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ROSEMARY C. HAROLD

October 25, 2013

VIA COURIER

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street SW, Room TW-A325
Washington, DC 20554

ACCEPTED/FILED

OCT 25 2013

Federal Communications Commission
Office of the Secretary

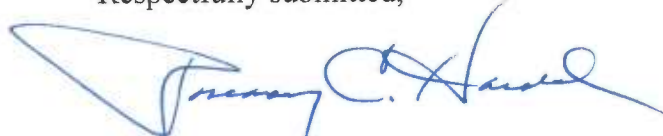
Re: *Petition to Deny Application of Eastern Sierra Broadcasting for a New
FM Translator Facility Licensed to Wickenburg, AZ (FIN 148598), File
No. BNPFT-20130829AIJ.*

Dear Ms. Dortch:

By its undersigned attorney, Shamrock Communications, Inc., licensee of KRZQ(FM), Fallon, Nevada (FIN 165338), hereby submits a petition seeking Commission denial of the above-referenced application. This petition is timely filed pursuant to the directives of the Commission's recent Public Notice concerning deadlines established in the wake of the government shutdown and reopening. *See FCC Public Notice, Revised Filing Deadlines Following Resumption of Normal Commission Operations*, DA 13-2025 (Oct. 17, 2013). This submission consists of an original and one duplicate, per 47 C.F.R. § 1.51(c), with separate service via U.S. Mail to the applicant.

Please date-stamp the enclosed duplicate and return it via the messenger for our records. Should any questions arise concerning this submission, please do not hesitate to contact me.

Respectfully submitted,



Rosemary C. Harold

Enclosures

cc: Peter Doyle (via email)
Peter Shelton
Dan J. Alpert

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

Application of)	
)	
Eastern Sierra Broadcasting)	File No. BNPFT-20130829AIJ
for a New FM Translator Facility)	
Channel 281, Carson City, Nevada (FIN 148598))	

To: Federal Communications Commission
Attn: Media Bureau, Audio Services Division

**PETITION TO DENY
OF SHAMROCK COMMUNICATIONS, INC.**

Shamrock Communications, Inc. ("Shamrock"), licensee of KRZQ(FM), Fallon, Nevada (FIN 165338) ("KRZQ"), which operates on Channel 281, by its attorneys, submits this Petition to Deny the above-referenced application filed by Eastern Sierra Broadcasting ("Eastern Sierra") for a new FM translator facility to operate on Channel 281 at Carson City, Nevada ("Application"). As demonstrated below, the proposed FM translator would violate Sections 74.1204(a)(3) and 74.1204(f) of the Commission's rules because its co-channel operation would create interference to KRZQ's authorized operations. The interference that would be created by Eastern Sierra's proposed FM translator would harm KRZQ and its regular listeners in well-populated areas of Carson City and Dayton, Nevada. In addition, there is reason for the Commission to question the antenna proposed in the Application and Eastern Sierra's certification that it has obtained consent from the licensee to rebroadcast the full-power station identified in the Application, as required by Section 74.1284 of the Commission's rules. The interference that would be created by the proposed translator to the authorized operations of a

full power station, compounded by certain questionable assertions made by Eastern Sierra, warrants Commission dismissal or denial of the Application.

FACTS

KRZQ has been a licensed FM station serving Fallon, Nevada and the greater Reno area since 2009.¹ Eastern Sierra filed its Application for a new FM translator facility on August 29, 2013, and an amended version of the Application was placed on public notice on September 24, 2013.²

The attached Statement of Kevin M. Fitzgerald, Director of Engineering for Shamrock (“Engineering Statement”), demonstrates that the proposed FM translator’s 40 dBu signal contour would overlap the protected 60 dBu contour of KRZQ in a geographic area to the east of Carson City.³ The proposed facility also would provide a signal that would overlap populated areas of Carson City and Dayton, where KRZQ has many regular listeners.⁴

