

EXHIBIT 17
REQUEST FOR CONTINUED SATELLITE AUTHORITY

This application seeks consent to the assignment of television stations KHON-TV, Honolulu, Hawaii; KAIH-TV, Wailuku, Hawaii; and KHAW-TV, Hilo, Hawaii from their current licensee, NVT Hawaii Licensee, LLC ("NVT") to LIN License Company, LLC ("LIN"). KAIH-TV and KHAW-TV (the "Satellite Stations") are currently operated as satellites of KHON-TV, pursuant to Section 73.3555, Note 5 of the Commission's rules.¹ LIN hereby respectfully requests that the Commission grant it continued authority to operate the Satellite Stations as satellites of KHON-TV.

Fox affiliate KHON-TV and its two satellites, KHAW-TV and KAIH-TV, are located in the Honolulu, Hawaii Designated Market Area (the "DMA"). The DMA encompasses all the islands which make up the state of Hawaii, and its unique topology – especially its rugged terrain and the distance between the islands where the largest population centers are located – makes it almost impossible for the over-the-air signals of full-power television stations broadcasting from Honolulu to reach the entire DMA. As a result, the affiliates of each of the four major broadcast networks serving the DMA also operate satellite stations.² The system of parent and satellite stations has served the viewers of this DMA well, and grant of the instant request will ensure continuity in the provision of Fox network programming throughout this DMA. Conversely, a denial of this request will likely result in the Satellite Stations being unable to continue operations, thereby depriving viewers of programming upon which they rely.³

In the *Satellite Order*, the Commission established a three-part test to determine if the operation of a satellite station is presumptively in the public interest.⁴ This test considers whether:

¹ Authority to operate KAIH-TV and KHAW-TV as satellites was reaffirmed in DA 05-3219 (rel. Dec. 20, 2005) and DA 07-4468 (rel. Oct. 30, 2007), and was most recently extended in *HBK NV LLC*, DA 10-416 (rel. Mar. 12, 2010). LIN notes that KHAW-TV's noise limited contour is not predicted to overlap those of KAIH-TV or KHON-TV, and the same was true with respect to the stations' prior analog City Grade contour. LIN therefore submits that the Commission's grant of a continuing satellite exemption is not necessary for LIN to operate KHAW-TV as a satellite of KHON-TV. However, out of an abundance of caution and given the history of parties' affirmative requests – and the Commission's express grants – of continued satellite authority for KHAW-TV, LIN nevertheless submits a request for continued satellite authority in the instant application.

² See *Attachment 1*, Letter of W. Lawrence Patrick, Managing Partner, Patrick Communications, a nationally-recognized media brokerage firm (the "Patrick Letter").

³ *Id.*

⁴ *Television Satellite Stations*, 6 FCC Rcd 4212 (1991) ("Satellite Order")

1. There is no city-grade contour overlap between the parent and the satellite;
2. The satellite provides service to an underserved area; and
3. No alternative operator is ready and able to purchase and operate the satellite as a full-service station.

Contour Overlap: The *Satellite Order* pre-dates the DTV transition and therefore does not specify the digital service contours relevant to the first part of the Commission's test: whether there is "city-grade contour overlap" between the parent and satellite. Both Satellite Stations have historically satisfied the first criterion of the *Satellite Order*'s test for a favorable presumption: neither station's prior analog City Grade service contour overlapped that of its parent, KHON-TV.⁵ Despite the lack of a digital equivalent to the analog City Grade contour, LIN notes that there is no overlap of digital principal community contours among KHON-TV, KAIL-TV, and KHAW-TV.⁶

Service to Underserved Areas: The second prong of the Commission's presumptive test, which requires that the satellite station provide service to an "underserved area," can be satisfied using the Commission's "reception test." Under the "reception test," an applicant must demonstrate that 25% or more of the area with the satellite station's noise limited contour, but outside of the parent's noise limited contour (the "Difference Area") receives four or fewer television services, not counting the proposed satellite station.⁷

- KHAW-TV – As demonstrated in *Attachment 2, Figure 4*, 100% of the Difference Area is served by four or fewer television services. Accordingly, KHAW-TV satisfies the reception test.
- KAIL-TV – As demonstrated in *Attachment 2, Figure 3*, 8.1% of the Difference Area is served by four or fewer television services. Although KAIL-TV does not meet the reception test's threshold, the Commission may nevertheless grant KAIL-TV continued authority to operate as a satellite of KHON-TV in the presence of other compelling factors.

