

**KSNB-TV, Superior, Nebraska**  
**Facility Id. No. 21161**  
**Application for Minor Change to Licensed Facility**  
**BPCDT-20110621AAE, August 2011**

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Colins Broadcasting Company ("Colins"), licensee of KSNB-TV, Superior, Nebraska (the "Station"), pursuant to section 73.3572(a)(3) of the Commission's rules,<sup>1</sup> hereby requests that the Commission grant the instant construction permit application for a minor change proposing to relocate the Station to a new transmitter site to allow the Station to return to operation with permanent facilities after going silent on November 22, 2010. Grant of the instant application serves the public interest because it will allow KSNB-TV to emerge as an independent voice and stand-alone station after operating for more than thirteen years under a Time Brokerage Agreement and rebroadcasting programming from KTVG-TV, Grand Island, Nebraska.

Colins cannot resume operations from the Station's licensed transmit site. Instead, Colins must relocate the Station to a new site, which will cause some viewers to lose service. This loss area, however, is entirely theoretical given that KSNB-TV has been silent since November 22, 2010 and given that the Station has not operated with its licensed facilities since December 1, 2009. Accordingly, as set forth herein, grant of Colins' application is consistent with the Commission's policies and precedent and would further the public interest.

**Background**

Colins and Pappas Telecasting of Central Nebraska ("PTCN") entered into a Time Brokerage Agreement on November 4, 1996 (the "TBA"). Under the TBA, for more than thirteen years, PTCN provided programming for broadcast on the Station and allowed Colins to use PTCN's studio and tower site for the operation of the Station. During this time, KSNB-TV rebroadcast programming from in-market FOX affiliate KTVG-TV. Both KSNB-TV and KTVG-TV, in turn, acted as semi-satellites for out-of-market FOX affiliate KPTM(TV), Omaha, Nebraska.

On December 1, 2009, KSNB-TV was forced to discontinue operations and begin transitioning to a full service, stand-alone station. PTCN terminated the TBA and ceased providing programming and access to the facilities and equipment required to operate the Station.<sup>2</sup>

The Station remained silent for much of 2010 as Colins explored its options. Colins investigated whether any party would be able and willing to enter into a time brokerage or similar relationship with Colins. Colins also discussed with PTCN a possible arrangement under which PTCN would lease to Colins the Station's transmitter site. When such efforts did not produce a viable transaction, Colins focused its efforts on

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<sup>1</sup> See 47 C.F.R. § 73.3572(a)(3).

<sup>2</sup> See FCC File No. BLSTA-20100203AAW.

converting KSNB-TV – a station that had been a satellite for most of its history – into a new, independent voice for residents in Superior and the Lincoln-Hastings-Kearney Designated Market Area (“DMA”). Colins resumed broadcast service on a temporary, reduced power basis in October 2010 from an alternate site.<sup>3</sup> In December 2010, however, Colins sought special temporary authority for KSNB-TV to remain silent as Colins completed plans to construct KSNB-TV at a new permanent location.<sup>4</sup> The Station has been silent ever since.

**I. The Facilities Proposed in This Application Are the Only Viable Facilities Available for KSNB-TV.**

Once it became clear that the Station would become an independent, stand-alone station and that it must operate from a new transmitter site, Colins commissioned several engineering studies to determine how best to fulfill its vision for KSNB-TV. Because Colins and PTCN had been engaged in litigation, PTCN was unwilling to allow KSNB-TV to operate from its existing transmitter site.<sup>5</sup> As a result, Colins immediately began searching for alternative locations that would satisfy two minimal requirements.

First, to be economically viable, KSNB-TV must cover a substantial portion of the Lincoln-Hastings-Kearney DMA. As a satellite station to KTVG-TV and KPTM(TV), KSNB-TV could target the sparsely populated southeast corner of its DMA. As a stand-alone station, however, such a limited service area would prove financially ruinous.<sup>6</sup>

Second, timing was a critical factor for Colins. KSNB-TV must resume operations prior to November 22, 2011. Therefore, Colins does not have the luxury of constructing a new broadcast tower. To restore service as promptly as possible, Colins limited its search to existing structures that are capable of supporting a VHF antenna without substantial modifications.

