

Failing Station Waiver Request

Gray Television Licensee, LLC (“Gray”) seeks consent from the Commission to the assignment of the license of KCPM(DT), Grand Forks, North Dakota (Facility Identification Number 86208). In the intervening time since Gray and KCPM(DT)’s current owner G.I.G. of North Dakota, LLC (“GIG”) filed an application seeking consent to the assignment of license of KCPM(DT) on February 9, 2018, the Commission’s 2017 Media Ownership Order on Reconsideration¹ was overturned by the U.S. Court of Appeals for the Third Circuit.² The Third Circuit issued its mandate in that case on November 29, 2019. By an Order released on December 20, 2019, the Commission reinstated certain of its previous media ownership rules including the previous iteration of its local television ownership rule.³

With one exception, Gray’s acquisition of KCPM(DT) complies with the Commission’s multiple ownership rules now in effect as a result of the *Prometheus* decision. Gray’s proposed acquisition of KCPM(DT), however, would not comply with the Commission’s current local television ownership rule without a waiver. While KCPM(DT) is not a top-four ranked station in the market, the Fargo-Valley City, ND Designated Market Area (“DMA”) would not have eight independent voices after the transaction. Therefore, although Gray’s proposed acquisition of KCPM(DT) complies with all of the Commission’s other multiple ownership rules set forth in 47 C.F.R. § 73.3555, Gray amends the pending assignment application to request a failing station waiver of the local television ownership rule. This transaction meets the test for a “failing” station set forth in Note 7(2) to Section 73.3555 of the Commission’s Rules.⁴

Failing Station Waiver

The Commission’s local television ownership rule, Section 73.3555(b), generally bars common ownership of television stations in the same television market with overlapping digital noise limited contours unless at least one of the stations in the proposed combination is not ranked among the top four stations in the market, and there would be at least eight independently owned and operated full-power stations in the market after an acquisition is consummated. Gray is the licensee of KVLV-TV, Fargo, North Dakota (Facility Identification Number 61961), which also is assigned to the Fargo-Valley City DMA, and KVLV-TV’s digital noise limited contour overlaps that of KCPM(DT). The Fargo-Valley City DMA is the 116th ranked DMA in the country. Like most small markets, it does not have enough full power television stations to have eight independent voices.

¹ 2014 Quadrennial Regulatory Review – Review of the Commission’s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996 et al., *Order on Reconsideration and Notice of Proposed Rulemaking*, 32 FCC Rcd 9802 (2017).

² *Prometheus Radio Project v. FCC*, 939 F.3d 567 (3d Cir. 2019), petition for rehearing en banc denied (3d Cir. Nov. 20, 2019).

³ 2014 Quadrennial Regulatory Review – Review of the Commission’s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996 et al., *Order*, DA 19-1303 (Dec. 20, 2019).

⁴ 47 C.F.R. § 73.3555.

Gray, therefore, requests a waiver of the local television ownership rule because KCPM(DT) is a “failing” station. The Commission will presume a “failing” station waiver request to be in the public interest if (1) the “failing” station has a low all-day audience share (*i.e.*, no more than four percent), (2) the station has had negative cash flow for three consecutive years prior to the application, (3) the parties demonstrate public interest benefits that will flow from the proposed transaction, and (4) there is no out-of-market buyer willing and able to acquire the station at other than an artificially depressed price.⁵ The proposed transaction meets all four of these standards.

KCPM(DT) Has a Low All-Day Audience Share

KCPM(DT) consistently has failed to achieve an all-day audience share in excess of four percent. Indeed, over the past year, KCPM(DT) has not even appeared in Comscore ratings. With a consistent failure to achieve any audience share, KCPM(DT) satisfies the first criterion of the failing station exception.

Poor Financial Condition

This prong of the waiver showing focuses on the three years immediately preceding the filing of the application, as amended. As the attached declaration from Mr. Charles Poppen makes clear, KCPM(DT) operated with negative cash flow in each of the three years.⁶ In fact, Mr. Poppen states that the station’s expenses have exceeded the minimal revenue generated by the station. Mr. Poppen describes the struggling financial situation for KCPM(DT) by stating the company has not been able to generate enough cash flow to pay its past regulatory fees. If not for an advance by Gray, KCPM(DT) would not have paid its regulatory fees over the past several years. Clearly, this prong of the waiver has been met, because the station simply does not operate with positive cash flow and has not for at least three years.

Public Interest Benefits

The Commission recognized when it adopted its “failing station” waiver policy in 1999 that “[a]llowing a ‘failing’ station to join with a stronger station in the market can greatly improve its ability to improve its facilities and programming operations, thus benefiting the public interest.”⁷ It understood that these waivers might be “of particular assistance to struggling stations in smaller markets that are not covered by the eight voice/top four ranked station test.”⁸

⁵ *Id.* at Note 7.

⁶ The Declaration from Charles Poppen is attached as Exhibit 1. The current licensee does not prepare financial statements in the ordinary course so it cannot provide financial statements.

⁷ Review of the Commission’s Regulations Governing Television Broadcasting, *Report and Order*, 14 FCC Rcd 12903, 12939 (1999).

⁸ *Id.*

KCPM(DT) is without a doubt a failing station bordering on becoming a failed station.⁹ Over the past three years, KCPM(DT) was silent on two occasions totaling more than a year.¹⁰ And, when it hasn't been silent, KCPM(DT) generally has operated at significantly reduced power. In other words, for the vast majority of the previous three years, the station has failed to operate at its full licensed power, if at all. Indeed, today the station operates at only 1.25 kW ERP, which is just 11% of its fully authorized power.

Even when the station is operating at its fully licensed power levels, the station's over-the-air signal does not reach Fargo, the market's major population center. In fact, the station's maximum authorized ERP is only 11.1 kW, which is less than the authorized ERP for Gray's TV translator serving Grand Fork, K30LR-D. At best, KCPM(DT) is a glorified TV translator operating in a remote corner of a small market approximately 80 miles from the main population center of Fargo.

