

Second Minor Amendment to FCC Form 301
Radio Station KYRT(FM), Channel 250A, Hunt, Texas,
FCC Facility ID No. 165378
FCC File No. BPH-20100312AAQ
Second Attachment to Exhibit 34

REVISED STATEMENT RE ENVIRONMENTAL CONSIDERATIONS

This document is the Second Attachment to Exhibit 34 to the Second Minor Amendment to the FCC Form 301 application for Construction Permit of Munbilla Broadcasting Properties, Ltd. (*MBPL*), FCC File No. BPH-20100312AAQ (the *Application*).

In the Application as originally filed, because MBPL and its sister entity, Munbilla Towers-Llano, Ltd. (*MTLL*) (collectively, *Munbilla*), had not completed the environmental consultations required by Section 106 of the Nationwide Historic Preservation Act (the *NHPA*) and of the Nationwide Programmatic Agreement (the *NPA*), and by other pertinent provisions and policies, MBPL had responded “No” to § III-B, FM Engineering, Item No. 17.

Also in the Application as originally filed, in response to § III-B, FM Engineering, Item No. 5, MBPL did not supply an Antenna Structure Registration (*ASR*) number, in response to § III-B, FM Engineering, Item No. 5. This was because applying for an ASR requires certification of compliance with the Commission’s environmental requirements, including the requirements related to the NHPA and NPA.¹

I. Consultations with the Texas Parks and Wildlife Department

The Texas Parks and Wildlife Department (the *TPWD*) had initially voiced concern that the proposed tower and the related equipment shelter would be located in a 100-year flood plain. MTLL demonstrated that the proposed site would not be in the flood plain. In response, the TPWD withdrew its previously expressed flood-plain concern.

The TPWD had also expressed concern about the effect that the tower might have on endangered species of birds. Therefore, the TPWD suggested either that MTLL reduce the height of the contemplated tower, or that MTLL use a free-standing tower. MTLL responded:

¹ Another sister entity of MBPL, Munbilla Kerrville, Ltd. (*MKL*), has an application pending for a Construction Permit involving the same site and structure as MBPL proposes herein. See FCC File No. BPH-20070718ABF. MKL provided similar responses and is amending its application in a manner similar to the way that MBPL is amending this Application for a Construction Permit for station KYRT.

- that a reduction in height would not be feasible from a signal-service point of view, and
- that construction of a free-standing tower with a height of 500 feet above ground level would not be feasible financially.

The TPWD had said that if neither of these approaches was feasible, the effects of the tower could be ameliorated using bird diverters on the guy wires and the use of strobe lighting. It appears that the TPWD prefers strobe lighting over incandescent lighting because the more gradual fade to dark of the incandescent bulbs can be confusing to birds.

Munbilla's communications counsel informed the TPWD that Munbilla intends to employ bird diverters and strobe lighting as recommended by the TPWD. Munbilla has also provided the TPWD and the US Fish and Wildlife Service (the *US FWS*) with the results of a site biological survey conducted by an environmental consulting firm. Munbilla's communications counsel asked the TPWD and the USFWS to confirm that they have no objections to the proposal going forward based on:

- the use of the amelioration measures that the TPWD had suggested; and
- the results of the biological survey.

The TPWD had also expressed concern about the potential effects of the proposed tower on certain species. The TPWD staffer who had reviewed the proposal:

Celeste Brancel
TPWD, Wildlife Division
Wildlife Habitat Assessment Program
4200 Smith School Road
Austin, Texas 78744
Telephone: 1.512.389.8021
Telecopier: 1.512.389.4599
Email: <Celeste.Brancel@tpwd.state.tx.us>

had, by an email message of June 28, 2010, expressed the TPWD's agreement:

that the modified lighting plan consisting of white strobes during the day and red strobe lights (white strobe lights behind red lenses) at night, along with the use of bird diverters, should minimize the number of direct collision fatalities from the proposed radio tower.

However, in that same message, Ms. Brancel expressed additional TPWD concerns with respect to the Golden-cheeked Warbler (*GCW*). The TPWD recommended that Munbilla:

- follow USFWS protocols for the GCW and for the Black-capped Vireo, and
- collect data on other species' use of the site.

Ms. Brancel expressed the expectation that it would be necessary to determine if the presence of the tower reduces GCW use of the nearby area. To be reasonably certain that the tower has or does not have an adverse effect, the TPWD felt that baseline data would need to be collected and analyzed prior to and after installation of the tower. See Annex I to this Second Attachment.

Munbilla interprets Ms. Brancel's statement to mean that the TPWD's concerns about avian species are not significant enough to prevent the construction of the tower. Logically, if the TPWD is interested in "prior to" and "after" biological-survey data, the tower must be constructed. Otherwise, there will never be any ability to collect "after" data.

II. Consultations with the United States Fish and Wildlife Service

After consultations, the US FWS issued a letter on September 20, 2010. The letter stated that the US FWS did not anticipate adverse effects with respect to species listed pursuant to the Endangered Species Act of 1973, as amended, 16 U.S.C. § 1531 *et seq.*, and about which the US FWS had previously expressed potential concern, namely:

- the Golden-cheeked Warbler (*Dendroica chrysoparia*);
- the Black-capped Vireo (*Vireo atricapilla*);
- the Whooping Crane (*Grus americana*); and
- the Tobusch Fishhook Cactus (*Sclerocactus tobuschii*).

See Annex II to this Second Attachment.

Further, on September 23, 2010, Dave Krueper, the Assistant Nongame Migratory Bird Coordinator for the US Fish and Wildlife Service, sent Munbilla's consultant an email message stating that, if Munbilla follows the recommendations made by the TPWD, uses bird diverters on the tower's guy wires, appropriately lights the tower, and removes any detected invasive plant species, there should be a minimal amount of impact to native bird populations. See Annex III. Munbilla intends to follow these recommendations.

III. Consultations with Native American Tribes

MTLL submitted a notice concerning the proposed tower construction through the Commission's Tower Construction Notification System (the *TCNS*). The *TCNS* generated an automated email message confirming receipt and listing the parties to whom the *TCNS* had electronically sent copies of the notification. Among the reported recipients were several Native American Tribes. The *TCNS*'s confirmatory message also indicated that the proponent should send hard copies of the notification to certain of the recipients. MTLL's agent did so. MTLL's agent also sent follow-up enquiries. Only two of the Tribes responded, and neither one expressed interest in the site in question.

IV. Consultations with the State Historical Preservation Office

Among the reported recipients of the *TCNS* submission was the Texas Historical Commission (the *THC*), the State Historic Preservation Office (the *SHPO*) for the State of Texas. MTLL's agent sent to the *THC* a follow-up letter of enquiry. The *THC* responded to the follow-up letter of enquiry by stating that it had not received the original electronic notification from the *TCNS*. The *THC* asked MTLL to submit a hard copy of the submission package. MTLL's agent did so. On June 22, 2010, the *THC* confirmed that the *THC* has no objections to the project proceeding. See Annex IV to this Second Attachment.