In addition, Eastern Sierra has made questionable assertions in two key areas of the Application. First, the specified antenna does not appear capable of being used for directional operations and therefore could not protect KRZQ’s authorized operations as the Application

¹ See Application of Shamrock Communications, Inc., File No. BLH-20091124AEI (granted Dec. 3, 2009). Shamrock therefore is a “party in interest” under Section 309 of the Communications Act, 47 U.S.C. § 309(d)(1), and thus has standing to file this petition. See, e.g., *FCC v. Sanders Brothers Radio Station*, 309 U.S. 470, 9 RR 2008 (1940) (existence of economic impact of a detrimental nature); *In re Application of Phillip D. Perry for Modification of MMDS station WMH484*, 9 FCC Rcd 2499 (CCB 1994) (“allegation of potential harmful interference is sufficient to qualify [petitioner] as a party in interest eligible to file a petition to deny pursuant to Section 309”); *Applications of Cox Radio, Inc. & SummitMedia, LLC.*, 28 FCC Rcd 5674 (MB Audio Div. 2013) (standing traditionally accorded to “competitor in the market suffering signal interference”).

² See FCC Public Notice 28080 (dated Sept. 24, 2013). Although this Petition originally was due in mid-October, the intervening government shutdown led to a postponement of the deadline until today’s date. See FCC Public Notice, *Revised Filing Deadlines Following Resumption of Normal Commission Operations*, DA 13-2025 (Oct. 17, 2013).

³ Engineering Statement of Kevin Fitzgerald, Director of Engineering, Shamrock Communications, Inc. at 1 (dated October 25, 2013), appended hereto; *id.* at Att. A and B.

⁴ This is illustrated by the membership of the station’s fan club, the “KRZQ Army,” which includes 13 regular listeners with Carson City addresses. *Id.* at 1.

implicitly asserts.⁵ Second, Eastern Sierra's certification that it has written consent to rebroadcast the full-power signal of KLRH(FM), Sparks, Nevada, licensed to the Educational Media Foundation ("EMF"), does not appear reliable.⁶

LEGAL ARGUMENT

The proposed Eastern Sierra FM translator station would pose impermissible interference to KRZQ under both Section 74.1204(a)(3) and Section 74.1204(f) of the Commission's rules. The first rule prohibits the operation of any FM translator station if its proposed operation's predicted field contour would overlap "with any other authorized commercial ... FM broadcast station[]" as further specified in the rule's detailed subsections.⁷ Shamrock's Engineering Statement, supported by the contour maps at Attachments A and B, plainly show a prohibited overlap area to the east of Carson City. Based on this alone, the Eastern Sierra Application should "not be accepted for filing," much less granted, under Rule 74.1204(a).

In addition, the Eastern Sierra Application would create impermissible interference to KRZQ's authorized operations under Rule 74.1204(f). That regulation prohibits the operation of any FM translator station, even absent the overlap of field strength contours specified in Section 74.1204(a), if the translator's signal would "overlap a populated area already receiving a regularly used, off-the air signal of any authorized co-channel ... broadcast station" and would "result in interference to the reception of such signal"⁸ Again, such FM translator applications are not to be accepted for filing.⁹ As the Engineering Statement details, KRZQ puts a 54 dBu

⁵ *Id.* at 1-2 & Att. D.

⁶ Question 5 in Section II of Form 349 requires a certification that "written authority has been obtained from the licensee of the station whose programs are to be retransmitted." If the certification cannot be made, the form states plainly – in boldfaced type – that the application "is unacceptable for filing."

⁷ 47 C.F.R. § 74.1204(a); *see also id.* at (a)(3).

⁸ 47 C.F.R. § 74.1204(f).

⁹ *See id.* ("An application for an FM translator *will not be accepted for filing*" if it violates the rule). .

contour over much of Carson City and Dayton, which would receive a considerable degree of predicted interference from the proposed Eastern Sierra facility's signal.¹⁰ KRZQ has many regular listeners in Carson City and Dayton, including members of the station's fan club, the "KRZQ Army."¹¹ Therefore the Sierra Application, if granted, also would violate Section 74.1204(f).