As the attached Engineering Statement demonstrates,¹¹ the over-the-air facilities for KCPM(DT) pale in comparison to the facilities for the other commercial television stations in the Fargo-Valley City DMA:

Station	Primary Stream Affiliation	Population Served (including satellites)	Percent of DMA Served (including satellites)
KCPM(DT) (Licensed Facilities)	MyNetwork	88,818	14.6%
KCPM(DT) (STA Facilities)	MyNetwork	72,058	11.9%
KVRR(DT) KNRR(DT) KBRR(DT) KJRR(DT)	FOX	551,674	87.4%
WDAY-TV WDAZ-TV	ABC	423,557	69.7%
KVLY-TV	NBC	349,744	57.6%
KRDK-TV	COZI	346,368	57.0%

KCPM(DT) starts at a disadvantage because it does not have any satellite stations or translators to help it cover the vast Fargo-Valley City DMA, but that is only the beginning of the hurdles the station must overcome. The other full power commercial stations in the DMA (not including satellite stations) are either licensed to Fargo or broadcast a good quality signal over Fargo. Meanwhile, KCPM(DT)'s contour comes nowhere close to Fargo and barely extends beyond rural Grand Forks County. KCPM(DT) is the only commercial television station licensed to

⁹ A failed station is one that "has not been in operation due to financial distress for at least four consecutive months immediately prior to the application, or is a debtor in an involuntary bankruptcy or insolvency proceeding at the time of the application. 47 C.F.R. § 73.3555, Note 7.

¹⁰ FCC records indicate that KCPM(DT) has not been off-air for twelve consecutive months.

¹¹ See Engineering Statement of Chesapeake RF Consultants, LLC attached as Exhibit 2.

Grand Forks, which is approximately 80 miles north of Fargo – the same distance as Gettysburg, Pennsylvania is from Washington, DC. And, KCPM(DT) is the only stand-alone commercial television station serving the northern portions of the Fargo-Valley City DMA. The other commercial television stations serving this area (WDAZ-TV, Devil’s Lake, ND; KBRR(DT), Thief River Falls, MN; and KNRR(DT), Pembina, ND) are all satellite stations, which by definition are incapable of operating as stand-alone stations. In short, KCPM(DT) has all the classic markers of a satellite station, which would make KCPM(DT) exempt under the commission’s local ownership rules.¹²

For GIG to have any reasonable hope of turning a profit with KCPM(DT), the station’s over-the-air contour must become competitive with the other commercial television stations in the market, which means reaching viewers in the greater-Fargo area. Otherwise, KCPM(DT) will not be able to provide a good quality signal to the three largest MVPDs in the DMA, Midcontinent Cable, DISH Network, and DIRECTV, whose main headends are located in Fargo and who collectively serve approximately 66% of the MVPD homes in the DMA. In fact, after reviewing the channel lineups on the websites for the MVPDs serving the Fargo-Valley City DMA, it appears that KCPM(DT) is available in fewer than 10% of the MVPD homes in the DMA.

Given the station’s inability to reach the vast majority of viewers in its market, KCPM(DT) earns minimal advertising revenue and must operate on a shoestring budget. GIG has one employee, who is responsible for all technical, back office, programming, sales, and operational duties for the station. GIG cannot afford to hire a local sales staff to earn additional advertising revenue, and the station must operate without modern transmission equipment or a local news studio. At KCPM(DT)’s licensed site, the station’s transmission equipment is powered by a gasoline generator without a connection to the electrical grid or any other source of back-up power. Thus, the station does not have a reliable power source upon which to draw power to station’s transmission equipment. Moreover, the station’s studio is co-located with the KCPM(DT) transmitter site. While the station’s studio has the ability to originate programming, it does not have the equipment needed to produce local news, sports, or informational programming of interest to the community.

Not surprisingly, over the last year, KCPM(DT) has registered no ratings from Comscore. Given its limited over-the-air reach and lack of carriage by MVPDs, it is unsurprising that advertisers do not consider KCPM(DT) a viable outlet for local advertisements. Of course, even if advertisers did find KCPM(DT) an attractive venue, KCPM(DT) cannot afford to pay a sales staff to capitalize on any potential opportunities. This leaves KCPM(DT) in the position of having no real prospects of generating the revenue needed to improve the station’s transmission equipment and/or programming. As a result, KCPM(DT) is stuck in a vicious cycle. Without investing several million dollars to upgrade its over-the-air signal to cover a comparable number of homes as the other commercial stations in the market, KCPM(DT) has no hope of turning a profit. At the same time, until KCPM(DT) starts earning a profit, GIG cannot afford any further

¹² See *Legacy Broadcasting, LLC (KNHL(DT), Hastings, Nebraska)*, 34 FCC Rcd 336 (MB 2019) (approving a request to operate KNHL(DT) as a satellite station because of the station’s distance to the main population center in the DMA and because the station serves an ‘underserved’ area).

investment in the station. The current situation is untenable. Without a failing station waiver, it is only a matter of time before KCPM(DT) ceases operations and becomes a failed station.

By combining with KVLV-TV and by tapping into Gray's market leading resources, Gray can break KCPM(DT) out of its downward spiral and turn it into a bona fide competitor in the market. As a first step, Gray will immediately begin the process of upgrading the station's over-the-air facilities because KCPM(DT) will never be competitive if it is operating with facilities that are inferior to most TV translators. Fortunately, Gray is in a unique position to address this critical problem. The KVLV-TV tower is the tallest manmade structure in the Western Hemisphere, and Gray already has a broadband UHF antenna and transmission line in place on the tower that could accommodate KCPM(DT). Once Gray acquires KCPM(DT) and upon obtaining a construction permit, Gray would simply order and install a new transmitter and combiner, and KCPM(DT) would begin broadcasting from atop the KVLV-TV tower. Because the antenna and transmission line are already in place, Gray would not need to hire a tower crew that is capable of climbing the 2,000-foot tower. Within just a few months, the population within KCPM(DT)'s coverage area would jump almost fivefold from 72,058 to nearly 350,000.

With these improvements to KCPM(DT)'s facilities and by relying on the direct fiber connections that Gray already has in place with many MVPDs, Gray will be able to deliver KCPM(DT)'s programming to all of the MVPDs in the market and almost 60% of over-the-air viewers. Once the MVPDs are able to receive a good quality signal from KCPM(DT), Gray believes that most MVPDs will want to retransmit it – especially once Gray begins to improve the station's programming by leveraging Gray's relationships with major programming suppliers and by integrating it with KVLV-TV, which already is the most popular station in the market. In addition, to transforming KCPM(DT) from the equivalent of a TV translator into a bona fide full power station, substantial programming and operational improvements will result from Gray's common ownership of KCPM(DT) and KVLV-TV and provide tangible public interest benefits:

- Operated together with KVLV-TV, KCPM(DT) will have access to sufficient financial resources to compete for sought after syndicated programming and other programming.
- KCPM(DT) will have access to the full support of and resources from KVLV-TV's experienced engineering team. Today, KCPM(DT) is operating on a minimal budget. As described above, the station is operating at significantly reduced power.
- Gray intends to operate KCPM(DT) from its state-of-the-art studio constructed for KVLV-TV. The move will instantly upgrade the physical plant for the station with the latest workstations, equipment, and software necessary to compete in today's television environment.
- Gray has a proven track record of running strong local stations. Indeed, Gray has the number-one or number-two ranked television station operations in nearly all

of its 93 television markets, including the top ranked station in the Fargo-Valley City DMA.

