

Before the
Federal Communications Commission
Washington, DC 20554

In re Application of

CASTELLI MEDIA LLC

LPYV Station K35PH-D
College Park, TX

)
)
) **File No. 0000210687**
) **Facility No. 182057**

Filed with: **Office of the Secretary**
Directed to: **Video Division, Media Bureau**

PETITION FOR RECONSIDERATION

Castelli Media LLC (“Castelli Media”), by its attorney, hereby requests reconsideration of the Letter dated September 12, 2023, cancelling the above-referenced construction permit for Station K35PH-D, Facility No. 182057 -- a new LPTV station to serve College Park, Texas. With respect thereto, the following is stated:

The construction permit for Station K35PH was cancelled due to the permittee’s failure to timely file an application for license to cover the construction permit. However, as seen below, Station K35PH was timely constructed over four months prior to the expiration of the underlying construction permit for the station. Therefore, under Commission precedent, the Bureau’s action cancelling the permit should be reconsidered, and the construction permit should be reinstated to allow for the licensee to file a late-filed application for license to cover.

Specifically, the original construction permit for Station K35PH-D was granted to the former permittee of K35PH-D on August 4, 2020, with an expiration date of August 4, 2023. File No. BNPDTL-20090825AWA. An application for assignment of the permit to Castelli Media was filed on November 29, 2022 (File No. 0000204320), which was granted on November 11, 2023, and consummated on February 7, 2023. File No. 0000210433. An application for modification of

the permit, to propose operations from a tower owned by Gray Media Group, Inc., (File No. 0000210687) was filed shortly thereafter on February 13, 2023, which was granted on February 16, 2023.

As seen in Attachment 1, construction of Station K35PH-D was completed on March 27, 2023. Attached hereto is a Declaration of Vincent Castelli, the President of Castelli Media, detailing the steps taken to construct Station K35PH including proof of the ordering and delivery of equipment; proof of the construction of the station; proof of commencement of operations; and proof of the continuation of operations of the station.

The FCC has allowed for the filing of later-filed applications for license to cover in the past, provided that the permittee has demonstrated timely construction in accordance with the terms of the permit. See e.g., *Christian Broadcasting of Yakima*, DA 22-760 (MB 2022) and File No. 0000194518 (email dated July 1, 2022); *Three Eagles of Lincoln, Inc.*, 24 FCC Rcd 13483 (Audio Division, 2009); *WRFN-LP, Pasquo, Tennessee*, 24 FCC Rcd 12426 (Audio Division, 2009).

In this case, the station was timely construed well before the August 4, 2023, expiration date of the permit. This has been proven through the submission of sworn declarations, invoices, receipts, and photographs. In accordance with this precedent, reinstatement of the permit in this case to allow for the filing of a license the cover is appropriate.

WHEREFORE, it is requested that this Petition for Reconsideration be granted¹.

Respectfully submitted,

CASTELLI MEDIA LLC

By: ____/Dan J. Alpert/_____
Dan J. Alpert

Its Attorney

*The Law Office of Dan J. Alpert
2120 N. 21st Rd.
Arlington, VA 22201
703-243-8690*

October 12, 2023

¹ To the extent required, in the event this request cannot be treated as a petition for reconsideration, a request for waiver of Section 74.888(b) of the Commission's Rules respectfully is requested.

Attachment 1

DECLARATION

I, Vincent Castelli, hereby state as follows:

