

**Request for Continued Authority to Operate
KFCT(TV), Ft. Collins, CO as a Satellite Television Station**

Fox Television Stations, Inc. ("FTS") hereby requests Commission approval to continue operating television station KFCT(TV), Ft. Collins, CO ("KFCT") as a satellite station pursuant to Note 5 of Section 73.3555 of the Commission's rules. FTS currently is the licensee of both KFCT and KDVR(TV), Denver CO ("KDVR"). KFCT has operated as a satellite of KDVR since it began service in November 1994. FTS has operated KFCT as a satellite of KDVR since FTS acquired both stations in July 1995.¹ The transaction proposed in the instant application does not request any change in the status of or relationship between the stations.

FTS submits that common ownership of KFCT and KDVR would serve the public interest and that KFCT remains qualified for classification as a satellite station. In particular, KFCT meets each of the Commission's three criteria warranting a presumption that its satellite classification continues to be in the public interest.² In the *1991 Report & Order*, the Commission determined that applicants seeking to classify a television station as a satellite would be entitled to a presumption that the request serves the public interest if the applicant could demonstrate that:

- (i) there is no City Grade overlap between the satellite station and the parent station;

¹ Although KFCT and KDVR have overlapping Grade B signal contours, the Commission's multiple ownership rules do not apply to satellite stations. *See* 47 C.F.R. § 73.3555, Note 5.

² *See In Re Television Satellite Stations Review of Policy and rules*, 6 FCC Rcd 4212 (1991) (the "*1991 Report & Order*").

- (ii) the proposed satellite would provide service to an underserved area; and
- (iii) no alternative operator is ready and able to purchase and operate the satellite as a full-service station.³

No City Grade Overlap. As the attached engineering statement of Kevin Fisher demonstrates, KFCT and KDVR do not have any overlap in their City Grade contours.⁴

Service to an Underserved Area. Other than KFCT, there are no full-power television stations licensed to Ft. Collins, CO. Therefore, Ft. Collins is an underserved area.⁵

No Alternative Operator Proposing Full-Service Operation. Ft. Collins, which is part of the Denver, CO Designated Market Area, is located approximately 80 miles from Denver. Ft. Collins' proximity to the larger city essentially has precluded it from becoming a viable market in its own right. Rather, Ft. Collins historically has been considered to be a part of the Denver market.

When the Commission last approved of KFCT's satellite status, it took note of evidence demonstrating that, as a stand-alone station, KFCT would: (a) suffer a

³ See *id.* In addition, the Commission has determined that applicants who are not entitled to this presumption still can get approval on an *ad hoc* basis for operation of a satellite if they can show that "other compelling reasons" warrant treating a station as a satellite. *Id.*

⁴ See Engineering Statement of Kevin Fisher (together with contour map), attached hereto as Exhibit A; see also Letter from Barbara Kreisman, Chief, Video Services Division, Mass Media Bureau, to counsel for Renaissance Communications Corp., Fox Television Stations, Inc. and National Broadcasting Company, Inc., dated June 13, 1995, at 4 (the "Kreisman Letter").

⁵ See *id.*; see also 1991 Report & Order, 6 FCC Rcd at 4215 (holding that a proposed satellite station's community of license is considered "underserved" if there are "two or fewer full-service stations already licensed to it").

severe competitive handicap due to its inability to provide service to viewers in most of the counties in the Denver market; (b) be hampered by this technical disadvantage in its local sales efforts; (c) be unable to access programming of a quality equal to the network fare it currently broadcasts; (d) be unable to attract a significant share of total day viewing; (e) be unable to generate national advertising revenues; and (f) be unable to sustain itself financially.⁶

As explained in the attached letter from Brian Cobb, who has more than 35 years of experience in the broadcast industry as an owner, manager and broker of broadcast stations, including in the Denver DMA, none of these conditions has changed in the intervening years.⁷ Moreover, Mr. Cobb noted that the DMA currently has 10 full power commercial stations and described competition in Denver as "intense."⁸ He pointed out that an independent KFCT would find it extremely difficult to compete with these stations, especially given that all of the broadcast networks already have affiliates in the market.⁹ Accordingly, Mr. Cobb concluded that today "KFCT could not operate successfully as a stand-alone station" and that "on a stand-alone basis," it would have "little, if any, market value"¹⁰

⁶ See Kreisman Letter, at 4.

⁷ See Letter from Brian Cobb, President of Cobbcorp, to Clay C. Pendarvis, Chief – Television Branch, Federal Communications Commission, dated September 20, 2005 (attached hereto as Exhibit B).

⁸ *Id.*

⁹ *See id.*

¹⁰ *Id.*

For all of these reasons, FTS submits that operating KFCT as a satellite continues to serve the public interest and meets the Commission's criteria warranting a presumption in favor of satellite authority.