- The station's poor financial condition has prevented it from producing its own local programming; therefore, KCPM(DT) does not have any regular local news coverage or coverage of breaking news or emergency weather. By combining KCPM(DT) with KVLV-TV, KCPM(DT) will have access to all of the news resources from KVLV-TV, which is the leading news station in the market. When events warrant, Gray will provide KCPM(DT) viewers with live, breaking weather coverage using resources from KVLV-TV. Gray also will have the capability to provide non-weather emergency programming and information for viewers of KCPM(DT) as necessary.

All of these improvements will benefit local viewers, but viewers are not the only group who will be better served from Gray's acquisition of KCPM(DT). Local businesses also will benefit. Currently, KCPM(DT) has just one employee and no local sales staff. As a result, the station cannot sell its full allotment of local advertising spots. According to BIA, in 2018 KCPM (DT) earned only 0.2% of the local advertising revenue in the DMA. By combining with KVLV-TV, KCPM(DT) now will have a complete 10-person sales staff that can finally sell local advertising on the station to its full capability. With a full sales staff, Gray will be able to make available for sale to local advertisers significantly more inventory than what KCPM (DT) offers today. This significant increase in the supply of local advertising avails will flood the market and put significant downward pressure on advertising rates for broadcasters and the local cable systems in the market. From a local advertiser's perspective, because KCPM(DT) sells so little of its advertising inventory today and its market share is literally a rounding error, combining KCPM (DT) with KVLV-TV and opening up its inventory for sale locally will be almost the equivalent of adding a brand-new local station and brand-new competitor to the market. Moreover, KCPM-DT will serve an underserved segment of the advertising community. It will become a much better entry point for small local businesses that are looking to advertise on broadcast television but have been unable to afford or access advertising on the other local stations.

No Rational Out-of-Market Buyer

Buyers are not willing and able to acquire and operate a failing station such as KCPM(DT) without the ability to operate it in conjunction with a stronger, in-market station (such as KVLV-TV) and thereby taking advantage of the synergies that generate public interest benefits like those described above. Exhibit 3 hereto is the declaration of Jason Anderson of Kalil & Co., Inc. describing the challenges of selling KCPM(DT). While there was a vague expression of interest in the station from another in-market buyer, the interest did not materialize into a legitimate competing offer. Indeed, Mr. Anderson concluded that "given the lack of material interest in KCPM-TV at the national and regional levels, Kalil decided to pursue four prospective in-market buyers, but Gray Television was the only in-market buyer that made a legitimate offer to purchase KCPM-TV." Thus, the fourth prong of the failing station test is satisfied, because no reasonable out-of-market buyer expressed interest in acquiring KCPM(DT).

With increasing competition from digital companies, including Google and Facebook, and broadcast ratings in decline due to viewer fragmentation from streaming services such as Netflix and Amazon, no rational out-of-market buyer would be interested in purchasing a standalone My Network affiliate in a small market and continuing to operate it on a standalone basis. This is especially true for KCPM(DT), which operates with facilities that are inferior to many TV translators in a small corner of the market and with a transmitter that is not even connected to the electrical grid. Any prospective buyer would immediately face significant capital costs (likely exceeding several million dollars) to improve the station's transmission system and build a local studio – without any guarantee that a standalone MyNetwork station could generate the revenues needed to pay for the upgraded physical plant. Indeed, Gray's investment in KCPM(DT) is only economically feasible because Gray already owns a 2,000-foot tower, a top-mounted broadband UHF antenna, and a transmission line – meaning that Gray can upgrade KCPM(DT) at substantially lower cost than any other broadcaster, including Gray's in-market competitors. In other words, Gray is likely the only potential buyer (in-market or out-of-market) for KCPM(DT).

GIG's experience over the last several years attempting to operate and then sell a station in a small market with no ratings, persistent negative cash flow, a market share of only 0.2%, and grossly inadequate transmission facilities demonstrates the futility of hoping that somewhere an out-of-market buyer might be interested in purchasing KCPM(DT). Thus, the fourth prong of the failing station test is satisfied, because no reasonable out-of-market buyer would be willing to acquire KCPM(DT).

Gray respectfully submits that the public interest would be served by granting a failing station waiver in order to allow common ownership of KVLV-TV and KCPM(DT). In adopting the failing station exception to the Duopoly Rule, the Commission stated that allowing failing stations to combine with a stronger station would “pose minimal harm to our diversity and competition goals, since their financial situation typically hampers their ability to be a viable ‘voice’ in the market.”¹³ That is the case here, where a waiver will allow KCPM(DT) to strengthen its “voice” in the market. A combination with KCPM(DT) also would make available new financial, operational, and programming resources that would provide improved service to viewers throughout the Fargo-Valley City DMA. Accordingly, Gray respectfully requests that the Commission grant the instant failing station waiver request.

¹³ Review of the Commission's Regulations Governing Television Broadcasting, *Report and Order*, 14 FCC Rcd 12903, 12938-39 (1999).