1. I am CEO of Castelli Media LLC, permittee of Station K35PH-D.
2. Construction of Station K35PH-D was completed on March 27, 2023. The steps taken for the completion of construction were as follows:
 3. Station K35PH was acquired by Castelli Media on February 7, 2023. Arrangements were made for the equipment necessary for the planned construction of the station. As seen in Attachment A, I ordered equipment for K35PH-D and for several other stations from Technalogix. I paid \$30,540.00 for the bulk order when the order was placed, and paid an additional \$34,115.00 on February 27, 2023. Included in the equipment was a UHF Transmitter with filter (Model - TLS-004-UHF-40), Yagi antenna (Model TDJ-0406Z5H50), Filter (Model TLS UHF 40W Filter Assembly 1.2), Graphics Generator, and CBL 1400 transmission line w/N connectors. As seen on Attachment A, the equipment was shipped on February 24, 2023.
 4. I acquired permission from Gray Media Group to use its tower for Station K35PH, ASR 1062866, in early February 2023. An application for modification of the permit to the Gray Tower was filed with the FCC on February 13, 2013, which was granted on February 16, 2023. Shortly thereafter, I signed the written agreement with Gray Media for the K35PH site (as well as sites for several other stations) on February 22 2023. A copy of the signed lease is attached hereto as Attachment B. The lease price includes all utilities used by K35PH.
 5. As seen in Attachment C, the K35PH-D equipment was delivered to Gerald Keller, Chief Engineer KBTX, at 4141 East 29 Street Bryan Texas 77802. A copy of the delivery receipt for the equipment is attached hereto as Attachment D. Delivery occurred on or about March 13, 2023.
 6. As reflected in Attachment E, Mr Geller installed the equipment for the Station on March 27, 2023, and the Station began operations on that date. Pictures sent by Mr. Geller taken on March 27, 2023, are attached hereto as Attachment F.
 7. Since the installation of the equipment, the station has been on the air 24/7 since the installation, as confirmed by chief Engineer Geller. Programming is fed locally into the station's transmitter. There are no local employees for the station. A still-shot showing its current on-air status is shown in Attachment G. This photograph was taken on October 9, 2023.
 8. Castelli Media failed to timely file its license to cover due to an administrative error. I ordinarily rely on my engineer, Susan Hansen, to complete such filings with the FCC. Through a miscommunication, this was not done and as a result, the filing has not been made. Steps are being taken to ensure such an error does not occur again.

I declare under penalty of perjury the forgoing is true and correct.



Vincent Castelli

October 11, 2023

Attachment A



8156 Edgar Industrial Close
Red Deer, AB
Canada T4P 3R4

PAID
2023-02-27

Invoice

Invoice #	7015
Invoice Date	2023-04-25
Terms	50% Deposit/Balance at Shi...
Due Date	2023-04-25

Invoice To	Ship To
Castelli Media 9925 Haynes Ridge Rd. Suite 200-155 Alpharetta, GA 30022 USA	Various Locations As per instructions

P.O. No.	Sales Rep	Ship Via	Tracking #	Ship Date
Vince Castelli	RG	Federal Express		02/24/2023

Qty	Item	Description	Price Each	Amount
9	FB_Item	TLS-004-UHF-40 License Saver 40W output CH 17, 19, 21, 22, 26, 28, 29, 30, 35	4,160.00	37,440.00
9	FB_Item	UHF Filter for above units	150.00	1,350.00
4	FB_Item	TLS-004-VHF-H-25 25 Watt VHF-H License saver CH 8, 10, 10, 13	3,995.00	15,980.00
4	FB_Item	VHF-H Filter for above units	300.00	1,200.00
9	FB_Item	Broadband Yagi Antenna	130.00	1,170.00
4	FB_Item	VHF-H Yagi Antenna	400.00	1,600.00
13	FB_Item	100' LMR400 cable w/ N connectors	180.00	2,340.00
1	Shipping & Handling	Shipping & handling of product sales, including packing materials - \$275 per unit	3,575.00	3,575.00
		Serial #: 23023858 to 23023870		
		VISA and Mastercard accepted - 4% processing fee will be added.		

Technalogix Ltd. is not responsible for shipping costs or related duty, taxes, VAT, etc. on goods imported by our customers. These costs will be invoiced, unless prior arrangements were made.
Wire payments to any new account must be verified verbally with our accounting department.
Technalogix will not be responsible for any inadvertent loss of funds.