Although several other stations serve KAIL-TV's Difference Area, most are satellite or translator stations rebroadcasting the signals of main stations located on the island of Oahu. In addition to Fox affiliate KHON-TV, each of the ABC, NBC and CBS affiliated stations licensed to Honolulu (Oahu) has a satellite

⁵ *HBK NV* at ¶14.

⁶ See *Attachment 2*, Technical Statement of duTreil, Lundin & Rackley, Inc.

⁷ *Satellite Order*, 6 FCC Rcd at 4215. As noted in *HBK NV*, following the DTV transition, the Commission considers the digital noise limited contour to be the equivalent of the analog Grade B contour. *HBK NV* at ¶14.

station that is collocated with KAI-TV at the 'Ulupalakua Ranch site on Maui. As demonstrated in *Attachment 2*, the collocation of multiple television stations with KAI-TV skews the results of the reception test with respect to KAI-TV (or any of the other collocated satellite stations). Moreover, the unique topography of the Hawaiian Islands makes it difficult, if not impossible, for a station located on Oahu to adequately serve viewers located on Maui, except by a satellite station. Finally, the limited population located on Maui makes it economically infeasible to operate KAI-TV as a stand-alone station.⁸ Without a grant of the continued satellite status of KAI-TV, it is unlikely that Maui would continue to receive Fox programming.⁹

No Alternative Operator: Similarly, the *Satellite Order*'s third prong – the absence of an alternative operator who is ready to purchase and operate the Satellite Stations as full-service, stand-alone stations – remains true. The Commission has reviewed and approved prior sales of these stations as a group – with KHON-TV as the parent station and KHAW-TV and KAI-TV as satellite stations. As indicated in the Patrick Letter, the Satellite Stations are not viable as stand-alone stations because they are not located in communities of sufficient size to support a full-power television station that is not affiliated with a major broadcast network. Finally, Mr. Patrick notes that, as an experienced broker, he believes that “[i]t is highly unlikely that a knowledgeable and experienced television operator could be found that could provide a viable full service operation to outlying communities with either KAI-DT or KHAW-DT a standalone stations.”¹⁰

Accordingly, LIN respectfully requests that the Commission grant continued authority to allow it to operate KAI-TV and KHAW-TV as satellites of KHON-TV.

⁸ According to the 2010 Census, Maui County has a population of 154,834, which is approximately 11% of Hawaii's total population.

⁹ See *Satellite Order*, 6 FCC Rcd at 4214 (providing that if a station cannot meet the presumptive test, satellite status for that station may still be approved if it brings a full complement of network signals to a service area.)

¹⁰ *Patrick Letter* at 3.

ATTACHMENT 1



6805 DOUGLAS LEGUM DRIVE

SUITE 100

ELKRIDGE, MD 21075

(410) 799-1740

(410) 799-1705 FAX

www.patcomm.com

May 10, 2012

Mr. William Lake
Chief-Media Bureau
Federal Communications Commission
445 12th Street S.W.
Room 3-C740
Washington, D.C. 20554

Re: KHON-DT, Honolulu, Hawaii
KAIL-DT, Wailuku, Hawaii
KHAW-DT, Hilo, Hawaii

Dear Mr. Lake:

I have been asked to opine on the continued operation of KAIL-DT and KHAW-DT as satellites of KHON-DT with regard to the transfer application of the above television properties. KHON-DT is the FOX affiliate in the Honolulu, Hawaii DMA. At this time, KAIL-DT and KHAW-DT operate as satellites of KHON-DT and specific satellite authority is being requested¹. This letter addresses the feasibility of operating and marketing either of the satellite stations as full service standalone operations versus their continued operation as satellites of KHON-DT.

I am Managing Partner of Patrick Communications, the leading media brokerage firm in the industry with over \$7.5 billion in transactions. I have been involved in the broadcast industry for over forty years and my firm has sold 160 television stations in the past ten years, more than any other brokerage firm. In addition to Patrick Communications, I served from 2005 to 2008 as Chairman of the Board of ION Media Networks, the licensee of 60 television stations. I am also a past president of the National Association of Media Brokers and am the current Chairman of the National Association of Broadcaster's PAC. I also own a minority interest in television stations in New York, Boston, Philadelphia

¹ It appears that there is no signal overlap for KHAW-DT and KHON-DT, however, satellite authority is still being requested.

and San Francisco. In addition, I speak regularly to industry groups and have a long history of experience in both television operations and transactions.