Exhibit 1
Declaration of Charles Poppen

DECLARATION OF MR. CHARLES POPPEN

1. My name is Charles Poppen, and I am the Managing Member of G.I.G. of North Dakota, LLC ("GIG"), which is the FCC licensee of KCPM(DT), Grand Forks, North Dakota (Facility Identification Number 86208).
2. I am the only employee of GIG. Accordingly, I am responsible for the technical, back office, and programmatic operations for KCPM(DT). Through my performance of these duties, I have gained personal knowledge KCPM(DT)'s technical and financial struggles.
3. I am submitting this declaration to support the failing station waiver attached to the instant application seeking Commission consent to the assignment of license of KCPM(DT) from GIG to Gray Television Licensee, LLC ("Gray").
4. The station's licensed site is powered by a gasoline generator without a connection to the electrical grid or any other source of back-up power. At its current STA site, the station is able to operate off the electrical grid.
5. The station has by far the smallest service area of any station in the geographically expansive DMA. At the same time, it does not have any network affiliation or prospect of network affiliation nor the means by which to acquire or locally produce popular programming. The station has not been able to deliver a good quality signal sufficient to secure paying carriage on any of the satellite or main cable distributors in the DMA. As a result of these factors, there is little demand for advertising time in the station's service area nor interest from programmers willing to pay the station to broadcast their content.
6. In light of these factors, the station has been forced over the past three years to go dark. when the station has operated, it has been forced to operate at reduced power, again, relying on multiple trips to refill the generator's fuel tank to power the transmitter.
7. The station has had virtually no revenue for (at least) each of the last three years. Fixed operating costs, however, continue regardless of the revenue situation. Each year, the station incurs FCC regulatory fees, fuel charges, rent, and ordinary expenses such as legal fees. The station has not had any full-time staff for the past year.
8. In fact, the station has had so little revenue that Gray has had to advance to GIG almost \$70,000 of the purchase price simply to enable GIG to satisfy its outstanding debt to the FCC for annual regulatory fees and other charges. Indeed, GIG has operated with negative cash flow for each of the last three years as our limited revenue always fall short of our expenses. In fact, GIG has not paid its 2019 regulatory fee to the FCC, because it does not have sufficient cash reserves to make the modest payment. GIG does not prepare financial reports in the ordinary course; therefore, it cannot submit financial statements.
9. GIG cannot afford to replace its transmission equipment, which is on its last legs. If KCPM(DT) faces any additional significant equipment failures, the station will become a failed station as defined in the Commission's rules.
10. Despite my best efforts and those of my broker over multiple years, I was unable to find any out-of-market buyer interested in purchasing KCPM(DT).

11. The facts herein are true and accurate to the best of my knowledge, information, and belief formed after reasonable inquiry.

12. I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 18, 2020

A handwritten signature in black ink, appearing to read "Charles Poppen", written over a horizontal line.

Charles Poppen
P.O. Box 88336
Sioux Falls, SD 57109

Exhibit 2
Engineering Statement from Chesapeake RF Consultants, LLC

Engineering Statement

KCPM(DT) Grand Forks, ND Coverage of Market prepared for **Gray Television Licensee, LLC**

This statement, prepared on behalf of *Gray Television Licensee, LLC*, provides a comparison of coverage contours regarding digital television station KCPM(DT), Facility ID 86208, Grand Forks ND with those of other commercial full-service television stations that serve the same market. KCPM is in the Fargo – Valley City ND Nielsen DMA, along with four other commercial television stations (some having full power satellite stations).

KCPM is licensed to operate on Channel 27 at 11.1 kW effective radiated power (“ERP”) directional at 56 meters antenna height above average terrain (“HAAT”), as described in file# BLCDDT-20100623ACO. The licensed KCPM facility is substantially smaller than the maximum UHF facility permitted by §73.622(f)(8) of 1000 kW ERP and 365 meters antenna HAAT. The most recent operation of KCPM has been with a reduced facility pursuant to Special Temporary Authority (“STA” file# 0000049083) at 1.25 kW ERP and 18 meters antenna HAAT.

A map is supplied as Figure 1 which depicts the KCPM noise limited service contour (“NLSC”) for the licensed and STA facilities. The contours are completely within the Fargo – Valley City DMA. The calculated area and population are also supplied on the map.

Similar coverage contour maps are supplied regarding the other four commercial television stations and their associated satellite stations in the same DMA, as listed below. The reassignment facilities as authorized for post-auction operation are considered, as appropriate.

Figure 2	KVLY-TV Fargo, ND Repack Lic Ch. 36
Figure 3	WDAY-TV Fargo, ND Lic Ch. 21 With Related Satellite Station WDAZ-TV
Figure 4	KVRR(DT) Fargo, ND Lic Ch. 19 With Related Satellite Stations KNRR, KBRR, and KJRR
Figure 5	KRDK-TV Valley City, ND Repack CP Ch. 24

Table 1 provides summary of each television station's area and population coverage (total and within the DMA). It can be seen from Table 1 and Figure 1 that the licensed KCPM facility's NLSC population encompasses only 5.2 percent of the DMA's total area and 14.6 percent of the DMA's total population. The KCPM STA facility's NLSC covers 1.9 percent and 11.9 percent and of the DMA's total area and population, respectively. These percentages are significantly lower than those achieved by the other four commercial television stations, where their NLSC coverage ranges from 28.1 to 65.0 percent of the area and 57.0 to 87.4 percent of the population within the DMA.

List of Attachments

Figure 1	KCPM Coverage Contour Map
Figure 2	KVLY-TV Coverage Contour Map
Figure 3	WDAY-TV and Related Satellite Station Coverage Contour Map
Figure 4	KVRR(DT) and Related Satellite Stations Coverage Contour Map
Figure 5	KRDK-TV Coverage Contour Map
Table 1	Area and Population Count Comparison

Chesapeake RF Consultants, LLC

Joseph M. Davis, P.E.	January 16, 2020	
207 Old Dominion Road	Yorktown, VA 23692	703-650-9600

Figure 1 **KCPM(DT) Grand Forks, ND** **Ch. 27 Coverage Contour** **Area and Population**

