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

In the Matter of )  
)  
GARY M. COCOLA, )  
)  
Licensee of FM Translator, K259CF, )  
South Fresno, California )

Facility ID No. 144742

Accepted / Filed

SEP 17 2018

Federal Communications Commission  
Office of the Secretary

To: Chief, Audio Division, Media Bureau

**REPLY TO RESPONSE OF GARY M. COCOLA**  
**TO INTERFERENCE COMPLAINT**  
**AND SUPPLEMENT TO INTERFERENCE COMPLAINT**  
**OF BOTT COMMUNICATIONS, INC.**

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*Counsel for Bott Communications, Inc.*

Dated: September 17, 2018

## SUMMARY

Bott Communications, Inc. (“Bott”), hereby replies to Gary M. Cocola’s response (“Response”) to the FCC’s August 6, 2018 letter (“FCC Letter”) concerning Bott’s Interference Complaint against Mr. Cocola’s FM translator, K259CF, South Fresno, California (Facility ID No. 144742) (“K259CF”). Furthermore, Bott hereby supplements its Interference Complaint with additional listener complaints, and an analysis demonstrating that the engineering flaws made in K259CF’s construction permit application enabled the FM translator to cause interference to KCIV by operating with facilities which violate Sections 74.1203(a)(3) and 74.1204(f) of the Commissions’ rules.

Mr. Cocola’s Response fails to provide *any* of the information required by the FCC Letter concerning his efforts to: (1) respond to each of the listener complainants; and (2) eliminate K259CF’s interference with KCIV’s signal. Instead, Mr. Cocola uses his Response as a platform on which to question the Commission’s current interference complaint procedures, and to advocate for avoiding his obligation to eliminate interference to KCIV’s listeners under the current rules. Mr. Cocola makes baseless allegations that the interference complaints against K259CF are illegitimate, and are supported by a misleading engineering statement. Furthermore, as evidenced by the additional listener complaints submitted herein, Mr. Cocola has not made *any* efforts at eliminating interference to KCIV caused by K259CF’s current operations with facilities which violate Sections 74.1203(a)(3) and 74.1204(f).

Accordingly, due to Mr. Cocola’s non-compliance with the FCC Letter’s requirements and his failure to eliminate interference to KCIV’s listeners caused by his FM translator, Bott respectfully requests that the Commission order K259CF to cease operations *immediately* pursuant to Section 74.1203(b).

**TABLE OF CONTENTS**

I. REPLY TO MR. COCOLA’S RESPONSE ..... 2

    A. Mr. Cocola Fails to Respond to any of the FCC’s Inquiries ..... 2

    B. Mr. Cocola Makes Baseless Allegations that the Listener Complaints are Illegitimate .. 3

    C. Mr. Cocola Fails to Demonstrate that the Interference with KCIV has been Eliminated 6

    D. Mr. Cocola Baselessly Attacks Bott’s Usage of the Longley-Rice Methodology in the Interference Complaint ..... 8

    E. Mr. Cocola Fails to use “Suitable Techniques” to Eliminate the Interference to KCIV’s Listeners ..... 9

II. SUPPLEMENTAL INTERFERENCE COMPLAINTS ..... 10

CONCLUSION..... 12

ATTACHMENT A – Couzens Email

ATTACHMENT B – Armstrong Email

ATTACHMENT C – Supplemental Listener Complaints

ATTACHMENT D – Declaration of Jeremy D. Ruck, PE

ATTACHMENT E – Victory Email

ATTACHMENT F - Revised Map of Listener Complainants’ Locations

**Before the  
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In the Matter of )  
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GARY M. COCOLA, ) Facility ID No. 144742  
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Licensee of FM Translator, K259CF, )  
South Fresno, California )

To: Chief, Audio Division, Media Bureau

**REPLY TO RESPONSE OF GARY M. COCOLA  
TO INTERFERENCE COMPLAINT  
AND SUPPLEMENT TO INTERFERENCE COMPLAINT  
OF BOTT COMMUNICATIONS, INC.**

Bott Communications, Inc. (“Bott”), licensee of full-power FM broadcast station, KCIV, Mount Bullion, California (Facility ID No. 6504) (Channel 260/99.9 MHz) (“KCIV”), by its undersigned counsel, hereby submits this reply to Gary M. Cocola’s September 5, 2018 response (“Response”)<sup>1</sup> to the Commission’s letter dated August 6, 2018 (“FCC Letter”)<sup>2</sup> regarding Bott’s July 18, 2018 interference complaint (“Interference Complaint”)<sup>3</sup> against Mr. Cocola’s FM translator, K259CF, South Fresno, California (Facility ID No. 144742) (“K259CF”). Furthermore, Bott hereby supplements its Interference Complaint with additional listener complaints, and an analysis demonstrating that engineering flaws in K259CF’s construction permit

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<sup>1</sup> See generally Interference Response of Gary M. Cocola, *Gary M. Cocola, Licensee of FM Translator, K259CF, South Fresno, California (Facility ID No. 144742)* (filed Sept. 5, 2018) (“Response”).

<sup>2</sup> See generally Letter from James D. Bradshaw, Senior Deputy Chief, Audio Division, Media Bureau, Federal Communications Commission, to Gary M. Cocola (1800B3-KV) (Aug. 6, 2018) (“FCC Letter”).

<sup>3</sup> See generally Interference Complaint of Bott Communications, Inc., *Gary M. Cocola, Licensee of FM Translator, K259CF, South Fresno, California (Facility ID No. 144742)* (filed Jul. 18, 2018) (“Interference Complaint”).

application resulted in the grant of the translator facilities now causing interference to KCIV in violation of the Commissions' rules.<sup>4</sup> For the reasons shown below, Bott requests that the FCC order K259CF to cease operations immediately.

**I. REPLY TO MR. COCOLA'S RESPONSE**

**A. Mr. Cocola Fails to Respond to any of the FCC's Inquiries**

The FCC Letter states that since Bott's Interference Complaint was supported by *bona fide* listener complainants, Mr. Cocola's Response must include: (1) the complainant's name and address; (2) the specific devices receiving interference (i.e., device type, manufacturer's name, model number, and serial number); and (3) "*any assistance provided* by [K259CF] for *each* device allegedly receiving the interference and *whether such interference persists.*"<sup>5</sup> Mr. Cocola fails to provide information on any of these three items in his Response. Indeed, there is no evidence whatever to suggest that Mr. Cocola contacted (or attempted to contact) *any* of the listeners whose complaints were filed in support of Bott's Interference Complaint in order to eliminate the significant interference to the KCIV signal.

