

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In re Application of	)	
	)	
<b>Jean J. Suh</b>	)	FCC File No. BNPFT-20171201AMU
	)	Facility ID No. 201575
For a Construction Permit for a New	)	
FM Translator on Channel 233 at	)	
Puyallup, WA	)	
To: The Commission		
Attn: Chief Audio Division, Media Bureau		

**PETITION TO DENY**

Olympia Broadcasters, Inc. (“Olympia”), by its attorneys and pursuant to Section 309(d) of the Communications Act of 1934, as amended, and the Commission’s Rules, hereby petitions the Commission to deny the above-captioned application (the “Application”) of Jean J. Suh for a construction permit for a new FM translator station to operate on Channel 233D (94.5 MHz) at Puyallup, Washington (FCC File No. BNPFT-20171201AMU). This Petition to Deny is timely filed under Section 73.5006(b) of the Commission’s Rules because the Application was accepted for filing by Public Notice, Broadcast Applications, Report No. 29128, released December 8, 2017.

Olympia is the licensee of radio station KRXY(FM), Shelton, Washington (Facility ID No. 82527) (the “Station”), and has standing to file this Petition. The Station operates on Channel 233A (94.5 MHz) at Shelton, Washington, which is co-channel to the FM translator proposed in the Application. The Application should be dismissed because the proposed facilities would cause interference of reception of the Station by long-established listeners within the 60 dBu contour of the FM translator.

Section 74.1204(f) of the Commission's Rules provides:

An application for an FM translator station will not be accepted for filing even though the proposed operation would not involve overlap of field strength contours with any other station..., if the predicted 1 mV/m field strength contour of the FM translator station will overlap a populated area already receiving a regularly used, off-the-air signal of any authorized co-channel, first, second or third adjacent channel broadcast station, ... and grant of the authorization will result in interference to the reception of such signal.


Here, the 1 mV/m contour of the facilities proposed in the Application will cover several areas where the Station has an established listener base. Attachment A hereto includes electronic mail messages from three individuals who regularly listen to the Station within the proposed 1 mV/m contour of the proposed FM translator.

Attachment B hereto contains an Engineering Statement (the "Engineering Statement") from Joseph M. Davis, consulting RF Engineer for the Station. The Engineering Statement includes maps that plot the areas within the 1 mV/m contour of the proposed translator where the listeners identified above listen to the Station. The Engineering Statement also makes it clear that operation of the proposed FM translator on Channel 233 at Puyallup will result in interference to reception of the Station at these locations.

Under the Commission's Rules, the captioned Application cannot be accepted for filing and must be dismissed.

Respectfully submitted,

**OLYMPIA BROADCASTERS, INC.**

By:   
\_\_\_\_\_  
Meredith S. Senter, Jr.  
Laura M. Berman

Lerman Senter PLLC  
2001 L Street, NW  
Suite 400  
Washington, DC 20036

December 26, 2017

(202) 429-8970

## Attachment A

### Emails from KRXY(FM) Listeners

#### Listener "A"

**Subject:**Re: Puyallup area

**Date:**Thu, 21 Dec 2017 12:59:29 -0800

**From:**Christi Reign <[maumomma@gmail.com](mailto:maumomma@gmail.com)>

**To:**[krxy@krxy.com](mailto:krxy@krxy.com)

I drive from Morton up highway 7, through Mineral, Elbe. Sometimes I stay on 7 traveling through La Grande and into Spanaway and all between. Typically I drive through Eatonville and up 161 into Graham and onto Puyallup. Usually to 176th for grocery shopping. I do this trip at least once a week, to swap kids with the ex, listening to krxy all the way.

In Lewis County, I drive the corridors of 12 and 508, with krxy coming in clear between Onalaska & Randle. East of Randle it's staticy but still there. I'm not sure about west of Onalaska.

By Packwood the channel is a scramble between krxy and Kats.

I drive a lot as a part time mortgage inspector. My other part time job is the assistant manager at the Roxy Theater in Morton. 😊

I'm no expert on radio, but I highly suspect another station broadcasting from Puyallup would interfere with my signal from krxy.

Thanks.

I hope this helps.