With those parameters in mind, Colins explored a number of potential sites, but, for various reasons, only the transmitter site proposed in the instant application was appropriate and available for KSNB-TV’s operations.

- ❖ U.S. Cellular Corporation owns a tower a few miles north of Superior, Nebraska (ASRN 1210539), but the company would not return Colins phone calls.

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<sup>3</sup> See FCC File No. BDSTA-20101026AAY.

<sup>4</sup> See FCC File No. BLSTA-20101222AAP.

<sup>5</sup> Colins has previously discussed its multi-year litigation with PTCN and need not repeat that history here. See, e.g., BDSTA-20101026AAY.

<sup>6</sup> For this reason, Colins decided not to seek authority to change KSNB-TV to a UHF station. Instead, Colins committed to constructing new facilities for KSNB-TV on DTV Channel 4, which would provide KSNB-TV with a substantially larger service area than any of the UHF channels that Colins investigated.

- ❖ Likewise, Alltel Communications of Nebraska, Inc. also owns a tower near Superior (ASRN 1026255), but it too would not return any phone calls inquiring about availability.
- ❖ CK Broadcasting, Inc. owns a tower in Superior that serves as the licensed transmit site for KRFS-FM, Superior, Nebraska (ASRN 1269157). That tower, however, cannot support the load from another broadcast antenna without significant and time consuming structural modifications.
- ❖ Finally, Colins considered a tower owned by Hoak Media of Nebraska, LLC (ASRN 1033562). Operating from this location, which is more than 46 miles northwest of the PTCN tower site, would have created a substantial loss area for KSNB-TV. In addition, the Hoak tower is not centrally located. If KSNB-TV were to operate from this tower, it could not provide service to the eastern portion of the Lincoln-Hastings-Kearney DMA.

The only tower satisfying Colins' two requirements – immediate availability and a central location – is the tower proposed herein and owned by MWB Broadcasting, LLC (ASRN 1027741). Accordingly, Colins believes that, if KSNB-TV is to return to the air as a financially viable, stand-alone station, it must be from this location with the facilities specified herein.

## **II. Grant of This Application Serves the Public Interest Notwithstanding the *De Minimis*, Theoretical Loss Area.**

Even though the instant application proposes facilities that technically would cause 55,443 people to no longer receive KSNB-TV and would create a “white area” for 801 people in the Lincoln-Hastings-Kearney DMA, grant of this application serves the public interest and is consistent with Commission precedent. Although the Commission disfavors the loss of television service, the Commission will consider counterbalancing factors justifying a service loss.<sup>7</sup> Here, the service loss and white area are entirely theoretical because KSNB-TV is not operating today. Moreover, the in-DMA white area disappears when a Longley-Rice analysis is performed. Overall, the majority of the people in the loss area are located in other DMAs, and all are within the service areas of MVPDs, including satellite providers, that can provide the signals of multiple local television stations. Finally, and most importantly, grant of Colins's application would lead to a new voice for Superior and the Lincoln-Hastings-Kearney DMA.

The instant application proposes a substantial net gain in television service. As compared to the Station's current (*i.e.*, non-existent) operations, the proposed operations would provide new television service to 626,458 people. Compared to the Station's operations from the PTCN site, the proposed operations would provide new, over-the-air

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<sup>7</sup> See *Coronado Communications Company*, 8 FCC Rcd 159, 162 (Mass Med. Bur. 1992).

television service to 431,259 people. This increase in service substantially outweighs the 55,443 people who will lose service from KSNB-TV.

The loss area also is entirely theoretical. KSNB-TV has been dark for months, and has not operated from its licensed facilities since December 2009. When analyzing the loss area for a dark stations, the Commission does not adhere to its general policy of avoiding service losses.<sup>8</sup> Instead, the Commission considers the actual, real-world implications. In this case, residents in KSNB-TV's "loss" area have not received consistent service from the Station for more than eighteen months. It makes little sense to prohibit KSNB-TV from serving as a new independent voice for 626,458 people because 55,443 people, who are not receiving KSNB-TV today, will not be able to receive KSNB-TV in the future.