Instead, Mr. Cocola uses his Response as a platform on which to question the effectiveness of the Commission's current interference complaint procedures, and to advocate for avoidance of his obligation to *eliminate* interference to KCIV's listeners under the currently effective rules.<sup>6</sup> That Mr. Cocola supports the proposed interference complaint rules<sup>7</sup> is wholly irrelevant in the

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<sup>4</sup> See 47 C.F.R. §§ 74.1203(a)(3), and 74.1204(f).

<sup>5</sup> FCC Letter at 2 (emphasis added).

<sup>6</sup> Bott addresses Mr. Cocola's request for waiver of Section 74.1203(c) of the Commission's rules its simultaneously-filed opposition. See generally Opposition of Bott Communications, Inc. to Gary M. Cocola's Request for Waiver, *Gary M. Cocola, Licensee of FM Translator, K259CF, South Fresno, California (Facility ID No. 144742)* (filed Sept. 17, 2018).

<sup>7</sup> See *Amendment of Part 74 of the Commission's Rules Concerning FM Translator Stations*, MB Docket No. 18-119, Notice of Proposed Rulemaking, FCC 18-60 at 6-18, ¶¶ 10-30

present circumstances as the new rules have not been adopted by the FCC. Section 74.1203 and its subparts articulate the current standard for eliminating actual interference complaints, and Mr. Cocola fails to meet the standard by continuing to operate his FM translator. In arguing for the applicability of the proposed rules, Mr. Cocola evades addressing in his Response whether and how he has addressed *each* of the interference complaints against K259CF.

The only effort that Mr. Cocola has taken in addressing the listener complaints is the establishment of a hotline for listener complainants to call into for eliminating interference.<sup>8</sup> Notably, Mr. Cocola does not detail any efforts made to disseminate the hotline's existence to the listener complainants. Rather, Mr. Cocola tries to shift the burden of addressing and eliminating the interference caused by his station to KCIV to Bott by alleging, without foundation, that any such (unnamed) efforts have been frustrated by Bott.<sup>9</sup> As Mr. Cocola failed to comply with *any* of the FCC Letter's response requirements, it is evident that Mr. Cocola does not intend to take any measures to remedy the interference to KCIV's listeners caused by K259CF's operations.

**B. Mr. Cocola Makes Baseless Allegations that the Listener Complaints are Illegitimate**

Additionally, in his Response, Mr. Cocola attempts to discharge his obligations pursuant to Section 74.1203 of the Commission's rules by attacking the legitimacy of the listener

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(rel. May 10, 2018) ("*May 2018 NPRM*") (proposing to limit actual interference complaints to those located within the desired stations 54 dB $\mu$  contour).

<sup>8</sup> On September 11, 2018, undersigned counsel made a call to the hotline number as provided by Mr. Cocola's counsel: (559) 298-2800. See Email from Michael Couzens, Esq., Counsel to Gary Cocola, to Kathleen Victory, Esq., Counsel to Bott Communications, Inc. (Aug. 7, 2018) ("Couzens Email"), attached hereto as **Attachment A**. The call was not answered by either Mr. Cocola or his staff, and went directly to voicemail – which requested that the caller provide their contact information if they were interested in receiving a replacement radio. The voicemail message, however, made no mention of Bott's Interference Complaint, KCIV, or K259CF.

<sup>9</sup> See Response at 3-4 (stating that although "the complainant was informed of the [hotline], . . . there have been no recorded calls").

complainants. Mr. Cocola suggests that none of the listener complainants are *bona fide* because they do not reside within KCIV's 60 dBμ's service contour.<sup>10</sup> Furthermore, Mr. Cocola objects to the legitimacy of the listener complainants located beyond KCIV's 54 dBμ's service contour because "the signal of KCIV traveled over long distances [to their locations] . . . and could be expected to be patchy or to fail, regardless of any incoming interference."<sup>11</sup> Finally, Mr. Cocola calls into question the legitimacy of the listener complainants using the interference complaint forms provided by Bott because the forms "begin[] with a prejudicial and conclusory pre-printed preamble . . . [and] directs the complainant to [a] pre-digested conclusion of interference . . . ."<sup>12</sup>

Actual interference complaints must be supported by complaints from *bona fide* listeners.<sup>13</sup> Complainants are *bona fide* if they are "disinterested," i.e., "a person or entity without a legal stake in the outcome of the . . . proceeding."<sup>14</sup> Furthermore, the FCC's staff requires complainants to provide his or her "name, address, location(s) at which FM translator interference occurs, and a statement that the complainant is, in fact, a listener of the affected station."<sup>15</sup> The FCC's staff, however, does *not* prescribe the format for listener interference complaints.<sup>16</sup> Finally, the FCC "plac[es] no geographic or temporal limitation on complaints" of actual interference made

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<sup>10</sup> See *id.* at 2.

<sup>11</sup> See *id.* at 3.

<sup>12</sup> *Id.* at 2-3.

<sup>13</sup> *Arohi Media LLC*, Letter, Ref. No. 1800B3-PPD at 3 (May 9, 2017) (citing *Association for Community Education, Inc.*, Memorandum Opinion and Order, 19 FCC Rcd. 12682, 12688, ¶ 16 (2004)).

<sup>14</sup> *Id.* (quoting *Association for Community Education*, 19 FCC Rcd. at 12688, n.37).

<sup>15</sup> *Id.*

<sup>16</sup> See *id.*

by *bona fide* listener complainants.<sup>17</sup> Mr. Cocola’s pronouncement that the KCIV signal “could be expected to be patchy or to fail, regardless of any incoming interference” entirely and intentionally ignores the well-known propagation characteristics of the San Joaquin Valley in which both KCIV and Mr. Cocola’s station operate.

