

Before the
Federal Communications Commission
Washington, D.C. 20554

NOV No. V201032800008

² 47 C.F.R. § 1.89(a).

Federal Communications Commission

- b. 47 C.F.R. § 11.15: "The EAS Operating Handbook . . . must be located at normal duty positions or EAS equipment locations when an operator is required to be on duty and be immediately available to staff responsible for authenticating messages and initiating actions."

At the time of the inspection, the agent found that no EAS Operating Handbook was available.

3. As the nation's emergency warning system, the Emergency Alert System is critical to public safety, and we recognize the vital role that broadcasters play in ensuring its success. The Commission takes seriously any violations of the Rules implementing the EAS and expects full compliance from its regulatees. Pursuant to Section 403 of the Communications Act of 1934, as amended,³ and Section 1.89 of the Commission's Rules, we seek additional information concerning the violations and any remedial actions the station may have taken. Therefore, Beacon must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.⁴

4. In accordance with Section 1.16 of the Commission's Rules, we direct Beacon to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Beacon with personal knowledge of the representations provided in Beacon's response, verifying the truth and accuracy of the information therein,⁵ and confirming that all of the information requested by this Notice which is in the licensee's possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.⁶

5. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

³ 47 U.S.C. § 403.

⁴ 47 C.F.R. § 1.89(c).

⁵ Section 1.16 of the Commission's Rules provides that "[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'." 47 C.F.R. § 1.16.

⁶ 18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

Federal Communications Commission

Federal Communications Commission
Denver District Office
215 South Wadsworth Boulevard, Suite 303
Lakewood, Colorado 80226

6. This Notice shall be sent to Beacon Broadcasting, LLC, at its address of record.
7. The Privacy Act of 1974⁷ requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

FEDERAL COMMUNICATIONS COMMISSION



Nikki P. Shears
District Director
Denver District Office
Western Region
Enforcement Bureau

⁷ P.L. 93-579, 5 U.S.C. § 552a(e)(3).



Phone: 719.336.8734
Fax: 719.336.5977
KVAY.com
P.O. Box 1176
Lamar, CO 81052

January 11, 2010

Federal Communications Commission
Denver District Office
Nikki P. Shears, District Director
215 S. Wadsworth Blvd., Suite #303
Lakewood, CO 802206

Dear Nikki P. Shears:

This letter is in regards to a "Notice of Violation" released January 4, 2010. File No. EB-09-DV-0044, NOV. No. V201032800008 and Facility ID # 31531.

1. 47 C.F.R. 11.35 EAS. My determination for the cause of failure to receive the required EAS tests was due to our receiver not being on the exact frequency for receiving the signal from KLMR. We have adjusted the location on the dial and we have made an additional log for reporting and monitoring The EAS equipment which includes checking the frequency, volume and paper for the receiver. I believe the problem has been corrected and will not happen again as we have taken all the precautionary measures possible.
2. There were no entries in our station logs indicating why RWT's from the LP-1 monitoring assignment, KLMR -AM for the weeks of Oct. 5-11 and Oct. 19-25 due to lack of knowledge and education in this area. We had logged this in our daily transmitter logs but not on the RWT report. This has been rectified by using the FCC EAS station log document and in addition we double that information in our daily transmitter log book.
3. There were no entries for the second channels monitoring assignments for the week of Oct. 5 and Nov. 1st due again to the lack of knowledge and education in this area. We now have the FCC's station log document and again doubled that information in our daily transmitter logs. We also have all of our on air staff trained to be able to check the receiver to make sure everything is working, the frequency is set appropriately, the volume is adequate and there is plenty of paper in the machine.
4. 47 C.F.R. 11.15, the EAS operating Handbook was not in the on-air control room. It was located in a office outside of the control room. That has been rectified by putting a shelf in the on-air control room that includes the EAS operating handbook along with our log book.

The above information is a true and accurate account of the situation of each violation KWAY Radio, Beacon Broadcasting, LLC received and the information concerning the actions taken to correct each violation.

I, Debbie Ellis, General Manager of KWAY Radio, swear that the above information is true, accurate and correct.