Furthermore, the Eastern Sierra Application appears to be legally deficient in at least two other critical respects. First, as Shamrock's Director of Engineering explains, the antenna specified by Eastern Sierra – the "CAB ECFM-1" – does not appear capable of delivering the directional signal that the Application specifies.¹² To the contrary, its manufacturer describes the current incarnation of the antenna as "omni-directional."¹³ The Application provides no technical showing to support its implicit claim that the proposed directional antenna would protect KRZQ's authorized co-channel operations. Consequently, there is a high risk that Eastern Sierra's proposed facility will fail to protect KRZQ's service to the public.

Finally, the Commission also should question Eastern Sierra's certification that it has consent to rebroadcast the signal of KLRH(FM), Sparks, Nevada (FIN 124888), a full-power FM station licensed to Educational Media Foundation ("EMF"). Shamrock's Director of Engineering understands that EMF has not consented to this rebroadcasting of KLRH's signal.¹⁴ Moreover, EMF already owns and operates an FM translator – located just 0.12 kilometers from

¹⁰ Engineering Statement at 1 & Att. C.

¹¹ *Id.* at 1.

¹² *Id.* at 1-2 & Att. D.

¹³ *Id.* at Att. D. It is not clear that the specified antenna set forth in the Application is even available in the marketplace today. *Id.* at 1-2.

¹⁴ *Id.* at 2.

Eastern Sierra's proposed FM translator site – which currently rebroadcasts the KLRH signal.¹⁵

The Application does not acknowledge or explain this apparent redundancy.

CONCLUSION

The Commission must dismiss or deny the Eastern Sierra Application for failing to comply with multiple provisions of the agency's regulations. Approval of the Application would result in significant interference to KRZQ's signal in much of its established listening area. The public interest would be best served by prompt dismissal or denial of the Application.

Respectfully submitted,

SHAMROCK COMMUNICATIONS, INC.

By: 

Kenneth E. Satten
Rosemary C. Harold
Wilkinson Barker Knauer, LLP
2300 N Street, NW Suite 700
Washington, DC 20037
202.783.4141

Its Attorneys

October 25, 2013

¹⁵

Id.

**Declaration of Kevin M. Fitzgerald,
Director of Engineering for Shamrock Communications, Inc.**

ENGINEERING STATEMENT
of
KEVIN M. FITZGERALD
DIRECTOR OF ENGINEERING,
SHAMROCK COMMUNICATIONS, INC.

*In support of Shamrock Communications, Inc. Petition to Deny the Application of
Eastern Sierra Broadcasting for a proposed new FM Translator
On 104.1 MHz, Carson City / Dayton, NV
(Fac. ID No. 148598; File No. BNPFT-20130829AIJ) ("Application").*

Shamrock Communications, Inc. is the licensee of KRZQ(FM), operating on Channel 281, frequency 104.1, Fallon, NV. Grant of the co-channel FM translator proposed for Carson City, NV by Eastern Sierra Broadcasting ("Eastern Sierra") will have a detrimental effect on the current KRZQ operation by causing prohibited interference under the Commission's rules. The numerous issues raised by the Eastern Sierra Application are as follows:

Issue 1 – The 40 dBu contour of the FM translator facility proposed by Eastern Sierra overlaps the licensed 60 dBu operation of KRZQ just east of the geographic center of Carson City, NV, as shown in the contour maps appended as Attachments A (map at Scale: 1:200000) and B (close-up view of same overlap area mapped at Scale: 1:62500). This prohibited overlap violates 47 CFR 74.1204(a)(3).