In his Response, Mr. Cocola provides no support for his allegations that the listener complaints are illegitimate – other than protesting the use of a uniform complaint form by many of the complainants.<sup>18</sup> The FCC’s rules do *not* prohibit the use of uniform complaint forms.<sup>19</sup> Additionally, Mr. Cocola misconstrues both the Commission’s current and proposed actual interference complaint rules by asserting that the listener complaints are not *bona fide* unless they are located within KCIV’s 60 dB $\mu$  service contour.<sup>20</sup> Contrary to Mr. Cocola’s assertion the requirement for complainants to be within the interfering *translator*’s 60 dB $\mu$  applies only to complaints of *potential* interference – not complaints of *actual* interference.<sup>21</sup> Finally, Mr. Cocola ignores the fact that there are *no* geographic limitations placed on actual interference complaints under the FCC’s current rules.<sup>22</sup> Accordingly, Mr. Cocola does not provide any evidence that the listener complainants are not *bona fide*.

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<sup>17</sup> *May 2018 NPRM* at 4, ¶ 7. *But see id.* at 14, ¶ 28 (proposing to limit actual interference complaints to complaints located within the desired station’s predicted 54 dB $\mu$  contour).

<sup>18</sup> *Cf. Marissa G. Repp, Esq. & Donald E. Martin, Esq.*, Letter, 32 FCC Rcd. 7538, 7541 (MB 2017) (“Immanuel has not provided any evidence to support its ‘valid doubts’ that the listener declarations . . . are not from *bona fide* listeners . . .”).

<sup>19</sup> *Cf. Arohi Media* at 3.

<sup>20</sup> *See Response* at 2.

<sup>21</sup> *See Association for Community Education*, 19 FCC Rcd. at 12687, ¶ 13.

<sup>22</sup> *See id.* at 12688, ¶ 16.



C. **Mr. Cocola Fails to Demonstrate that the Interference with KCIV has been Eliminated**

In his Response, Mr. Cocola fails to demonstrate that he has satisfied his obligation to eliminate all interference to KCIV. Section 73.1203(e) states that “it shall be the responsibility of the licensee of the FM translator . . . to correct any . . . interference . . . .”<sup>23</sup> Accordingly, “[b]ecause translators are secondary to FM radio broadcast service operations . . . it [is] the translator operator’s responsibility” to eliminate actual interference.<sup>24</sup> In line with this burden, licensees of interfering FM translators should take *proactive* steps in reaching out to listener complainants to resolve their interference complaints.<sup>25</sup>

Mr. Cocola expects the listener complainants to take the initial step of calling into a hotline to resolve their interference complaints. Many of the listener complainants, however, may not even be aware of the hotline’s existence because: (1) Mr. Cocola has not provided any evidence of whether and how the hotline’s existence has been disseminated to the listener complainants;<sup>26</sup> and (2) the hotline’s number has not been posted on KKDJ FM’s website. While complainants

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<sup>23</sup> 47 C.F.R. § 74.1203(e).

<sup>24</sup> *Amendment of Part 74 of the Commission’s Rules Concerning FM Translator Stations*, Notice of Proposed Rulemaking, 5 FCC Rcd. 2106, 2120, ¶ 112 (1990) (emphasis added). See also *Arohi Media* at 3 (“The FM translator rules strictly prohibit interference by these secondary service stations, and an interfering FM translator station must remedy the interference or cease operation.” (citing 47 C.F.R. § 74.1203(b))).

<sup>25</sup> *Cf. Minnesota Christian Broadcasters, Inc.*, Letter, 22 FCC Rcd. 4815, 4817 (MB 2007) (“[T]he record shows that MCBI took *affirmative steps to find and contact the complaining parties* and . . . either resolved the complainant’s technical problems or the complainant withdrew its interference complaint.” (emphasis added) (interference between two full-power FM stations)).

<sup>26</sup> *Cf. infra* note 31. See also Joshua Tehee, *KKDJ is back on the radio airwaves, and now on TV too*, THE FRESNO BEE (Aug. 26, 2018), <https://www.fresnobee.com/entertainment/ent-columns-blogs/fresno-beehive/article217157990.html> (stating that “KKDJ is working with the Federal Communications Commission and the Bott Radio Network to *mitigate* issues” (emphasis added) – without providing the hotline number).

are required to cooperate with an FM translator licensee's interference elimination efforts under the current rules,<sup>27</sup> it is *not* the complainant's responsibility to eliminate interference on behalf of the FM translator licensee.<sup>28</sup> Mr. Cocola's inference that the failure of a complainant to make the initial contact to him or his staff serves is *not* a basis for claiming that the complainants did not cooperate with him to eliminate the interference caused by K259CF to their reception of KCIV.<sup>29</sup>

Moreover, Mr. Cocola implies that it is the responsibility of *Bott* – not Mr. Cocola – to relay the existence of the hotline to the listener complainants<sup>30</sup> because Mr. Cocola's counsel informed *Bott*'s counsel of the hotline's existence via an August 7, 2018 email.<sup>31</sup> Section 74.1203(b) and (e), however, clearly establish that while the complainants must cooperate with Mr. Cocola in eliminating interference, neither *Bott* nor the listener complainants are obligated to eliminate interference on Mr. Cocola's behalf. Furthermore, at least one interference complainant has informed *Bott* that neither Mr. Cocola nor the KKDJ FM staff have contacted him

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<sup>27</sup> See *May 2018 NPRM* at 5, ¶ 7 (“[S]taff has considered only those complaints of translator interference where the complaining listener cooperates in efforts to identify the source of interference and accepts reasonable corrective measures.” (citing *Radio Power, Inc.*, Letter, 26 FCC Rcd. 14385, 14385-86 (MB 2011)). See also *id.* at 11-12, ¶ 22 (proposing the elimination of listener complainants' cooperation requirement).

<sup>28</sup> See *Joseph C. Chautin, III, Esq.*, Letter, 22 FCC Rcd. 5364, 5365 (MB 2007) (“[S]hould EMF's Fontana translator station cause any actual interference to KLIT(FM) . . . EMF will be required to take *appropriate steps to resolve that interference* or cease operation of the facility.” (emphasis added)).

<sup>29</sup> Cf. *Radio Power*, 26 FCC Rcd. at 14385 (stating that listener complainants were uncooperative because they “have *stopped responding* to correspondence . . . [or] did *not respond to any inquiries*” (emphasis added)).

<sup>30</sup> Response at 3-4.