Christi Hall

On Dec 21, 2017 10:03 AM, "945 Roxy" <[krxy@live95.com](mailto:krxy@live95.com)> wrote:

Christi --

Thanks so much for your response.

I am curious if I can get a bit more detail about the typical route you travel throughout the Puyallup area? That would be helpful for our experts to plot it out on a map.

Again, thanks for your input.

-- Bobby Hart

On 12/18/2017 12:38 PM, Christi Reign wrote:

I listen to Krxxy where I live in Morton WA, which is south of Puyallup, and while driving around east Lewis County and Pierce county, including Puyallup on my route.

I believe allowing another station to use the same channel would adversely affect my ability to listen to KRXY.

Thank you

Christi Hall

**Listener "B"**

**Subject:**Re: Comments for FCC: New 94.5 station

**Date:**Thu, 21 Dec 2017 17:09:02 -0800

**From:**Mike Culley <[mculley@gmail.com](mailto:mculley@gmail.com)>

**To:**[krxy@krxy.com](mailto:krxy@krxy.com)

Sure. Along the I-5 freeway, Hwy 512 in Puyallup near the fairgrounds and the Kent-Puyallup Valley along Hwy 167.

Mike

On Dec 21, 2017 4:51 PM, "945 Roxy" <[krxy@live95.com](mailto:krxy@live95.com)> wrote:

Mr. Cully,

I have passed your comments on to our legal team. In return, I received the following:

Do you think you could ask Mr. Culley for some more specifics on his route? Landmarks, town names, etc. We're really trying to focus on the areas which include Puyallup, North Puyallup, Sumner, Fife and part of Milton. What Mr. Culley sent is very helpful. But it would be great if he could identify specific areas within these named communities where he listens to the station.

So, respectfully submit their comments and questions to you.

Looking forward to your response.

Thank you.

-- Bob

On 12/21/2017 12:58 PM, Mike Culley wrote:

To Whom it may concern at FCC:

It has come to my attention that another radio station wants to be based out of Puyallup, WA with the same frequency of 94.5 FM as KRXY (Roxy) which is based in Olympia, WA.

I personally have been a loyal listener to KRXY over the past decade living in the South Sound area where the station picks up on my car radio between Milton, WA and Kelso, WA. The station has been the #1 preset on all of my cars for years and can always count on great music, news and information from KRXY any time of the day or night.

The thought of another station being carried over the same frequency in my area would not only have an adverse effect on my listening experience, but thousands of others that not only love the music of KRXY but the brand they have developed and their involvement in the community at large.

There are other stations in the area that seem to overlap on the same frequency in some parts of the Seattle/Tacoma/Olympia area. It's more about the music played on a frequency. It's about a station's brand why this new station should be on some other frequency.

There are hundreds of charity and family-related events co-sponsored by KRXV throughout the year - including many adult contemporary ones in my community who identify with the music played on this station. In all of these promotions the "94.5 ROXY" logo appears prominently as a sponsor that everyone identifies with as the ONLY station in the area being broadcast on 94.5 FM. Jerry Farmer and his staff are recognized "local celebrities" in our area when it comes to "94.5 ROXY".

**To have any other radio station playing on that same frequency hinders KRXV's brand identity and will be a disservice to the surrounding communities.**

I may be one person in this letter, but I am a respected community leader of the City of Tumwater Parks and Recreation, an advocate for local businesses and many local charities. And on behalf of those thousands of people, we ask that you please reconsider this decision and consider a frequency that is not being picked up in the greater South Sound area.

Thank you for your attention in this matter.

Respectfully,

//signed//

Mike Culley

[2997 Crosby Blvd #131](#)

Tumwater, WA 98512

DuPont Business Partners (City of DuPont)

Commissioner, Parks and Recreation (City of Tumwater)

Combined Fund Drive Steering Committee (Thurston County)

Volunteer, Tumwater Youth Program (City of Tumwater)

Volunteer, Passive Fundraising Chair (Black Lake Elementary PTA)

Volunteer, Passive Fundraising Chair (Tumwater Middle School PTO)

**Listener "C"**

**Subject:**Re: Puyallup Area

**Date:**Sun, 24 Dec 2017 23:36:27 -0800

**From:**Molly Carmody <[molly@crowelaw.net](mailto:molly@crowelaw.net)>

**To:**[krxy@krxy.com](mailto:krxy@krxy.com)

I travel two different routes:

1. Yelm to Marvin Rd to I5 to Tacoma
2. Yelm to Reservation Rd to Mounts Rd Exit to I5 to Tacoma

If I'm desperate and traffic is awful, I travel:

3. Yelm to Puyallup to Tacoma or Seattle

Hope this helps!