I have previously brokered numerous sales of television stations in the Honolulu market, and I have also provided numerous opinions to the FCC on satellite waivers. I am very familiar with the Honolulu market and the various television station signals, competition and market conditions there, as well as the current television economic environment and station transactional market. I believe that I am qualified to opine on the viability and marketability of KAIH-DT and KHAW-DT as standalone television stations.

There are five independent owners of full power commercial television stations in the market. Seven television networks are represented including ABC, NBC, CBS, FOX, My Network, ION and Univision. The stations affiliated with the four major networks (ABC, NBC, CBS and FOX), all have at least one full power satellite to cover the DMA. The ABC, NBC, My Network, and FOX affiliates have two satellites each and the CBS affiliate has one satellite station.

Ranked as the 71st largest DMA in the U.S., the Honolulu market consists of all of the Hawaiian Islands. Its geographic size essentially mandates the use of multiple satellites to properly serve the viewing public. The population growth for the market was only 1.1 percent for the past five years and population growth of 1.5 percent is projected through 2016. In addition, according to BIA Kelsey, the market is ranked 71st in terms of television advertising revenue, a rank equal to its population rank, meaning that television advertising dollars are at a level that is average, but not over-performing, compared to markets of comparable population. Total television advertising dollars decreased by 5.5 percent from 2006 to 2011. BIA Kelsey projects growth over the next five years of only 2.8 percent.

The competition among the major network affiliated stations in this DMA is strong. The CBS affiliate and its satellite have the highest revenue share according to BIA Kelsey at 34.6 percent of the market. KHON-DT and its satellites, the subjects of this letter, have an estimated revenue share of 27.6 percent, followed by the ABC affiliate and its two full power satellites at 20.7 percent of market revenues.

Given this level of competition, KHON-DT needs both of its satellite stations to effectively compete with the other owners in the market, all of whom have multiple satellite stations. The level of service provided to the various communities that make up this geographically challenging market would be diminished significantly if KHON-DT was forced to operate without KAIH-DT or KHAW-DT.

Finally, neither KAIH-DT nor KHAW-DT would be unable to operate as a viable standalone full power station. On its own, neither station provides a signal remotely capable of covering the market or even Honolulu, the largest city in the DMA. KAIH-DT and KHAW-DT's respective coverage would be limited to coverage of only a part of the Hawaiian Islands. Given that all of the major network affiliations are already present in the DMA, there would be no network television programming available to KAIH-DT or KHAW-DT and the stations would not have access to programming sufficient to viably



compete for audience and revenue. More importantly, not only would the stations have to function with limited signals without network programming, viewers in the coverage area would be denied FOX network programming via over-the-air service, as well as all the local news, weather and public service programming that KHON-DT provides via its satellite KAIL-DT and KHAW-DT to these viewers. It is precisely this type of DMA that illustrates the importance of satellites in reaching a geographically large market.

As a broker, I believe that the marketing of KAIL-DT and KHAW-DT as standalone stations would be unsuccessful given the marginalized nature of the operations, and knowing that a buyer would be hard pressed to find compelling program sufficient to survive. It is highly unlikely that a knowledgeable and experienced television operator could be found that could provide a viable full service operation to outlying communities with either KAIL-DT or KHAW-DT as standalone stations.

Sincerely,

A handwritten signature in black ink, reading "W. Lawrence Patrick". The signature is fluid and cursive, with the first name "W." and last name "Patrick" clearly legible.

W. Lawrence Patrick

Managing Partner



ATTACHMENT 2

TECHNICAL STATEMENT
PREPARED ON BEHALF OF
LIN LICENSE COMPANY, LLC
IN SUPPORT OF AN APPLICATION FOR ASSIGNMENT OF TV LICENSES
HONOLULU, WAILUKU AND HILO, HAWAII

This technical statement and associated exhibits have been prepared on behalf of LIN License Company, LLC (LIN) in support of an application for assignment of the licenses of VHF stations KHON-TV, Honolulu, KAIH-TV, Wailuku and KHAW-TV, Hilo, all Hawaii, pursuant to the Note 5 "satellite exemption" to Section 73.3555 (Multiple Ownership) of the Commission's Rules. Specifically, the purpose of this technical statement is to demonstrate that (1) there was no City Grade overlap between the stations prior to the digital transition, (2) there is currently no city grade overlap between the stations and (3) satellite stations KAIH-TV and KHAW-TV provide service to underserved area.