<sup>31</sup> See Couzens Email. Notably, *Bott*'s undersigned counsel called the hotline number on August 9, 2018 and found not only that the number was not answered by a person, but that the voice message provided at that time made no reference to the interference or how to obtain replacement equipment. Counsel advised Mr. Cocola's counsel of same. See Email from Kathleen Victory, Esq., Counsel to *Bott Communications, Inc.*, to Michael Couzens, Esq., Counsel to Gary M. Cocola (Aug. 9, 2018), attached hereto as **Attachment E**.

regarding his interference complaint – despite the fact that the contact information for *all* listener complainants was provided to Mr. Cocola in Bott’s Interference Complaint.<sup>32</sup> It is the responsibility of Mr. Cocola and his staff – *not* the complainants – to initiate contact with the interference complainants regarding the resolution of the interference complaints. As Mr. Cocola does not provide evidence of contact with the listener complainants, it is of no surprise that there have been no recorded calls to the hotline and that the interference complaints remain outstanding.<sup>33</sup>

**D. Mr. Cocola Baselessly Attacks Bott’s Usage of the Longley-Rice Methodology in the Interference Complaint**

Mr. Cocola alleges in his Response that Bott cannot rely upon the Longley-Rice methodology in its Interference Complaint because: (1) such “propagation models have never been adopted in aural services to establish patterns of actual service;” and (2) Bott’s usage of the methodology has led to “grossly exaggerated “engineering claims of unclouded reception” of KCIV in areas beyond the stations 54 dB $\mu$  service contour.<sup>34</sup> Instead, as demonstrated by the Declaration of Jeremy D. Ruck, PE (“Ruck Declaration”), attached hereto as **Attachment D**,<sup>35</sup> Bott’s usage of the Longley-Rice methodology was necessary to demonstrate that KCIV’s signal level varied widely from the FCC’s standard contour method due to “the rough and atypical terrain

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<sup>32</sup> See Email from Bruce Armstrong to Eben Fowler, Bott Communications, Inc. (Sept. 6 2018) (“Armstrong Email”), attached hereto as **Attachment B** (“As of this afternoon, I’ve heard nothing from Gary Cocola/ KKDJ regarding the interference issue.”).

<sup>33</sup> Furthermore, Mr. Cocola claims that K259CF’s engineer “traveled around the supposedly impacted areas of Clovis and Fresno . . . and detected no interference.” Response at 3. Mr. Cocola, however, failed to attach the engineer’s supporting statement. Therefore, this allegation must be dismissed by the FCC for being unsubstantiated. See 47 C.F.R. § 1.16.

<sup>34</sup> Response at 3.

<sup>35</sup> Declaration of Jeremy D. Ruck, PE, ¶ 7 (“Ruck Declaration”), attached hereto as **Attachment D**.

in the region.”<sup>36</sup> It has been expressly acknowledged that in some circumstances usage of the FCC’s standard contour method can be misleading due to the unusual and unrepresentative terrain upon which the curves were crafted.<sup>37</sup>

Due to inaccuracies with the standard contour methodology, the Commission permits the usage of alternative propagation methodologies – such as Longley-Rice – in cases where there is at least a 10% differential between the FCC’s standard and alternative contour methodologies.<sup>38</sup> The engineering statement supporting Bott’s Interference Complaint clearly demonstrates that this is the case here.<sup>39</sup> Accordingly, Bott permissibly relied upon the Longley-Rice methodology in its Interference Complaint to provide a more accurate representation of KCIV’s service area impacted by K259CF’s interference.<sup>40</sup>

**E. Mr. Cocola Fails to use “Suitable Techniques” to Eliminate the Interference to KCIV’s Listeners**

In the Response, Mr. Cocola indicates that he intends to eliminate interference to KCIV’s listeners caused by K259CF by providing the listener complainants with “a free up-to-date digital replacement radio, whether in the home or vehicle.”<sup>41</sup> Mr. Cocola alleges, through his counsel, that such efforts constitute “suitable techniques” to eliminate interference pursuant to Section 74.1203(b) because “[the] digital radio receiver” to be provided to listener complainants

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<sup>36</sup> Interference Complaint at Exhibit B, 1.

<sup>37</sup> Ruck Declaration ¶ 7.

<sup>38</sup> *See Skytower Communications – 94.3, LLC*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 25 FCC Rcd. 13204, 13212-13, ¶ 27 (MB 2010).

<sup>39</sup> *See* Interference Complaint at Exhibit B, 1-2.

<sup>40</sup> Ruck Declaration ¶ 7.

<sup>41</sup> Response at 3.

“was field tested and came up clean.”<sup>42</sup> The FCC permits translator licensees to eliminate interference through replacement of a complainant’s radio equipment.<sup>43</sup> Here, however, merely replacing the listener complainants’ radios is obviously not a “suitable technique” for eliminating interference as at least one complainant has replaced his car radio with a newer model *but continues to experience interference from Mr. Cocola’s station*.<sup>44</sup> Mr. Cocola has not indicated whether he would utilize any other “suitable techniques” to eliminate interference. Accordingly, Mr. Cocola’s proposal to eliminate interference merely by replacing the listener complainants’ radios fails.

## II. SUPPLEMENTAL INTERFERENCE COMPLAINTS

Bott hereby supplements its original Interference Complaint with additional listener complaints of interference to KCIV’s signal by K259CF. These supplemental interference complaints, attached hereto as Attachment C,<sup>45</sup> reflect that other KCIV listeners are having difficulties tuning into the station in the vicinities of Fresno and Coarsegold, California – even after Mr. Cocola has been informed of the interference issue.<sup>46</sup> Accordingly, the supplemental listener complaints emphasize that Mr. Cocola has not eliminated interference to KCIV caused by his FM translator.

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<sup>42</sup> See Couzens Email.

<sup>43</sup> See *May 2018 NPRM* at 5, ¶ 8 (“Translator licensees may [] attempt to resolve individual interference complaints by replacing, repairing, or adjusting the listener’s home or vehicle receiver.”).

<sup>44</sup> See Armstrong Email (“I switched to a different (and newer) radio and have a better signal but still am picking up some interference from 99.7 FM, particularly in the evenings.”).

<sup>45</sup> An updated version of the map depicting the listener complainants’ locations provided in Bott’s Interference Complaint is attached hereto as Attachment F – which now includes the locations of the three supplemental listener complainants.

<sup>46</sup> Furthermore, the complainant residing in Coarsegold, California, is located within KCIV’s 60 dB $\mu$  service contour. See Attachment F.