V. Consultations with the FAA

On October 2, 2009, the Federal Aviation Administration issued a Determination of No Hazard concerning the proposed structure (the *Determination*). The *Determination* specified that the tower should be marked with red and white paint, and that it should be equipped with blinking red incandescent beacons at night. See Annex V to this Second Attachment.

Because the TPWD had requested the use of strobe lighting, and the already-issued FAA *Determination of No Hazard* calls for a painted tower with red incandescent lighting at night, it will be necessary to ask the FAA to reissue the *Determination* to specify strobe lighting... white strobes for daytime use, and red strobes for nighttime use.

Munbilla's communications counsel contacted the FAA staff. The staff indicated that it would reissue the outstanding *Determination of No Hazard*. See Annex VI. Because the staff indicated that a separate Airspace Study would not be necessary, MTLL submitted a request for issuance of an Antenna Structure Registration specifying the Airspace Study Number 2009-

ASW-2788-OE. See FCC File No. A0697457. The FCC automatically granted that application and issued Antenna Structure Registration No. 1276089.

Subsequently, the FAA staff indicated that there would be a supplementary Determination of No Hazard with a new Airspace Study Number, 2010-ASW-5532-OE. See Annexes VII and VIII hereto.

VI. Revised Antenna Structure Registration

Based on the design of the Commission's electronic filing system, it is not possible to modify a granted Antenna Structure Registration prior to construction. For this reason, based on consultations with the FCC staff, MTLL has submitted a new FCC 854, this one specifying Airspace Study Number, 2010-ASW-5532-OE. MBPL specifies the new Antenna Structure Registration number in response to § III-B, FM Engineering, Item No. 5. MTLL has also submitted a request for cancellation of Antenna Structure Registration No. 1276089.

VII. Conclusion re Environmental Certification

In light of the foregoing, MBPL believes that it can properly certify compliance with the Commission's environmental requirements, that this proposal is categorically excluded from environmental processing, and that this proposal is grantable.

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ANNEX I

Subject: RE: Proposed Tower Construction by Munbilla
Towers-Llano, Ltd.
Date: Mon, 28 Jun 2010 10:45:26 -0500
Thread-Topic: Proposed Tower Construction by Munbilla
Towers-Llano, Ltd.
thread-index: AcsTMY6755i2JwjEShmo8s2QWrLe+wDpl3nw
From: "Celeste Brancel" <Celeste.Brancel@tpwd.state.tx.us>
To: "J.J. McVeigh" <kd4vs@comcast.net>,
<Charlotte_Kucera@fws.gov>
Cc: "Rodolfo Bonacci" <Rodolfo.Bonacci@fcc.gov>,
"joe.hutchison" <joe.hutchison@verizon.net>,
"Bill Woleben" <kemahbill@aol.com>,
<munbilla@munbilla.com>

Mr. McVeigh:

TPWD agrees that the modified lighting plan consisting of white strobes during the day and red strobe lights (white strobe lights behind red lenses) at night, along with the use of bird diverters, should minimize the number of direct collision fatalities from the proposed radio tower.

TPWD does have additional concerns that were identified in our February 17th, 2010 comment letter, but were not addressed by the survey. Also, the survey results elicit additional concerns with regards to the Golden-cheeked Warbler (GCW) population at the site.

TPWD recommended Munbilla follow the USFWS protocols for GCW and Black-capped Vireo and collect data on other species use of the site. These recommendations were not followed. As a consequence, the survey provides only a snapshot, rather than an assessment for the season of GCW activity in project area, and no information on the use of the area by other species. That stated, the survey detected a concentration of GCW activity near the tower site. Very little information is available on changes in bird use due to communication towers and the reasons for such change. It is not known how the GCW would be effected by the presence of a tower. TPWD expects it will be necessary to determine if the presence of the tower reduces GCW use of the nearby area. In order to be reasonably certain that it has or does not have an effect, baseline data should have been and would need to be collected and analyzed prior to and after installation of the tower.

Celeste Brancel
TPWD, Wildlife Division
Wildlife Habitat Assessment Program
4200 Smith School Road

Austin, Texas 78744
(512) 389-8021 tele
(512) 389-4599 fax

-----Original Message-----

From: J.J. McVeigh [<mailto:kd4vs@comcast.net>]
Sent: Wednesday, June 23, 2010 6:08 PM
To: Celeste Brancel; Charlotte_Kucera@fws.gov
Cc: Rodolfo Bonacci; joe.hutchison; 'Bill Woleben';
munbilla@munbilla.com
Subject: Fwd: Proposed Tower Construction by Munbilla
Towers-Llano, Ltd.

Hello, Ms. Brancel and Ms. Kucera,

I am writing to you in connection with the proposed 500-foot tower that my client, Munbilla Towers-Llano, Ltd. (MTLL) plans to erect on the Rogers parcel one mile from Interstate Highway 10 and approximately 8.4 miles Northwest of Kerrville, Texas.

On June 1, I sent the following message concerning this matter:

--- begin previous message ---

Date: Tue, 1 Jun 2010 00:47:59 +0100
To: "Celeste Brancel"
<Celeste.Brancel@tpwd.state.tx.us>,
Charlotte_Kucera@fws.gov
From: "J.J. McVeigh" <kd4vs@comcast.net>
Subject: Proposed Tower Construction by Munbilla Towers-Llano, Ltd.

Hello, Ms. Brancel and Ms. Kucera,

I am writing to you in connection with the proposed 500-foot tower that my client, Munbilla Towers-Llano, Ltd. (MTLL) plans to erect on the Rogers parcel one mile from Interstate Highway 10 and approximately 8.4 miles Northwest of Kerrville, Texas.

I understand that you have previously communicated with Mr. Joe-Tom Hutchison, who also does work for MTLL, in connection with this project. I further understand that Mr. Hutchison has provided each of you with a copy of a report dated April 14, 2010, prepared on MTLL's behalf by Medina Consulting Company, Inc. concerning the Endangered Species Habitat Assessment and Golden

Cheeked Warbler Survey that Medina Consulting Company, Inc. had conducted in connection with the contemplated construction.

Ms. Brancel, you had suggested, as ameliorating measures with respect to the risk of bird collisions with the tower or guy wires, a reduction in tower height to 200 feet or less, or construction of a free-standing tower, or, if these were not feasible, the use of bird diverters on the guy wires, and strobe lighting (if the latter were agreeable to the FAA).

In light of MKL's signal-coverage requirements, a reduction of the tower height to 200 feet or less would not be feasible. Further, the construction of a free-standing tower of the required height is also not feasible. However, the use of bird diverters on the guy wires is acceptable to MTLL, as is the use of strobe lighting.