Prior to the digital transition, KHON-TV was licensed (BLCT-20040326ALH) to operate on analog channel 2 with a nondirectional effective radiated power (ERP) of 50 kilowatts (kW) and an antenna height above average terrain (HAAT) of 18 meters. Station KHON-TV currently is licensed (BLCDT-20100728ABJ) to operate on DTV channel 8 with a directional ERP of 7.2 kW and an HAAT of 17 meters.

Prior to the digital transition, KAIH-TV was licensed (BLCT-1156) to operate on analog channel 7 with a nondirectional ERP of 29.5 kW and an HAAT of 1811 meters. Station KAIH-TV currently is licensed (BLCDT-20090126ADW) to operate on DTV channel 7 with a nondirectional ERP of 3.69 kW and an HAAT of 753 meters.

Prior to the digital transition, KHAW-TV was licensed (BLCT-19950620KE) to operate on analog channel 11 with a directional ERP of 30.9 kW and an HAAT of -180 meters. Station KHAW-TV currently is authorized (BPCDT-20080317AHO, license application pending, BLCDT-20090126ADV) to operate on DTV channel 11 with a directional ERP of 3.35 kW and an HAAT of 30.5 meters.

Figure 1 is a map which depicts the Grade B and City Grade contours for the former analog operations of KHON-TV, KAIH-TV and KHAW-TV. As indicated, there was no City Grade overlap between the stations prior to the digital transition.

Figure 2 is a map which depicts the noise limited service contours (NLSC)¹ and City Grade contours for the current DTV operations of KHON-TV, KAIH-TV and KHAW-TV. As indicated, there is no City Grade overlap between the stations.

Figure 3 is a "reception test" analysis for satellite station KAIH-TV. Specifically, Figure 3 depicts the NLSC contour for KAIH-TV's current DTV operation. Also shown are the NLSC contours for all DTV stations which provide some NLSC service within KAIH-TV's NLSC. As indicated, there are underserved areas within the KAIH-TV NLSC.² The KAIH-TV NLSC encompasses a land area of 4,388 square kilometers. The underserved area within the KAIH-TV NLSC encompasses a land area of 354 square kilometers. Therefore, 8.1% of the KAIH-TV NLSC is considered to be underserved.

Figure 4 is a "reception test" analysis for satellite station KHAW-TV. Specifically, Figure 4 depicts the NLSC contour for KHAW-TV's current DTV operation. Also shown are the NLSC contours for all DTV stations which provide some NLSC service within KHAW-TV's NLSC. As indicated, the entire KHAW-TV NLSC is underserved. Specifically, the KHAW-TV NLSC encompasses a land area of 1,780 square kilometers, all of which is underserved. Therefore, 100% of the KHAW-TV NLSC is considered to be underserved.

Figure 5 provides a tabulation of the stations which provide NLSC service to the KAIH-TV and KHAW-TV NLSC service areas.

¹ The equivalent of the analog Grade B service contour is the DTV noise limited service contour. See *Report to Congress: The Satellite Home View Extension And Reauthorization Act of 2004; Study of Digital Television Field Strength Standards and Testing Procedures*, ET Docket No. 05-182, 20 FCC Rcd 19504, 19507, ¶3.

² An underserved area is defined as an area receiving four or fewer TV services, not counting the proposed satellite station.

All contour locations were based on the FCC prediction methods applicable to analog and DTV stations contained in the Commission's rules. Contour locations were determined along 72 equally spaced radials using the NGDC 3-second terrain database.

I hereby declare under penalty of perjury that the forgoing is true and correct to the best of my personal knowledge and belief.