Phone #	403-347-5400	admin@technalogix.ca	Subtotal	USD 64,655.00
Fax #	403-347-7444	www.technalogix.ca	Sales Tax	USD 0.00
GST/HST No.	895652154	Thank you for your business!	Total	USD 64,655.00
			Payments/Credits	USD -64,655.00
			Balance Due	USD 0.00

Attachment B

LPTV LEASE CONFIRMATION

This LPTV LEASE CONFIRMATION is made effective as of the 22nd day of February 2023 between Gray Media Group, Inc. ("Gray") and Castelli Media, LLC ("Gray"), permittee of the below listed low power television stations (each a "Station"):

Call Sign	Community of License	Permittee	Tower
W30EU-D	Albany, Georgia	Castelli Media LLC	WALB-TV Studio Tower ASR 1019963
K35PH-D	College Station, Texas	Castelli Media LLC	KBTX-TV Studio Tower ASR 1062866
W19EW-D	Evansville, Indiana	Castelli Media LLC	WFIE-TV Studio Tower ASR 1030625
W10DG-D	Evansville, Indiana	Castelli Media LLC	WFIE-TV Studio Tower ASR 1030625
W13DT-D	Montgomery, Alabama	Castelli Media LLC	WSFA-TV Main Tower ASR 1036432
W17EM-D	Panama City, Florida	Castelli Media LLC	WJHG Aux Tower ASR 1029017
W29FN-D	Panama City, Florida	Castelli Media LLC	WJHG-TV Studio Tower ASR 1263140
W08EQ-D	Tallahassee, Florida	Castelli Media LLC	WCTV Aux Tower ASR 10047427

Castelli has the right to construct and operate on a noninterfering basis each Station on the Gray tower identified above in accordance with the Station's granted construction permit. The term for each Station shall be for 24 months from the date when the Station commences operations at the Gray Tower. The monthly rent during the term shall be \$0.00. If Castelli or any assignor or transferor of the Station seeks to upgrade or modify the facilities, the parties shall negotiate in good faith an appropriate long-term lease at market rates to reflect the upgraded or modified facilities.

Gray has the right to terminate this agreement with respect to any Station if in Gray's reasonable engineering judgment the operation of a Station will cause interference to Gray's operations or the operations of a tenant on the Gray Tower or if operation of the Station is unsafe or not consistent with commercially reasonable engineering practice (e.g. excessive tower loading).

GRAY MEDIA GROUP, INC.



Robert J. Folliard
Senior Vice President

CASTELLI MEDIA LLC



Vincent Castelli
Manager

Attachment C

Commercial Invoice

DATE OF EXPORTATION 10-Mar-23			EXPORT REFERENCES (i.e., order no, invoice no, etc) Invoice #:					
SHIPPER/EXPORTER TECHNALOGIX LTD Bay 3, 8156 Edgar Ind Close Red Deer, AB, Canada T4P 3R4 TAX ID: 895652154RT0001			CONSIGNEE Gerald Keller KBTX 4141 East 29th Street Bryan, TX 77802 979-595-1512 USA					
COUNTRY OF EXPORT Canada			IMPORTER if different then then Consignee Castelli Media 9925 Haynes Ridge Rd. Suite 200-155 Alpharetta, GA 30022 USA TAX ID: 87-4128321					
COUNTRY OF ORIGIN OF GOODS Canada								
COUNTRY OF ULTIMATE DESTINATION USA								
INTERNATIONAL AIR WAYBILL NO Fedex 771534940701								
Marks	No of Pkgs	Type of Pkg	FULL DESCRIPTION OF GOODS	QTY	Weight	Unit of Measure	Unit Value	Total Value
	1	box	TLS License saver amplifier system HTS: 8525.50.3040	1	60	lbs	\$3,995.00	\$3,995.00
Total Pkgs: 1			Total Weight 60 lbs			Total Invoice Value \$3,995.00		

THESE COMMODITIES ARE LICENSED FOR THE ULTIMATE DESTINATION SHOWN
DIVERSION CONTRARY TO UNITED STATES LAW IS PROHIBITED

☒ USD
☐ CAD

Duties and Taxes paid by the: ☒ Consignee
☐ Exporter

I DECLARE ALL THE INFORMATION CONTAINED IN THIS INVOICE TO BE TRUE AND CORRECT

SIGNATURE OF SHIPPER/EXPORTER:



Shipper

10-Mar-23

Signature

Title

Date

Attachment D

Signed by G.KELLER
FedEx Use
Customs
Entry Date Mar 11, 2023
Entry No. 79941779381
Customs Value USD 3,995.00

