

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

In re Applications of:	)	
	)	
TRI-COUNTY BROADCASTING, INC.	)	File Nos. BNPFT-20180125AHH
	)	BNPFT-20180509ACH
For A New FM Fill-in FM Translator	)	
In The Auction 100 Filing Window	)	Facility ID No. 202610
Sauk, Rapids, Minnesota	)	
	)	
To: Secretary		
Attn: Chief Audio Division, Media Bureau		

**PETITION FOR RECONSIDERATION**  
**AND REINSTATEMENT NUNC PRO TUNC**

Tri-County Broadcasting, Inc. ("TCBI"), by its counsel and pursuant to Section 1.106 of the Commission's rules, petitions for reconsideration of the dismissal, and reinstatement *nunc pro tunc*, of the above-captioned application, as amended, for a new fill-in FM translator to be used with WBHR (AM), Sauk Rapids, Minnesota per the Auction 100 filing window in the AM Revitalization proceeding.

By letter dated June 20, 2018 (copy attached as Exhibit 1), the FCC dismissed the BNPFT-20180509ACH "long-form" application due to lack of overlap between the 60 dBu contours of short-form engineering proposal BNPFT-20180125AHH and the long-form BNPFT-20180509ACH, resulting in the long-form application not qualifying as a minor change. Investigation of this situation reveals that the geographic latitude degrees entry of the BNPFT-20180125AHH short-form Tech Box has a data error at Section III-A #4 of "46" degrees rather than the correct "45" degrees, which was entered in the Tech Box of long-form BNPFT-20180509ACH. Otherwise the two Tech Box submissions are identical, including the ASRN for the proposed tower (1249317, registration attached as Exhibit 2). TCBI was not aware of this

error prior to the receipt of the June 20 FCC letter dismissing the application. The long-form application contains the correct latitude.

In response to the dismissal, TCBI asserts that while the FCC form 349 Section III-A “Tech Box” reminds applicants that they should “[e]nsure that the specifications below are accurate” and that “[c]ontradicting data found elsewhere in this application will be disregarded” in this case the contradicting data in the engineering proposal is the 46 degree latitude figure. ASRN 1249317, entered as part of the Tech Box data at Section III-A Item 5, clearly indicates a latitude of 45 degrees, and matches the “Antenna Location Site Elevation Above Mean Sea Level” (Item #6) and “Overall Tower Height Above Ground Level” (Item #7). The only inconsistent data in the short-form Tech Box is the latitude degrees entry at #4. While TCBI wishes that it had caught this earlier, the Auction 100 short-form proposal window was very brief and did not afford an opportunity to amend these proposals once they were filed, which meant that, even if it had discovered this inconsistency prior to receiving the dismissal letter, there would have been no mechanism available to correct it once the proposal was submitted in January 2018. When the correct latitude from the tower registration is used in the short-form engineering proposal, the long-form proposes no change in the facility as shown on attached Exhibit 3.

TCBI submits that reconsideration and reinstatement *nunc pro tunc* is appropriate in this instance given that the long-form application BNPFT-20180509ACH is essentially identical to the short-form proposal save one digit; that the correct site data can be obtained from the original Tech Box submission without referring to any other part of the application; that reinstatement and grant of the long-form application is in the public interest, and the request is submitted within 30 days of the initial dismissal of the minor change application. *See Commission*

*Statement of Future Policy on Incomplete and Patently Defective AM and FM Construction Permit Applications*, Public Notice, FCC 84-366, 56 RR 2d 776 (July 27, 1984).

Reinstatement of the BNPFT-20180509ACH long-form application has no negative impact on any other station or proposal. No engineering proposals were filed in conflict with this application at either location. No LPFM preclusion would occur since channel 239 is short-spaced to KBK (238C3), Mora, Minnesota (FCC ID 31613) by 5.9 kilometers from the long-form location, and there is a channel available under similar technical constraints (203) for any future LPFM operation. No changes to long-form BNPFT-20180509ACH are required for grant. Indeed, this is a “a relatively minor curative amendment”. We respectfully request that Section III-A Tech Box Item #4, Latitude Degrees, of short-form engineering proposal BNPFT-20180125AHH be amended to read 45 degrees, consistent with the ASRN data filed referenced in the same Tech Box, as this short-form application can no longer be amended via CDBS.