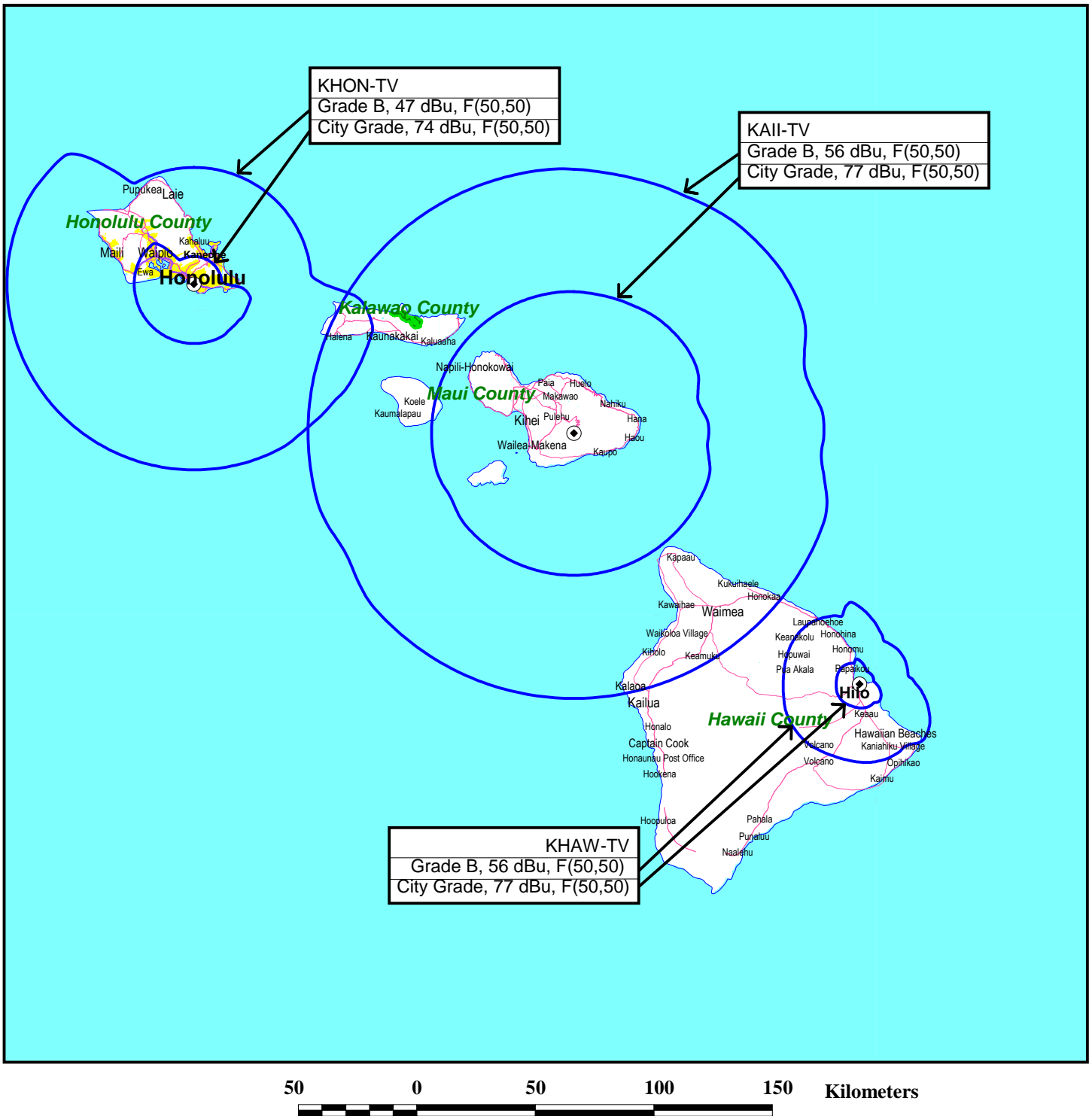


W. Jeffrey Reynolds

du Treil, Lundin & Rackley, Inc.
201 Fletcher Avenue
Sarasota, Florida 342387
(941) 329-6000
JEFF@DLR.COM