ELS-004-011-40 Television amplifier system

Customs Duty	0.00
Merchandise Processing Fee	29.66
Disbursement Fee	12.00
Total Duties, Tax, Customs, Other Fees	USD \$41.66

Total Tracking IDs 1	USD \$41.66
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Total FedEx Express	USD \$41.66
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02332002010 771334340101		MATECLID0233RED		CA		03/10/2023	
16. I.T. No.		17. I.T. Date		18. Missing Docs		19. Foreign Port of Lading	
21. Location of Goods/G.O. No.		22. Consignee No. 87-412832100		23. Importer No. 16-080722399		20. U.S. Port of Unlading 2095	
25. Ultimate Consignee Name and Address CASTELLI MEDIA 9925 HAYNES BRIDGE RD City ALPHARETTA State GA US Zip 30022				26. Importer of Record Name and Address FEDEX TRADE NETWORKS TRANSPORT 145 LT GEORGE W LEE City MEMPHIS State TN US Zip 38103			
27.		28. Description of Merchandise		32.		33.	
Line No.		29. A. HTSUS No. B. ADA/CVD No.		30. A. Grossweight B. Manifest Qty.		31. Net Quantity In HTSUS Units	
001		1 PKG TIS-004-UHF-40 TELEVISION AMPLIF TELEVISION TRANSMIS EQUIP, 8525.50.3040 27 MERCHANDISE PROCESSING FEE		NOT RELATED 3,995 C500		A. HTSUS Rate B. ADA/CVD Rate C. IRC Rate D. Visa No. FREE .3464%	
						34. Duty and I.R. Tax Dollars Cents 13.84	
Other Fee Summary for Block 39 MPF 499 29.66		35. Total Entered Value \$ 3,995 Total Other Fees \$ 29.66		CBP USE ONLY		TOTALS	
				A. LIQ CODE		B. Ascertained Duty 37. Duty	
				REASON CODE		C. Ascertained Tax 38. Tax	
36. DECLARATION OF IMPORTER OF RECORD (OWNER OR PURCHASER) OR AUTHORIZED AGENT						D. Ascertained Other 39. Other 29.66	
I declare that I am the <input checked="" type="checkbox"/> Importer of record and that the actual owner, purchaser, or consignee for CBP purposes is as shown above, OR <input type="checkbox"/> owner or purchaser or agent thereof. I further declare that the merchandise <input checked="" type="checkbox"/> was obtained pursuant to a purchase or agreement to purchase and that the prices set forth in the invoices are true. OR <input type="checkbox"/> was not obtained pursuant to a purchase or agreement to purchase and the statements in the invoices as to value or price are true to the best of my knowledge and belief. I also declare that the statements in the documents herein filed fully disclose to the best of my knowledge and belief the true prices, values, quantities, rebates, drawbacks, fees, commissions, and royalties and are true and correct, and that all goods or services provided to the seller of the merchandise either free or at reduced cost are fully disclosed.						E. Ascertained Total 40. Total 29.66	

T4P 3R4			Bryan, TX 77802 979-595-1512 USA					
TAX ID: 895652154RT0001			IMPORTER If different then then Consignee Castelli Media 9925 Haynes Ridge Rd. Suite 200-155 Alpharetta, GA 30022 USA TAX ID: 87-4128321					
COUNTRY OF EXPORT Canada								
COUNTRY OF ORIGIN OF GOODS Canada								
COUNTRY OF ULTIMATE DESTINATION USA								
INTERNATIONAL AIR WAYBILL NO Fedex								
Marks	No of Pkgs	Type of Pkg	FULL DESCRIPTION OF GOODS	QTY	Weight	Unit of Measure	Unit Value	Total Value
	1	box	TLS License saver amplifier system HTS: 8525.50.3040	1	60	lbs	\$3,995.00	\$3,995.00
Total Pkgs: 1			Total Weight 60 lbs			Total Invoice Value \$3,995.00		