The clearance that the Federal Aviation Administration has issued with respect to the proposed tower calls for painting with red and white paint, and nighttime illumination with blinking red beacons that employ incandescent bulbs. Ms. Brancel, you had suggested the use of strobe lights. I understand that these are desirable because they do not exhibit the more gradual fade to dark that incandescent bulbs can exhibit and that can confuse birds.

MTLL is willing to seek modification of its FAA clearance to provide for the use of strobe lights. At least once in the past, people living on properties in the area of an MTLL tower voiced displeasure about the white strobe lights operating at night. The potential exists for similar reactions in connection with the proposed tower. Therefore, to accommodate your expressed preference for strobe lights, and at the same time to prevent any controversy that might otherwise arise after the fact from the use of white strobe lighting at night, MTLL intends to employ a dual system, with white strobes during the day and red strobe lights (white strobe lights behind red lenses) at night. I request that each of you confirm that the proposed construction, embodying bird diverters and full-time strobe lighting as described above, is acceptable to your respective agencies, and that

your respective agencies have no further concerns about or objections to the proposed construction.

If you have any questions concerning this matter, please do not hesitate to contact me. I will greatly appreciate your prompt response.

Very truly yours,

[JJM]

--- end previous message ----

To date, I have not received a reply from either of you.

We have just received a sign-off from the State Historical Preservation Office, the Texas Historical Commission, concerning the project. We are now in a position to amend the application to provide that sign-off and to declare that we have completed the § 106 National Historic Preservation Act consultation process. As part of that amendment, I would like to be in a position to say that the TPWD and the U.S. FWS also have no objection to the proposal going forward. Therefore, I again request a statement from each of you concerning your agencies's position on this matter, based on my previous email message to each of you, and based on the other submissions and correspondence in connection with this project.

Thank you very much in advance for your attention to this matter.

Very truly yours,

--

John Joseph McVeigh, Attorney at Law
16230 Falls Road, P.O. Box 128
Butler, Maryland 21023-0128

^^
Practice before the Federal Communications Commission
Member NY, DC, and USPTO Bars
Amateur Radio Operator KD4VS

443.507.5611 Office
443.927.6657 Mobile

^^

Please note: The information transmitted herein is intended only for the person or entity to which it is addressed, and it may contain confidential or privileged material (or both). Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact me and advise me of that occurrence, and please delete the material from any computer on which it resides. Thank you in advance for your cooperation.

^^

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ANNEX II



United States Department of the Interior

FISH AND WILDLIFE SERVICE

10711 Burnet Road, Suite 200

Austin, Texas 78758

512 490-0057

FAX 490-0974

SEP 20 2010



Mr. Joe T. Hutchison
Munbilla Kerrville Ltd.
3832 Granbury Drive,
Dallas, Texas 75287

Consultation Number 21450-2010-I-0049

Dear Mr. Hutchison:

This responds to Munbilla Kerrville Limited's July 12, 2010, letter and the attached Revised Endangered Species Habitat Assessment and Golden-Cheeked Warbler Survey for Munbilla Radio Tower Site, Rogers Tower Lease, Kerrville, Gillespie County, Texas (Assessment), dated July 12, 2010 (proposed project). Munbilla Kerrville Ltd. submitted the letter and supporting documentation to the U.S. Fish and Wildlife Service (Service) requesting concurrence that the proposed construction of a 500-foot tall radio tower may affect, but will likely not adversely affect the golden-cheeked warbler (*Dendroica chrysoparia*), a species listed pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.)(Act). Munbilla Kerrville Ltd. submitted a request for review November 12, 2009, and additional information was received by the Service on May 3, 2010. Critical habitat has not been designated for the golden-cheeked warbler. Suitable habitat for the black-capped vireo (*Vireo atricapilla*), whooping crane (*Grus americana*), and Tobusch fishhook cactus (*Sclerocactus tobuschii*) listed pursuant to the Act, does not occur within the action area. Therefore, no adverse effects to these species are anticipated.

Section 7 of the Act requires that all Federal agencies consult with the Service to ensure that the actions authorized, funded, or carried out by such agencies do not jeopardize the continued existence of any threatened or endangered species or adversely modify or destroy critical habitat of such species. The Federal Communications Commission is the Federal agency associated with this proposed project.

The limits of the proposed project are within a 75-foot by 75-foot leased area with access from an existing ranch road and three approximately 300-foot long guy-wire easements, located east of Interstate Highway 10, near Kerrville, Gillespie County (Figure 1 of the Assessment). The proposed tower site occurs within a 4-acre site consisting primarily of grasses and forbs and mostly devoid of woody vegetation. The area surrounding the tower site consists of mixed deciduous/Ashe juniper (*Juniperus ashei*) woodland associated with the drainage of West Goat Creek (Figure 2 of the Assessment).



The proposed project is the construction of an approximately 500-foot guy-wired radio tower within a 75-foot by 75-foot leased area. Three 20-foot wide guy-wire easements will extend approximately 300 feet from the tower to the west, south, and east. Habitat for the golden-cheeked warbler exists adjacent to the tower location, where the anchors for the guy-wires will be placed. Approximately 5,320 square feet (0.122 acres) of edge habitat for the golden-cheeked warbler will be removed for construction of guy-wire anchors. Additionally, a 12-foot wide existing ranch road will be used to access the proposed tower area. Movement of equipment from a truck or trailer to a smaller flatbed truck may be required to transport equipment to the proposed tower area. No improvements, such as tree removal or trimming, are proposed for the existing ranch road. All construction is proposed to be completed between September 1 and February 28, outside of the nesting season for the golden-cheeked warbler.

The original November 12, 2009, project description proposed construction of a 500-foot guy-wired radio tower, three 300-foot long guy-wire easements, and a 20-foot wide, 9,658-foot long access easement. Additional discussions with the applicant have resulted in changes to the project to minimize potential effects to the golden-cheeked warbler. These changes include elimination of construction of the access easement, and completion of construction outside of the breeding season for the golden-cheeked warbler.

Due to the avoidance and minimization measures proposed by Munbilla Kerrville Ltd., we concur that the project as proposed may affect, but will not likely adversely affect the golden-cheeked warbler pursuant to section 7 of the Act. Therefore, no further action pursuant to the Act is necessary at this time. However, modifications to the proposed project or the addition of new information that suggests listed species or critical habitat may be affected by your proposed project should be submitted to our office for further consideration.

If you have any questions or comments, please contact Charlotte Kucera at 512-490-0057, extension 224.

Sincerely,

A handwritten signature in black ink, appearing to read 'Adam Zerrenner', with a long horizontal line extending to the right.