Moreover, denying Colins' minor change application on the basis of theoretical service loss will not cause the Station to resume operations with its licensed facilities or serve residents in the loss area. As explained above, PTCN will not allow Colins to access its old licensed site. In addition, Colins already has performed an extensive search of available tower sites in and around Superior and the PTCN tower: none of these locations were feasible alternatives. Denying this application will not prevent a new loss area. To the contrary, it likely will ensure that KSNB-TV remains dark indefinitely. As the Commission recognized in *Coronado Communications*, such an outcome does not serve the public interest – notwithstanding any theoretical service losses.<sup>9</sup>

The creation of a *de minimis* white area also should not be an impediment to grant of this application. Using the Commission's standard contour prediction methodology, grant of the instant application would create a white area in the Lincoln-Hastings-Kearney DMA containing 801 people.<sup>10</sup> Once a Longley-Rice analysis is performed, however, the white area within the Lincoln-Hastings-Kearney DMA disappears. Attached as Exhibit A are maps of the Longley-Rice contours of nearby UHF, High-band VHF, and Low-band VHF stations. According to the Longley-Rice analysis, the entire white area within the Station's DMA and the overwhelming majority of the white area outside of the Station's DMA is predicted to receive a noise-limited signal from at least one station, and in most cases multiple stations.<sup>11</sup> Moreover, all of the residents within the white area can receive multiple local stations from both DBS providers and their local cable television operators.<sup>12</sup> The Commission excludes from service loss calculations the recipients of such alternative forms of video service.<sup>13</sup>

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<sup>8</sup> *Id.* at 162-63.

<sup>9</sup> *Id.*

<sup>10</sup> The total population of the white area, including residents of the Wichita-Hutchinson and Topeka DMAs, would be 8,592.

<sup>11</sup> Colins estimates that approximately 500 people in the Wichita-Hutchinson and Topeka DMAs theoretically would lose all over-the-air service. The Commission has concluded that relatively small white areas such as these can be considered *de minimis* and disregarded, see *WSET, Inc.*, 80 FCC 2d 233, 246 (1980). Moreover, these 500 people are living in a white area today, given that KSNB-TV has been silent since November 2010.

<sup>12</sup> The Media Bureau presumes that DBS service is universally available due to its nationwide satellite footprint. See, e.g., *Cablevision of Rockland/Ramapo*, 22 FCC Rcd 11487, 11488 (Med. Bur.

Ultimately, however, the greatest public interest benefit will be the addition of a new local voice to the Lincoln-Hastings-Kearney DMA. As noted above, for more than a decade the Station rebroadcast the signal of a nearby Fox affiliate. Upon grant of this application, KSNB-TV will be able to return to the air on DTV Channel 4 with permanent facilities as a new, independent voice in its market.

Because the facilities proposed in the instant application increase actual television service to more than 626,000 people, increase the diversity of voices, and increase competition, grant of the instant application serves the public interest – notwithstanding a *de minimis*, theoretical service loss.

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2007). Additionally, the Commission's records indicate that multiple cable operators have systems serving communities in the Kansas counties in which the theoretical white area would be located. *See* <http://transition.fcc.gov/mb/engineering/list/KS.xls> (listing registered cable communities in Kansas).

<sup>13</sup> *Coronado Communications Company*, 8 FCC Rcd at 163, citing *KTVO, Inc.*, 57 R.R. 2d. 648, 650 (1984) (“there is no justification for including the recipients” of alternative service when calculating the population in a white area where such alternative delivery methods “represent[s] the most realistic option for providing service to such areas.”).

# WHITE SPACE ANALYSIS FOR ASR 1027741 WITH ERP 23.5 KW

Greg Best Consulting, Inc.