Issue 2 – Most of the 60 dBu contour of the proposed Eastern Sierra facility, and part of its 40 dBu contour, is located within the 54 dBu contour of KRZQ, as shown in the contour map appended as Attachment C. This overlap area encompasses populated areas of Carson City and Dayton, NV. KRZQ has many regular listeners in Carson City and Dayton. Through the station's fan club, the "KRZQ Army," Shamrock is able to identify 13 listeners residing at Carson City addresses. Fan club members provide KRZQ with contact information, including names and residential addresses, which allows the station to communicate interactively with them. These regular listeners, along with many others who have not registered in the KRZQ Army, will suffer interference to their reception of KRZQ's authorized co-channel signal if the Eastern Sierra Application is granted. This interference will violate 47 CFR 74.1204(f).

Issue 3 – The Eastern Sierra Application proposes to use a very directional antenna, but the identified equipment – the "CAB ECFM-1" (a Cablewave ECFM-1) – appears to be a *non-directional* antenna. To my knowledge, the manufacturer has never produced a directional version of the Cablewave ECFM-1. Attached as support for this statement is Attachment D, a cut sheet from RFS Products website that provides information on the ECFM line of antennas. RFS is the successor company to the company formerly known as Cablewave Systems. The cut sheet notes that the "ECFM" series antennas have been replaced by the "CPF" series antennas, which are a *non-directional* series of antennas. In addition, applicants who specify the use of a non-standard directional FM antenna

routinely supply information from the antenna manufacturers or at the very least a polar pattern plot from the manufacturer. The Eastern Sierra Application fails to provide any such information. Based on my years of experience, I do not believe that the antenna pattern indicated in the Eastern Sierra Application is either realistic or could be easily built. It appears that Eastern Sierra has incorrect or incomplete information concerning the antenna to be used, and it therefore appears that the Eastern Sierra facility, if approved and built, will provide inadequate protection to KRZQ's licensed operations.

Issue 4 – The Eastern Sierra Application proposes a rebroadcast of noncommercial station KLRH(FM), Sparks, NV (Fac. ID No. 124888). The licensee of this station is the Educational Media Foundation ("EMF"). I have directly communicated with EMF concerning the Eastern Sierra Application, and it is my understanding that EMF has not granted Eastern Sierra consent, written or otherwise, to rebroadcast the KLRH signal. Moreover, EMF already owns and operates an FM translator located in Carson City, NV, which rebroadcasts the KLRH signal. As a comparison of data in the Commission's records reflect, EMF's K215FJ (Fac. ID No. 144149) is located 0.12 kilometers from the site that Eastern Sierra proposes for its new FM translator. The Eastern Sierra facility, if approved and built, would be redundant. It therefore appears that Eastern Sierra lacks the prior consent for its proposed rebroadcast of KLRH's signal. Such lack of consent violates 47 CFR 74.1284(b).

This Engineering Statement has been prepared by me with information gathered under my direct supervision. I also have reviewed the foregoing Petition to Deny. I hereby declare the foregoing to be true, under penalty of perjury, based on personal knowledge, information, and belief.


Kevin M. Fitzgerald

Executed this 25th day of October 2013.