Molly Carmody  
Rule 6 Law Clerk  
The Crowe Law Office  
302 E Yelm Ave  
Yelm, WA 98597  
360.810.8006

**From:** 945 Roxy <[krxy@live95.com](mailto:krxy@live95.com)>

**To:** Molly Carmody <[molly@crowelaw.net](mailto:molly@crowelaw.net)>

**Sent:** 12/24/2017 9:11 PM

**Subject:** Re: Puyallup Area

Molly --

Thank you so much for your response. We've passed your comments along to our legal team.

They are wondering if we can get a more detailed route your drive?  
What roadway do you use? What landmarks do you pass by?

Thanks, again.

On 12/23/2017 1:18 PM, Molly Carmody wrote:

> Dear KRXY,

>

> I live in Yelm and travel to Tacoma frequently. I love KRXY and listen to you every day.

Please let the FCC know that I want to hear KRXY and not a new station from Puyallup on 94.5



FM.

>

> Sincerely,

> Molly Carmody

>

> Sent from my iPhone

>

>

> ---

> This email has been checked for viruses by AVG.

> <http://www.avg.com>

>

--

94.5 Roxy!

**Attachment B**

**Engineering Statement**

See Attachment

## **Engineering Statement**

prepared for

### **Olympia Broadcasters, Inc.**

This statement has been prepared on behalf of *Olympia Broadcasters, Inc.* ("*Olympia*") in support of *Olympia's* Petition to Deny the application of *Jean J. Suh* ("*Suh*") for a new FM translator station on Channel 233, file number BNPFT-20171201AMU, Facility ID 201575, Puyallup, WA. *Olympia* is licensee of KRXY(FM), Channel 233A, Facility ID 82527, Shelton, WA.

*Suh's* proposed translator facility would operate co-channel to KRXY from a site located 65.8 km from the KRXY transmitter. As demonstrated herein, *Suh's* proposed translator does not comply with §74.1204(f).

#### **47 C.F.R 74.1204(f)**

An application for an FM translator station will not be accepted for filing even though the proposed operation would not involve overlap of field strength contours with any other station, as set forth in paragraph (a) of this section, if the predicted 1 mV/m field strength contour of the FM translator station will overlap a populated area already receiving a regularly used, off-the-air signal of any authorized co-channel, first, second or third adjacent channel broadcast station, including Class D (secondary) noncommercial educational FM stations and grant of the authorization will result in interference to the reception of such signal.

Olympia has obtained information from at least three individuals regarding their regular reception of KRXY within the proposed translator's 1 mV/m (60 dBμ) field strength contour. These individuals have provided descriptions of their regular automobile traveling routines in the vicinity of Puyallup. Those regularly traveled routes are plotted on the attached maps, as Figures 1, 2, and 3, for listeners "A", "B", and "C", respectively. The maps also depict the proposed translator's predicted 60 dBμ contour location, pursuant to the standard method of §73.313 and use of 3 arc-second digitized terrain data. It can be seen that their regular travel routes are well inside the translator's 60 dBμ contour area.

An interference computation is provided for each listener at a sample location on each map. In each case the signal strength is calculated using the Longley-Rice propagation methodology (Irregular Terrain Model / National Bureau of Standards Technical Note 101). As is customary, Version 1.2.2 of the Longley-Rice code was executed on a computer.<sup>1</sup> Predicted signal levels were computed for a 0.1 km grid using a terrain increment of 0.1 km with USGS 3 arc-second digitized terrain data.