Finally, the Auction 100 filing windows represented a unique scenario where WBHR (AM) was allowed this single opportunity to improve its service to the community via a new cross-service FM translator under the AM Improvement proceeding. The public interest benefits of such a new FM signal linked to WBHR, which has faithfully served Sauk Rapids and the surrounding community for over 50 years and remains locally owned and operated, are spelled out in great detail in the AM Improvement docket. Depriving the station of this lone opportunity over a single digit inconsistency that is easily cured and resolved via other information in the short-form Tech Box is not consistent with the goals of the AM Improvement proceeding and does not further the public interest.


For these reasons, TCBI respectfully submits that the amended BNPFT-20180125AHH short-form engineering proposal fully resolves the only issue which prompted the Media Bureau's June 20, 2018 dismissal letter, and the BNPFT-20180509ACH long-form application is now acceptable for filing. TCBI further submits that reinstatement of the application will serve the public interest by embracing the spirit and letter of the AM Improvement proceeding, bring improved broadcast service to the Sauk Rapids, Minnesota area, and reinstatement has no detrimental effect on any other applicant or station.

TCBI therefore respectfully requests *nunc pro tunc* reinstatement of the BNPFT-20180509ACH application, as amended, and its continued processing.

Respectfully submitted,

TRI-COUNTY BROADCASTING, INC.

Respectfully submitted,

  
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Gregg P. Skall  
Its counsel

Womble Bond Dickinson (US) LLP  
1200 Nineteenth Street, N.W.  
Suite 500  
Washington, DC 20036

July 18, 2018

TRI-COUNTY BROADCASTING, INC.

Exhibit 1

FCC Dismissal Letter

**FEDERAL COMMUNICATIONS COMMISSION**  
**445 12<sup>th</sup> STREET S.W.**  
**WASHINGTON DC 20554**

MEDIA BUREAU  
AUDIO DIVISION  
TECHNICAL PROCESSING GROUP  
APPLICATION STATUS: (202) 418-2730  
HOME PAGE: [www.fcc.gov/media/radio/audio-division](http://www.fcc.gov/media/radio/audio-division)

PROCESSING ENGINEER: Larry Hannif-Ali  
TELEPHONE: (202) 418-2143  
FACSIMILE: (202) 418-1410  
MAIL STOP: 1800B3  
INTERNET ADDRESS: [Larry.Hannif-Ali@fcc.gov](mailto:Larry.Hannif-Ali@fcc.gov)

Tri-County Broadcasting, Inc.  
1010 2<sup>nd</sup> Street North  
P.O. Box 366  
Sauk Rapids, MN 53679-0366

JUN 20 2018

In re: NEW(FM), Sauk Rapids, MN  
BNPFT-20180509ACH  
Facility ID No. 202610

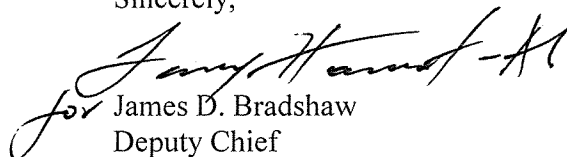
Dear Applicant:

This letter refers to the above-captioned new translator application for applicant Tri-County Broadcasting, Inc.

An engineering review of the application reveals that the proposal is a major change pursuant to Section 74.1233(a)(1) of the Commission's Rules. Specifically, the proposed 60 dBμ service area fails to provide service to some portion of its 60 dBμ Tech Box service area, (BNPFT-20180125AHH). Per the March 15, 2018 Public Notice announcing the Auction 100 FM translator filing window for long-form applications, the Media Bureau stated, "...an applicant may make minor modifications to the engineering data it submitted in its Tech Box proposal. This includes, but is not limited to, changes to power, height, directional pattern, and channel that are considered "minor changes.""<sup>1</sup> Tri-County Broadcasting, Inc., fails to address this deficiency. Therefore, we will dismiss the application.

In light of the above, the application BNPFT-20180509ACH filed by Tri-County Broadcasting, Inc., is unacceptable for filing pursuant to 47 C.F.R. § 73.3566(a) and IS HEREBY DISMISSED. This action is taken pursuant to 47 C.F.R. § 0.283.