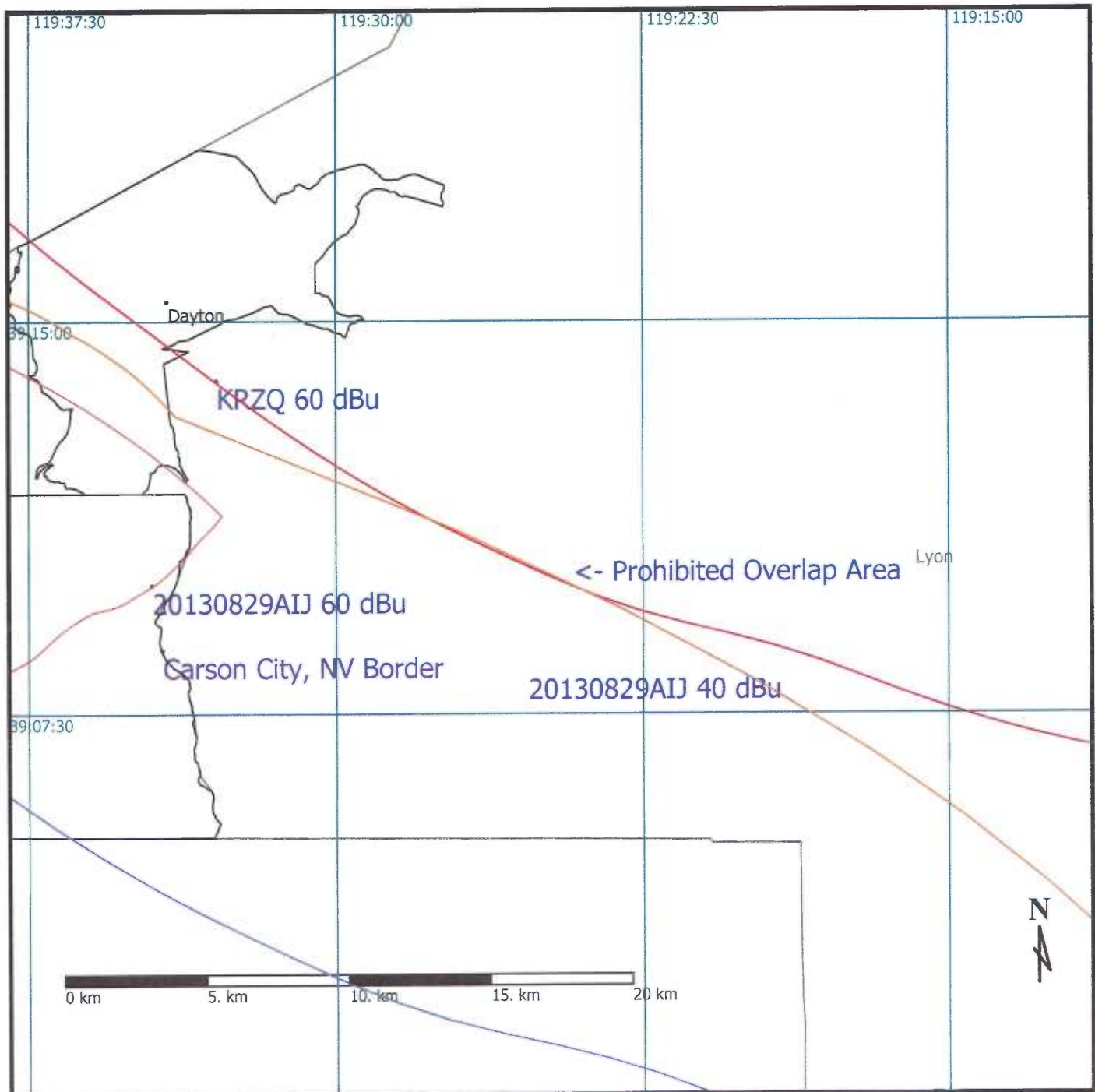
Appendix A
to
Declaration of Kevin Fitzgerald,
Director of Engineering for Shamrock Communications, Inc.

Contour map at Scale: 1:200000

Contour Analysis

Kevin Fitzgerald
Job: KRZQ Int.fmj
Master Database: 2013_Oct_22.fmd
Lat: N39:10:37 Lon: W119:24:43 NAD-27
Scale: 1:200000
Channel: 281 Class: C
Status: Licensed, Construction Permit, Application
Channels: Co-Channel
Range: 100 km, Clearance: -0.5km
Comments: No Comments
Description: KRZQ, 104.1, Fallon, NV; Translator Interference Analysis

rfInvestigator Version 3.7.3
by rfSoftware, Inc.
Date: 10/23/2013 11:39:32 AM
Key:
City Grade
Protected
Co-Channel
1st Adj
2nd/3rd Adj



Appendix B
to
Declaration of Kevin Fitzgerald,
Director of Engineering for Shamrock Communications, Inc.