Debbie Ellis

Debbie Ellis General Manager

1-12-10

Date

Kathy Foster

Notary

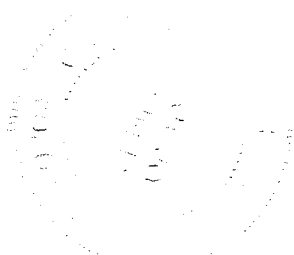
Notary Kathy Foster

1/12/2010

Date

11/10/2011

Expiration of



To whom it may concern:

Regarding FCC severe weather EAS Broadcasting system print outs

- On 6/11/09 at 1:57pm ran out of paper.
- Will receive paper on 6/12/09 at 8:00a
- 6/11/09 Severe Thunderstorm warning tornado warnings not printed but did live coverage of severe weather from 5p-9p
- National weather service in Pueblo continued to broadcast weather warnings
- 6/12 received print paper at 8am, installed and back to normal procedures
- EAS Broadcast unit having printing glitches on 6/12/09
- Contacted engineers at 11a



Debra K Ellis, Notary

My Commission Expires
July 6, 2011

On June 12, 2009

To whom it may concern:
 Regarding
 FCC SEVERE WX EAS ~~Beach~~
 Broadcasting system
 Print outs

ON 6/11/09 @ 1:57pm - ^{out of} Paper

will RECIEVE paper 6/12/09 @ 8am

- 6/11/09 SEVERE THUNDERSTORM WARNING
 Tornado WARNINGS NOT PRINTED

- But did live coverage of SEVERE WX
 From 5p - 9p

- National WX SERVICE in Pueblo continued
 To broadcast weather warnings

- ON 6/12/09 Rec. print paper @ 8am
 installed : back to Normal procedures

- EAS Broadcast unit Having printing glitches
 on 6/12/09 - Engineers Have Been Notified
 @ 11am contacted Engineers

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Thadeus Steele

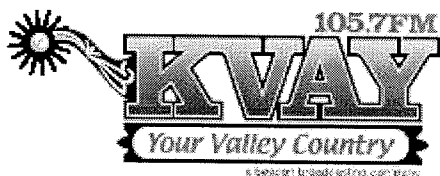
From: Thadeus Steele [thadeus@kvay.com]
Sent: Thursday, February 25, 2010 11:39 AM
To: 'jon.sprague@fcc.gov'; 'deb@kvay.com'
Subject: KWAY 105.7FM Concerns

Hello Jon,

I am contacting you in regards to KLMR's EAS system tests (RWT, RMT). As we both know, we (KWAY) were counseled on having the incorrect time on our EAS System tests (RWT, RMT) which has been corrected. With that I was instructed to contact you "for the record"; The EAS test we receive from KLMR still has the wrong time on them since Nov. 2009. We have had our engineers check the equipment on our end and they said that KLMR has the wrong time programmed, evidently they must of not changed the time from Daylight savings time.

I have noted our EAS logs, and Daily logs of the issue at hand. Thank you Jon for your time and if you have any questions or need anything please feel free to contact me anytime!

Thank you
-Thadeus



Thadeus Steele

On-Air Personality / Chief Operations Engineer

"Your Valley Entertainment w/ Thadeus Steele"

"On the Air" Monday - Friday 3p-730p MDT

Phone # 719-336-8734

Fax # 719-336-5977

www.kvay.com

Thadeus Steele

From: Jon Sprague [Jon.Sprague@fcc.gov]
Sent: Thursday, February 25, 2010 11:39 AM
To: Thadeus Steele
Subject: Out of Office AutoReply: KWAY 105.7FM Concerns

I am currently out of the office until Monday, March 1, 2010, and will not be checking my email. If you are in need of enforcement assistance please call the FCC Denver Office at 303-231-5212.

Thadeus Steele

From: Jon Sprague [Jon.Sprague@fcc.gov]
Sent: Thursday, February 25, 2010 12:04 PM
To: Thadeus Steele; deb@kvay.com
Subject: RE: KWAY 105.7FM Concerns

Thadeus:

I will give KLMR a call and clear up the matter. Of course time change is on Mar 14th again, so let me know if the problem does not get fixed.

Thank you for the update!