prepared for
Gray Television Licensee LLC

January, 2020

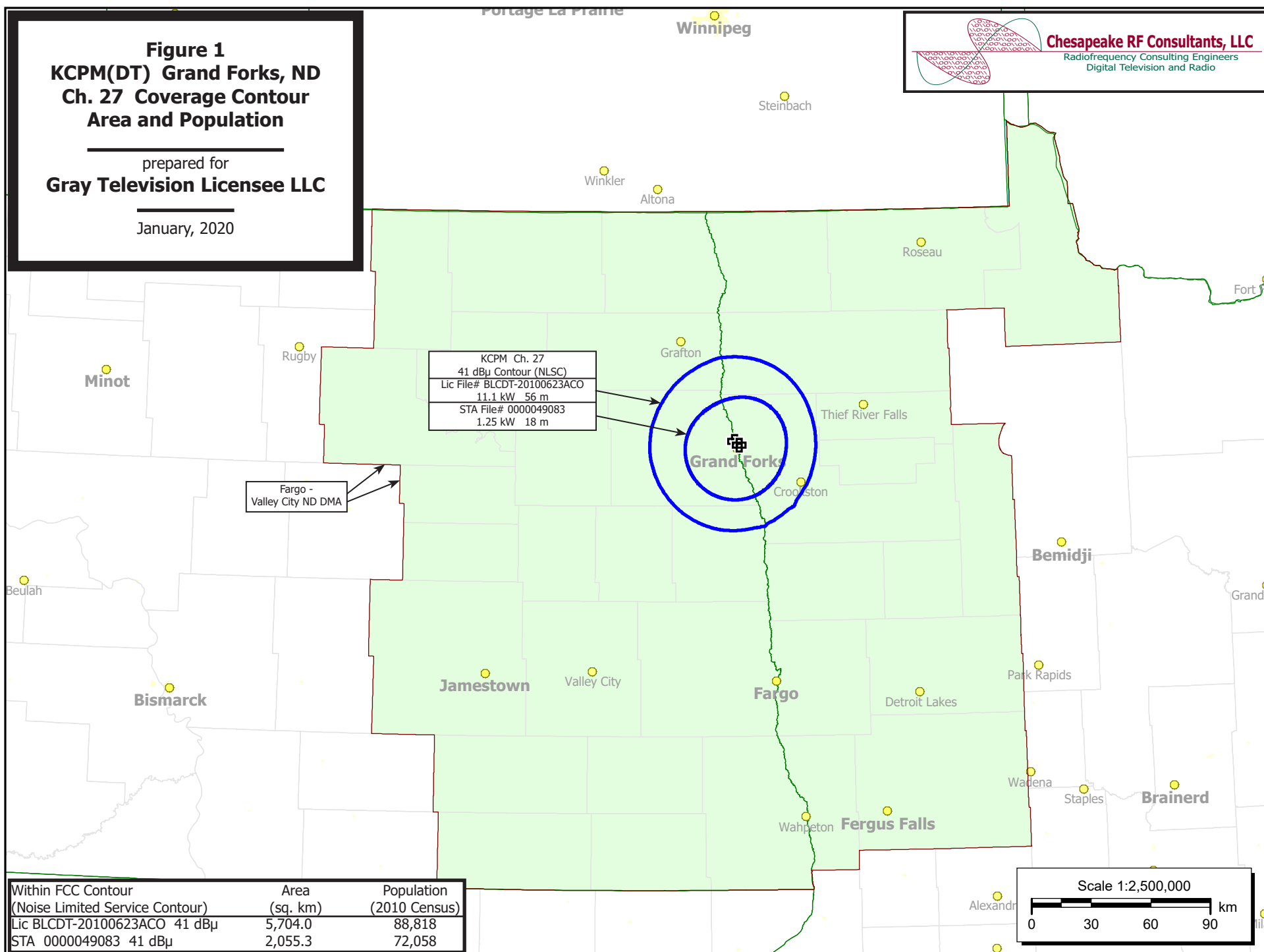
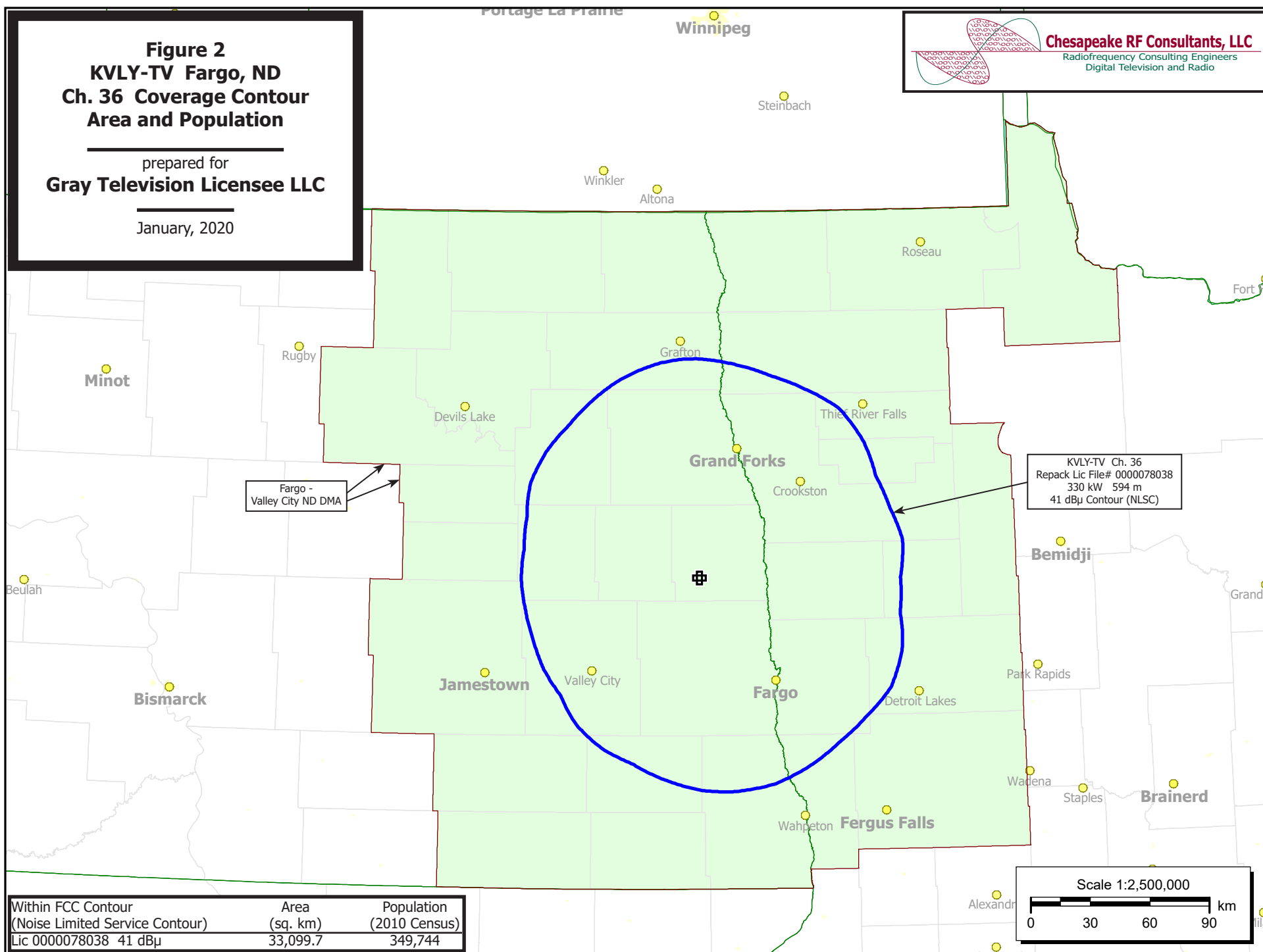


