

Robert

#144996

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

ORIGINAL

In re Application of

Spokane Public Radio, Inc.

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File No. BNPFT-20130822AFA

Application for Construction Permit
For a New FM Translator Station

Facility Id. No. 144996

Coeur D'Alene, Idaho

2013 SEP 16 A 5:49
RECEIVED
ACCEPTED/FILED

To: Federal Communications Commission
Attn: Media Bureau, Audio Services Division

SEP 12 2013

Federal Communications Commission
Office of the Secretary

Petition to Deny

QueenB Radio, Inc., licensee of FM Translator Station K262AG, Spokane, Washington, Facility Id. No. 81398,¹ by its attorneys, hereby files this petition to deny the above-referenced application for a new FM translator station (the "Coeur D'Alene Application"). The Commission should dismiss the Coeur D'Alene Application because it will cause interference to listeners of K262AG in violation of Section 74.1204(f) of the Commission's Rules. In support thereof, the following is hereby shown.

Facts

Spokane Public Radio ("SPR") filed the Coeur D'Alene Application with the Commission on August 22, 2013 pursuant to an FCC Public Notice requiring the filing of singleton applications, including the Coeur D'Alene Application by August 30, 2013.² The Coeur D'Alene Application proposes to operate on the same frequency as K262AG.

¹ The FCC License for K262AG identifies the communities of license for K262AG as Spokane, Etc., Washington.

² Public Notice DA 13-1675 (rel. July 31, 2013).

K262AG has been licensed from its current location since March 1998.³ Listeners of K262AG live in Athol, Coeur D’Alene and Hayden, Idaho and Spokane Valley, Washington. These residents have a long-standing reliance and interest in receiving the signal of K262AG interference free.

Legal Argument

Section 74.1204(f) protects K262AG from interference from the proposed operation of Coeur D’Alene Application if the predicted 1 mV/m field strength contour of Coeur D’Alene Application will overlap a populated area already receiving a regularly used, off-the-air signal of K262AG and grant of the Coeur D’Alene Application will result in interference to the reception of the K262AG signal. In order to demonstrate that grant of the Coeur D’Alene Application will result in interference to the reception of K262AG, the following information is provided: (1) name and specific address of each potentially affected listener; (2) some demonstration that the address of each purported listener falls within the 60 dBu service contour of the proposed translator station; (3) a declaration from each of the affected listeners that he or she listens to the station at the specified location; and (4) some evidence that grant of the authorization will result in interference to the reception of the “desired” station at that location.

Exhibit 1 is e-mails from listeners in Athol, Coeur D’Alene and Hayden, Idaho and Spokane Valley, Washington with each listener’s address and a statement that he or she listens to the station. Exhibit 2 is an Engineering Exhibit prepared by Hatfield & Dawson showing some of the communities located within proposed 60 DBu contour of the Coeur D’Alene Application. When the two exhibits are considered together, they more than satisfy the showing for prohibited interference pursuant to Section 74.1204(f).

³ File No. BLFT-19980323TD.

Conclusion

The Commission must dismiss the Coeur D'Alene Application for failing to comply with Section 74.1204(f). Approval of the application would result in interference to K262AG listeners. The public interest is better served in dismissing the Coeur D'Alene Application so that the continuing needs of listeners of K262AG may be served.

WHEREFORE, FOR THE FOREGOING REASONS, QueenB Radio, Inc. requests the Commission grant this petition to deny and dismiss Spokane Public Radio's application for a construction permit for a new FM Translator station at Coeur D'Alene, Idaho.

Respectfully submitted,

QUEENB RADIO, INC.



David G. O'Neil, Esq.

Rini O'Neil, PC

1200 New Hampshire Avenue, NW

Suite 800

Washington, DC 20036

(202) 955-3931

September 12, 2013

EXHIBIT 1
E-MAILS FROM LISTENERS
OF K262AG

David O'Neil

From: Rhonda Ellis [rhonda@ces-cda.com]
Sent: Thursday, September 12, 2013 2:21 PM
To: Jay Daniels; David O'Neil; Rebecca Rini
Subject: 99.9 vs. 100.3

On my radio at work in Coeur d'Alene, Coyote Country comes in clear on 100.3 while it is very staticy on 99.9.