Adam Zerrenner
Field Supervisor

cc: Celeste Brancel, TPWD, Austin, Texas

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ANNEX III

From: Dave_Krueper@fws.gov [mailto:Dave_Krueper@fws.gov]
Sent: Thursday, September 23, 2010 12:23 PM
To: Joe [Hutchison](#)
Subject: Re: [FW:Munbilla](#) Tower - Rogers Lease - [Gillespie](#) Co, [Tx](#)

Mr [Hutchison](#) -

After reviewing the documents which you sent, and after our discussion over the phone today, I feel that we have reached an understanding on some of the concerns that the Service has regarding the construction of the [Munbilla](#) Tower near [Kerrville](#), TX. I feel that with the recommendations forwarded by [TPWD](#), as well as with the conversations on inclusion of bird diverters, FAA lighting requirements and invasive plant species removal, there should be a minimal amount of impact to native bird populations in this area. If I can be of further assistance in this matter, please do not hesitate to contact either myself or another member of the migratory bird office staff.

Sincerely,

Dave [Krueper](#)
Assistant [Nongame](#) Migratory Bird Coordinator
US Fish and Wildlife Service
PO Box 1306
Albuquerque, NM 87103
(505) 248-6877
dave_krueper@fws.gov

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FCC File No. BPH-20100312AAQ
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ANNEX IV

JOE T. HUTCHISON
CERTIFIED PROFESSIONAL LANDMAN

3832 GRANBURY DRIVE
DALLAS, TEXAS 75287

Phone 972-862-2405
Fax 972-8 62-2367
Cell 972-743-3438
joe.hutchison@verizon.net

RECEIVED

MAY 24 2010

TEXAS HISTORICAL COMMISSION

May 20, 2010

Texas Historical Commission
Attn: Linda Henderson
108 West 16th. Street
Austin, Texas 78701

RE: New tower construction
Gillespie Co., TX
Munbilla Towers – I-10 / Summit

Ms. Henderson


Thank you for your quick response. As per your e-mail, I have attached a completed copy of the Request for SHPO Consultation along with attachments. I believe that I have addressed all of the issues and attached the required information. If you need any additional information or have any questions, please call me or e-mail me.

Regards



Jo T. Hutchison

NO HISTORIC
PROPERTIES AFFECTED
PROJECT MAY PROCEED

by 
for Mark Wolfe
State Historic Preservation Officer
Date 22 June 2010

TEXAS HISTORICAL COMMISSION

REQUEST FOR SHPO CONSULTATION: Projects Subject to Section 106 of the National Historic Preservation Act and/or the Antiquities Code of Texas

Submission of this form only initiates consultation with the Texas Historical Commission, the State Historic Preservation Officer (SHPO) for Texas. The SHPO may require additional information to complete the review for some projects.

FCC projects: this form should not be completed when submitting Form 620 or 621 for communications towers.

Section 106 of the National Historic Preservation Act of 1966, as amended, requires federal agencies to consider the effects of their undertakings on historic properties and to consult with the State Historic Preservation Officer (SHPO) regarding the undertaking. An undertaking is any action by or on behalf of a federal agency that has the potential to affect historic resources and includes funding, permits, or other approvals. Federal agencies are required to identify historic resources that may be affected and to avoid, minimize, or mitigate any adverse effects. The Section 106 regulations are codified in 36 CFR 800 and are available from the Advisory Council on Historic Preservation website at www.achp.gov. Regulations allow 30 days upon receipt for SHPO review.

The Antiquities Code of Texas (Title 9, Chapter 191 of the Texas Natural Resources Code) is intended to protect historic and archeological landmarks and is applicable to public lands owned by the state of Texas or a political subdivision of the state, including state agencies, counties, cities, school districts, and public colleges and universities, as well as other public authorities. Notification of the Texas Historical Commission is required before breaking ground at a project location on state or local public land.

☒ **This is a new submission**

Complete all pages of this form and include required attachments.

☐ **This is additional information relating to original submission made on or about _____**

Complete only the first page of this form and add any new information, including attachments.

1. Project Information

PROJECT NAME I-0 / Summit		
PROJECT ADDRESS 3035 Rogers Trail (911 addressing)	PROJECT CITY Kerrville, Texas	PROJECT ZIP CODE(S) 78028
PROJECT COUNTY OR COUNTIES GILLESPIE		
PROJECT TYPE (Check all that apply)		
<input type="checkbox"/> Road/Highway Construction or Improvement	<input type="checkbox"/> Repair, Rehabilitation or Renovation of Structure(s)	
<input type="checkbox"/> Site Excavation	<input type="checkbox"/> Addition to Existing Structure(s)	
<input type="checkbox"/> Utilities & Infrastructure	<input type="checkbox"/> Demolition or Relocation of Existing Structure(s)	
<input checked="" type="checkbox"/> New Construction	<input type="checkbox"/> None of these	
BRIEF PROJECT SUMMARY: Please provide a one or two sentence description to explain the project. More details will be provided separately in Part 5, the Project Work Description Attachment.		
• Construct a 499 foot tall radio broadcasting tower at the site with a 12'x16' prefabricated shelter.		

2. Project Contact Information

PROJECT CONTACT NAME Joe T. Hutchison	TITLE Landman	ORGANIZATION Munbilla Towers - Llano, LTD
ADDRESS 3832 Granbury Drive	CITY Dallas	STATE TX
PHONE 972-862-2405	ZIP 75287-4911	EMAIL joe.hutchison@verizon.net

For SHPO Use Only

Track Review to:

☐ Archeology Division: Reviewer:

☐ History Programs Division: Reviewer:

☐ Architecture Division: Reviewer:

Date Stamp Below:
RECEIVED
MAY 24 2010

TEXAS HISTORICAL COMMISSION

3. Federal Involvement

Does this project involve approval, permit, license, or funding from a federal agency?
☒ Yes (Please complete this section) ☐ No (Skip to next box)

FEDERAL AGENCY

FCC

FEDERAL AGENCY CONTACT PERSON

ADDRESS

445 12th Street SW
Washington, DC 20554

FEDERAL PROGRAM, FUNDING, OR PERMIT TYPE:

License for a radio broadcasting station

PHONE

1877-480-3201

EMAIL

Has the federal agency (if other than HUD) formally delegated authority to consult with SHPO on the agency's behalf? ☐ Yes (Please attach delegation letter) ☒ No

4. State Involvement

Does this project involve approval, permit, license, or funding from a state agency?
☒ Yes (Please complete this section) ☐ No (Skip to next box)

STATE AGENCY

Texas Parks and Wildlife

STATE AGENCY CONTACT PERSON

Celeste Brancel

ADDRESS

4200 Smith School Road
Austin, Texas 78744

STATE PROGRAM, FUNDING, OR PERMIT TYPE:

Approval - Rare Resources Request

PHONE

512-912-7011

EMAIL

Celeste Brancel

Will this project involve public land owned by the State of Texas or a political subdivision of the state? (State Agency, County, City, School District, Public Authority, Public College or University, etc.)
☐ Yes ☒ No

CURRENT OR FUTURE OWNER OF THE PUBLIC LAND

5. Project Work Description

Attach a detailed written description of the project that fully explains what will be constructed, altered, or demolished. Include architectural or engineering plans, site plans, specifications, or NEPA documents, as necessary, to illustrate the project.