For listener “A”, the sample point is along the regular route traveled, at Highway 161 at 31<sup>st</sup> Avenue SW. The desired signal from KRXY is 63.6 dBμ and the undesired signal from the proposed translator is 88.3 dBμ. The resulting undesired to desired ratio (“U/D”) is 24.7 dB, which exceeds the customary -20 dB U/D co-channel interference threshold ratio<sup>2</sup> by 44.7 dB. Similarly, for listener “B” the desired KRXY signal is 56.3 dBμ and the undesired translator signal level is 86.6 dBμ, resulting in a predicted U/D ratio exceeding the -20 dB threshold by 50.3 dB. For listener “C” the desired KRXY signal is 44.7 dBμ and the undesired translator signal level is 71.2 dBμ, resulting in a predicted U/D ratio exceeding the -20 dB threshold by 46.5 dB.

Therefore, these predictions show that grant of the translator’s proposal will result in interference to the reception of KRXY at populated locations within the translator’s standard 60 dBμ contour. The total population within the translator’s 60 dBμ contour is 94,637 persons (2010 census). Listeners “A” and “C” report regular travel along Interstate Highway 5 in the vicinity of Puyallup, where the 2016 Annual Average Daily Traffic count at milepost 138 is 172,000 vehicles.<sup>3</sup>

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<sup>1</sup>Computer code for the Longley-Rice point-to-point radio propagation model is published in an appendix of NTIA Report 82-100, “*A Guide to the Use of the ITS Irregular Terrain Model in the Area Prediction Mode*,” authors G.A. Hufford, A.G. Longley and W.A. Kissick, U.S. Department of Commerce, April 1982. Some modifications to the code were described by G.A. Hufford in a memorandum to users of the model dated January 30, 1985. With these modifications, the code is referred to as Version 1.2.2 of the Longley-Rice model.

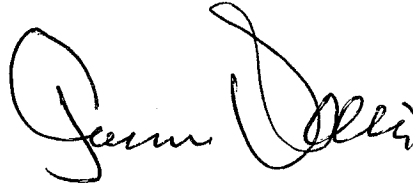
<sup>2</sup>For example §73.213(a)(1)(i) specifies a co-channel U/D of -20 dB to determine whether interference would occur.

<sup>3</sup> Source: Washington State Department of Transportation at <http://www.wsdot.wa.gov/mapsdata/tools/trafficplanningtrends.htm> (accessed December 26, 2017).

Additionally, as shown on Figure 2, the route traveled by listener "B" along Highway 167 passes within 0.8 km (0.5 mile) of the proposed translator's transmitting location. The translator's free-space signal strength at 0.5 mile is 98.3 dBμ, which would clearly interfere with and override the distant KRXY signal.

### **Certification**

Under penalty of perjury, the undersigned hereby affirms that the foregoing statement was prepared by him or under his direction, and that it is true and correct. Mr. Davis has over 30 years of radio engineering experience, is president of *Chesapeake RF Consultants LLC*, is a Registered Professional Engineer in Virginia, holds a Bachelor of Science degree from Old Dominion University in Electrical Engineering Technology, and has submitted numerous engineering exhibits to various local governmental authorities and the Federal Communications Commission. His qualifications are a matter of record with that agency.