I do love your station, but find it frustrating that I can't bring you up on the channel you are known for. Thankfully I can get it through 100.3 though! ☺

Thank you,

Rhonda Ellis
Columbia Electric Supply
3926 N. Schreiber Way
Coeur d'Alene, ID 83815
Ph: 208-667-0627
Fax: 208-667-8703

David O'Neil

From: Kacee Baker [kaceebaker@gmail.com]
Sent: Thursday, September 12, 2013 2:17 PM
To: Jay Daniels; David O'Neil; Rebecca Rini
Subject: 100.3

Hey, I live in CDA and listen to 100.3 because I don't get 99.9. Love your station;)

Kacee Baker
7256 N Freezeout
Coeur d Alene, ID 83815

9/12/2013

David O'Neil

From: Tiana Allen [tmallen@NIC.EDU]
Sent: Thursday, September 12, 2013 2:23 PM
To: Jay Daniels; David O'Neil; Rebecca Rini
Subject: RE: Coyote Country!

Hello!

I listen to Coyote Country on 100.3 fm. 99.9 isn't too clear and I love this station. It's the only one we listen to at work!

Thanks,

Tiana Allen

2501 E Sherman Ave #223
Coeur d'Alene, ID 83814

David O'Neil

From: Jay Daniels [jayd@kxly.com]
Sent: Thursday, September 12, 2013 2:28 PM
To: David O'Neil; Rebecca Rini
Subject: Fwd: Coyote Country 100.3

>>> "jbanks@ishoutout.com" <jbanks@ishoutout.com> 9/12/2013 11:23 AM >>>
Hey,

I love the Coyote station being on 100.3....I cant get it over here in Cda on 99.9? I hear rumors of doing away with the 100.3 one..is that true? I hope not...because then I couldn't listen to it over here?!

Jeremiah Banks
1723 W. Monet Drive
Coeur d'Alene, Idaho 83815

Thanks!

Jeremiah Banks
Mobile Marketing Partner
855-275-5489
jbanks@ishoutout.com
www.ishoutout.com

Jeremiah Banks
Mobile Marketing Partner
855-275-5489
jbanks@ishoutout.com
www.ishoutout.com

9/12/2013

David O'Neil

From: Jay Daniels [jayd@kxly.com]
Sent: Thursday, September 12, 2013 2:29 PM
To: David O'Neil; Rebecca Rini
Subject: Fwd: I listen to Coyote Country

>>> Zoe <zoegirl74@hotmail.com> 9/12/2013 11:14 AM >>>

I love to listen to Coyote Country at 100.3 fm. But I can not listen to them up on 99.9. I Love your station

Shari Aiken
4948 Cougar Circl
Coeur D Alene Id 83814

9/12/2013

David O'Neil

From: Jay Daniels [jayd@kxly.com]
Sent: Thursday, September 12, 2013 2:30 PM
To: David O'Neil; Rebecca Rini
Subject: Fwd:

>>> Cody Tucker <ctucker2216@gmail.com> 9/12/2013 11:13 AM >>>

Hey I love listening to coyote country on 100.3fm I cant get it on 99.9 that's ur awesome

Cody Tucker
895 Bruce on
Hayden ID 83835

3x

9/12/2013

David O'Neil

From: Jay Daniels [jayd@kxly.com]
Sent: Thursday, September 12, 2013 2:32 PM
To: Tim Anderson
Subject: Fwd: 100.3

>>> Savannah Clapper <savannah.clapper90@gmail.com> 9/12/2013 11:27 AM >>>

Hey I can't pick up coyote country on the station on 99.9 on cda and I really love the station please keep 100.3 fm :(