May 9, 2012

Figure 1

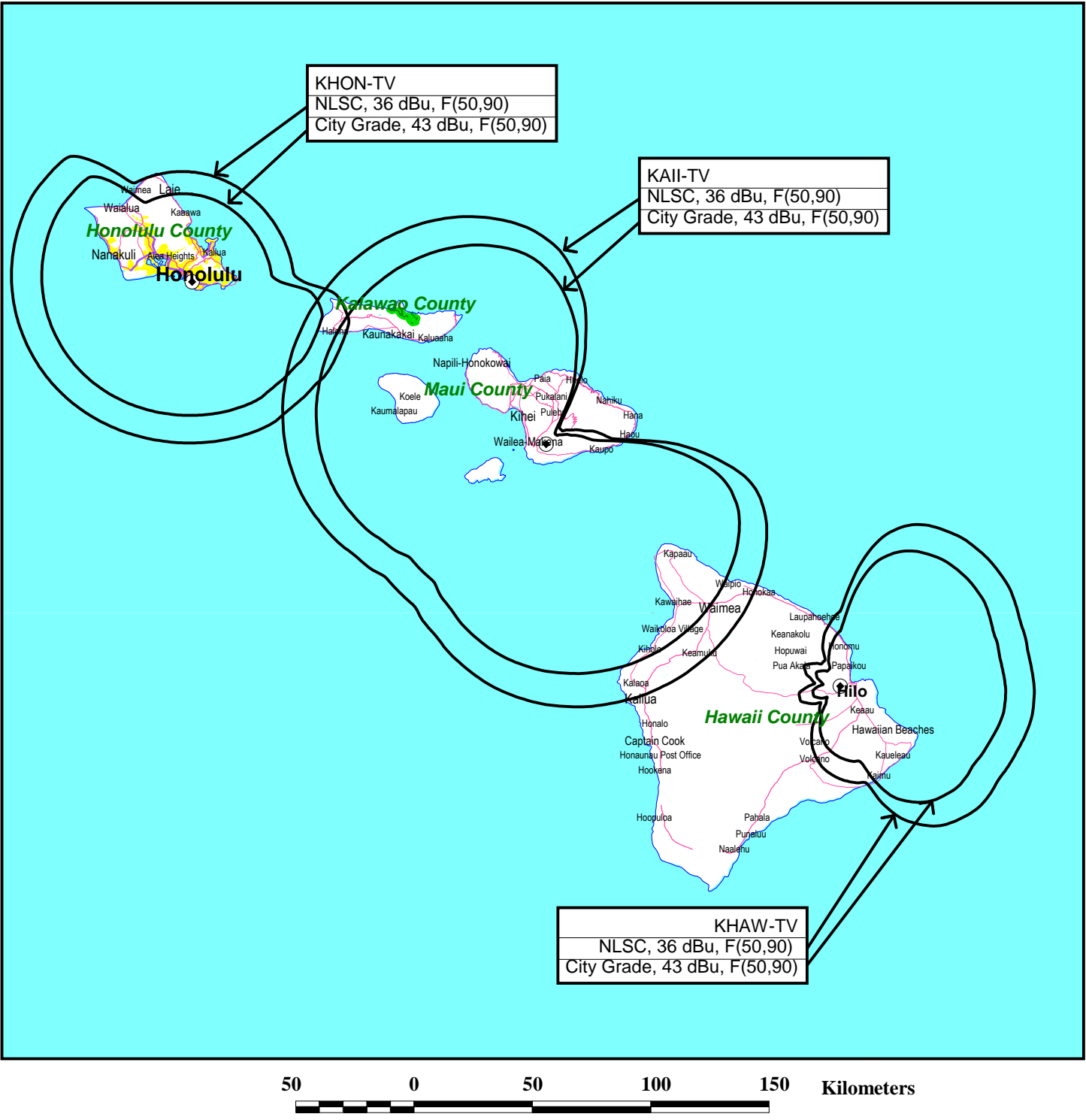


FCC PREDICTED ANALOG COVERAGE CONTOURS

STATIONS KHON-TV, KAI-TV AND KHAW-TV

du Treil, Lundin & Rackley, Inc. Sarasota, Florida

Figure 2

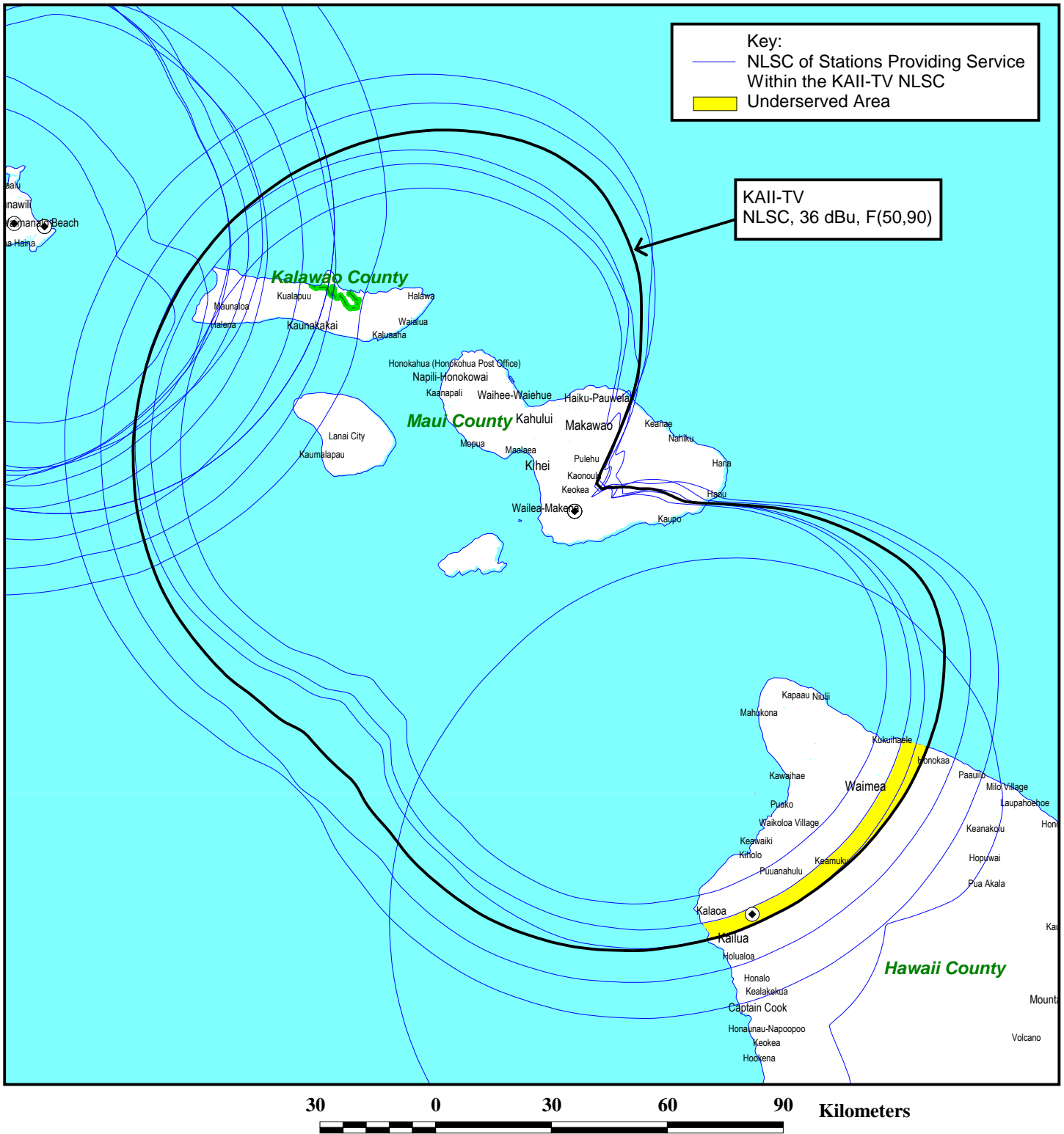


FCC PREDICTED DTV COVERAGE CONTOURS

STATIONS KHON-TV, KAI-TV AND KHAW-TV

du Treil, Lundin & Rackley, Inc. Sarasota, Florida

Figure 3

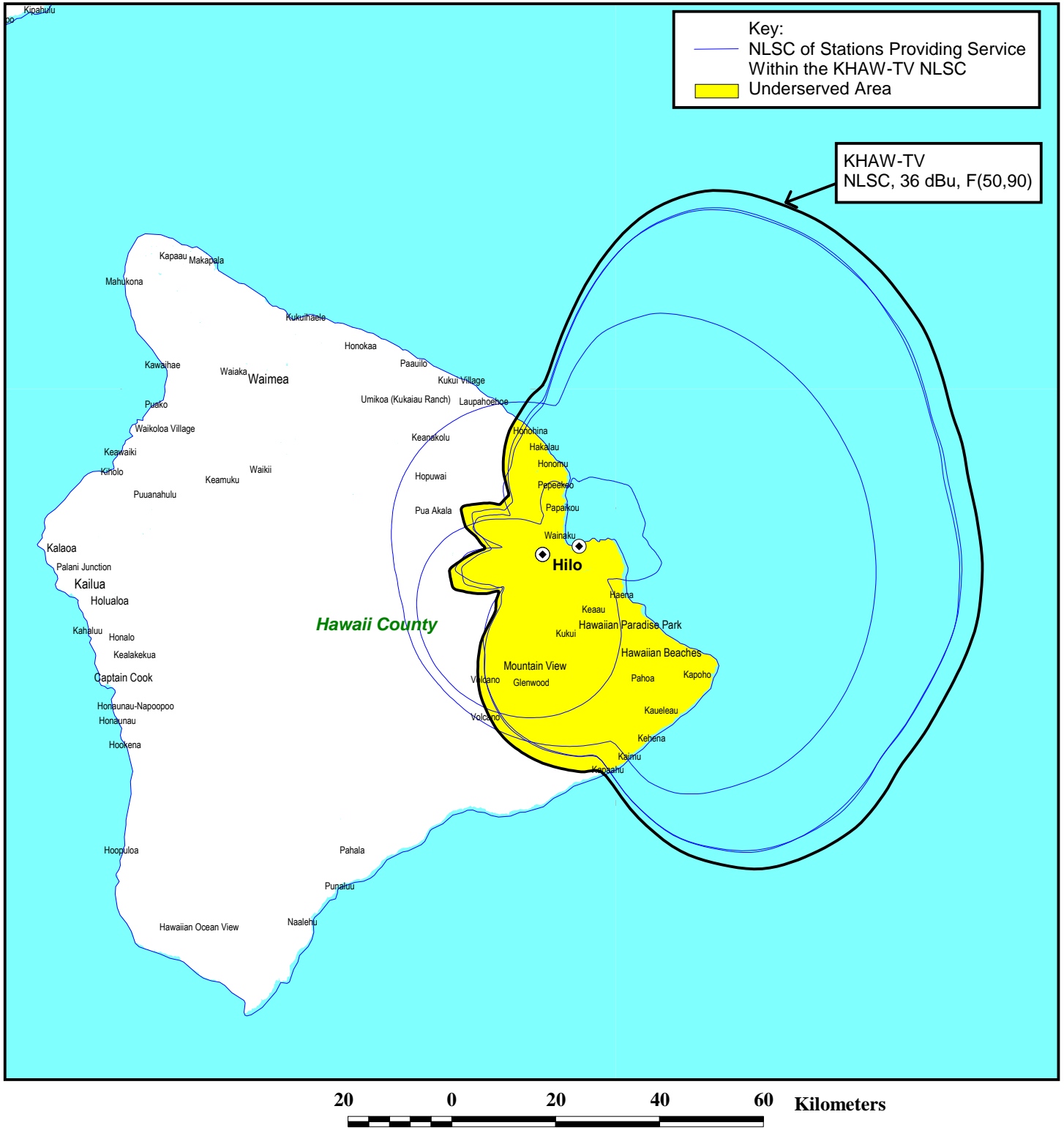


KAI-TV RECEPTION TEST ANALYSIS

STATIONS KHON-TV, KAI-TV AND KHAW-TV

du Treil, Lundin & Rackley, Inc. Sarasota, Florida

Figure 4



KHAU-TV RECEPTION TEST ANALYSIS