Jon

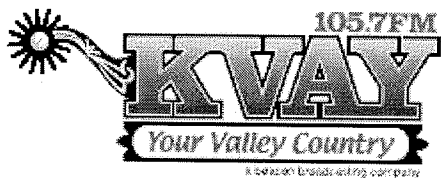
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Thadeus Steele

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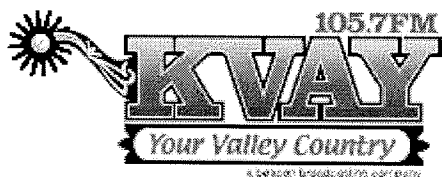
Phone # 719-336-8734

Fax # 719-336-5977

Thadeus Steele

From: Debbie Ellis [deb@kvay.com]
Sent: Monday, March 01, 2010 10:14 AM
To: 'Jon Sprague'
Cc: 'Thadeus Steele'
Subject: RE: KWAY 105.7FM Concerns

Thank you Jon for your help. Have a great vacation!
Debbie



Debbie Ellis
General Manager/Sales Director
KWAY Radio
Phone # 719-336-8734
Fax # 719-336-5977
E-Mail - deb@kvay.com

From: Jon Sprague [mailto:Jon.Sprague@fcc.gov]
Sent: Monday, March 01, 2010 10:03 AM
To: Debbie Ellis
Subject: RE: KWAY 105.7FM Concerns

Debbie:

KLMR AM/FM was advised today of the discrepancy and will notify me when it gets fixed. I will be out of the office until early April on vacation.

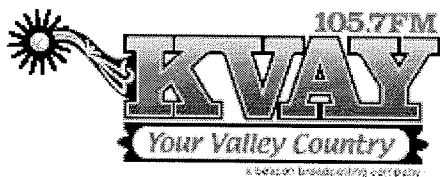
Thank you for bringing this to my attention and we appreciate you keeping your station in compliance too.

Jon

From: Debbie Ellis [mailto:deb@kvay.com]
Sent: Thursday, February 25, 2010 1:36 PM
To: Jon Sprague
Cc: 'Thadeus Steele'
Subject: RE: KWAY 105.7FM Concerns

Thanks Jon, I know the time will change again in a few days, but I told Thadeus that we need to have all this on record. We are trying hard to do things right and keep in compliance. So thanks for your help.

Debbie



Debbie Ellis
General Manager/Sales Director
KWAY Radio
Phone # 719-336-8734
Fax # 719-336-5977
E-Mail - deb@kway.com

From: Jon Sprague [mailto:Jon.Sprague@fcc.gov]
Sent: Thursday, February 25, 2010 12:04 PM
To: Thadeus Steele; deb@kway.com
Subject: RE: KWAY 105.7FM Concerns

Thadeus:

I will give KLMR a call and clear up the matter. Of course time change is on Mar 14th again, so let me know if the problem does not get fixed.

Thank you for the update!

Jon

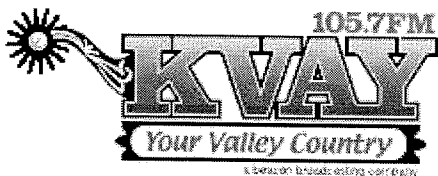
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Thank you
-Thadeus



Thadeus Steele

On-Air Personality / Chief Operations Engineer

"Your Valley Entertainment w/ Thadeus Steele"

"On the Air" Monday - Friday 3p-730p MDT

DEB

From: DEB <deb@kvay.com>
Sent: Thursday, June 28, 2012 7:58 AM
To: 'Justin Sasso'
Subject: RE: FYI

That would be fine, or how can we become the LP1??? Is that ever changed?



Debbie Ellis
General Manager/Sales Director
KVAY Radio
Phone # 719-336-8734
Cell # 719-688-4697
Fax # 719-336-5977
Email - deb@kvay.com

From: Justin Sasso [<mailto:Justin@coloradobroadcasters.org>]
Sent: Wednesday, June 27, 2012 4:55 PM
To: 'DEB'
Subject: RE: FYI

Thanks for the update Deb. I will reach out to Pat and his engineer for some form of help in fixing this.

The CBA has an Engineers Advisory Panel for help with EAS issues. Perhaps someone on that panel knows someone at Cherry Creek.

I will let you know what I find.

Justin Sasso
President & CEO
Colorado Broadcasters Association
(720) 536-5427 (office)
(720) 536-5259 (fax)
(720) 440-2221 (cell)
www.coloradobroadcasters.org



Don't let your CBA membership expire. Renewals are due July 31, 2012.