6. Identification of Project Location and Area of Potential Effect (APE)

The APE includes the entire area within which historic properties could be affected by the project. This includes all areas of construction, demolition, and ground disturbance (direct effects) and the broader surrounding area that might experience visual or other effects from the project (indirect effects).

1. **Attach** map(s) indicating the location and specific boundaries of the project. Road names must be included and legible. Identify the project location, boundaries, and APE on the map(s) as precisely as possible. Suggested maps may include USGS 7.5 minute quadrangle maps (or relevant portions thereof), tax maps, satellite images, etc. The number and types of map(s) will depend on the nature and complexity of the project as well as the extent of the APE. **Projects involving ground disturbance must include the appropriate 7.5 minute USGS quadrangle.**
2. **Attach** a brief written description of the APE, including a discussion of the potential for direct and indirect effects that might result from the project and the justification for the boundaries chosen for the APE.

PROJECT NAME

I-0 / Summit

7. Identification of Historic Properties within the APE (Attach additional materials as necessary)

A. Archeological Resources

Does this project involve ground-disturbing activity?

☒ Yes (Please complete this section)

☐ No (Skip to Structures section)

Describe the nature, width, length, and depth of the proposed ground-disturbing activity.

See attached description.

Describe previous land use and disturbances.

Describe the current land use and conditions.

B. Structures

Are there any structures, buildings, or designed landscape features (park, cemetery, etc.) 45 years old or older within the project area or APE?

☐ Yes

☒ No

Is the project located within or adjacent to a district that is listed in or eligible for the National Register of Historic Places? Eligible districts may include locally designated districts or areas identified in historic resource surveys.

☐ Yes, name of district:

☒ No

☐ Do not know

If the Texas Historic Sites Atlas (<http://atlas.thc.state.tx.us>) has been consulted, were previously identified architectural resources identified within the project area or APE?

☐ Yes

☒ No

☐ Did not consult Atlas

If the answer to any of the above questions is yes, use the space below or provide an attachment indentifying each structure, building, designed landscape feature, or district within the APE that is 45 years old or older.

Include an actual or estimated date of construction and the location of each of the features.

A visual inspection of the surrounding area was made, however, due to the fact that it is rural there is little access as all of the surrounding property is private. The landowner, a third generation to occupy the property, was consulted and he knew of no historical structures in the area.

Does the project involve the rehabilitation, alteration, removal, or demolition of any structure, building, designed landscape feature, or district that is 45 years old or older?

☐ Yes

☒ No

If yes, include information with the attachments for Part 5: Project Work Description and Part 8: Photographs.

8. Photographs

Attach clear, high-resolution color photographs that illustrate the project area and APE as defined in Section 6. Images from the internet are not acceptable due to low resolution. Photography should document the project area and properties within the APE, including clear views of any buildings or structures. Please number and label all photographs, and include a map or site plan labeled to show the location and direction of each view. Where applicable, include photographs of the surrounding area from the project site and streetscape images. Should your project entail the alteration of existing structures, please also provide photographs of the existing conditions of sites, buildings, and exterior and interior areas to be affected.

9. Consulting Parties/Public Notification (Section 106 only)

Attach a description of the actions taken to notify the public or invite consultation with parties other than SHPO. Provide a summary of any consultation and comments received from consulting parties or the public.

The SHPO is only one consulting party under Section 106. Refer to 36 CFR 800.2 for information about other participants who are entitled to comment on the Section 106 process, including Native American tribes, interested parties, and the public. Consultation with the SHPO is not a substitution for consultation with Native American tribes. When identifying historic resources within the APE and determining the effect of an undertaking, applicants should consider consulting with the county historical commission and the local historic preservation officer, if any.

PROJECT NAME

I-0 / Summit

10. Applicant's Determination of Effect (Section 106 only)

An effect occurs when an action alters the characteristics of a property that qualify it for listing in the National Register of Historic Places, including changes to the property's location, design, setting, materials, workmanship, feeling, and association. Effects can be direct or indirect, and can be physical, visual, audible, or economic. They may include a change in ownership or change in use.

- ☒ **No Historic Properties Affected** based on 36 CFR 800.4(d)(1). Please provide the basis for this determination.
- ☐ **No Adverse Effect** on historic properties based on 36 CFR 800.5(b). Please explain why the criteria of adverse effect at 36 CFR 800.5(a)(1) were not found to be applicable for your project.
- ☐ **Adverse Effect** on historic properties based on 36 CFR 800.5(d)(2). Please explain why the criteria of adverse effect at 36 CFR 800.5(a)(1) were found to be applicable to your project. You may also wish to include an explanation of how these adverse effects might be avoided, minimized, or mitigated.

In the space below or as an attachment, please explain the effect of the project on historic properties.

NONE

Submit Completed Form and Attachments to:

Via mail:

Mark Wolfe
State Historic Preservation Officer
Texas Historical Commission
PO Box 12276
Austin, TX 78711

Via hand delivery or private express delivery:

Mark Wolfe
State Historic Preservation Officer
Texas Historical Commission
108 West 16th St.
Austin, TX 78701

Faxes and email are not acceptable.

For SHPO Use Only

PROJECT NAME			
I-0 / Summit			
PROJECT ADDRESS		PROJECT CITY	PROJECT ZIP CODE(S)
3035 Rogers Trail (911 addressing)		Kerrville, Texas	78028
PROJECT COUNTY OR COUNTIES			
GILLESPIE			
PROJECT CONTACT NAME		TITLE	ORGANIZATION
Joe T. Hutchison		Landman	Munbilla Towers - Llano, LTD
ADDRESS		CITY	STATE
3832 Granbury Drive		Dallas	TX
PHONE		ZIP	
972-862-2405		75287-4911	
EMAIL			
joe.hutchison@verizon.net			

Second Minor Amendment to FCC Form 301
Radio Station KYRT(FM), Channel 250A, Hunt, Texas,
FCC Facility ID No. 165378
FCC File No. BPH-20100312AAQ
Second Attachment to Exhibit 34

ANNEX V



Federal Aviation Administration
Air Traffic Airspace Branch, ASW-520
2601 Meacham Blvd.
Fort Worth, TX 76137-0520

Aeronautical Study No.
2009-ASW-2788-OE

Issued Date: 10/02/2009

Shane Fox
Munbilla Towers
5526 Highway 281 North
Marble Falls, TX 78654

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure:	Antenna Tower ROGERS PARCEL
Location:	INGRAM, TX
Latitude:	30-08-51.90N NAD 83
Longitude:	99-13-14.90W
Heights:	500 feet above ground level (AGL) 2400 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

As a condition to this Determination, the structure is marked and/or lighted in accordance with FAA Advisory circular 70/7460-1 K Change 2, Obstruction Marking and Lighting, paint/red lights - Chapters 3(Marked),4,5(Red),&12.