Joseph M. Davis, P.E.  
December 26, 2017

**Chesapeake RF Consultants, LLC**  
207 Old Dominion Road  
Yorktown, VA 23692  
703-650-9600

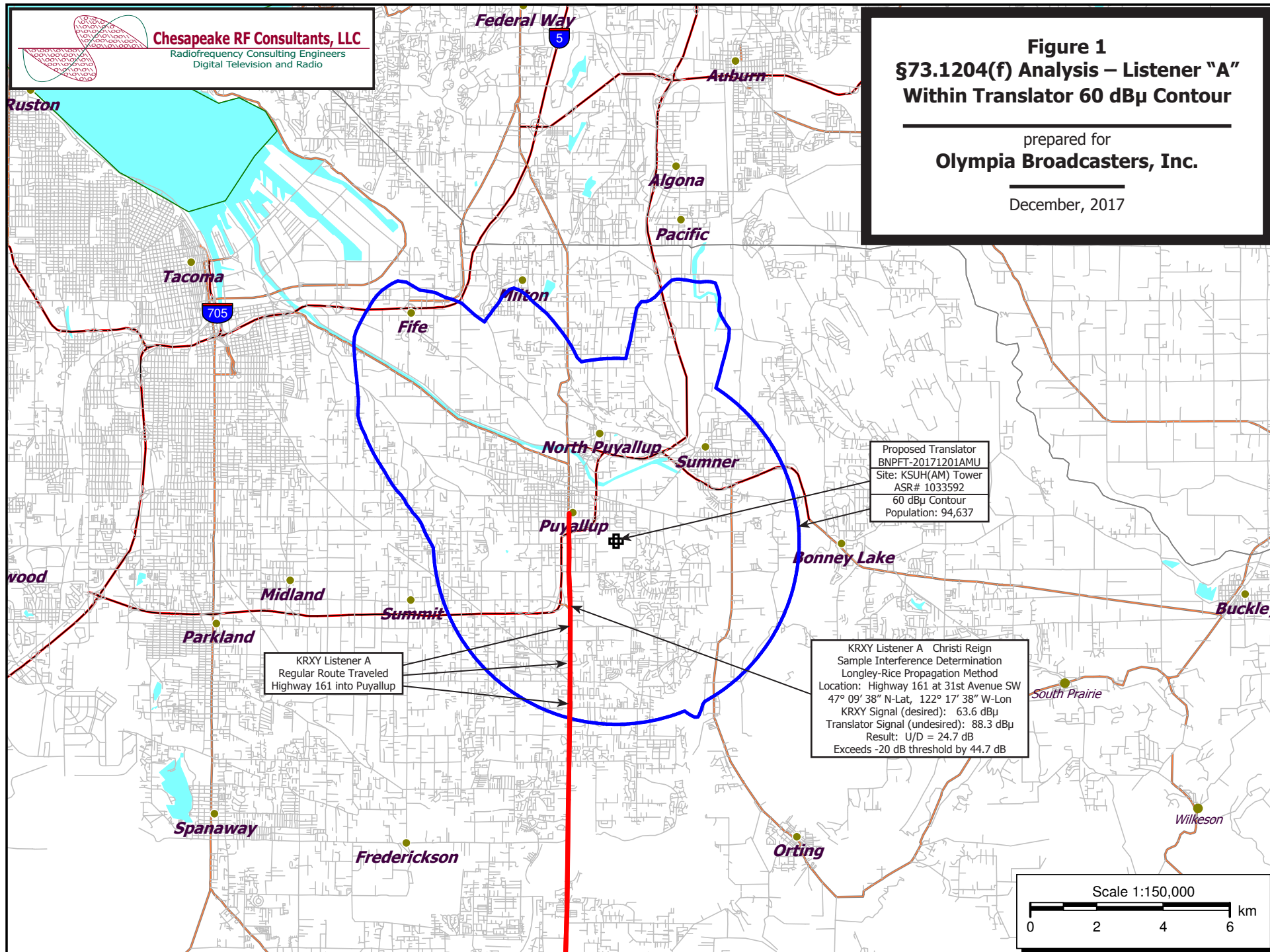