## KSNB-TV-D.C

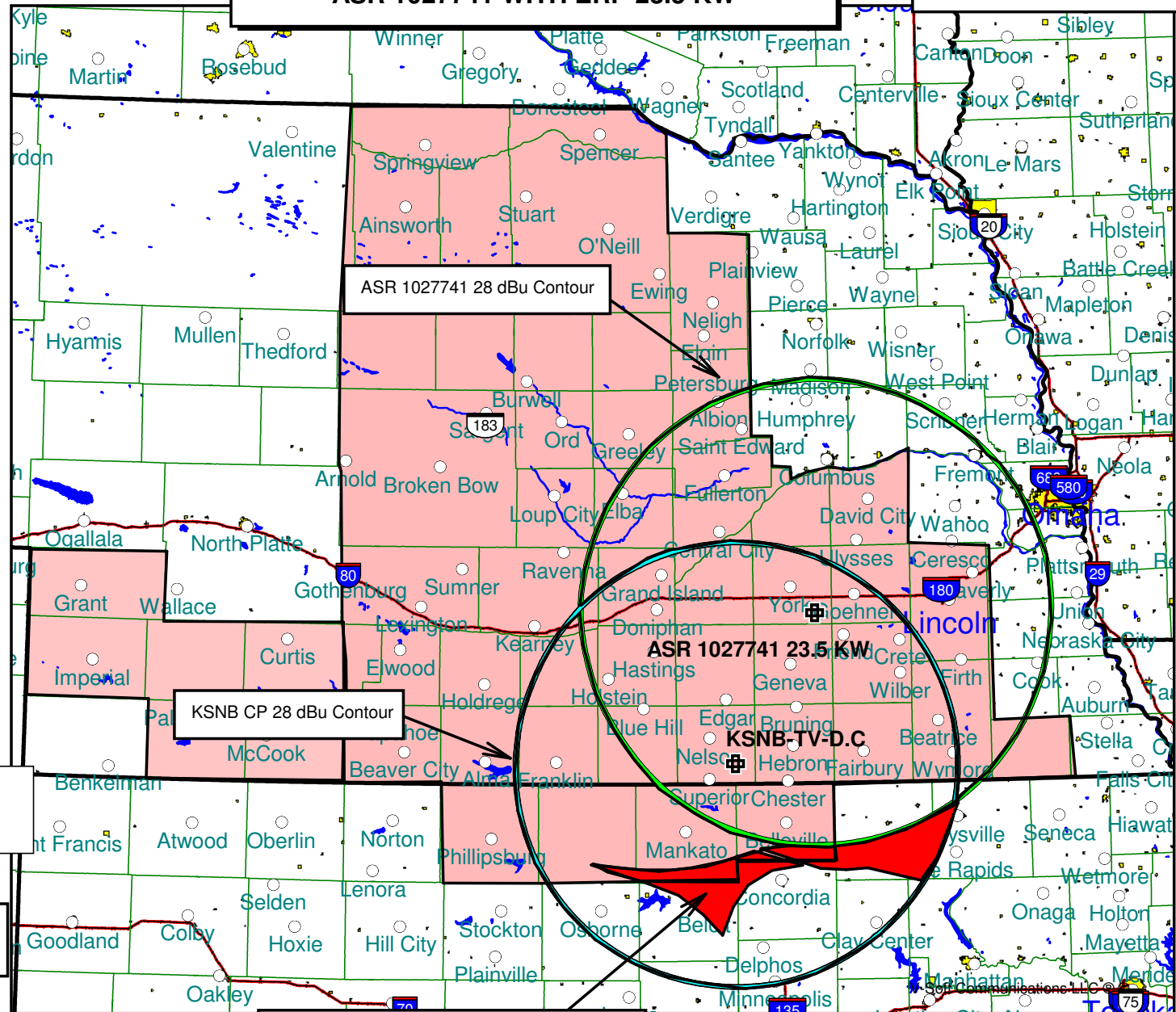
BMPCDT20080317ACS  
Latitude: 40-05-15 N  
Longitude: 097-55-12 W  
ERP: 10.00 kW  
Channel: 4  
Frequency: 69.0 MHz  
AMSL Height: 846.0 m  
Elevation: 528.3 m  
Horiz. Pattern: Omni  
Vert. Pattern: Yes  
Elec Tilt: 0.0  
Prop Model: None