In the event that the Commission determines for any reason that KFCT is not entitled to a presumption that its operation as a satellite serves the public interest, the Commission nonetheless should find that there are other compelling reasons warranting approval of this request. Specifically, due to the mountainous terrain of Colorado, KDVR's signal is obstructed in some parts of its service area. Only by operating KFCT as a satellite can KDVR maintain parity with its competitors. Thus, KFCT has served as a satellite of KDVR for more than 10 years. Moreover, as demonstrated above, KFCT would not survive economically as a stand-alone television station. Accordingly, FTS requests that the Commission grant this request pursuant to an *ad hoc* review in the event that the Commission finds that KFCT is not entitled to a presumption in favor of continued satellite authority.

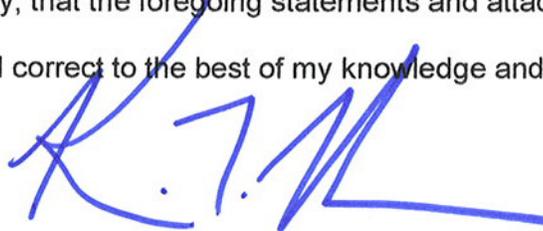
EXHIBIT A

ENGINEERING STATEMENT

The engineering data contained herein have been prepared on behalf of FOX TELEVISION STATIONS, INC., licensee of television station KDVR(TV) on Channel 31 in Denver, Colorado, and satellite station KFCT(TV) on Channel 22 in Fort Collins, Colorado.

Attached is a map upon which the city-grade (80 dBu) contours of KDVR and KFCT have been plotted. As shown, there is no overlapping of these two contours.

I declare, under penalty of perjury, that the foregoing statements and attached map, which was prepared by me, are true and correct to the best of my knowledge and belief.