Contour map at Scale: 1:62500

Contour Analysis

Kevin Fitzgerald
Job: KRZQ Int.fmj
Master Database: 2013_Oct_22.fmd
Lat: N39:10:24 Lon: W119:25:25 NAD-27
Scale: 1:62500
Channel: 281 Class: C
Status: Licensed, Construction Permit, Application
Channels: Co-Channel
Range: 100 km, Clearance: -0.5km
Comments: No Comments
Description: KRZQ, 104.1, Fallon, NV; Translator Interference Analysis Blown Up

rfInvestigator Version 3.7.3
by rfSoftware, Inc.
Date: 10/23/2013 12:06:29 PM
Key:

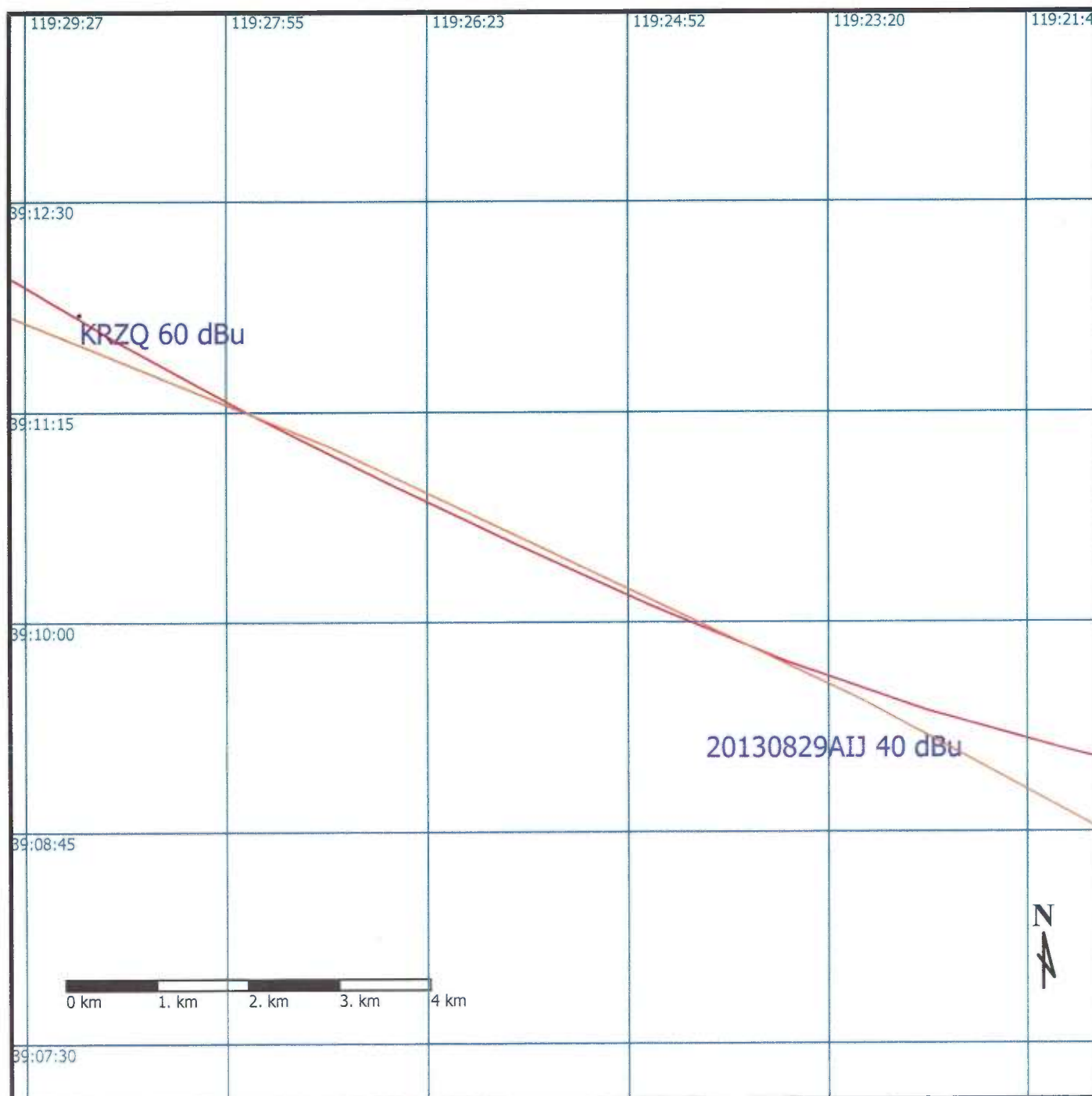
City Grade

Protected

Co-Channel

1st Adj

2nd/3rd Adj



Appendix C
to
Declaration of Kevin Fitzgerald,
Director of Engineering for Shamrock Communications, Inc.