## ASR 1027741 23.5 KW

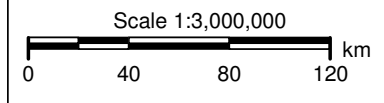
Latitude: 40-45-07 N  
Longitude: 097-27-04 W  
ERP: 23.50 kW  
Channel: 4  
Frequency: 69.0 MHz  
AMSL Height: 771.31 m  
Elevation: 476.31 m  
Horiz. Pattern: Omni  
Vert. Pattern: Yes  
Elec Tilt: 0.0  
Prop Model: None

- Lincoln Hastings Kearney DMA
- White Space created by Proposed Move

Total White space pop count = 8592  
White Space within DMA pop count = 801



White Space created from KSNB facility move



# WHITE SPACE AND LOSS AREA COVERAGE FROM VHF LOW BAND STATIONS

Greg Best Consulting, Inc.

## Proposed Facility

Latitude: 40-45-07 N  
Longitude: 097-27-04 W  
ERP: 23.50 kW  
Channel: 4  
Frequency: 69.0 MHz  
AMSL Height: 771.31 m  
Elevation: 476.31 m  
Horiz. Pattern: Omni  
Vert. Pattern: Yes  
Elec Tilt: 0.0  
Prop Model: None

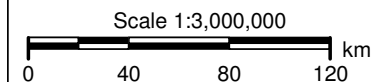
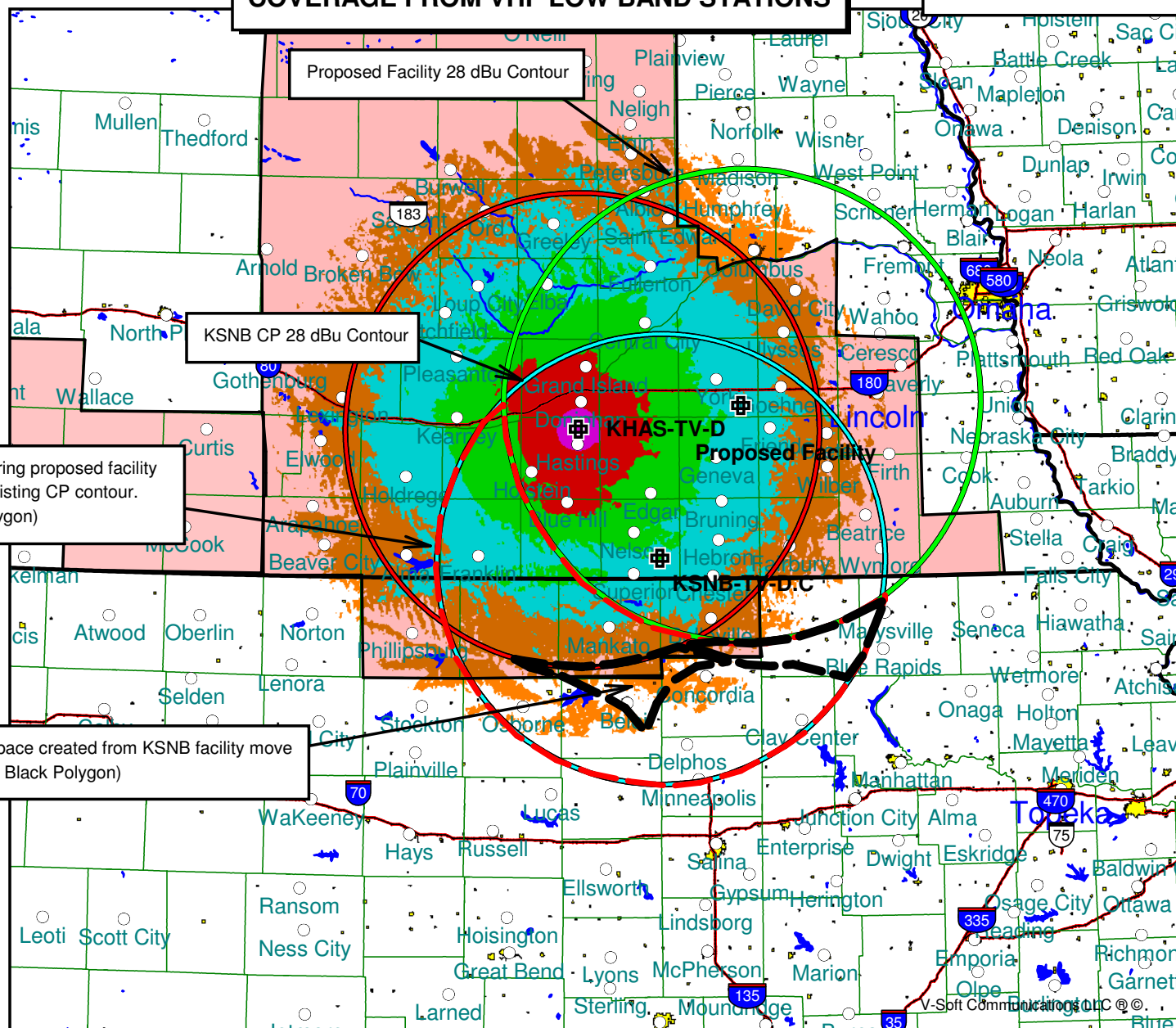
Lincoln Hastings Kearney DMA