STATIONS KHON-TV, KAI-TV AND KHAU-TV

du Treil, Lundin & Rackley, Inc. Sarasota, Florida

TECHNICAL STATEMENT
 PREPARED ON BEHALF OF
 LIN TV CORP.
 IN SUPPORT OF AN APPLICATION FOR ASSIGNMENT OF TV LICENSES
 HONOLULU, WAILUKU AND HILO, HAWAII

Tabulation of Other Stations Providing
NLSC Service to the KAI-TV and KHAW-TV NLSC Service Areas

| <u>Call Sign</u> | <u>Community of License</u> | <u>State</u> | <u>Channel</u> |
|------------------|-----------------------------|--------------|----------------|
| KMEB | WAILUKU | HI | 10 |
| KOGG | WAILUKU | HI | 16 |
| KGMV | WAILUKU | HI | 24 |
| KWHM | WAILUKU | HI | 21 |
| KMAU | WAILUKU | HI | 12 |
| KLEI-TV(CP) | KAILUA KONA | HI | 25 |
| KKAI | KAILUA | HI | 50 |
| KUPU | WAIMANALO | HI | 15 |
| KPXO-TV | KANEOHE | HI | 41 |
| KITV | HONOLULU | HI | 40 |
| KWHE | HONOLULU | HI | 31 |
| KAAH-TV | HONOLULU | HI | 27 |
| KALO(CP) | HONOLULU | HI | 38 |
| KIKU | HONOLULU | HI | 19 |
| KHET | HONOLULU | HI | 11 |
| KGMB | HONOLULU | HI | 23 |
| KHNL | HONOLULU | HI | 35 |
| KFVE | HONOLULU | HI | 22 |
| KGMD-TV | HILO | HI | 9 |
| KWHD | HILO | HI | 23 |
| KHVO | HILO | HI | 13 |
| KHBC-TV | HILO | HI | 22 |