Contour map illustrating the overlap of the proposed Eastern Sierra FM
Translator's predicted 60 dBu and 40 dBu contours with KRZQ's 60 dBu
and 54 dBu contours

Contour Analysis

Kevin Fitzgerald
Job: KRZQ Int2.fmj
Master Database: 2013_Oct_22.fmd
Lat: N39:14:29 Lon: W119:42:52 NAD-27
Scale: 1:250000
Channel: 281 Class: C
Status: Licensed, Construction Permit, Application
Channels: Co-Channel
Range: 100 km, Clearance: -0.5km
Comments: No Comments
Description: KRZQ, 104.1, Fallon, NV; Translator Interference Analysis

rfInvestigator Version 3.7.3
by rfSoftware, Inc.
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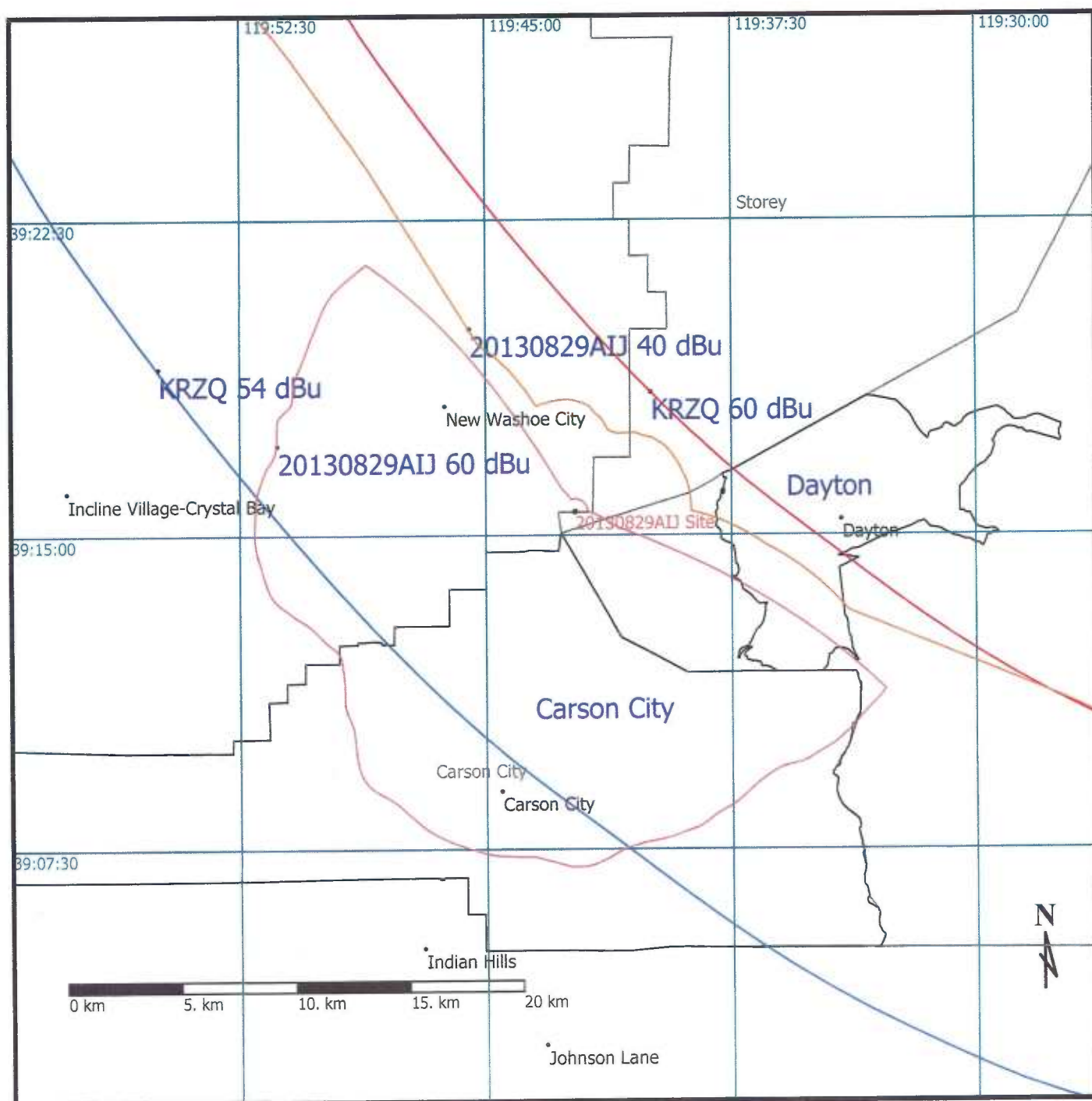
City Grade