Loss area comparing proposed facility  
contour versus existing CP contour.  
(Dashed Red Polygon)

- Proposed Facility (4)
- KSNB-TV-D.C (4)
- KHAS-TV-D (5)

- > 100.0 dBu
- 80.0 - 100.0
- 60.0 - 80.0
- 41.0 - 60.0
- 28.0 - 41.0

White Space created from KSNB facility move  
(Dashed Black Polygon)





# WHITE SPACE AND LOSS AREA COVERAGE FROM VHF HI BAND STATIONS

Greg Best Consulting, Inc.

## Proposed Facility

Latitude: 40-45-07 N  
Longitude: 097-27-04 W  
ERP: 23.50 kW  
Channel: 4  
Frequency: 69.0 MHz  
AMSL Height: 771.31 m  
Elevation: 476.31 m  
Horiz. Pattern: Omni  
Vert. Pattern: Yes  
Elec Tilt: 0.0  
Prop Model: None

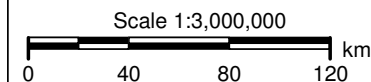
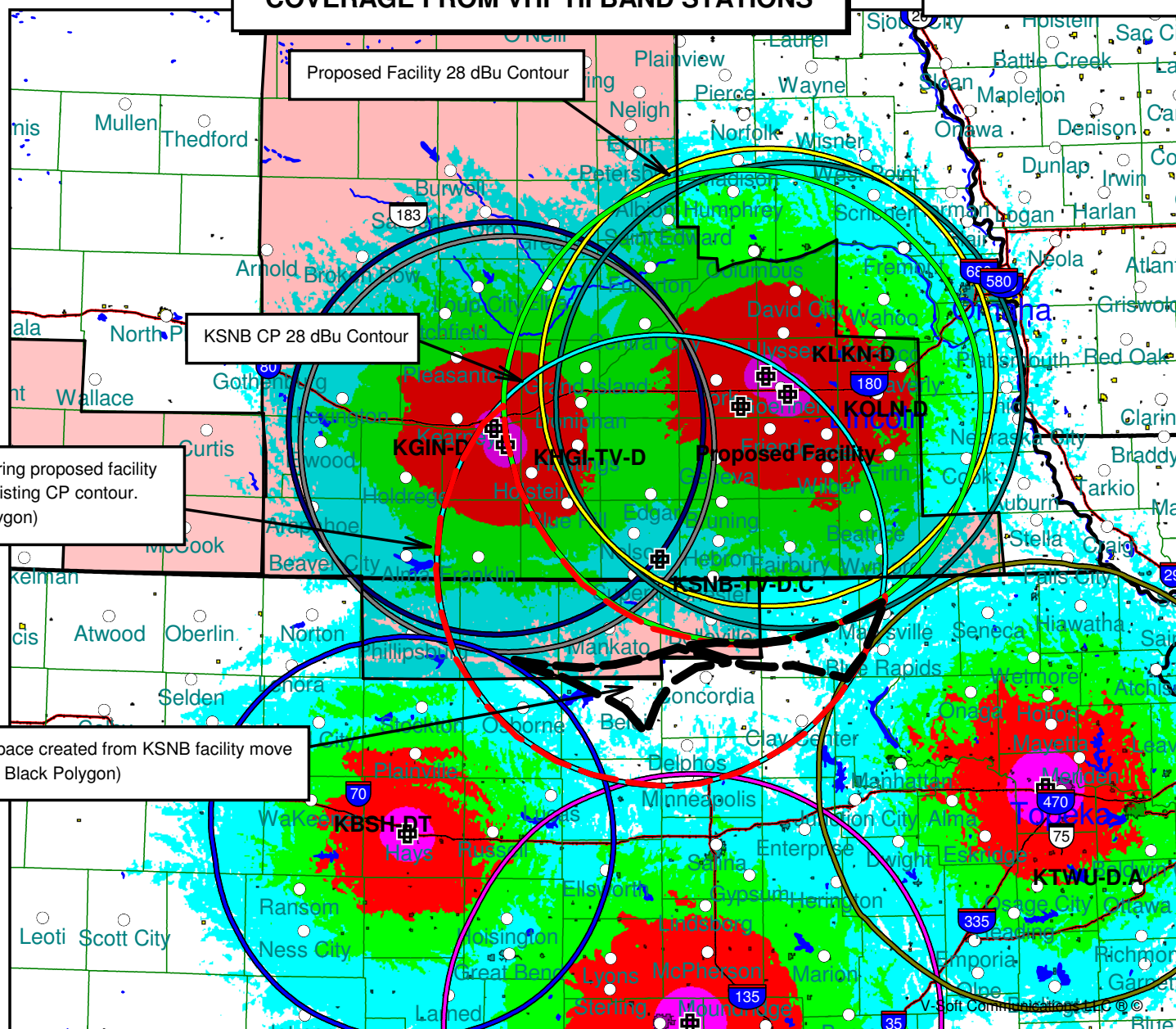
Lincoln Hastings Kearney DMA

Loss area comparing proposed facility  
contour versus existing CP contour.  
(Dashed Red Polygon)

White Space created from KSNB facility move  
(Dashed Black Polygon)

- Proposed Facility (4)
- KSNB-TV-D.C (4)
- KBSH-DT (7)
- KLKN-D (8)
- KOLN-D (10)
- KGIN-D (11)
- KTWU-D.A (11)
- KSCW-DT (12)
- KHGI-TV-D (13)

- > 100.0 dBu
- 80.0 - 100.0
- 60.0 - 80.0
- 36.0 - 60.0





# WHITE SPACE AND LOSS AREA COVERAGE FROM UHF STATIONS

Greg Best Consulting, Inc.

## Proposed Facility

Latitude: 40-45-07 N  
Longitude: 097-27-04 W  
ERP: 23.50 kW  
Channel: 4  
Frequency: 69.0 MHz  
AMSL Height: 771.31 m  
Elevation: 476.31 m  
Horiz. Pattern: Omni  
Vert. Pattern: Yes  
Elec Tilt: 0.0  
Prop Model: None