It is required that FAA Form 7460-2, Notice of Actual Construction or Alteration, be completed and returned to this office any time the project is abandoned or:

- ☐ At least 10 days prior to start of construction (7460-2, Part I)
☒ Within 5 days after the construction reaches its greatest height (7460-2, Part II)

See attachment for additional condition(s) or information.

Any height exceeding 500 feet above ground level (2400 feet above mean sea level), will result in a substantial adverse effect and would warrant a Determination of Hazard to Air Navigation.

This determination expires on 04/02/2011 unless:

- (a) extended, revised or terminated by the issuing office.
- (b) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE POSTMARKED OR DELIVERED TO THIS OFFICE AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE.

This determination is based, in part, on the foregoing description which includes specific coordinates , heights, frequency(ies) and power . Any changes in coordinates , heights, and frequencies or use of greater power will void this determination. Any future construction or alteration , including increase to heights, power, or the addition of other transmitters, requires separate notice to the FAA.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

A copy of this determination will be forwarded to the Federal Communications Commission (FCC) because the structure is subject to their licensing authority.

If we can be of further assistance, please contact our office at (817) 838-1997. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2009-ASW-2788-OE.

Signature Control No: 636141-119137197

(DNE)

Douglas Felix
Specialist

Attachment(s)
Additional Information
Frequency Data
Map(s)

cc: FCC

Additional information for ASN 2009-ASW-2788-OE

The proposed 750foot AGL/2650 foot AMSL antenna tower proposal would be located approximately 12.43 nm northwest of Kerrville Municipal Airport (ERV), TX.

The proposal exceeds obstruction standards of Title 14, Code of Federal Regulations (CFR), part 77 as follows:

- Section 77.23(a) (1) by 250 feet - a height that exceeds more than 500 feet above ground level (AGL). The no effect height would be 500 feet AGL/2400 feet AMSL.

The proposal was circularized to all known interested persons for aeronautical comment by letter dated July 6, 2009. No letters of objection were received from the public as a result of the circularization.

However, further internal FAA study determined the proposal, at any height exceeding 500 feet AGL/2400 feet AMSL, would be a hazard to air navigation as it is located within 2 statute miles of Interstate 10 which is considered at a VFR route. Structures are limited to 500 feet AGL within 2 statute miles of a known VFR route. The proposal is located approximately 3500 feet east of Interstate 10.

Subsequent correspondence with the sponsor resulted in a reduction in height of the proposal to 500 feet AGL/2400 feet AMSL. At this reduced height the proposal does not exceed any obstruction standard and also is at a height which can be approved within 2 statute miles of a VFR route.

Aeronautical study disclosed that the proposed structure would have no effect on any existing or proposed arrival, departure, or en route instrument flight rule (IFR) operations, procedures, or minimum flight altitudes.

Study for possible visual flight rules (VFR) effect disclosed that the proposed structure would have no effect on any existing or proposed arrival or departure VFR operations or procedures. It would not conflict with airspace required to conduct normal VFR traffic pattern operations at any known public use or military airports. In addition, at the reduced height of 500 feet AGL/2400 feet AMSL, the proposed structure would not penetrate those altitudes normally considered available to airmen for VFR en route flight.

The proposed structure will be appropriately obstruction marked and lighted to make it more conspicuous to airmen should circumnavigation be necessary.

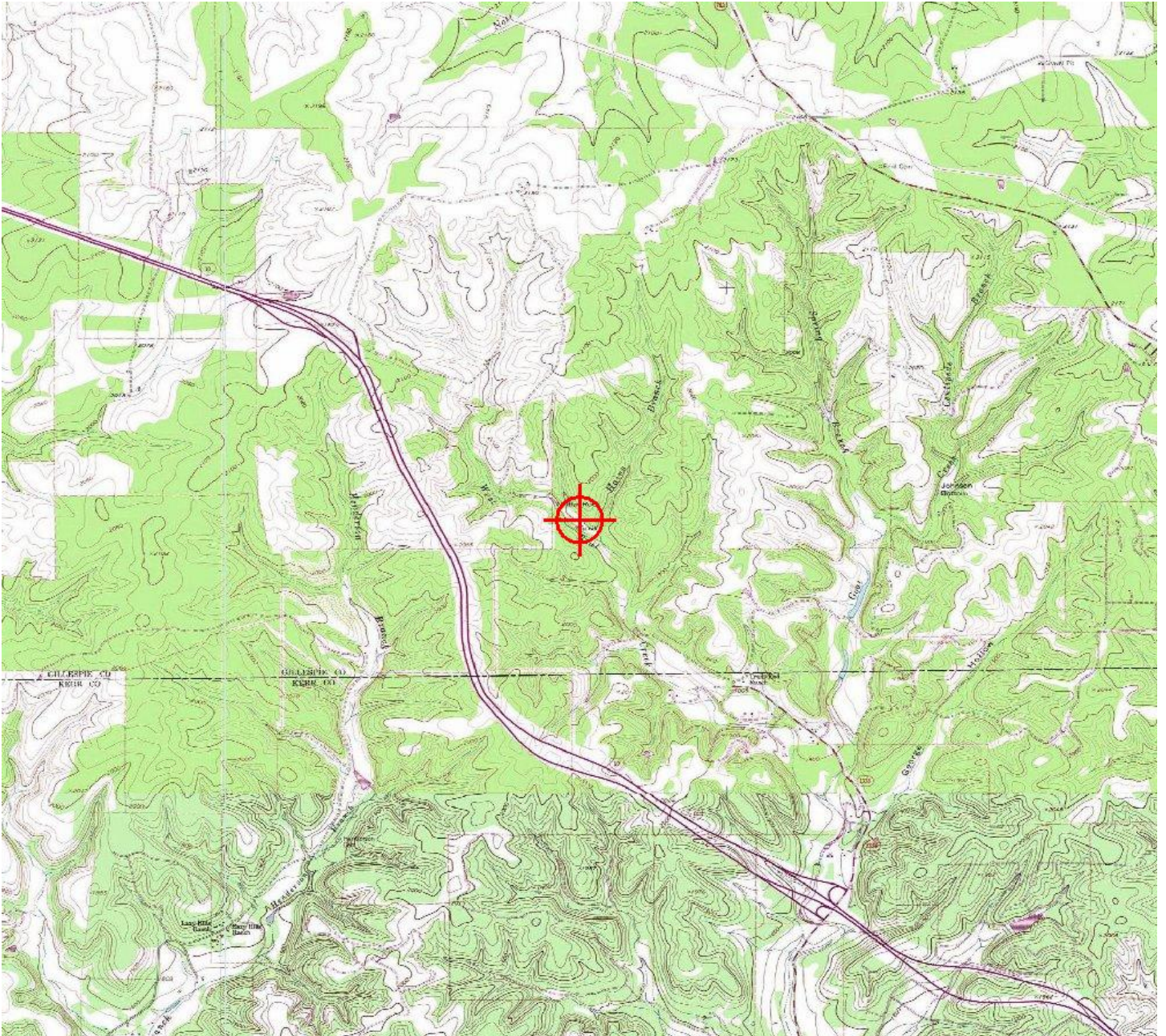
This proposal has been approved at the highest above ground level (AGL) height that would not have a significant adverse effect on aircraft operation in the area. Any height exceeding 500 feet AGL would have resulted in a determination of hazard. Therefore, should any subsequent information be received, such as survey data, indicating the height of this structure exceeds the height approved, the FAA will request that the structure be lowered not to exceed the overall approved height.