KEVIN T. FISHER

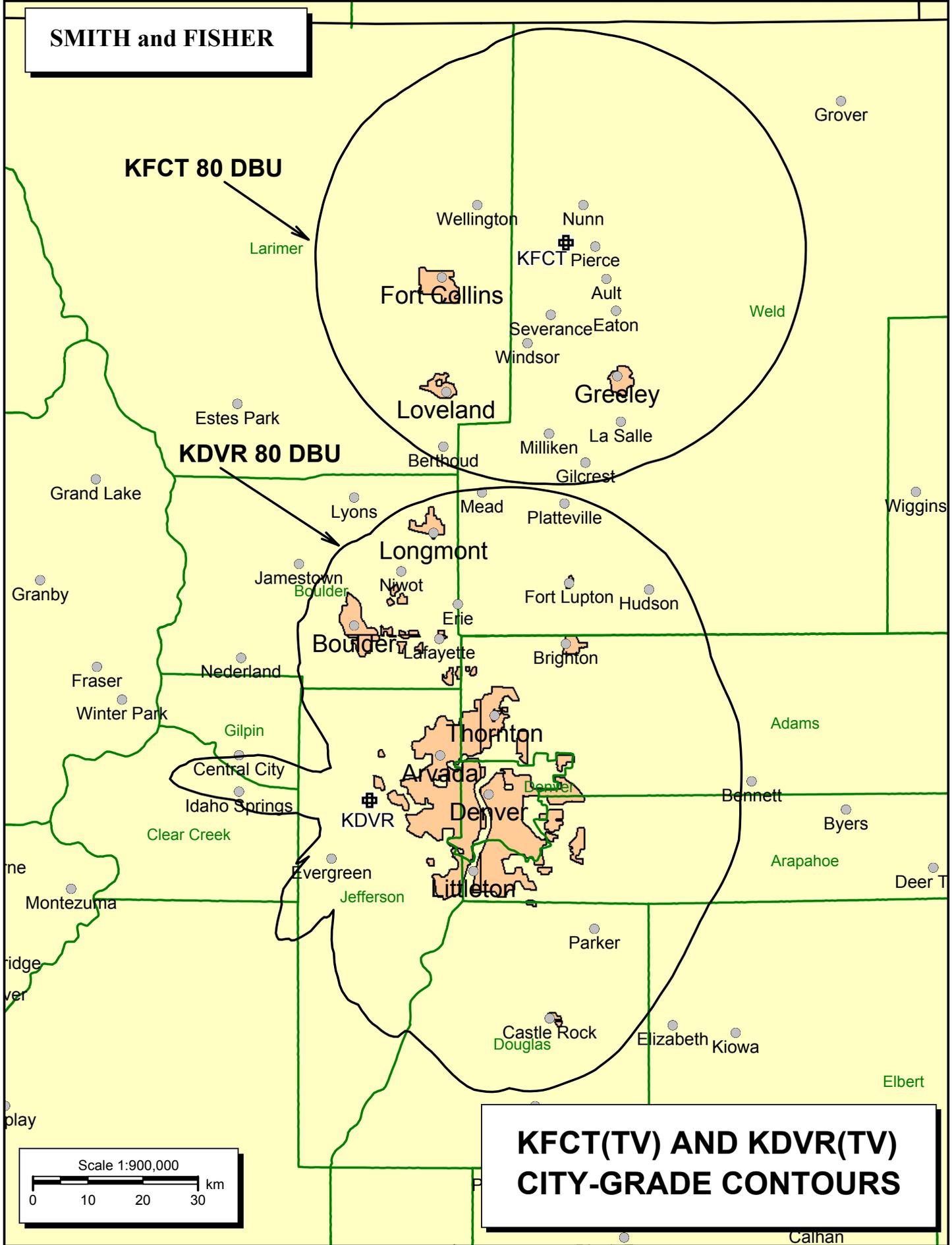
September 12, 2005

SMITH and FISHER

KFCT 80 DBU

Larimer

KDVR 80 DBU



**KFCT(TV) AND KDVR(TV)
CITY-GRADE CONTOURS**

Scale 1:900,000



Calhan

EXHIBIT B

September 21, 2005

Mr. Clay C. Pendarvis
Chief – Television Branch
Federal Communications Commission
Room 2-A662
445 12th Street S.W.
Washington, DC 20554

Re: Application for continuation of satellite status of KFCT(TV) licensed to Ft. Collins, Colorado

Dear Mr. Pendarvis:

In regard to the above-referenced application, I have been requested by the licensee to comment on the continued operation of KFCT(TV) as a satellite of KDVR(TV). This letter addresses the feasibility of operating and marketing the satellite station as a full service stand-alone operation versus continuing to employ KFCT as a satellite of KDVR.

By way of background, I have over thirty-five years of experience in the broadcast industry as an owner, manager and broker of broadcast stations. I am President of CobbCorp, a media brokerage, appraisal and merchant banking firm specializing in television station transactions. I was a founding partner of Media Venture Partners, a nationally recognized media brokerage firm, and I was responsible for the brokerage and appraisal of television stations for Media Venture Partners. Over the past eighteen years, I have been involved in the brokerage of more television stations than any other media broker. I am a past President of the National Association of Media Brokers, in addition to belonging to NAPTE and NAB.

I believe that I am uniquely qualified to opine on whether KFCT in Ft. Collins is capable of functioning as a full service independently operated facility in the Denver DMA. I have been involved in media transactions in the Denver market as well as once being General Manager of a major network affiliate in the market.

I have reviewed relevant data regarding the stations and the advertising and economic environment. Accordingly, I am in a position to reach certain conclusions concerning KFCT and its satellite position in the market. Based on my transaction and appraisal experience as well as having managed a station in Denver, I believe that the Ft. Collins station would be unable to compete in the Denver DMA.

Because Ft. Collins is part of the Denver DMA, any station located in Ft. Collins must compete with the ten full power stations serving Denver, Ft. Collins and the rest of the DMA. If an attempt were made to operate KFCT as a full service independent facility,

Cobb Corp, LLC

there would be virtually no opportunity to garner a network affiliation since they are all contracted for in Denver. The current grade B signal of the station does not reach Denver, a necessity to compete in the market. Major outlays for equipment (including studio, production and satellite-receive facilities) and personnel (an entire station staff) would be necessary to provide full service, including news, public affairs and other local programming, to prospective viewers. With ten full power commercial stations competing in Denver, the level of competition is not only intense, but the opportunity to procure programming attractive to viewers and of the quality that it currently airs would be negligible.

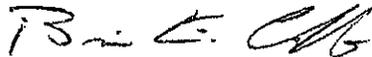
If our firm was asked to list KFCT for sale I would have little interest in doing so. I would consider the listing on a stand-alone basis as having little, if any, market value, and I would not be comfortable offering a property that could damage the well-being of a prospective buyer. I also doubt that a ready, willing and financially able buyer would be available.

The FCC has previously recognized that KFCT is not able to compete as a stand-alone station and that its continued satellite status serves the public interest. In granting approval, the FCC affirmed that it is unlikely that KFCT would survive as an independent operation.

Since the time of the FCC's last approval of satellite status, there have been no significant changes in the market that would justify operating KFCT as a stand-alone station. In fact, KFCT is a good example of why some stations in certain cases should be satellites. It provides free over-the-air television to outlying communities, which otherwise would be deprived of such service, because they cannot economically support and sustain a stand-alone television station.

In sum, as a result of the distance of KFCT from Denver, the lack of an available network affiliation, and the inability to procure quality programming, it is my opinion that KFCT could not operate successfully as a stand-alone station, much less provide its own news, public affairs and other local programming. For the station to survive and provide quality service to its community, it must continue to operate as a satellite of a more viable facility.

Sincerely,



Brian E. Cobb
President