It appears that the cause of K259CF's interference with KCIV's signal can be traced back to the flawed engineering supporting the FM translator's construction permit application (File No. BPFT-20180117ACG) ("Construction Permit Application"). As demonstrated by the Ruck Declaration, the engineer who prepared K259CF's Construction Permit Application failed to recognize that KCIV's signal level would have been sufficient to allow reception of the public *beyond* the FCC's standard contours for KCIV.<sup>47</sup> Section 74.1204(f) of the Commission's rules provides that:

An application for an FM translator station will not be accepted for filing . . . 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 . . . first . . . adjacent channel broadcast station . . . and grant of the authorization will result in interference to the reception of such signal.<sup>48</sup>

K259CF's predicted 1mV/m field strength contour overlaps a populated area already served by KCIV – which is licensed to operate on the FM translator's first-adjacent channel.<sup>49</sup> Therefore, it is clear that K259CF *cannot* operate without causing interference to KCIV within a populated area served by the station.<sup>50</sup>

As a result of the engineer's oversight in K259CF's Construction Permit Application, Mr. Cocola's FM translator is now causing interference to KCIV on an ongoing basis. Therefore, the FCC must immediately order K259CF to suspend operations pursuant to Section 74.1203(b) of the Commission's rules.

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<sup>47</sup> Ruck Declaration ¶¶ 3-5.

<sup>48</sup> 47 C.F.R. § 74.1204(f).

<sup>49</sup> Ruck Declaration ¶ 4. *See also* Interference Complaint at Exhibit B, 1-2.

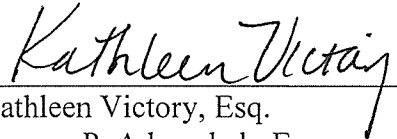
<sup>50</sup> Ruck Declaration ¶¶ 3-6.

## CONCLUSION

As stated in the FCC Letter, Mr. Cocola's "[f]ailure to correct the complaint within [30 days] may require [] K259CF to suspend operation pursuant to 47 C.F.R. § 74.1203 . . . ." <sup>51</sup> KCIV has been operating in the Fresno, California metropolitan area since the late 1980s, and has cultivated a strong listenership in the area since the station commenced operations. As evidenced by the many interference complaints received, KCIV's strong listenership is losing its ability to receive the programming of a favorite station due to K259CF's interference with the KCIV signal. Mr. Cocola's translator interferes with the signal of KCIV in violation of the FCC's rules. Mr. Cocola has utterly failed to comply with the FCC Letter's requirements and to eliminate interference to KCIV's listeners caused by his FM translator. Bott respectfully requests that the FCC order K259CF to cease operations *immediately* pursuant to Section 74.1203(b) of the Commission's rules.

Respectfully submitted,

BOTT COMMUNICATIONS, INC.



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Dated: September 17, 2018

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<sup>51</sup> FCC Letter at 3.

**ATTACHMENT A**

**Couzens Email**



**From:** mike couzens [mailto:[cuz@well.com](mailto:cuz@well.com)]  
**Sent:** Tuesday, August 07, 2018 8:57 PM  
**To:** Kathleen Victory <[victory@fhhlaw.com](mailto:victory@fhhlaw.com)>  
**Subject:** Re: KCIV interference complaint.

Hi Kathleen.

By now you have received the staff letter. We will respond to it in the time permitted.

In the mean time, the licensee has established a local call-in number that is monitored 24 hours a day. Any listener may call in with a request, and the station will provide a replacement for their obsolete radio at no cost. In the area of concern, a digital radio receiver was field tested and came up clean.

In Fresno: 559-298-2800

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**ATTACHMENT B**

**Armstrong Email**

**From:** Bruce Armstrong [<mailto:brucearmstrong65@gmail.com>]

**Sent:** Thursday, September 6, 2018 6:35 PM

**To:** Eben Fowler <[efowler@boltradiationetwork.com](mailto:efowler@boltradiationetwork.com)>

**Subject:** Follow-Up - KKDJ Interference

Just a quick follow-up / FYI: As of this afternoon, I've heard nothing from Gary Cocola / KKDJ regarding the interference issue. I switched to a different (and newer) radio and have a better signal but still am picking up some interference from 99.7 FM, particularly in the evenings.

Hope all is well otherwise.

Best,

Bruce Armstrong

**ATTACHMENT C**

**Supplemental Listener Complaints**

INTERFERENCE COMPLAINT

FM TRANSLATOR K259CF, 99.7 MHz, SOUTH FRESNO, CALIFORNIA (FACILITY ID NO. 144742), FCC FILE NO. BLFT-20180306AAR, IS CAUSING INTERFERENCE TO THE PUBLIC'S RECEPTION OF THE SIGNAL OF KCIV(FM), 99.9 MHz, MOUNT BULLION, CALIFORNIA (FACILITY ID NO. 6504).

Please Print Clearly

NAME Mrs. Patricia Taussig

ADDRESS 2706 W. Ashlan #22

CITY Fresno STATE Ca. ZIP CODE 93705

EMAIL ADDRESS warrenpt@sbcglobal.net

TELEPHONE NUMBER 559-224-1805

I LISTEN TO KCIV, 99.9 MHz, AT HOME  OFFICE  OR CAR .

I AM A REGULAR  FREQUENT  OCCASIONAL  OR

OTHER  LISTENER OF KCIV, 99.9 MHz.

WHEN DID YOU NOTICE INTERFERENCE ON KCIV, 99.9 MHz (DATE): maybe Jan '18

STATE WHERE YOU USED TO HEAR KCIV, 99.9 MHz, AND CANNOT HEAR THE FULL SIGNAL

NOW WITHOUT INTERFERENCE We moved here in 2002 and could hear

KCIV clearly - I have no TV and listen to KCIV all day long.

COMMENTS I really miss the clarity of the station and the

excellent programs - frustration to have to turn to another

station - I'm constantly praying for those in charge to be able to get

our wonderful station back on!

I CERTIFY THAT I HAVE NO LEGAL, ECONOMIC OR FAMILIAL STAKE IN THE OUTCOME/RESOLUTION OF THE INTERFERENCE MATTER.

THE FCC OR KCIV, 99.9 MHz, CAN CONTACT ME FURTHER REGARDING THIS INTERFERENCE COMPLAINT YES  NO

X SIGNED Patricia A. Taussig DATE 8/31/18

INTERFERENCE COMPLAINT

FM TRANSLATOR K259CF, 99.7 MHz, SOUTH FRESNO, CALIFORNIA (FACILITY ID NO. 144742), FCC FILE NO. BLFT-20180306AAR, IS CAUSING INTERFERENCE TO THE PUBLIC'S RECEPTION OF THE SIGNAL OF KCIV(FM), 99.9 MHz, MOUNT BULLION, CALIFORNIA (FACILITY ID NO. 6504).