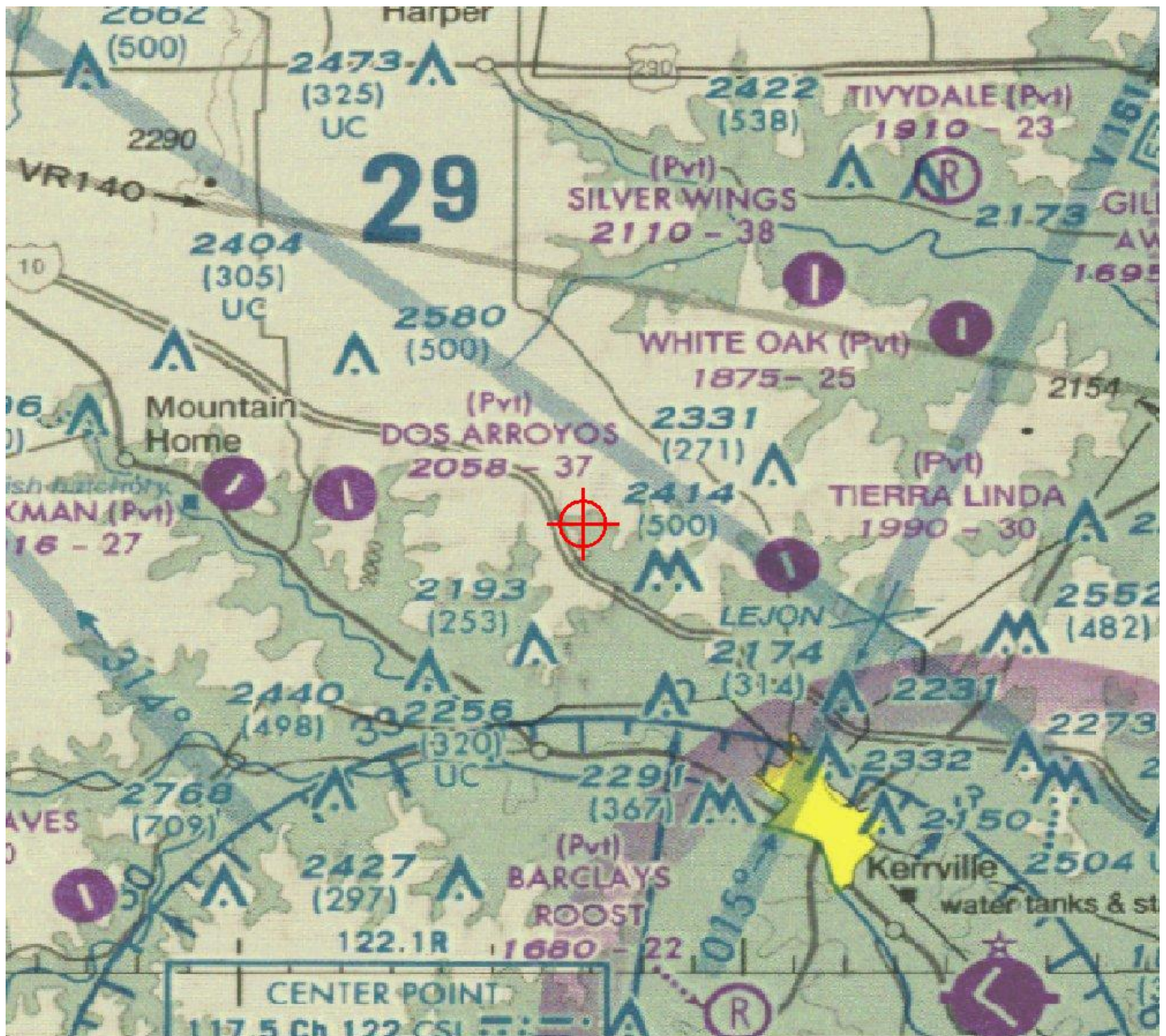
The cumulative impact of the proposed structure, when combined with other existing structures, is not considered significant. Study did not disclose any adverse effect on existing or proposed public-use or military airports or navigational facilities. Nor would the proposal affect the capacity of any known existing or planned public-use or military airport.

Therefore, it is determined that the proposed construction would not have a substantial adverse effect on the safe and efficient utilization of the navigable airspace by aircraft or on any air navigation facility and would not be a hazard to air navigation.

Frequency Data for ASN 2009-ASW-2788-OE

LOW FREQUENCY	HIGH FREQUENCY	FREQUENCY UNIT	ERP	ERP UNIT
99.9	99.9	MHz	4.4	kW





Second Minor Amendment to FCC Form 301
Radio Station KYRT(FM), Channel 250A, Hunt, Texas,
FCC Facility ID No. 165378
FCC File No. BPH-20100312AAQ
Second Attachment to Exhibit 34

ANNEX VI, PART I

Date: Thu, 3 Jun 2010 15:38:20 +0100
To: bruce.beard@faa.gov
From: "J.J. McVeigh" <kd4vs@comcast.net>
Subject: Aeronautical Study No.2009-ASW-2788-OE

Hello, Mr. Beard,

I am following up on our telephone conversation of a little while ago.

I am communications counsel to Munbilla Towers-Llano, Ltd. ("MTLL") and Munbilla Kerrville, Ltd. ("MKL"). MTLL is the proponent of the structure (the "Tower") that was the subject of Aeronautical Study No.2009-ASW-2788-OE (the "Study").

The Tower will be used to support the antenna of a radio station of which MKL is the licensee (the "Station"). MKL presently has an application for a Construction Permit to move the Station's main antenna to the to-be-constructed Tower.

The Determination of No Hazard to Air Navigation that resulted from the Study specifies that the tower should be marked with red and white aviation paint and illuminated at night with red beacons.