From: DEB [<mailto:deb@kvay.com>]
Sent: Wednesday, June 27, 2012 1:20 PM
To: Justin Sasso
Subject: FYI

Hi Justin, Arvid was here on Monday, nice fellow! I felt bad for him, his air conditioner went out, I took him to a local shop, but they needed to order a motor and it would take 24hrs to get here, so he is driving in our 109 temp. with NO air, poor guy! Anyway, things went well, I need to paint the tower and few things, but we are good. During our conversations he told me to let you know about an ongoing problem we have here at KWAY. KLMR is the LP1 for our area and they do not send required monthly tests and haven't for a very long time. Being over 200 miles from KOA makes it difficult to participate in RMT's required by the FCC. We are looking to the CBA for assistance in compliance with FCC EAS regulations.

Thanks
Debbie



Debbie Ellis
General Manager/Sales Director
KWAY Radio
Phone # 719-336-8734
Cell # 719-688-4697
Fax # 719-336-5977
Email - deb@kvay.com

CONFIDENTIAL

Facility ID#: 31531

(Original to Inspector - copy to station)

Page 1 of 2

FM Station Alternative FCC-Inspection Report (Adapted from amended FCC FO-794)

Date: 6/25/12 Call: KVA4 Freq: 105.7 Compliant: Y (N)

Licensee: BEACON BROADCASTING, LLC Community of License: LAMAR

Compiled for the Wychor Alternative-FCC State Broadcaster Associations Inspection Programs By K.J. Benner & Associates,
Arvid Sonsteli Broadcast Services and E.S. Sutton & Associates
Initial - compliance; P/Initials - Pending minor correction; N=Non-compliance; N/A=Not Applicable

- AC All current stations authorizations posted (§73.1230(a)) AC Station @ Auth. Power (§73.267)
- AC License is accurate for tower coordinates:
- AC Licensed Coordinates: N 38 06 44 W 102 57 39 Datum: X NAD27 NAD 83
- AC GPS. Measured: N 38 06 44.7 W 102 57 37.1 Datum: X NAD27 NAD 83
- AC Chief Operator designation posted (§73.1870(b)(3)) 854 Tower Registration # 1059731
- AC Tower registration number posted and current 854R registration number match
- For NAD-27 to NAD-83 conversion or vice-versa, go to: <http://www.ngs.noaa.gov/TOOLS/Nadcon/Nadcon.html>
- N/A If Chief Operator Is contractor, contract is available for inspection (§73.1870(b)(3))
- AC Public File is compliant (§73.3526, 73.3527, 73.1202, 73.2080, 73.3612, et al)*
- AC Chief Operator is making weekly log review of EAS tests, Tower light outage with FAA notifications and meter calibrations with date and full signature (§73.1870(c)(3))
- AC Logs and computations indicate operation within licensed limits (TSA & §73.1560(b))
- AC Required indicating instruments (§73.258) AC Carrier Freq. +/- 2kHz (§73.1545(b))
- AC Mod. Level acceptable (§73.1570(B)(2)) AC Power 90-105% of authorized (§73.1560(b))
- AC Xmtr. Eff. Factor available (§73.267) AC Dir & Indir. Pwr. agree (TSA & §73.267)
- AC Stereo pilot: 19kHz +/- 2Hz (§73.297(b)) AC Stereo pilot injection: 8-10% (§73.322(a)(2))
- AC Residual stereo 38kHz subcarrier less than 1% mod of main carrier (-40db) (§73.322(a)(5))
- AC Subcarriers at acceptable frequency and level (§73.317, §73.319, §73.1590 & §73.1690)
- AC Log of FAA notification of tower light outage (§17.48, 17.49, 73.1213, 73.1820(a)(1))
- AC Tower Painting, number of bands (typically 7) and lighting proper per TSA and (Part 17)
- AC On/Off Xmtr control proper (§73.1350(b)(2)) AC Remote power metering/calibration w/in 2% (§73.1215)
- AC Meter calibrations and logging proper (§73.1350(c), §73.1215)
- N/A If power is determined by direct method, calibration data is available (§73.267(c))
- N/A If power is determined by direct method, calculated efficiency is reasonable.
- AC If power is determined by indirect method, efficiency factor derivation is available (§73.267(c))
- AC Is Tower operated at RF ground X Y N (If No, are fence and warning postings proper?)
- N/A If Tower is NOT at RF ground: Tower fences and RF warning signs at sufficient distance to protect public and Workers from RF (1.1300)
- AC Wiring & radiation safe for operators (OSHA)
- Equipment Performance Measurements available and complete. (Required on installation of new transmitter, exciter, subcarrier or stereo generator and must be available for inspection for two years following installation of transmitter modification) (§73.1590)
- Harmonic, spurious radiation and occupied bandwidth compliant (73.317)
- AC EAS receivers operational and properly tuned (§11.52) EAS Test Xmsn proper (§11.52)
- AC EAS Data tone modulation proper (§11.51(f)) (Minimum 80% Modulation for data chirp)
- AC EAS Operating Handbook and State plan book at operator position (§11.15)
- AC EAS Logs indicate weekly & monthly tests sent and received (§11.61(a)(1)(2) & 11.61(b)) NO MONTHLY TEST AVAILABLE.
- AC EAS En/Decoder FCC certified (§11.34(a)) AC Operator on duty: EAS knowledgeable