Please Print Clearly

NAME Calvin T. Wold

ADDRESS 29436 Yosemite Springs Parkway

CITY Coarsegold STATE CA ZIP CODE 93614

EMAIL ADDRESS Calvin.Wold@gmail.com

TELEPHONE NUMBER (559) 676-2593

I LISTEN TO KCIV, 99.9 MHz, AT HOME \_\_\_\_\_ OFFICE \_\_\_\_\_ OR CAR X

I AM A REGULAR X FREQUENT \_\_\_\_\_ OCCASIONAL \_\_\_\_\_ OR

OTHER \_\_\_\_\_ LISTENER OF KCIV, 99.9 MHz.

WHEN DID YOU NOTICE INTERFERENCE ON KCIV, 99.9 MHz (DATE) approx May 2018

STATE WHERE YOU USED TO HEAR KCIV, 99.9 MHz, AND CANNOT HEAR THE FULL SIGNAL

NOW WITHOUT INTERFERENCE Continuously during my daily commute from Coarsegold to Fresno (about 90 miles)

COMMENTS Rock music from Radio Station KKDJ (99.7)

bleeds over to KCIV and is very distracting to the messages I'm attempting to listen to. Please fix! Thank you.

I CERTIFY THAT I HAVE NO LEGAL, ECONOMIC OR FAMILIAL STAKE IN THE OUTCOME/RESOLUTION OF THE INTERFERENCE MATTER.

THE FCC OR KCIV, 99.9 MHz, CAN CONTACT ME FURTHER REGARDING THIS INTERFERENCE COMPLAINT YES X NO \_\_\_\_\_

SIGNED Calvin T. Wold DATE 8/29/18

INTERFERENCE COMPLAINT

FM TRANSLATOR K259CF, 99.7 MHz, SOUTH FRESNO, CALIFORNIA (FACILITY ID NO. 144742), FCC FILE NO. BLFT-20180306AAR, IS CAUSING INTERFERENCE TO THE PUBLIC'S RECEPTION OF THE SIGNAL OF KCIV(FM), 99.9 MHz, MOUNT BULLION, CALIFORNIA (FACILITY ID NO. 6504).

Please Print Clearly

NAME STACE A. GARCIA

ADDRESS 7394 N. THORNE AVE.

CITY FRESNO STATE CA ZIP CODE 93711

EMAIL ADDRESS SIMPLYSTACECOOKS@LIVE.COM

TELEPHONE NUMBER 559.250.5312

I LISTEN TO KCIV, 99.9 MHz, AT HOME XXX OFFICE \_\_\_\_\_ OR CAR XXX.

I AM A REGULAR <sup>90% OF MY TIME</sup> \_\_\_\_\_ FREQUENT \_\_\_\_\_ OCCASIONAL \_\_\_\_\_ OR

OTHER \_\_\_\_\_ LISTENER OF KCIV, 99.9 MHz.

WHEN DID YOU NOTICE INTERFERENCE ON KCIV, 99.9 MHz (DATE) 06/29/2018

STATE WHERE YOU USED TO HEAR KCIV, 99.9 MHz, AND CANNOT HEAR THE FULL SIGNAL NOW WITHOUT INTERFERENCE Downtown Fresno; Hwy 41; near tunnels or bridges.

COMMENTS I NEED my Bot Radio Network... I'd love to hear it without the horrible static.

I CERTIFY THAT I HAVE NO LEGAL, ECONOMIC OR FAMILIAL STAKE IN THE OUTCOME/RESOLUTION OF THE INTERFERENCE MATTER.

THE FCC OR KCIV, 99.9 MHz, CAN CONTACT ME FURTHER REGARDING THIS INTERFERENCE COMPLAINT YES xxx NO \_\_\_\_\_

SIGNED  DATE 08/24/2018

**ATTACHMENT D**

**Declaration of Jeremy D. Ruck, PE**



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

In the Matter of )  
 )  
GARY M. COCOLA, ) Facility ID No. 144742  
 )  
Licensee of FM Translator, K259CF, )  
South Fresno, California )

**DECLARATION OF JEREMY D. RUCK, PE**

I, **Jeremy D. Ruck, PE**, hereby declare as follows:

1. I am an engineering consultant for Bott Communications, Inc. ("Bott"). I make this declaration in voluntary support of Bott's Reply to Gary M. Cocola's Response to Bott's Interference Complaint against K259CF, South Fresno, California (Facility ID No. 144742) ("Reply").
2. In support of Bott's Reply, I have examined K259CF's construction permit application (File No. BPFT-20180117ACG) ("Construction Permit Application"), which proposed operations of the FM translator on KCIV's first-adjacent channel: Channel 259/99.7 MHz.
3. Based on my examination of K259CF's Construction Permit Application, it appears that the engineer who prepared the application failed to recognize that KCIV's signal level would have been sufficient to allow reception of the public *beyond* KCIV's FCC-determined contours.
4. Section 74.1204(f) of the Commission's rules provides that:

An application for an FM translator station will not be accepted for filing . . . 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 . . . first . . . adjacent channel broadcast station . . . and grant of the authorization will result in interference to the reception of such signal.

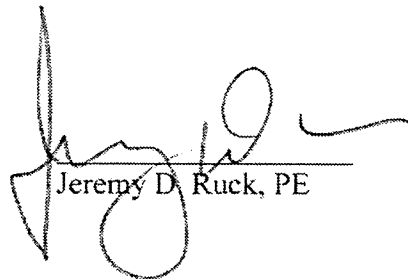
Based on my examination of K259CF's Construction Permit Application, K259CF's predicted 1mV/m field strength contour overlaps a populated area already served by KICV - which is licensed to operate on the FM translator's first-adjacent channel (Channel 260/99.9 MHz). Therefore, K259CF's Construction Permit was granted in violation of Section 74.1204(f).