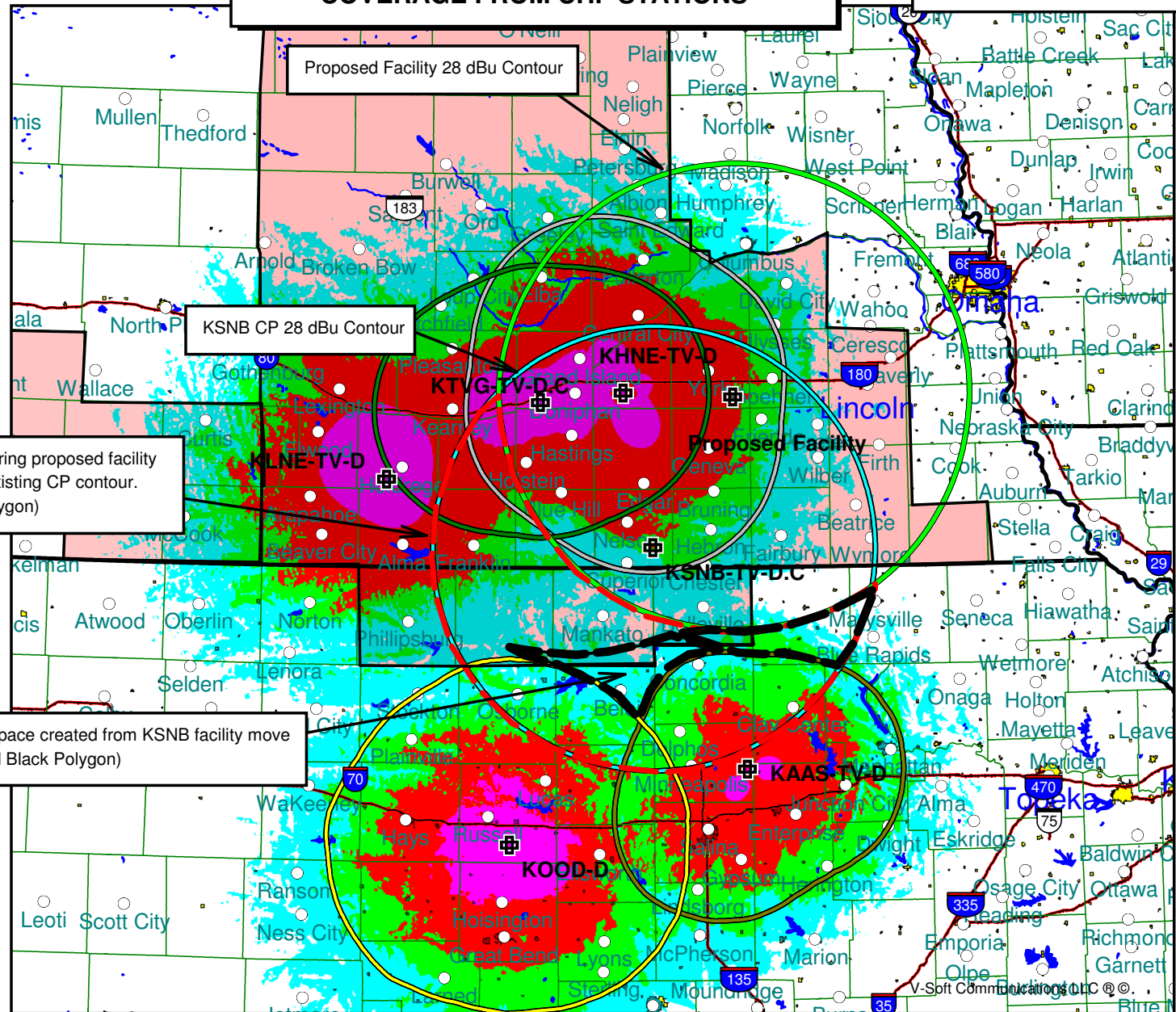
Lincoln Hastings Kearney DMA

Loss area comparing proposed facility  
contour versus existing CP contour.  
(Dashed Red Polygon)

White Space created from KSNB facility move  
(Dashed Black Polygon)

- Proposed Facility (4)
- KSNB-TV-D.C (4)
- KTVG-TV-D.C (16)
- KOOD-D (16)
- KAAS-TV-D (17)
- KLNE-TV-D (26)
- KHNE-TV-D (28)

- > 100.0 dBu
- 80.0 - 100.0
- 60.0 - 80.0
- 41.0 - 60.0



Scale 1:3,000,000  
0 40 80 120 km