Protected

Co-Channel

1st Adj

2nd/3rd Adj



Appendix D
to
Declaration of Kevin Fitzgerald,
Director of Engineering for Shamrock Communications, Inc.

Cut sheet from antenna manufacturer's website



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FM antenna: lightweight and low-cost

The new single-channel CPF-series side-mounted FM antenna from Radio Frequency Systems offers a low-cost, lightweight solution for low to medium power applications in the 87.5 to 108-MHz band. Featuring robust stainless steel construction, the CPF-series is available with single-element power ratings of 500 W (CPF500) or 2.5 kW (CPF2500).

A new incarnation of RFS's popular ECFM antenna, the circularly-polarized, omni-directional CPF-series FM antenna features extended power range and other design enhancements. In particular, the radiation pattern and axial ratio of the side-mounted CPF-series have been enhanced to minimize tower effects and downward radiation.



The CPF-series is also available pre-packaged in multi-element arrays with a range of gains, utilizing high-quality RFS power dividers and distribution cables. Powers of up to 20 kW are possible for an eight-bay antenna array, with gain of up to 6 dBd in each plane. Radome options for the CPF-series include a feedpoint radome, or alternatively a spherical radome that fully encloses the radiating element for locations when icing is a problem. Other optional components include heating elements and an input tuner for optimizing voltage standing wave ratio (VSWR). The single-channel CPF-series FM antenna complements RFS's existing 828-series of FM broadband panel arrays.

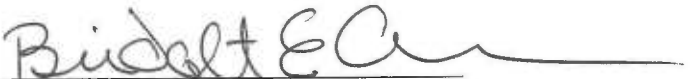
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Certificate of Service

I, Bridget E. Anderson, do hereby certify that a true and correct copy of the foregoing
Petition to Deny was sent via the U.S. Postal Service's First Class mail on this 25th day of
October to the following:

Peter Shelton
Executor for the Estate of Chris Kidd
Eastern Sierra Broadcasting
827 Broadway, Suite 200
Oakland, CA 96607

Dan J. Alpert
Law Office of Dan J. Alpert
2120 North 21st Road
Arlington, VA 22201


Bridget E. Anderson