Sincerely,

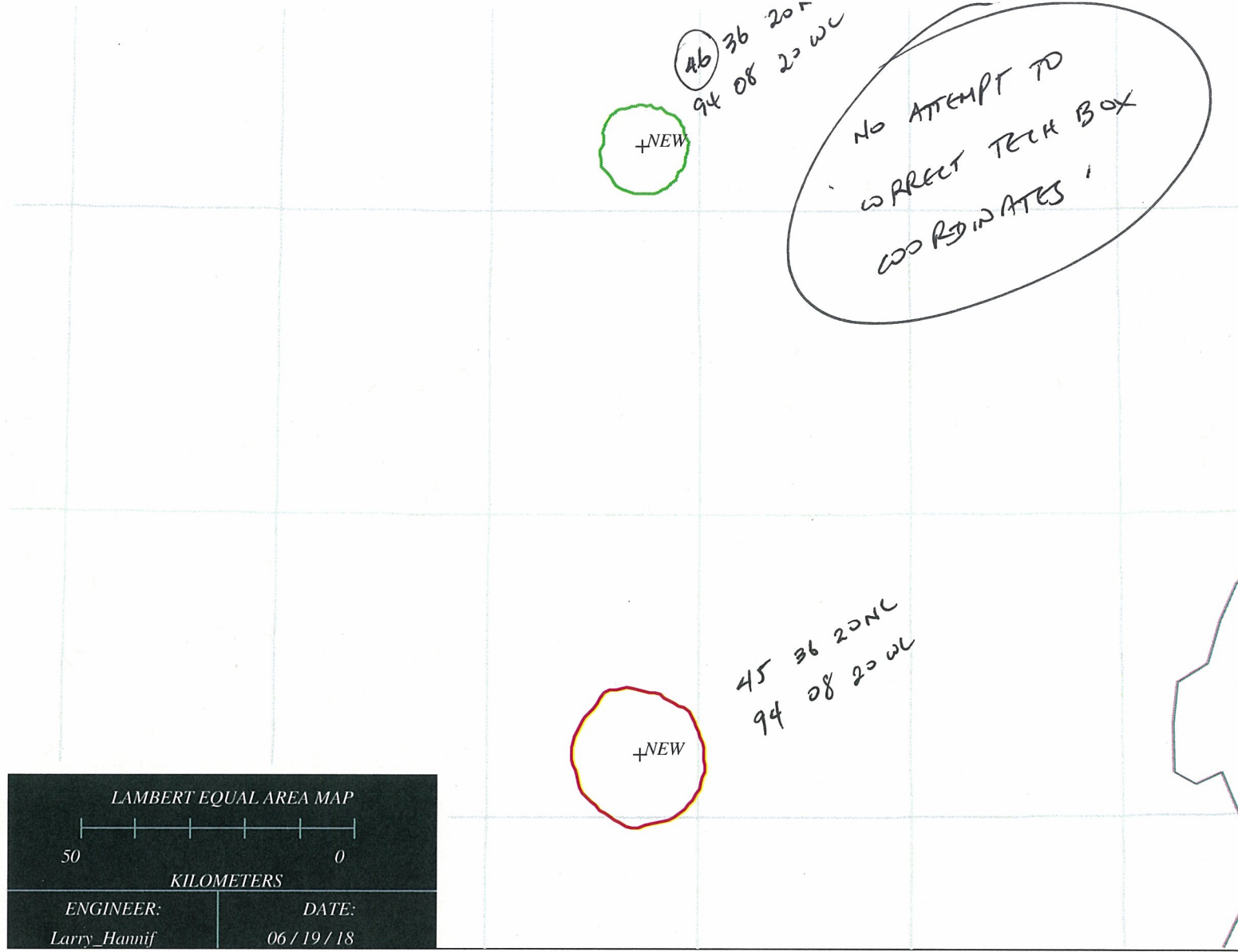


for James D. Bradshaw  
Deputy Chief  
Audio Division  
Media Bureau

cc: Gary E. Hoppe

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<sup>1</sup> 47 C.F.R. Section 74.1233(b)(1).



THE FOLLOWING IS A LIST OF THE DATA WHICH APPEARS ON THE ABOVE MAP  
BOTTOM LATITUDE: 45.28 TOP LATITUDE: 46.87 LEFT LONGITUDE: -95.19 RIGHT LONGITUDE: -93.09  
MAP: ENLARGED CONUS MAP PROJECTION: Lambert Equal-area CENTER LAT: 46.08 LONG: -94.14 GRID SPACING: 0.50  
KILOMETERS / INCH = 29.02  
PLOT MADE ON : 19 June, 2018 10:49 HOURS

call	serv	city,state	application no.	contour	chan	erp	haat	rcamsl	coverage area	A1
NEW	FX	SAUK,MN	BNPFT-20180509ACH	60.0 dBu (50,50)	239D	0.250	90.8	414.0	481.2 sq km	0
NEW	FX	SAUK,MN	BNPFT-20180125AHH	60.0 dBu (50,50)	239D	0.250	39.1	414.0	208.6 sq km	0

No topographic data is available for this location.  
A1 - Number of radials where free space equation was used for field strength calculations.  
A7 - Number of radials where a HAAT less than 30 meters was adjusted to 30 meters.