*Pending items from EB-18FM: _____

(FCC Self Inspection Checklist)

If applicable, the signature certifies items (P) pending above will be corrected within 60 days:

Debbie Ellis

Signature

16-25-12

Date

(Continued →)

Broadcast Antenna Tower Survey (FCC File 1130-A as modified)

10 Tower lighting and marking matches license specifications. (FAA approval to remove lighting is not sufficient. Station license must be modified.)

AR Tower has 7 bands (in most cases), equal width, top and bottom aviation orange

AR Lighting as indicated. ☒ Minimal paint chipping, peeling, fading (\$17.50)

AR Tower aviation orange compliant with color chart* Tower last painted: Mo _____ Yr _____

AR Beacon flash rate between 20 and 40 flashes per minute (all flasher levels to be synchronized).

AR If lights are not always on, is auto device operational? (Must not be on a timer.)

AR If any beacons not operational, was FAA notified within 30 minutes & logged?

AR If tower(s) strobed, is system operating according to specifications?

AR Licensee understands leased tower space responsibility with respect to (§73.1213(a)(b))

*National Bureau of Standards report NBSIR 75-663 and FAAA/C 70/7460-1H Obstruction Marking and Lighting. (Hale Chart)

Inspection Participants:

| Initials: | Signature: | On Site | Title: | Date: |
|--------------|-----------------------|--|----------------|-----------|
| 1) <u>AR</u> | <u>Arvid Sonsteli</u> | <input checked="" type="checkbox"/> Y <input type="checkbox"/> N | Inspector | 6/25/2012 |
| 2) <u>AR</u> | <u>Marshall</u> | <input checked="" type="checkbox"/> Y <input type="checkbox"/> N | Chief Operator | 6/25/2012 |
| 3) _____ | _____ | <input type="checkbox"/> Y <input type="checkbox"/> N | _____ | _____ |
| 4) _____ | _____ | <input type="checkbox"/> Y <input type="checkbox"/> N | _____ | _____ |
| 5) _____ | _____ | <input type="checkbox"/> Y <input type="checkbox"/> N | _____ | _____ |
| 6) _____ | _____ | <input type="checkbox"/> Y <input type="checkbox"/> N | _____ | _____ |
| 7) _____ | _____ | <input type="checkbox"/> Y <input type="checkbox"/> N | _____ | _____ |
| 8) _____ | _____ | <input type="checkbox"/> Y <input type="checkbox"/> N | _____ | _____ |

I, Arvid Sonsteli, certify to the best of my knowledge and ability, this station, KVAY, to be under the basic rules and regulations of the United States Federal Communications Commission:

☐ Compliant

☒ Non-compliant

as indicated in this report. If non-compliant, I have determined the professional qualifications of the personnel listed above. Upon receipt of his/her/their notarized, acknowledged statement of appropriate corrective action taken faxed to me at fax number _____ within 60 days of this inspection I am authorized to and will issue a formal certification of FCC Basic Compliance.

Respectfully submitted,

Arvid Sonsteli

Arvid Sonsteli,
FCC License: PG-15521
SBE 7302 Life Member

6/25/2012
(Date)

PC: To station

Original: On file: Arvid Sonsteli

Broadcast Services

Member, State Broadcasters' Associations
Alternative FCC Inspection Team

Colorado Broadcasters Association

Voluntary Alternative FCC Inspection Program
FCC Regulatory Compliance Certification

KVAY - FM

On This date, the undersigned, with the assistance of appropriate staff and management, carefully reviewed all items in the applicable FCC Compliance and Information Bureau Checklists, FO-794 & 1130-A Inspection Reports, 854R Tower Registration, Public File Compliance, Carrier Frequency, Modulation & Power Levels, Required Logs, EAS Requirements, Licensure, Elements of Good Engineering Practices & other areas of FCC Regulatory Compliance after which it was determined:

This station is fully compliant with all current FCC Rules & Regulations.