Savannah Clapper
421 W Lacrosse Ave
Coeur d Alene, ID 83814

9/12/2013

David O'Neil

From: Jay Daniels [jayd@kxly.com]
Sent: Thursday, September 12, 2013 2:32 PM
To: Tim Anderson
Subject: Fwd: Hey

>>> andrea patton <patton122882@hotmail.com> 9/12/2013 11:28 AM >>>
Hey I listen to Coyote Country on 100.3fm. I can't pick you up on 99.9. Love your station
Andrea Shafer
440 East Wyoming ave
Hayden ID 83835
Medium

9/12/2013

David O'Neil

From: Jay Daniels [jayd@kxly.com]
Sent: Thursday, September 12, 2013 2:31 PM
To: Tim Anderson
Subject: Fwd: Thank you for the great music!

>>> "Chrissy Aresvik" <Chrissy@clarkbhf.com> 9/12/2013 11:28 AM >>>
Hi,

I am in the Coeur d' Alene area and listen to you on 100.3 FM because I can't get 99.9. ☹ BEST MORNING SHOW EVER!! Thank you guys so much, I don't know what I would do without you to wake me up and make me giggle each morning!

Happy Thursday! ☺ ☺

Chrissy Aresvik
11916 N. Reed Road
Hayden, ID 83835

David O'Neil

From: Jay Daniels [jayd@kxly.com]
Sent: Thursday, September 12, 2013 2:40 PM
To: Tim Anderson
Subject: Fwd: Coyote Country

>>> Nicole Ingram <flutterone@hotmail.com> 9/12/2013 11:38 AM >>>
Hey I listen to Coyote Country on 100.3 fm. I can't pick you up on 99.9. Love your station!

Thanks!!

Nicole Ingram
3118 N. 10th St
CDA ID 83815

9/12/2013

David O'Neil

From: Jay Daniels [jayd@kxly.com]
Sent: Thursday, September 12, 2013 2:33 PM
To: Tim Anderson
Subject: Fwd: Love your station

>>> Ryan Duval <moneymanll@hotmail.com> 9/12/2013 11:31 AM >>>

I go over to North Idaho 3-4 times a week, and often can't get Coyote Country on 99.9, but flick over to 100.3, and my day is saved! Thanks for the added access, and keep up the great work!

Ryan Duval - Large
11311 E Buckeye Ave
Spokane Valley, WA 99206

9/12/2013

David O'Neil

From: Jay Daniels [jayd@kxly.com]
Sent: Thursday, September 12, 2013 2:33 PM
To: Tim Anderson
Subject: Fwd: 100.3

>>> Charity Yerian <missfj1103@gmail.com> 9/12/2013 11:26 AM >>>

Hey Jay,

I listen to you guys on 100.3. 99.9 comes in but the reception is poor and fuzzy. I love you guys and this station!! I think I've been listening for close to 15 years.

Keep up the good work!
Charity Yerian
2493 E. Eightmile Ave.
Athol, ID 83801

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When life knocks you flat, roll over and look at the stars.

9/12/2013

David O'Neil

From: Jay Daniels [jayd@kxly.com]
Sent: Thursday, September 12, 2013 2:59 PM
To: Tim Anderson
Subject: Fwd: Love your station

>>> Jennifer McNulty <jishyman@gmail.com> 9/12/2013 11:08 AM >>>

I listen to Coyote Country on 100.3fm. I can't pick you up on 99.9. Love your station.

Jennifer McNulty
3279 west manning loop
Coeur d'Alene ID 83818
2x

9/12/2013

David O'Neil

From: Jay Daniels [jayd@kxly.com]
Sent: Thursday, September 12, 2013 2:58 PM
To: Tim Anderson
Subject: Fwd: Help!!!

>>> <trmckellips@roadrunner.com> 9/12/2013 11:09 AM >>>

Hey I listen to Coyote Country on 100.3fm. I can't pick you up on 99.9. Love your station!!!! Thanks!