### List of Attachments

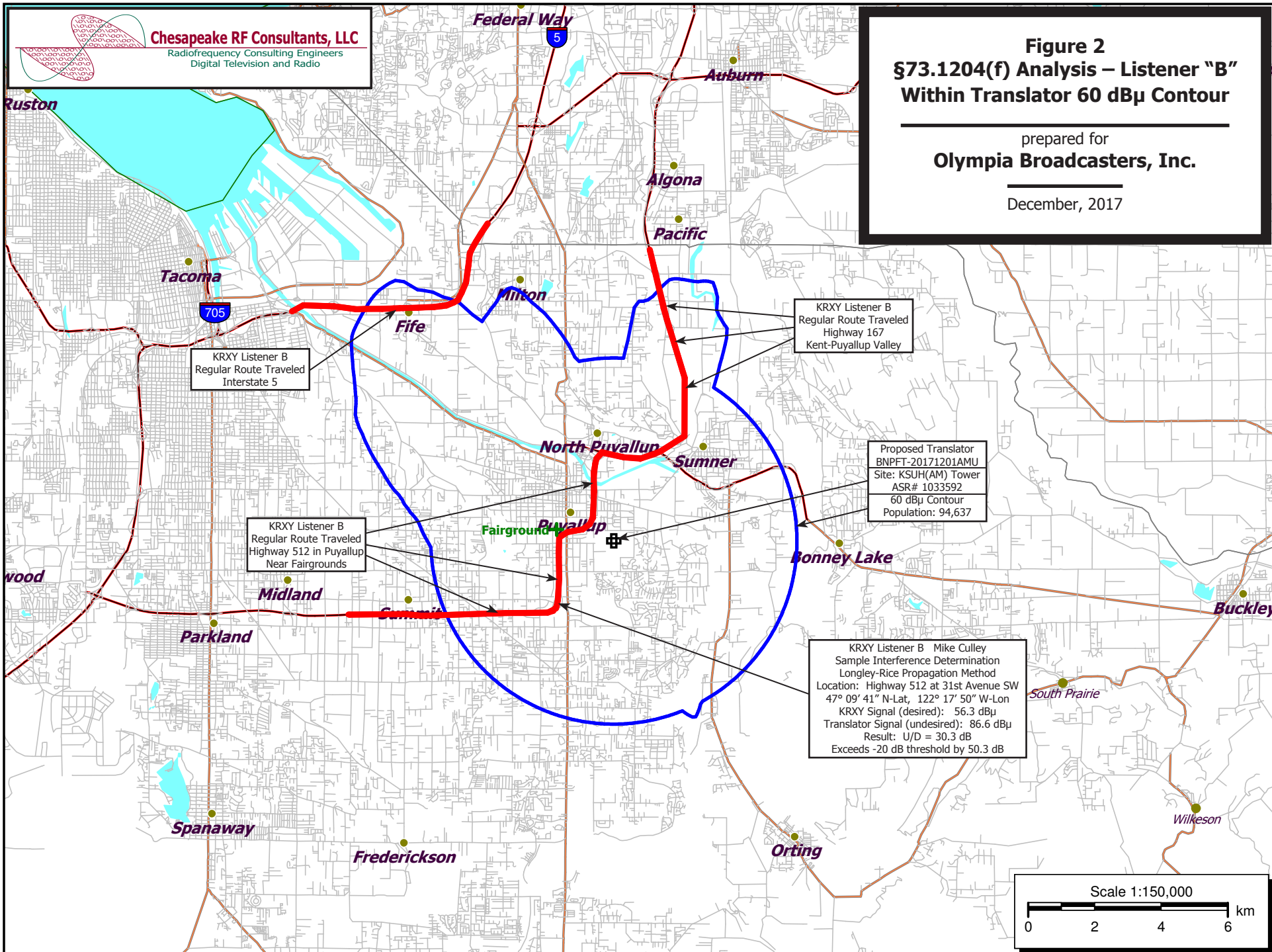
- Figure 1     §73.1204(f) Analysis – Listener "A"
- Figure 2     §73.1204(f) Analysis – Listener "B"
- Figure 3     §73.1204(f) Analysis – Listener "C"