Date: June 25, 2012



Avid Sonstelle, Inspector

Alt. FCC Inspection Team, FCC Lic. PG-15521

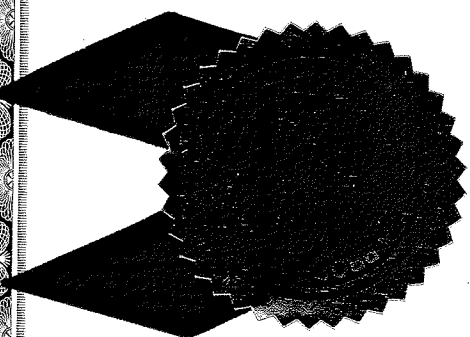
SBE Life Member No. 7302

Documentation supporting this Certificate supplied
this station with a copy on file at

Avid Sonstelle, Broadcast Services

1410 24th Ave. South

Moorhead, MN 56560



Confidential Memorandum

Date: 6/25/12 Re: Station KVAG City LAMAR State CO
Attn: DEBBIE ELLIS Mgr. & MARSHALL JOHNSON Ch. Eng.
From: Arvid Sonstelie, Member, Alternative FCC Inspection Team
Dear Colleagues,

The following represents a good faith effort on behalf of your State Broadcasters Associations, the U.S. Federal Communications Commission and the undersigned to certify this station as FCC compliant. It is not to be construed as professional legal or technical advice.

The Alternative Inspection (AIP) conducted this date raised the following item(s) of concern that merit your prompt (within 60 days) attention for FCC compliance certification:

1) FCC Reg # 73.3526 PUBLIC FILE - PROGRAMMING
ISSUES MISSING FOR ALL OF 2009 & 1ST QTR 2010

2) FCC Reg # _____

3) FCC Reg # _____

additional items on the reverse side: Yes X No

Upon my review of the professional qualifications for:

1) DEBBIE ELLIS Title: GM and/or 2) MARSHALL JOHNSON Title: ENG.

I am confident he/she/they are fully qualified to determine the achievement of FCC Compliance for the item(s) referenced herein. Within sixty days, the item prepared below, once signed, notarized and with this entire document scanned & sent via PDF attachment to ac_retired@hotmail.com. This will satisfy the requirements to certify this station as FCC compliant under the auspices of your State Broadcasters Association (AIP).

Respectfully, Arvid Sonstelie Arvid Sonstelie

Affidavit

I/We _____ (print name) _____ (print name) Wish

to certify under oath the items addressed in this memorandum have been corrected to my/our satisfaction and to the best of my/our knowledge and professional ability believe this station is now fully FCC compliant with the item(s) referenced herein.

(signature) (date) (signature) (date)

Subscribed and sworn to before me this _____ day of _____ 200__

Notary Public
County of _____
State of _____

Arvid Sonstelie
Broadcast Services
Alternative FCC Inspector



1410 24th Ave South
Moorhead, MN
56560

Phone: 218-236-5939
Cell: 701-261-0413
E-mail: ac_retired@hotmail.com

S.B.E. Life member
No. 7302
FCC Lic. PG-15521

DEB

From: DEB <deb@kvay.com>
Sent: Wednesday, June 27, 2012 1:20 PM
To: Justin Sasso (Justin@coloradobroadcasters.org)
Subject: FYI

Hi Justin, Arvid was here on Monday, nice fellow! I felt bad for him, his air conditioner went out, I took him to a local shop, but they needed to order a motor and it would take 24hrs to get here, so he is driving in our 109 temp. with NO air, poor guy! Anyway, things went well, I need to paint the tower and few things, but we are good. During our conversations he told me to let you know about an ongoing problem we have here at KWAY. KLMR is the LP1 for our area and they do not send required monthly tests and haven't for a very long time. Being over 200 miles from KOA makes it difficult to participate in RMT's required by the FCC. We are looking to the CBA for assistance in compliance with FCC EAS regulations.

Thanks
Debbie



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