Teresa McKellips
11038 N. Cutlass St.
Hayden, ID 83835

David O'Neil

From: Jay Daniels [jayd@kxly.com]
Sent: Thursday, September 12, 2013 2:57 PM
To: Tim Anderson
Subject: Fwd: Coyote country

>>> Ashley Kelley <akelley21@me.com> 9/12/2013 11:55 AM >>>
I love 99.9 coyote country but I use 100.3 to pick up the station in CDA/Hayden

Home
10960 N Maple St
Hayden ID 83835

Work
1106 e Sherman ave
CDA ID 83814

Sent from my iPhone

9/12/2013

David O'Neil

From: Jay Daniels [jayd@kxly.com]
Sent: Thursday, September 12, 2013 2:57 PM
To: Tim Anderson
Subject: Fwd: Coyote Country

>>> Jessica McGovern <jessica@andersonwalsh.com> 9/12/2013 11:53 AM >>>
Hey I listen to Coyote Country on 100.3fm. I can't pick you up on 99.9. Love your station

Jessica K. McGovern
Paralegal for
Anderson Palmer
George & Walsh PLLC
500 N. Government Way, Suite 100
Coeur d'Alene, ID 83814
Phone: (208) 665-7400
Fax: (208) 765-4636

NOTICE OF CONFIDENTIALITY:

The transmission contained herein is confidential and not to be disclosed, revealed, or disseminated to anyone but the intended recipient. If you have received this transmission in error, please delete and/or destroy your copy and inform the sender immediately.

9/12/2013

David O'Neil

From: Jay Daniels [jayd@kxly.com]
Sent: Thursday, September 12, 2013 2:51 PM
To: Tim Anderson
Subject: Fwd: Love your station!

>>> nikkinfriis <nikkinfriis@hotmail.com> 9/12/2013 11:43 AM >>>

Hey, I listen to Coyote Country on 100.3 fm. I can't pick you up on 99.9 ... I LOVE YOUR STATION!!!!

Your #1 Listener,
Nikki Lambert
2712 W. Wilbur Ave
Coeur d'Alene ID 83815

Sent from my Galaxy S@III

9/12/2013

David O'Neil

From: Jay Daniels [jayd@kxly.com]
Sent: Thursday, September 12, 2013 2:51 PM
To: Tim Anderson
Subject: Fwd: 100.3

