

### **Description of Circumstances Behind KPLO-TV's Change in Transmitter Site**

As observed in the technical exhibit attached to the instant application, the circumstances behind the Applicant's proposed change in the transmitter site of KPLO-TV, Reliance, South Dakota, which will result in a modest gain and loss in service area, warrant further discussion.

In January 2010, KPLO-TV's tower, which was located on Medicine Butte on a plot of property owned in by the Applicant, Young Broadcasting of Sioux Falls, Inc. ("Young"), collapsed in an ice storm. *See* Request for Special Temporary Authority in File No. BDSTA-20100212AAH. It quickly became apparent to the Applicant that a local Native American Tribe, the Lower Brule Sioux Tribe (the "Lower Brule Tribe"), strongly favored reconstruction of KPLO-TV's tower somewhere other than Medicine Butte. This sentiment was not only reported in local media following the collapse of KPLO-TV's tower,<sup>1</sup> but also in a letter dated February 13, 2010, from Chairman of the Lower Brule Tribe, Michael B. Jandreau, to Barbara Kreisman.<sup>2</sup> In relevant part, Chairman Jandreau's letter aptly described the Medicine Butte tower site as follows:

Medicine Butte has for hundreds of years been a sacred area to the Sioux people as they migrated through the northern plains and specifically to the Lower Brule Sioux people. Its presence and continuous use is documented in our oral histories as well as written histories and accounts, and its use continues to present day. Although at present, it remains just outside the current exterior boundaries of the Lower Brule Indian Reservation, it was very much inside the original historic reservation boundaries.

Since February 2010, Young has had contact with Lower Brule Tribal representatives on a number of occasions, including a full day meeting on December 8, 2010, which included a site visit with Tribal Elders, representatives of the Rosebud Sioux Tribe, the South Dakota State Historic Preservation Office, and the Commission's Federal Preservation Officer, among others. Young has appreciated these multiple opportunities to meet with and discuss Medicine Butte with the Lower Brule Tribe. The result of these discussions has not only been a better understanding by Young of the significance of the Butte to the Tribe but also a desire by Young to honor the sacred nature of the Butte by respecting the Tribe's wishes, permanently terminating its television operations on the Butte, and moving its tower and transmitter to a new site. Hence, the instant application.

In developing its reconstruction plan as set forth in this application, Young has considered multiple different solutions for KPLO-TV's reconstruction, and Young has had to take into account multiple constituencies and factors, including viewers, the Lower Brule Tribe, cost, business objectives, and Young's insurance carrier who underwrote the policy covering the collapsed tower and attendant losses. In the end, notwithstanding the modest service gain and loss areas, the reconstruction plan represented by the instant application is, in Young's view, the best solution. Young has communicated, in general terms, its plan to the Lower Brule Tribe, who responded favorably and graciously.

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<sup>1</sup> *See, e.g.*, Seth Tupper, "Tribe to KELO: Find New TV Tower Site," RAPID CITY JOURNAL (Feb. 24, 2010), *available at* <[http://rapidcityjournal.com/news/article\\_67c33b84-2181-11df-87e8-001cc4c03286.html](http://rapidcityjournal.com/news/article_67c33b84-2181-11df-87e8-001cc4c03286.html)>.

<sup>2</sup> A copy of the letter is attached to this exhibit as Attachment 1.

**Attachment 1**  
**February 13, 2010, Letter**



## LOWER BRULE SIOUX TRIBE

February 13, 2010

Ms. Barbara Keesman  
Chief, Video Services Division  
FCC  
445 12<sup>th</sup> St. SW  
Washington, DC 20554

Reference: TV Broadcast Tower, Reliance, SD

Dear Ms. Keesman:

Several weeks ago the broadcast tower owned by Young Broadcasting Company (broadcasting as KELO-TV, Sioux Falls, SD) located in Reliance, SD, fell down due to ice buildup. This has resulted in the station going dark for a period of time. This tower was built 53 years ago on top of a butte sacred to the Lower Brule people, known as Medicine Butte. At the time the tower was licensed and erected, federal statutes and regulations protecting Native American historic and cultural resources and traditional cultural properties were non-existent. And, there were no requirements to consult with tribal governments regarding actions that impacted the tribe—in this case the licensing and permitting of the structure.

Medicine Butte has for hundreds of years been a sacred area to the Sioux people as they migrated through the northern plains and specifically to the Lower Brule Sioux people. Its presence and continuous use is documented in our oral histories as well as written histories and accounts, and its use continues to present day. Although at present, it remains just outside the current exterior boundaries of the Lower Brule Indian Reservation, it was very much inside the original historic reservation boundaries.

We understand the competitiveness of broadcast licenses and the difficulties involved in re-issuing or moving a tower and therefore a license. We request consultation with the FCC on this matter, as we would like to explore alternatives for finding another site for this tower. The Lower Brule Tribe has maintained a good working relationship with Anne Marie Wypijewski, Senior Attorney at the Wireless Telecommunications Bureau of the FCC, and we appreciate the opportunity to work with you.

We look forward to talking with you at your earliest convenience.

Thank you for your consideration.

Sincerely,



Michael B. Jandreau  
Chairman

Cc: Michael Wagner, Video Services Division