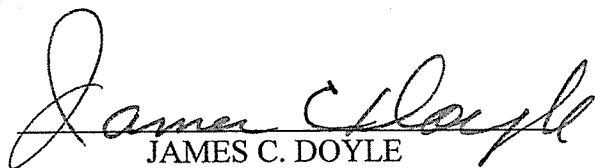

JAMES C. DOYLE

EXHIBIT 6

DECLARATION OF FRANCISCO MENDEZ

The undersigned hereby declares, under penalty of perjury, as follows:

1. My name is Francisco Mendez.
2. I am a long time resident of Eldorado (Schleicher County), Texas.
3. I have personally observed the construction of the newly constructed 440 foot radio tower located at the following coordinates: 31 degrees, 0 minutes, 32.3 seconds North, 100 degrees, 30 minutes, 54.6 seconds West (NAD 27) or approximately 11.7 statute miles North North/East of the Eldorado TX Airport on multiple occasions within the 30 days.
4. My observations as to the status of the height of the newly constructed tower and whether the tower had any operational obstruction lighting was made during the period of time from December 16, 2013 until January 2, 2014.
5. My observations were made two times each day during the above 18 day period, both during the daylight hours and during the hours after sunset. Generally, my hours of observation were made between 12:30 PM and 3 PM during the day and between 8:00 PM and 11:00 PM each night.
6. At no time during the above 18 day period did I observe any operational obstruction lighting emanating from the newly constructed 440 foot radio tower during the day or at night.

Dated this 17 day of January, 2014

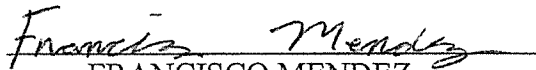

FRANCISCO MENDEZ

EXHIBIT 7

DECLARATION OF DANNY RAY BOYER

The undersigned hereby declares, under penalty of perjury, as follows:

1. My name is Danny Ray Boyer
2. I am a professional Radio Communications Engineer, who's communications and engineering expertise and testimony has been recognized by the Federal Communications Commission and other Federal Governmental agencies for over the past 40 years. I have been licensed by the FCC for over 45 years and have held a General Class Radio Telephone License, as well as Extra Class Amateur Radio license for many years. In my professional work, I am very familiar with the Federal Communications Commission and Federal Aviation Administration's Rules and Regulations, including Parts 1, 2 17, 22, 23, 90, 101, as well as the FCC Broadcast Rules covered under Parts 73 and 74.
3. I am a resident of Schleicher County, Texas.
3. On Friday, 12-13-2013, I personally observed the construction of the KQTC transmitting facility and radio tower located at the following coordinates: 31 degrees, 0 minutes, 32.3 seconds North, 100 degrees, 30 minutes, 54.6 seconds West (NAD 27) or approximately 11.7 statute miles North North/East of the Eldorado TX Airport.
4. On the above date, I observed the KQTC transmitting tower constructed to a height well over 250 feet AGL. A yellow "gin-pole" was attached to the upper part of the structure, which was being used during the erection process. The tower was not painted with alternating bands of aviation orange and white. No obstruction lighting was visible from the tower, both at approximately 3:10 PM (daytime) and again during my observation at 9:15 PM (after sunset).
5. On Sunday, 12-15-2013 at 10:30 AM, I observed the KQTC transmitting tower and noted that no obstruction lighting was emanating from the structure. No alternating paint bands of aviation orange and white were visible from the structure. The yellow "gin-pole" was still attached to the top side of the tower structure.
6. On Tuesday, 12-24-2013 at approximately 3:30 PM and again at approximately 8:50 PM, I observed the KQTC tower at a height of over 360 feet AGL with no visible obstruction lighting emanating from the structure. As with my nighttime observations as detailed above, none of the tower structure itself was visible when I viewed it after sunset, due to the darkness of the nighttime hours and the lack of obstruction illumination required to be installed on the tower.

7. On Sunday, 12-29-2013 at approximately 10:00 AM, I observed the KQTC tower at its ultimate height of approximate 440 - 445 feet. The yellow "gin pole" was attached to the upper top side of the tower. No alternating bands of aviation orange and white were visible and no type of obstruction lighting was installed on the tower.

Dated this 12th day of January, 2014



Danny Ray Boyer

EXHIBIT 8

SCREEN PRINTS OF GOOGLE EARTH IMAGES SHOWING LOCATIONS OF:

Exhibit 8-1: NEWLY CONSTRUCTED 440' - 445' KQTC TOWER

Exhibit 8-2: EXISTING 300' HULDALE GAS PLANT TOWER

Exhibit 8-3: SCHLEICHER COUNTY ROAD 312 AND U.S. HIGHWAY 277