TRI-COUNTY BROADCASTING, INC.

Exhibit 2

Proposed Tower Registration 1249317





**UNITED STATES OF AMERICA  
FEDERAL COMMUNICATIONS COMMISSION  
ANTENNA STRUCTURE REGISTRATION**



OWNER: Tri County Broadcasting Inc.

FCC Registration Number (FRN): 0004200978

<b>Tri County Broadcasting Inc.</b> <b>1010 Second Street North</b> <b>Sauk Rapids, MN 56379</b>	<b>Antenna Structure Registration Number</b> <p style="text-align: right;">1249317</p>
	<b>Issue Date</b> <p style="text-align: right;">07/14/2005</p>
<b>Location of Antenna Structure</b> <b>10th Ave NE, 0.38 mile north of Golden Spike Road</b> <b>Sauk Rapids, MN 56379</b> <b>BENTON</b>	<b>Ground Elevation (AMSL)</b> <p style="text-align: right;">329.3 meters</p>
	<b>Overall Height Above Ground (AGL)</b> <p style="text-align: right;">90.2 meters</p>
<b>Latitude</b> <p style="text-align: center;">45- 36- 20.1 N</p>	<b>Longitude</b> <p style="text-align: center;">094- 08- 20.5 W</p>
	<b>NAD83</b> <p style="text-align: right;">Overall Height Above Mean Sea Level (AMSL) 419.5 meters</p>
<b>Painting and Lighting Requirements:</b> <b>FAA Chapters 3, 4, 5, 12</b>  <b>Paint and Light in Accordance with FAA Circular Number 70/7460-1K</b>   <b>Conditions:</b>	

This registration is effective upon completion of the described antenna structure and notification to the Commission. **YOU MUST NOTIFY THE COMMISSION WITHIN 24 HOURS OF COMPLETION OF CONSTRUCTION OR CANCELLATION OF YOUR PROJECT, please file FCC Form 854.** To file electronically, connect to the antenna structure registration system by pointing your web browser to <http://wireless.fcc.gov/antenna>. Electronic filing is recommended. You may also file manually by submitting a paper copy of FCC Form 854. Use purpose code "NT" for notification of completion of construction; use purpose code "CA" to cancel your registration.

The Antenna Structure Registration is not an authorization to construct radio facilities or transmit radio signals. It is necessary that all radio equipment on this structure be covered by a valid FCC license or construction permit.

**You must immediately provide a copy of this Registration to all tenant licensees and permittees sited on the structure described on this Registration (although not required, you may want to use Certified Mail to obtain proof of receipt), and *display* your Registration Number at the site. See reverse for important information about the Commission's Antenna Structure Registration rules.**

You must comply with all applicable FCC obstruction marking and lighting requirements, as set forth in Part 17 of the Commission's Rules (47 C.F.R. Part 17). These rules include, but are not limited to:

**Posting the Registration Number:** The Antenna Structure Registration Number must be displayed in a conspicuous place so that it is readily visible near the base of the antenna structure. Materials used to display the Registration Number must be weather-resistant and of sufficient size to be easily seen at the base of the antenna structure. Exceptions exist for certain historic structures. See 47 C.F.R. 17.4(g)-(h).

**Inspecting lights and equipment:** The obstruction lighting must be observed at least every 24 hours in order to detect any outages or malfunctions. Lighting equipment, indicators, and associated devices must be inspected at least once every three months.

**Reporting outages and malfunctions:** When any top steady-burning light or a flashing light (in any position) burns out or malfunctions, the outage must be reported to the nearest FAA Flight Service Station, unless corrected within 30 minutes. The FAA must again be notified when the light is restored. The owner must also maintain a log of these outages and malfunctions.

**Maintaining assigned painting:** The antenna structure must be repainted as often as necessary to maintain good visibility.

**Complying with environmental rules:** If you certified that grant of this registration would not have a significant environmental impact, you must nevertheless maintain all pertinent records and be ready to provide documentation supporting this certification and compliance with the rules, in the event that such information is requested by the Commission pursuant to 47 C.F.R. 1.1307(d).