**Figure 1**  
**\$73.1204(f) Analysis – Listener “A”**  
**Within Translator 60 dBμ Contour**

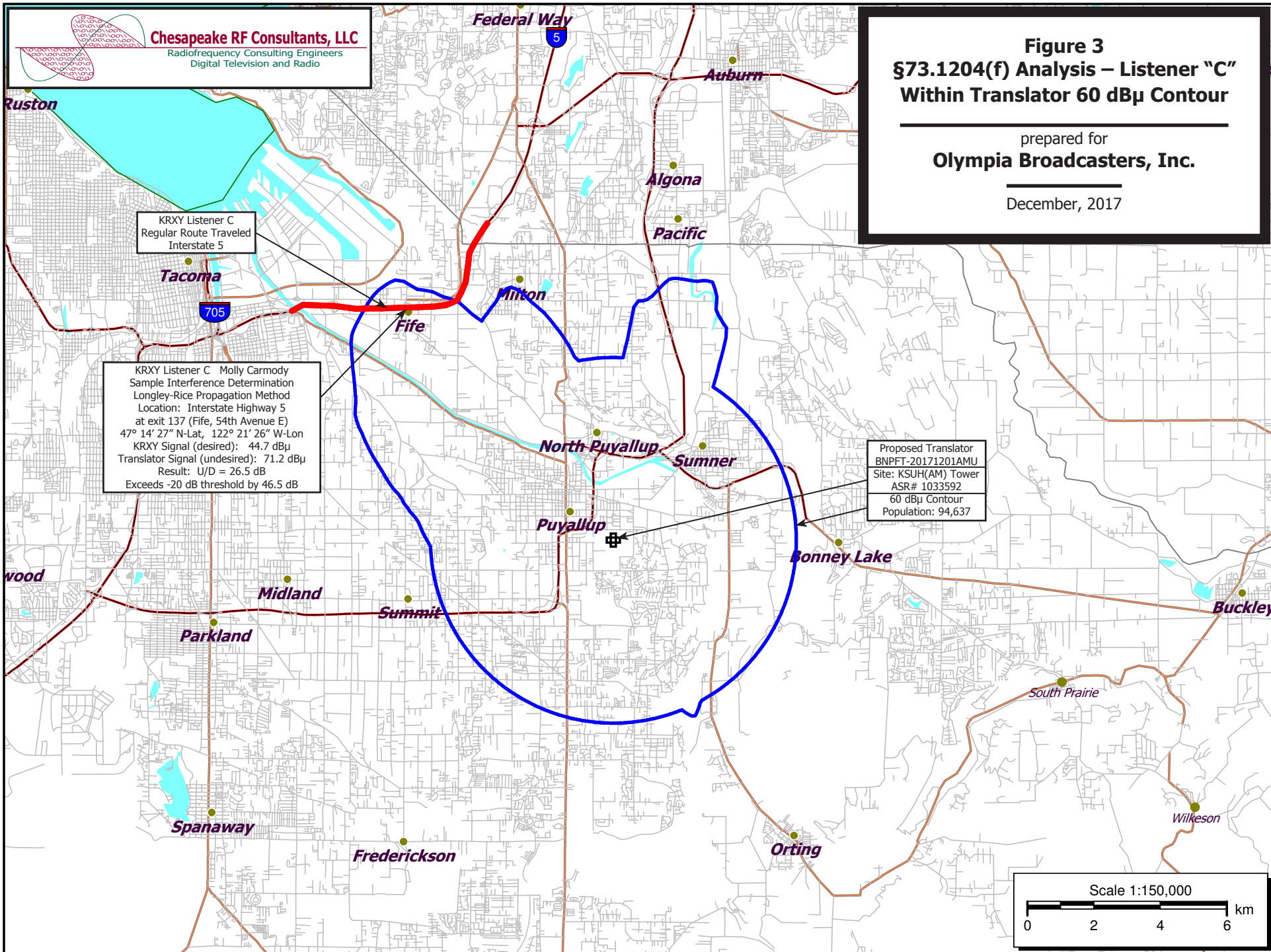
prepared for  
**Olympia Broadcasters, Inc.**

December, 2017







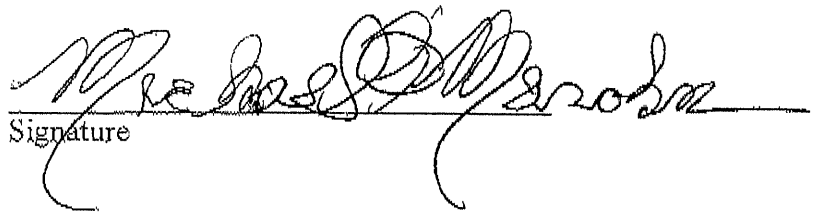




### DECLARATION

I, Michael F. Marohn, hereby declare under penalty of perjury as follows:

1. I am President of Olympia Broadcasters, Inc.
2. I have reviewed the Petition to Deny to which this Declaration is attached and the facts set forth therein, except those which are attested to by another, are true and correct to the best of my belief and knowledge.

  
Signature

December 26, 2017

**CERTIFICATE OF SERVICE**

I, Laura M. Berman, certify that, on this 26th day of December, 2017, I served a copy of the foregoing Petition to Deny by first-class United States mail, postage prepaid, upon the following:

Matthew H. McCormick  
Fletcher, Heald & Hildreth, PLC  
1300 North 17<sup>th</sup> Street  
11<sup>th</sup> Floor  
Arlington, VA 22209  
*Counsel to Jean J. Suh*



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Laura M. Berman