Figure 2 **KVLY-TV Fargo, ND** **Ch. 36 Coverage Contour** **Area and Population**

prepared for
Gray Television Licensee LLC

January, 2020



Within FCC Contour (Noise Limited Service Contour)	Area (sq. km)	Population (2010 Census)
Lic 0000078038 41 dBu	33,099.7	349,744

Figure 3 WDAY-TV Ch. 21 Fargo, ND And Related Satellite Station Coverage Contours Area and Population

prepared for
Gray Television Licensee LLC

January, 2020

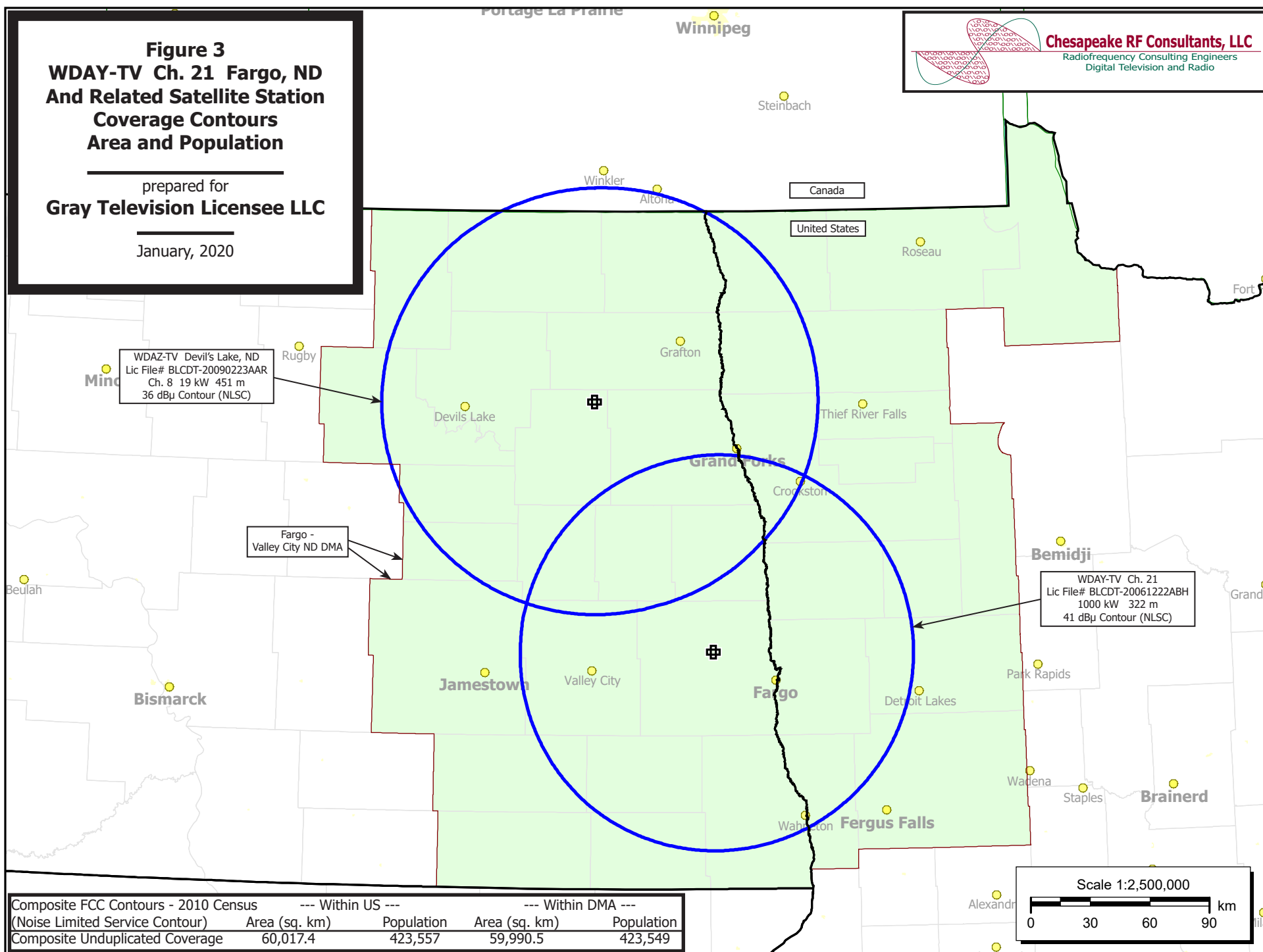


Figure 4
KVRR(DT) Ch. 19 Fargo, ND
And Related Satellite Stations
Coverage Contours
Area and Population