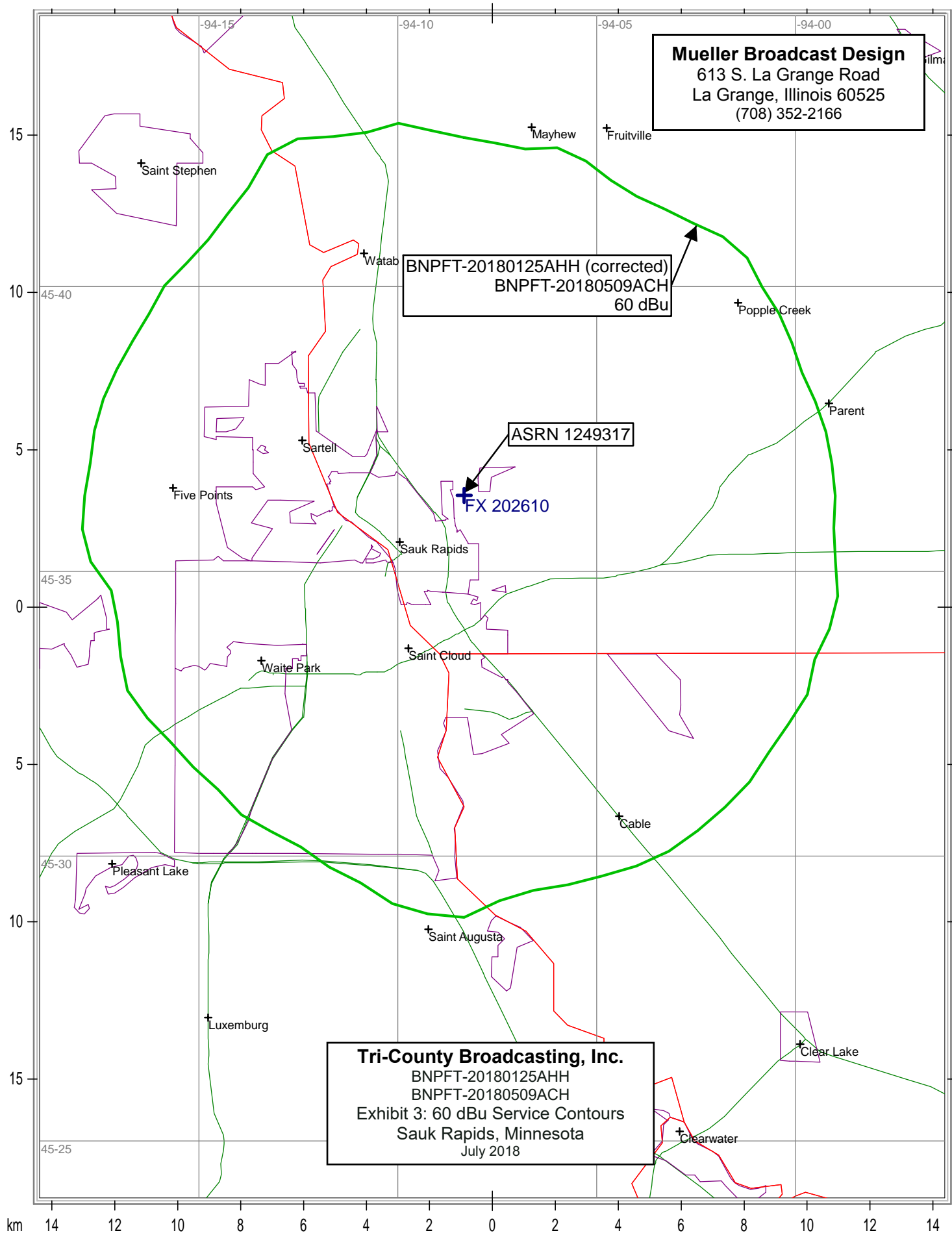
**Updating information:** The owner must notify the FCC of proposed modifications to this structure; of any change in ownership; or, within 30 days of dismantlement of the structure.

Copies of the Code of Federal Regulations (which contain the FCC's antenna structure registration rules, 47 C.F.R Part 17) are available from the Government Printing Office (GPO). To purchase CFR volumes, call (202) 512-1800. For GPO Customer Service, call (202) 512-1803. For additional FCC information, consult the Antenna Homepage on the internet at <http://wireless.fcc.gov/antenna> or call (877) 480-3201 (TTY 717-338-2824).

TRI-COUNTY BROADCASTING, INC.

Exhibit 3

Actual Application Site on ASR #1249317



**Mueller Broadcast Design**  
613 S. La Grange Road  
La Grange, Illinois 60525  
(708) 352-2166

BNPFT-20180125AHH (corrected)  
BNPFT-20180509ACH  
60 dBu

ASRN 1249317

FX 202610

**Tri-County Broadcasting, Inc.**  
BNPFT-20180125AHH  
BNPFT-20180509ACH  
Exhibit 3: 60 dBu Service Contours  
Sauk Rapids, Minnesota  
July 2018