*JDR*

5. As FM translator service is considered to be a secondary service by the FCC, K259CF's Construction Permit Application should not have been granted because the FM translator could not operate without causing interference to KCIV's listeners located within the FM translator's service area.
6. Due to the flawed engineering analysis supporting K259CF's Construction Permit Application, the FM translator is now causing actual interference to KCIV's signal using facilities which violate Section 74.1204(f).
7. Finally, Bott's usage of the Longley-Rice methodology in its Interference Complaint was necessary to demonstrate that KCIV's signal level varied widely from the FCC's standard contour method. The usage of the FCC's standard contour method can be misleading due to the unusual and unrepresentative terrain upon which the curves were crafted. The FCC permits complainants to use alternative propagation methodologies to demonstrate coverage – such as Longley-Rice – in cases where there is at least a 10% differential between the FCC's standard and alternative contour methodologies – as is the case here. Accordingly, Bott correctly relied upon the Longley-Rice methodology to provide a more accurate representation of KCIV's actual service area impacted by K259CF's interference.

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

Executed on September 14, 2018.



Jeremy D. Ruck, PE

**ATTACHMENT E**

**Victory Email**

## **Kathleen Victory**

**From:** Kathleen Victory  
**Sent:** Thursday, August 09, 2018 11:42 AM  
**To:** 'mike couzens'  
**Subject:** RE: KCIV interference complaint.

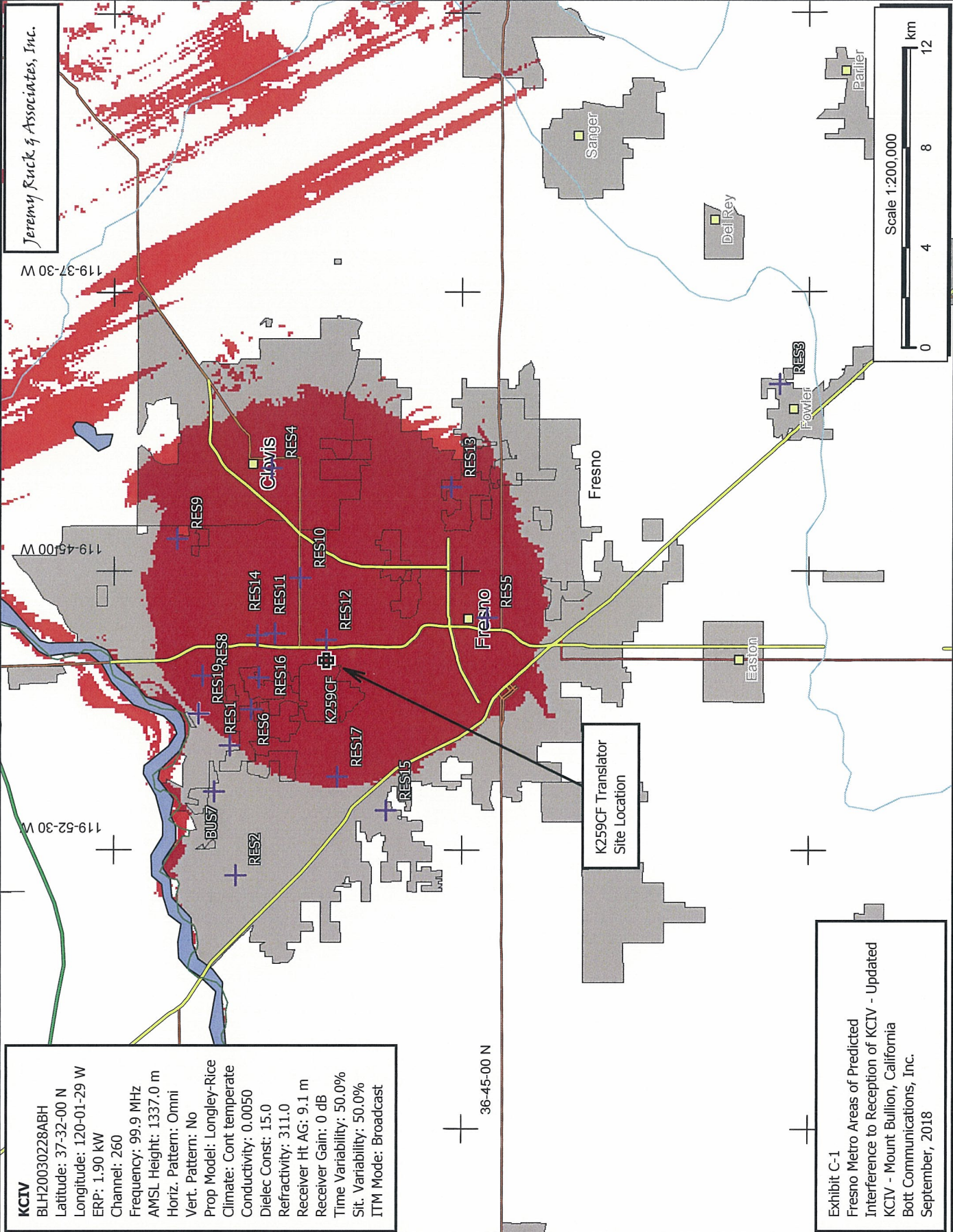
**Follow Up Flag:** Follow up  
**Due By:** Friday, August 17, 2018 10:00 AM  
**Flag Status:** Flagged

Hi Mike. Please advise what equipment Gary is proposing to provide for home/office radio use and specifically what the proposal is for listeners that are receiving interference on their car radios. How is it that Gary is distributing the call in number that listeners may call? I note that the VM on that number does not acknowledge or provides any indication of what it is for.

Kathleen

**ATTACHMENT F**

**Revised Map of Listener Complainants' Locations**



Jeremy Ruck & Associates, Inc.