prepared for
Gray Television Licensee LLC

January, 2020

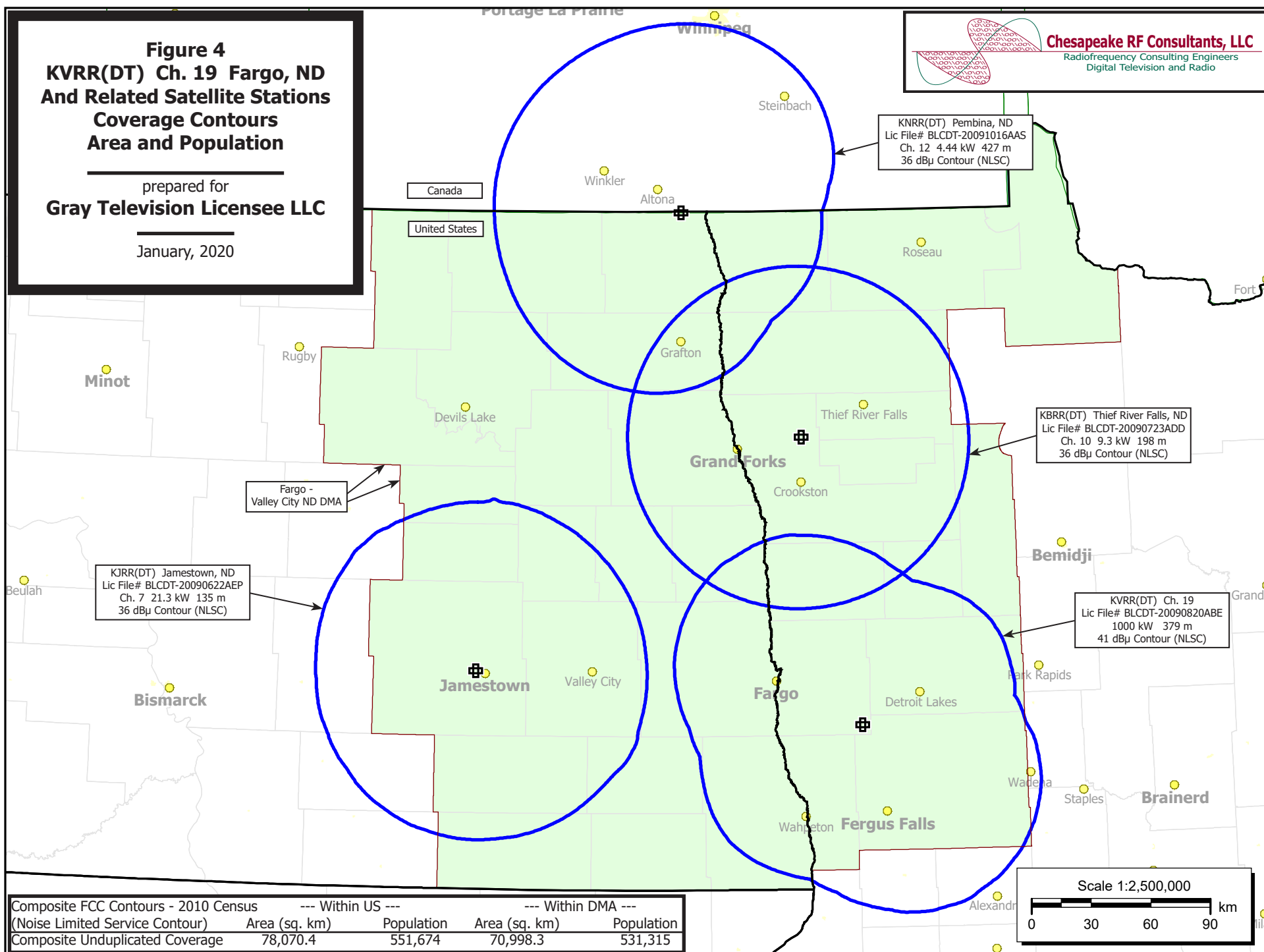
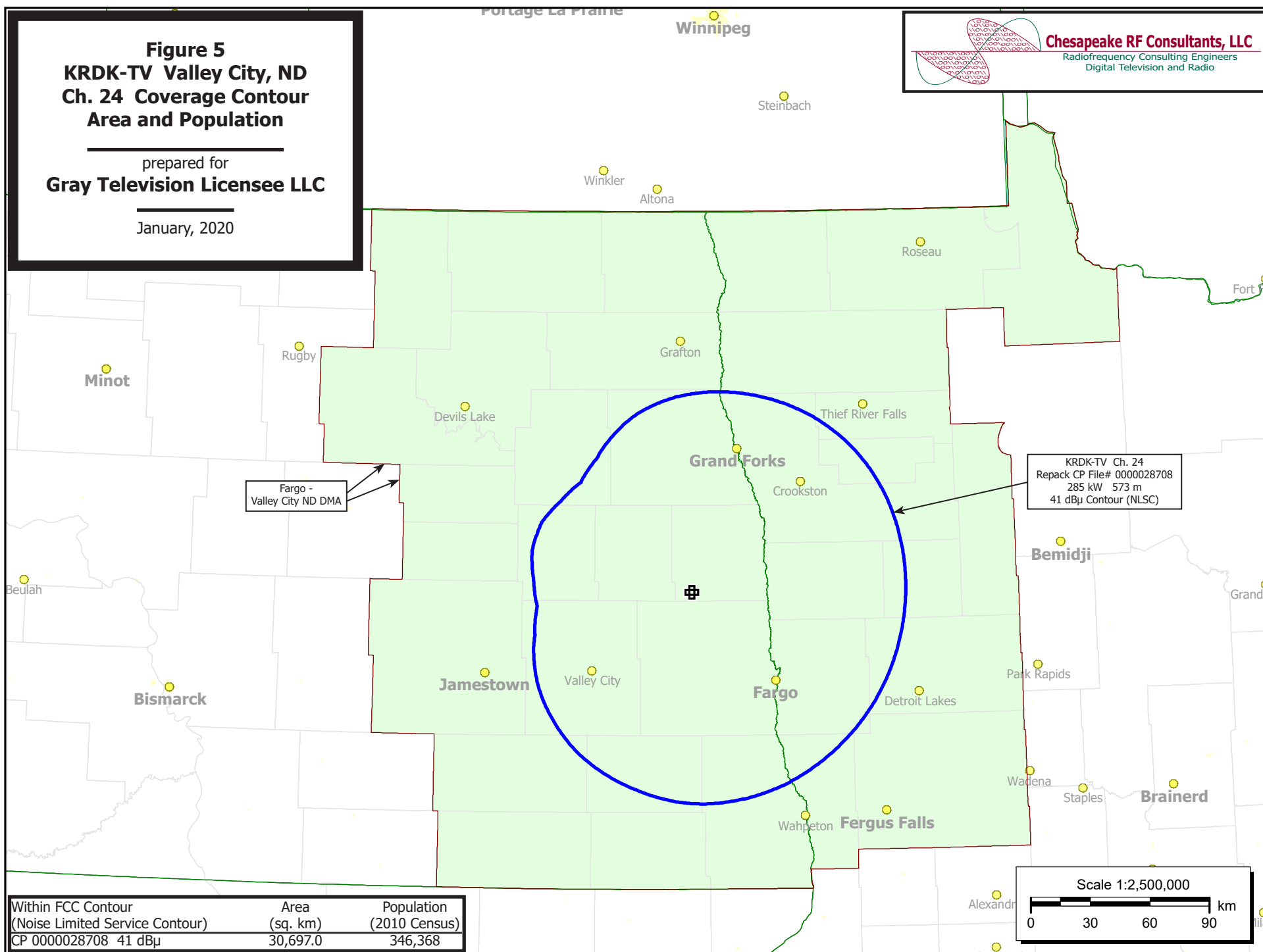