As part of the FCC application process, it is necessary for MTLL and MKL to consult with various other governmental agencies, including the Texas Department of Parks and Wildlife (the "TDPW"). The TDPW has expressed concerns about the potential effects that the Tower might have on certain species of birds. As a means of ameliorating any such potential effects, the TDPW has asked MTLL to employ strobe lighting on the tower. MTLL is willing to accommodate the TDPW in this regard.

Accordingly, on behalf of MTLL, I request the modification of the outstanding Determination of No Hazard to specify a Medium Intensity Dual Obstruction Lighting System (White Strobe Lighting During Daytime Hours, Red Nonincandescent Lighting During Nighttime Hours, rather than Marking with Red and White Aviation Paint and Illumination with Red Obstruction Lighting During Nighttime Hours.

If you have any questions concerning this request, please do not hesitate to contact me.

Very truly yours,

--

John Joseph McVeigh, Attorney at Law

16230 Falls Road, P.O. Box 128
Butler, Maryland 21023-0128

^^

Practice before the Federal Communications Commission
Member NY, DC, and USPTO Bars
Amateur Radio Operator KD4VS

443.507.5611 Office
443.927.6657 Mobile

^^

Please note: The information transmitted herein is intended only for the person or entity to which it is addressed, and it may contain confidential or privileged material (or both). Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact me and advise me of that occurrence, and please delete the material from any computer on which it resides. Thank you in advance for your cooperation.

^^

Second Minor Amendment to FCC Form 301
Radio Station KYRT(FM), Channel 250A, Hunt, Texas,
FCC Facility ID No. 165378
FCC File No. BPH-20100312AAQ
Second Attachment to Exhibit 34

ANNEX VI, PART II

To: bruce.beard@faa.gov
From: "J.J. McVeigh" <kd4vs@comcast.net>
Subject: Re: Aeronautical Study No. 2009-ASW-2788-OE
Cc: <eswanson@hatdaw.com>
Bcc:

Attachments:  EM to Bruce Beard 03 June 2010.pdf

Hello, Mr. Beard,

On June 3, 2010, I spoke to you by telephone, and followed up with an email message, concerning Aeronautical Study No. 2009-ASW-2788-OE. I had requested that the FAA reissue the Determination of No Hazard in this case to specify a Medium Intensity Dual Obstruction Lighting System (White Strobe Lighting During Daytime Hours, Red Nonincandescent Lighting During Nighttime Hours, rather than Marking with Red and White Aviation Paint and Illumination with Red Obstruction Lighting During Nighttime Hours. For your convenience, I am attaching a copy of the email message that I sent you.

I have checked the OEAAA web site, and the copy of the Determination that I can download still specifies red lights and paint.

—•

Is there a superseding Determination, with a different Airspace Study Number? My recollection of our conversation was that the Determination could be suitably reissued without a change in the Airspace Study Number.

If the FAA has not yet reissued the Determination to specify a Medium Intensity Dual Obstruction Lighting System (White Strobe Lighting During Daytime Hours, Red Nonincandescent Lighting During Nighttime Hours, is reissuance still possible, and when might the reissuance occur?

Thank you in advance for your attention to this message, and for your reply.

Very truly yours,

John Joseph McVeigh, Attorney at Law
16230 Falls Road, P.O. Box 128
Butler, Maryland 21023-0128

^^
Practice before the Federal Communications Commission
Member NY, DC, and USPTO Bars
Amateur Radio Operator KD4VS

443.507.5611 Office
443.927.6657 Mobile

^^

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^^

Second Minor Amendment to FCC Form 301
Radio Station KYRT(FM), Channel 250A, Hunt, Texas,
FCC Facility ID No. 165378
FCC File No. BPH-20100312AAQ
Second Attachment to Exhibit 34

ANNEX VII

Subject: Re: Aeronautical Study No. 2009-ASW-2788-OE (Erratum)
 From: Bruce.Bearde@faa.gov
 To: "J.J. McVeigh" <kd4vs@comcast.net>
 Cc: <eswanson@hatdaw.com>
 Date: Mon, 27 Sep 2010 10:08:15 -0500

2010-ASW-5532-OE

Marking & Lighting determination has been issued approving the medium dual system.

2009-ASW2788-OE will still be the study of record for the tower.

Bruce Beard
 Air Traffic, Obstruction Evaluation Group Supervisor, U.S.
 Operations
 Ofc: 817-838-1996
 <<http://oeaaa.faa.gov/>><http://oeaaa.faa.gov>

_____|_____
 ____ (*) ____/
 ____o/ \o

Second Minor Amendment to FCC Form 301
Radio Station KYRT(FM), Channel 250A, Hunt, Texas,
FCC Facility ID No. 165378
FCC File No. BPH-20100312AAQ
Second Attachment to Exhibit 34

ANNEX VIII



Federal Aviation Administration
Air Traffic Airspace Branch, ASW-520
2601 Meacham Blvd.
Fort Worth, TX 76137-0520

Aeronautical Study No.
2010-ASW-5532-OE
Prior Study No.
2009-ASW-2788-OE

Issued Date: 09/27/2010

Shane Fox
Munbilla Towers
5526 Highway 281 North
Marble Falls, TX 78654

**** MARKING & LIGHTING RECOMMENDATION ****

The Federal Aviation Administration has completed an evaluation of your request concerning:

Structure:	Antenna Tower ROGERS PARCEL
Location:	INGRAM, TX
Latitude:	30-08-51.90N NAD 83
Longitude:	99-13-14.90W
Heights:	500 feet above ground level (AGL) 2400 feet above mean sea level (AMSL)

Based on this evaluation, we have no objection to the change provided the structure is marked and/or lighted in accordance with FAA Advisory Circular 70/7460-1 K Change 2 Obstruction Marking and Lighting, a med-dual system - Chapters 4,8(M-Dual),&12.

Action will be taken to ensure aeronautical charts and records are updated to reflect the marking and/or lighting changes which exist at this time.

If this structure is subject to the authority of the Federal Communications Commission a copy of this letter will be forwarded to them and application should be made for permission to change the marking and/or lighting as requested.

This evaluation concerns the effect of the marking and/or lighting changes on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

Any failure or malfunction that lasts more than thirty (30) minutes and affects a top light or flashing obstruction light, regardless of its position, should be reported immediately to (877) 487-6867 so a Notice to Airmen (NOTAM) can be issued. As soon as the normal operation is restored, notify the same number.

If we can be of further assistance, please contact our office at (817) 838-1996. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2010-ASW-5532-OE.

Signature Control No: 131312292-131312601
Bruce Beard
Specialist

(MAL)

Attachment(s)
Additional Information

cc: FCC
cc: AeroNav Services w/map

Additional information for ASN 2010-ASW-5532-OE

New tower, will show correct M&L when tower is built and the 7460-2 notice is submitted.