119-37-30 W

119-46-00 W

119-52-30 W

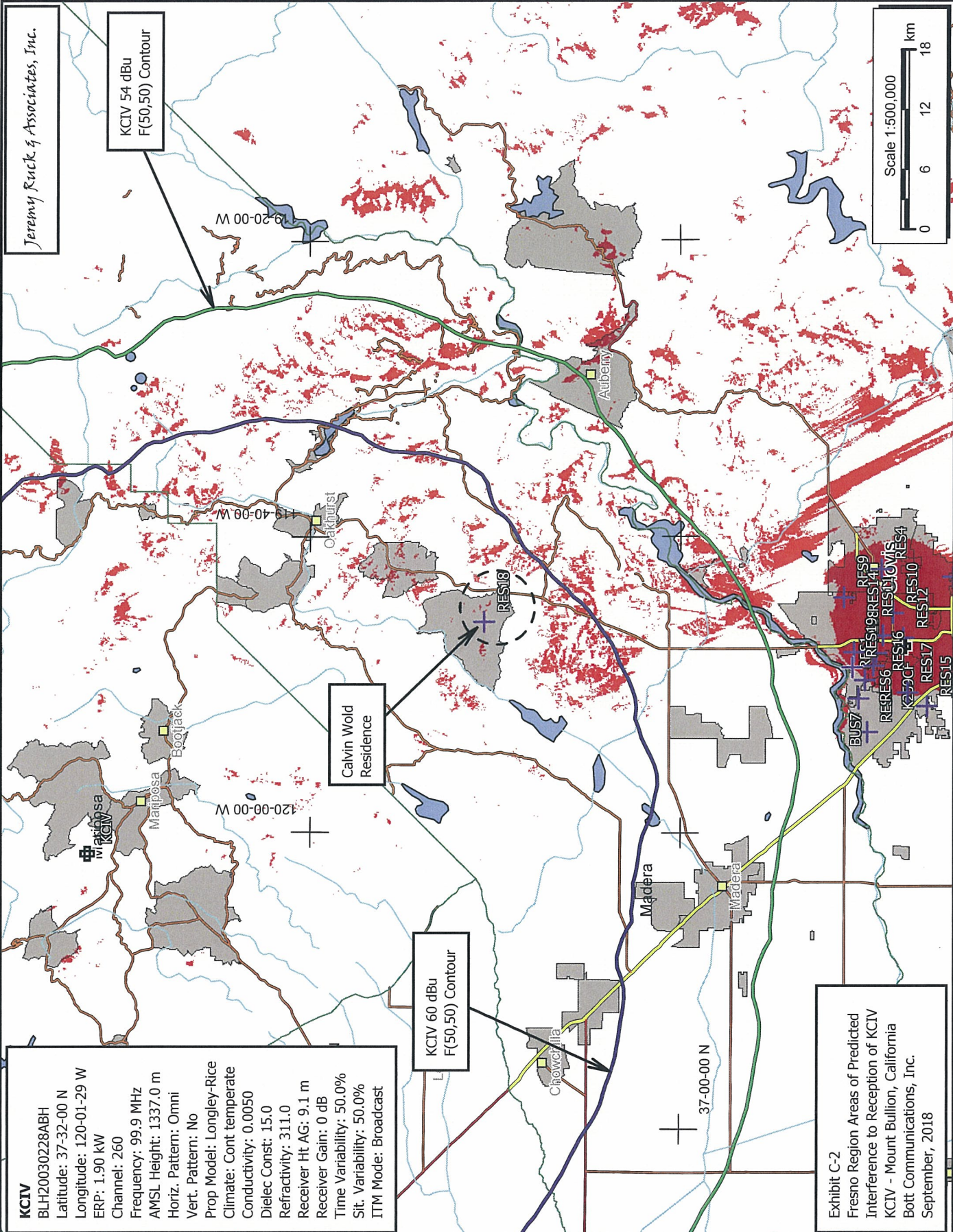
36-45-00 N

**KCIV**  
 BLH20030228ABH  
 Latitude: 37-32-00 N  
 Longitude: 120-01-29 W  
 ERP: 1.90 kW  
 Channel: 260  
 Frequency: 99.9 MHz  
 AMSL Height: 1337.0 m  
 Horiz. Pattern: Omni  
 Vert. Pattern: No  
 Prop Model: Longley-Rice  
 Climate: Cont temperate  
 Conductivity: 0.0050  
 Dielec Const: 15.0  
 Refractivity: 311.0  
 Receiver Ht AG: 9.1 m  
 Receiver Gain: 0 dB  
 Time Variability: 50.0%  
 Sit. Variability: 50.0%  
 ITM Mode: Broadcast

K259CF Translator  
 Site Location



Exhibit C-1  
 Fresno Metro Areas of Predicted  
 Interference to Reception of KCIV - Updated  
 KCIV - Mount Bullion, California  
 Bott Communications, Inc.  
 September, 2018



Jeremy Ruck & Associates, Inc.

KCIV 54 dBu  
F(50,50) Contour



**KCIV**  
 BLH20030228ABH  
 Latitude: 37-32-00 N  
 Longitude: 120-01-29 W  
 ERP: 1.90 kW  
 Channel: 260  
 Frequency: 99.9 MHz  
 AMSL Height: 1337.0 m  
 Horiz. Pattern: Omni  
 Vert. Pattern: No  
 Prop Model: Longley-Rice  
 Climate: Cont temperate  
 Conductivity: 0.0050  
 Dielec Const: 15.0  
 Refractivity: 311.0  
 Receiver Ht AG: 9.1 m  
 Receiver Gain: 0 dB  
 Time Variability: 50.0%  
 Sit. Variability: 50.0%  
 ITM Mode: Broadcast

Calvin Wold  
Residence

KCIV 60 dBu  
F(50,50) Contour

Exhibit C-2  
 Fresno Region Areas of Predicted  
 Interference to Reception of KCIV  
 KCIV - Mount Bullion, California  
 Bott Communications, Inc.  
 September, 2018

**DECLARATION**

I, Richard P. Bott, II, hereby attest to the following:

1. I am the Vice President of Bott Communications, Inc.
2. I have personal knowledge of the facts set forth in the foregoing Reply.
3. I have read the Reply, and the responses therein are truthful and correct to the best of my knowledge, information, and belief.

I hereby certify that to the best of my knowledge and belief, under penalty of perjury, the foregoing statements are true and correct.

A handwritten signature in black ink that reads "Richard P. Bott, II". The signature is written in a cursive style with a large initial "R" and a long horizontal stroke at the end.

Richard P. Bott, II

Dated: September 14, 2018



**CERTIFICATE OF SERVICE**

I, Kathleen Victory, of Fletcher, Heald & Hildreth, PLC, hereby certify that I caused a true copy of the foregoing Reply to be sent this 17th day of September, 2018, via U.S. First Class Mail, postage prepaid, and via email, where indicated, to the following individuals:

Michael Couzens, Esq.\*  
P.O. Box 3642  
Oakland, CA 94609  
cuz@well.com

Gary M. Cocola  
225 Crossroads Blvd., Suite 183  
Carmel, CA 93923

\* via email

  
\_\_\_\_\_  
Kathleen Victory