Figure 5 **KRDK-TV Valley City, ND** **Ch. 24 Coverage Contour** **Area and Population**

prepared for
Gray Television Licensee LLC

January, 2020



Within FCC Contour (Noise Limited Service Contour)	Area (sq. km)	Population (2010 Census)
CP 0000028708 41 dBu	30,697.0	346,368

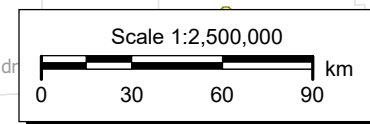


Table 1

Area and Population Count Comparison Fargo - Valley City, ND DMA

Prepared January 2020 for

Gray Television Licensee LLC

FCC Coverage Contour	Total Coverage in US		Coverage within DMA		Percent Coverage of DMA	
	Area (sq km)	Population (2010 Census)	Area (sq km)	Population (2010 Census)	Area	Population
KCPM(DT) Grand Forks, ND Lic File# BLCDT-20100623ACO Ch. 27 11.1 kW 56 m Figure 1	5,704.0	88,818	5,704.0	88,818	5.2%	14.6%
KCPM(DT) Grand Forks, ND STA File# 0000049083 Ch. 27 1.25 kW 18 m Figure 1	2,055.3	72,058	2,055.3	72,058	1.9%	11.9%
KVLY-TV Fargo, ND Repack Lic File# 0000078038 Ch. 36 330 kW 594 m Figure 2	33,099.7	349,744	33,099.7	349,744	30.3%	57.6%
WDAY-TV Ch. 21 Fargo, ND And Related Satellite Station WDAZ-TV Figure 3	60,017.4	423,557	59,990.5	423,549	54.9%	69.7%
KVRR(DT) Ch. 19 Fargo, ND And Related Satellite Stations KNRR, KBRR, and KJRR Figure 4	78,070.4	551,674	70,998.3	531,315	65.0%	87.4%
KRDK-TV Valley City, ND Repack CP File# 0000028708 Ch. 24 285 kW 573 m Figure 5	30,697.0	346,368	30,697.0	346,368	28.1%	57.0%
Fargo - Valley City, ND DMA Total:					<u>Area</u> 109,224.4	<u>Population</u> 607,718

Exhibit 3
Declaration of Jason Anderson

Kalil & Co., Inc.

2960 N. Swan Road • Suite 134 • Tucson, Arizona 85712

(520) 795-1050 • FAX: (520) 322-0584

JASON ANDERSON
Vice President

DECLARATION OF JASON ANDERSON

I, Jason Anderson, hereby declare under penalty of perjury, the following is true and correct to the best of my knowledge, information, and belief:

1. I am Vice President of Kalil & Co., Inc. ("Kalil"), a media brokerage consulting firm based in Tucson, Arizona. Kalil has provided full service to clients in the media brokerage business for more than fifty years, and its nine brokers have almost two hundred combined years of experience in media brokerage. For the last ten years, Kagan Research has rated Kalil as the top media brokerage firm in the country in terms of total deal volume, and over the same period Kalil has brokered media transactions totaling more than a billion dollars.

2. As Vice President of Kalil, I have extensive knowledge of the television industry in general, having worked as a media broker for the past five years. I have both consulted for and appraised television stations for a variety of purposes including acquisitions, divestitures, mergers, financing, and restructuring of debt. I have been personally involved in the acquisition or sale of broadcast properties in small, medium, and large markets. Prior to joining Kalil, I held several positions in construction management and real estate development.

3. In July 2017, Kalil was retained by Chuck Poppen, President/GM of the GIG Inc., to market KCPM-TV, Grand Forks, ND, to locate a qualified buyer for the station's assets.

4. KCPM-TV is a full-power television station affiliated with MyNetwork, licensed to Grand Forks, ND, serving the Fargo-Valley City, ND television market, the 116th largest television market, as ranked by Nielsen. Per BIA, the market currently covers 276,000 households. Competition in the market consists of five full-power television stations (between four different owners) and numerous other low-power stations. There is no revenue and little in the way of hard assets included in the sale (for example, no studio or

tower) and the transmission equipment needs to be replaced to broadcast the signal adequately.

5. After review of our regional and national television station marketplace contacts, Kalil developed a list of several potential out-of-market buyers for KCPM-TV. After discussions with these prospects, it became clear that KCPM-TV did not represent an attractive opportunity to any of these broadcast companies.

MyNetwork is also an affiliation not often sought out, as most potential buyers are looking for the 'Big 4' affiliates (ABC, CBS, FOX, NBC) and the associated programming, which is very costly to produce at the local level. The MyNetwork does not provide regular programming or access to national advertising, political dollars, or increases in retransmission payments from MVPDs. Syndicated programming would likely be very expensive if being negotiated by an independent owner with a single station in this market, as they would not possess leverage, thus further undermining this station's financial condition.

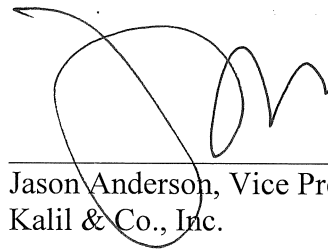
During this marketing process, none of the out-of-market prospects executed non-disclosure agreements with Kalil, nor did Kalil receive an offer for the station. Considering its extensive marketing efforts, Kalil concluded it would be unable to obtain any reasonable offer for the station from an entity located outside the market.

6. Given the lack of material interest in KCPM-TV at the national and regional levels, Kalil decided to pursue potential buyers in the Fargo-Valley City, ND market. Kalil contacted four prospective in-market buyers, but Gray Television was the only in-market buyer that made a legitimate offer to purchase KCPM-TV.

At the outset of the transaction, we attempted to expedite the timeline to help keep the signal on the air and benefit from the synergies of the operational, management, sales, and programming foundation provided by an in-market operator. Without access to these resources, the real increased cost structure would make the situation more of a liability than a local resource.

7. Considering these facts, it is the considered judgment of Kalil, despite an extensive marketing process, including an independent valuation and significant outreach to prospective out-of-market buyers, the only potential qualified purchaser at other than an artificially depressed price of KCPM-TV is an in-market buyer.

Executed February 17, 2020.

A handwritten signature in black ink, consisting of a large loop followed by a series of smaller, connected loops and a final upward stroke.

Jason Anderson, Vice President
Kalil & Co., Inc.