>>> John Hauser <jhauser22@hotmail.com> 9/12/2013 11:43 AM >>>

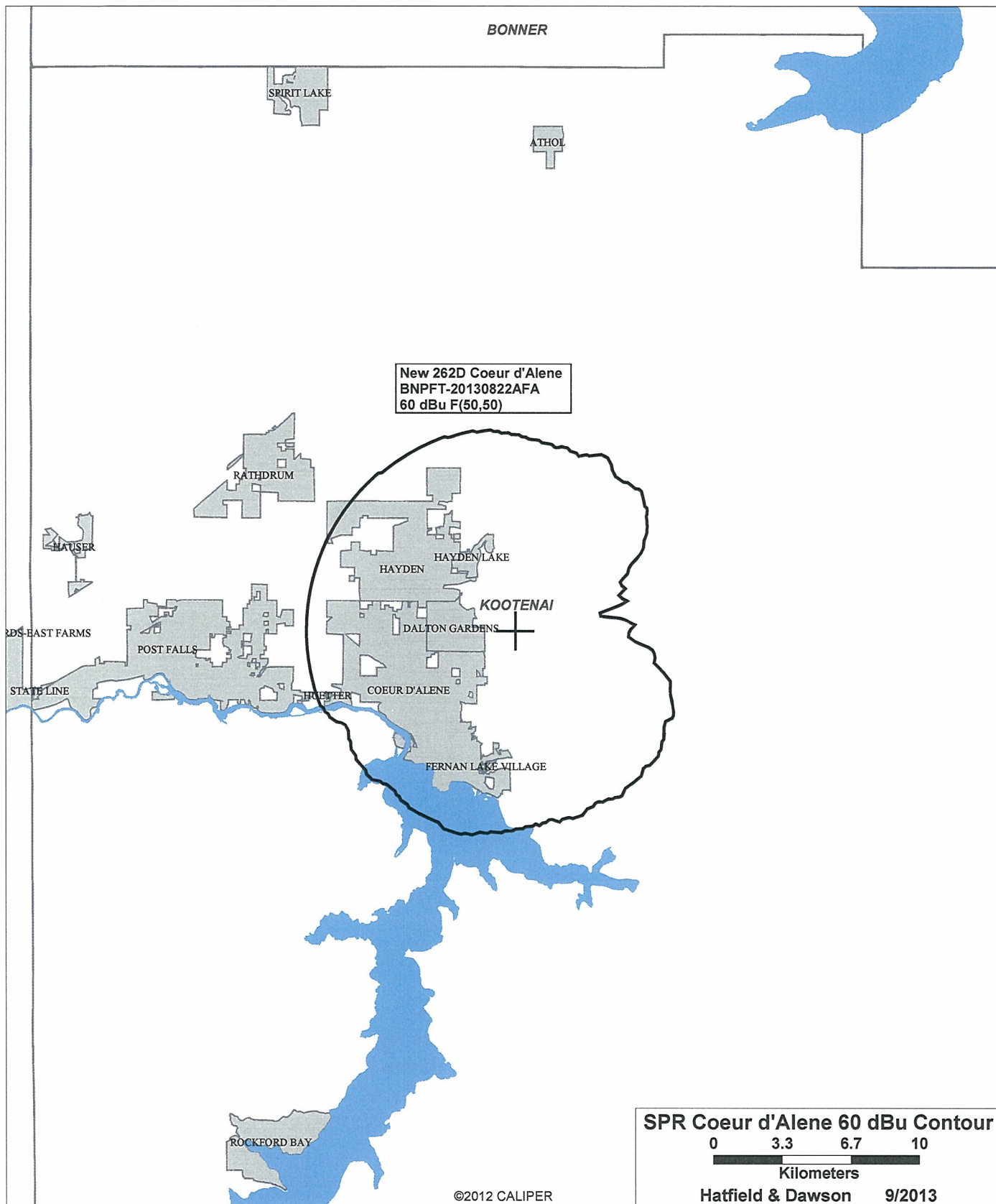
I hear that we may be losing 100.3 fm. Hear in cda it's the only spot on the radio where we can get coyote country. In my opinion this would be a tragic mistake for your Idaho listeners.
Thanks