THESE COMMODITIES ARE LICENSED FOR THE ULTIMATE DESTINATION SHOWN
 DIVERSION CONTRARY TO UNITED STATES LAW IS PROHIBITED

☒ USD
☐ CAD

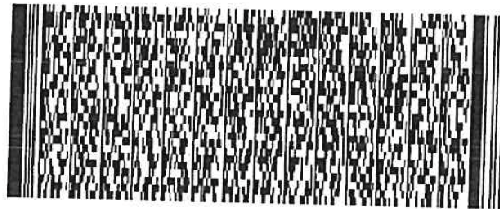
Duties and Taxes paid by the: ☒ Consignee
☐ Exporter

I DECLARE ALL THE INFORMATION CONTAINED IN THIS INVOICE TO BE TRUE AND CORRECT

SIGNATURE OF SHIPPER/EXPORTER:

Custom Media
4141 East 29th Street

BRYAN, TX 77802
US



These commodities, technology, or software were exported from Canada in accordance with the export administration regulations. Diversion contrary to Canadian law prohibited.

The Warsaw Convention may apply and will govern and in most cases limit the liability of Federal Express for loss or delay of or damage to your shipment. Subject to the conditions of the contract.

FEDEX AWB COPY- PLEASE PLACE BEHIND CONSIGNEE COPY

SHIPPING VALUE: 0.00 USD
CUSTOMS VALUE: 3995.00 USD
T/C: S 185980065 D/T: R
SIGN: Chad Curtis
EIN/VAT:
PKG: CUSTOMER

4:30P

INTL ** 2DAY **

TRK# 7715 3494 0701
0430

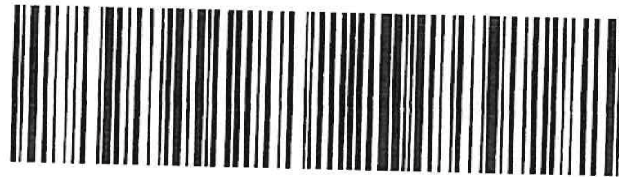
ETD

77802

TX-US

IAH

SA CLLA



584175982 FE2D

CITY RED DEER
ST/PV AB CNTRY CA POSTAL T4P3R4

CITY RED DEER
ST/PV TX CNTRY US POSTAL 77802

REF
SVC ES PKG HLD WDL SDL SPEC HDLG 54 02 DG CA
BRKR CITY CN PSTL PH
BILL-T/C S ACCT CASH EXP DT
BILL-D/T C ACCT ID NO: 874128321 NO SED REC'D AT
PKGS K/L WEIGHT COM CURR CARR VAL CUSTOMS VAL EX LIC HDLG UNITS
1 L 60.00 CA USD 3995.00
DESC: TLS-004-UHF-40 TELEVISION AMPLIFIER SYSTEM



Attachment E

To whom it may concern

My name is Gerald Keller. I am the Chief Engineer for KBTX(TV) in Bryan, Texas. I installed and turned on the transmitter for K35PH-D, facility ID: 182057 on March 27, 2023. I recently confirmed that the station is still on the air operating with the same parameters since I installed it. I am not aware of any reason why it would have gone off the air since I completed construction on March 27, 2023.

The forgoing is true and correct to the best of my knowledge, information, and belief.

A handwritten signature in black ink, appearing to read "Gerald Keller", is positioned above the printed name.

Gerald Keller

October 09, 2023

To whom it may concern

My name is Gerald Keller. I am the Chief Engineer for KBTX(TV) in Bryan, Texas, owned by Gray Media Group, Inc. I was asked to assist in the construction of K35PH-D.

The equipment for the Station -- consisting of a transmitter, antenna, and transmission line -- was delivered to the KBTX(TV) studio by Federal Express in March 2023.

I, along with other employees for KBTX(TV) operating under my supervision, installed and turned on the transmitter for K35PH-D, Facility ID: 182057 on March 27, 2023. This consisted of climbing the tower and securing the antenna; installing the transmission line; and attaching the transmitter to the side of the transmitter building.

I am not aware of any reason why it would have gone off the air at any time since I completed construction on March 27, 2023. Moreover, I recently confirmed that the station is still on the air operating with the same parameters since I installed it.

The forgoing is true and correct to the best of my knowledge, information, and belief.

Gerald Keller
October 11, 2023

Attachment F





WARNING!!!