John

3015 n. 4th street apt 94
CDA ID, 83815

9/12/2013

EXHIBIT 2
ENGINEERING EXHIBIT



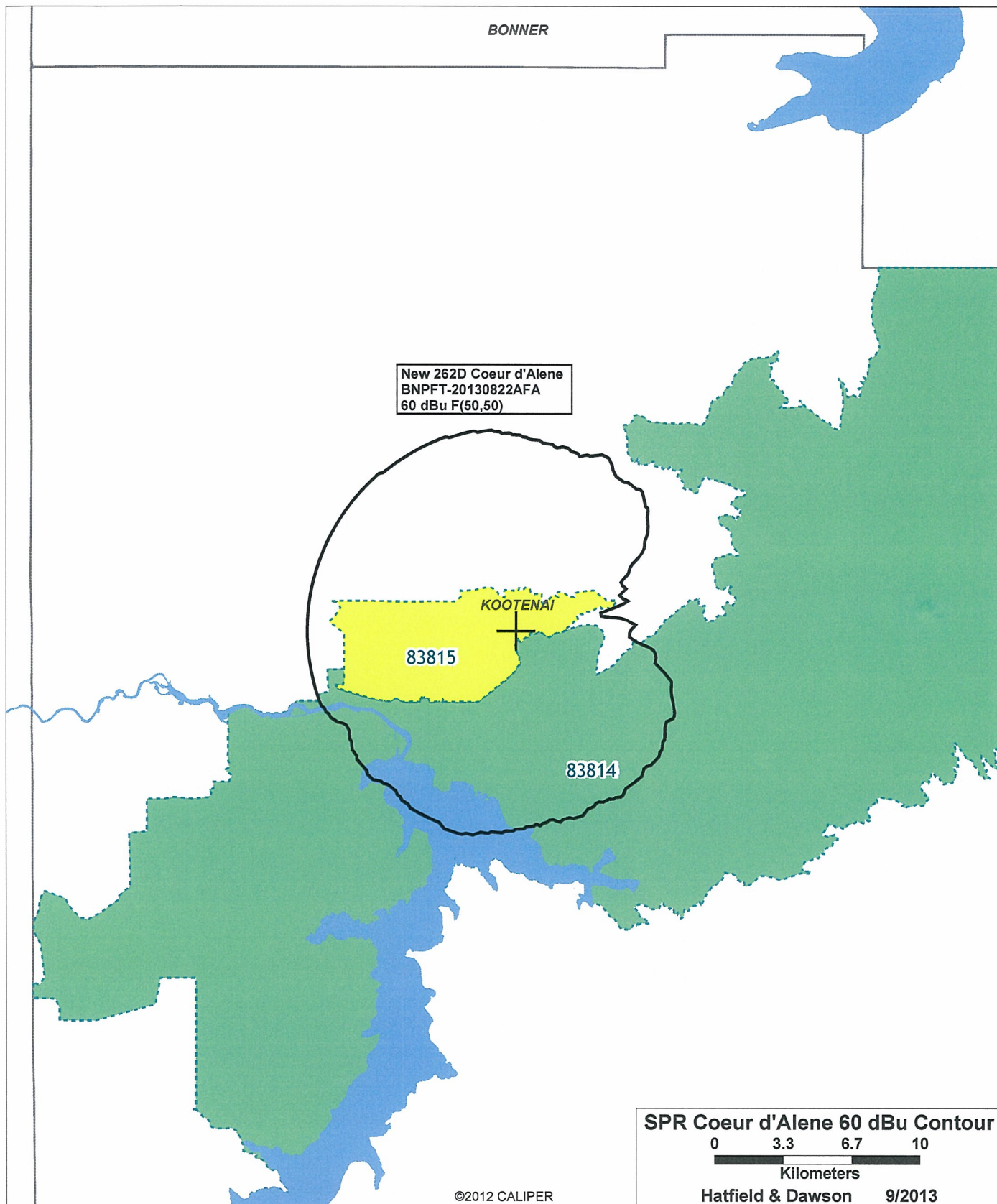
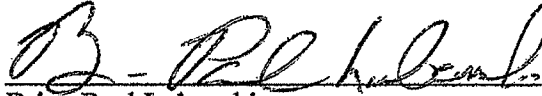


EXHIBIT 3

DECLARATION OF BRIAN PAUL LUBANSKI

DECLARATION OF BRIAN PAUL LUBANSKI

My name is Brian Paul Lubanski. I am Vice President and General Manager of QueenB Radio, Inc. I have reviewed the Petition to Deny and to the best of my information, knowledge, and belief, is complete and accurate. This declaration is submitted under the penalty of perjury.

A handwritten signature in black ink, appearing to read "B. Paul Lubanski", written over a horizontal line.

Brian Paul Lubanski
QueenB Radio, Inc.
500 W. Boone Avenue
Spokane, WA 99201
(509) 324-4000

September 12, 2013

CERTIFICATE OF SERVICE

I, David G. O'Neil, do hereby certify that a true and correct copy of the foregoing
"Petition to Deny" was sent via regular mail this 12th day of September 2013 to the following:

Ernest T. Sanchez
The Sanchez Law Firm PC
2300 M Street, NW
Suite 800
Washington, DC 20037
(Counsel for Spokane Radio, Inc.)



David G. O'Neil