Frequency Band

☒ UHF (Channels 14 - 37)

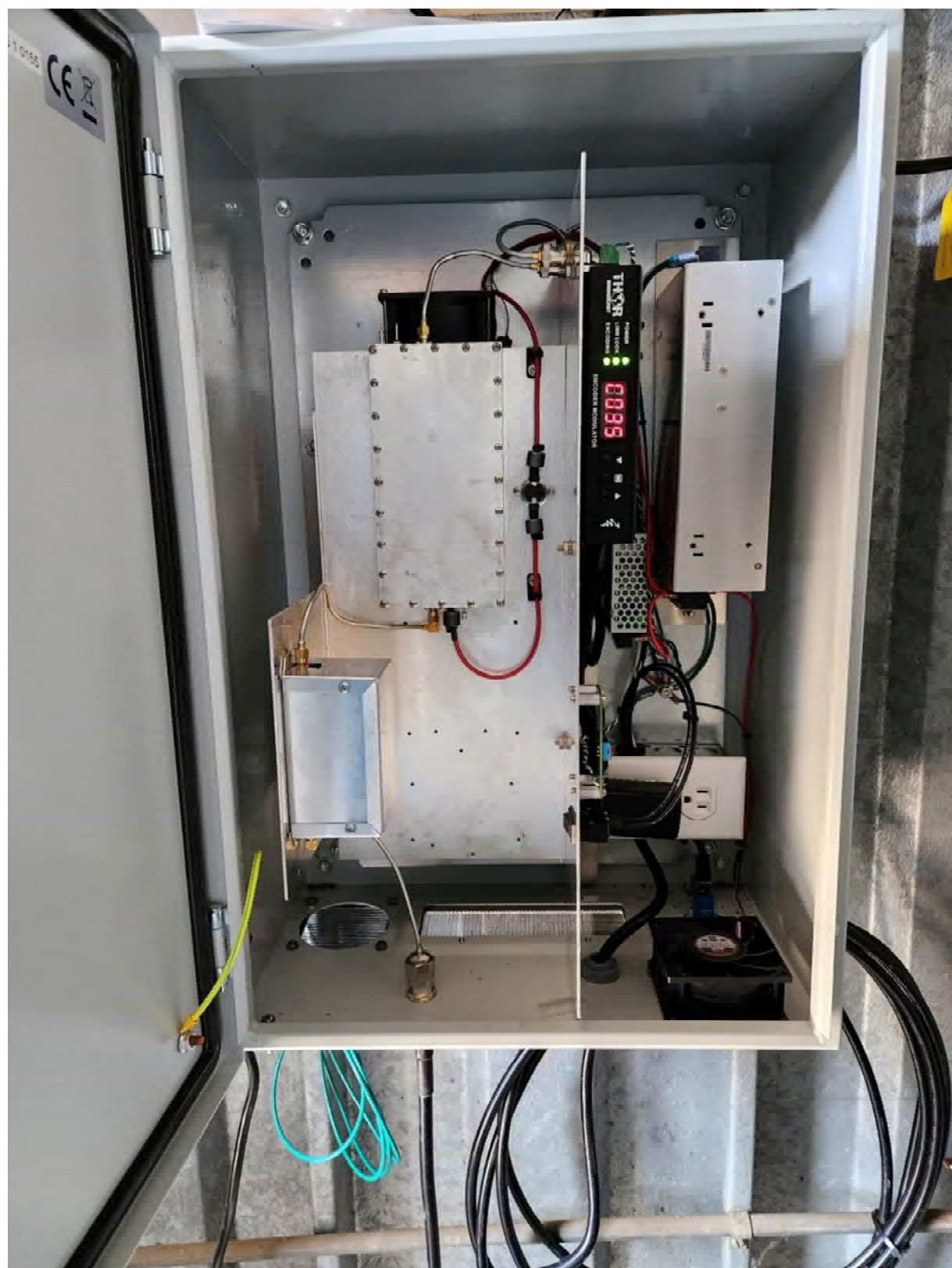
☐ VHF High Band (Channels 7 - 13)

☐ VHF Low Band (Channels 2 - 6)

Channel: 35
Call Sign: 43509

Operating unit on wrong band will
result in permanent damage!

Operating unit without antenna
connected will result in permanent
damage!



Attachment G

