

March 31st, 2017

KENW-FM
Eastern New Mexico University
Portales, NM 88130

In the mid-1980s, KENW-FM was approached by some Midland folks who often travelled to Ruidoso on vacation. While so travelling, they said they listened to our KMTN-FM station from Maljamar, NM, and to our Ruidoso translator once they arrived in Ruidoso. They asked if there was any way possible we could build a translator like the Ruidoso one in the Midland area, since public radio was not then available in either Midland or Odessa. We told them that we would have to build a translator in Andrews to relay our Maljamar signal on to Midland and the cost would be around \$18,000.

They soon raised that amount and sent the money to us. However, before we were able to order any of the equipment, I received a call from folks at Odessa College who said they were in the process of building a public radio station in their community and it would also cover Midland. Since we had not spent any of the money yet, I contacted the Midland individuals who had raised the money to see if they would like us to give the \$18,000 to Odessa College, since we had learned they were building a public radio station. They polled their donors' opinion and then told us they wanted us to proceed building a translator to carry our FM programming. This is what we did, and our Midland translator was installed on top of the bank building in Midland. That translator received its signal from Andrews, TX, which received its signal from Maljamar, NM. This was the situation for some 17 years, and from the bank building our little FM translator did a pretty good job of covering all of Midland.

Around February of 2001, unbeknownst to us at the time, a group called Educational Media Foundation (EMF) had filed an application with the Federal Communications Commission (FCC) for a 100,000 watt station on our non-commercial FM frequency of 88.7 MHz. This religious group was granted the license by the FCC and we were told that we would have to shut down or move to a new FM frequency. There were no other non-commercial frequencies available in the Midland area, so we were eventually allowed by the FCC to use the commercial frequency of 99.5 MHz (the one we use now), but we could not use that frequency from our location on the bank building in town. We were forced by FCC rules to move some 10 miles or so out of town (where we are now). We were off the air in Midland until early 2002 when we

finished building the new site. Our coverage of Midland was not as good, but at least we were able to continue our service to the area.

In October of 2010, we began receiving interference on our incoming signal of 90.9 MHz from Andrews. We discovered a new Spanish religious station had been built and was the cause of our incoming signal to Midland being disrupted. At that point, we built a satellite receiver at our Midland site and began feeding the Midland translator directly from our Portales studios via satellite, and our Andrews translator was shut down.

Since that time, we have continually been looking for ways to better serve the Midland area. A few years ago, we learned that some FCC rules had changed and we were able to file an application to move our translator closer to town. We were thrilled when the FCC approved the application and granted us a Construction Permit (CP) to move our translator. Our joy was short lived when our engineers noticed a provision in the CP that required us to rebroadcast a signal that was received directly from an over the air source. Since we no longer had the Andrews translator (because of the interference), we had no way to receive our Maljamar signal in Midland from an over-the-air source.

We were surprised by this FCC requirement because we were feeding other translators in New Mexico by satellite and it had never been a problem. In researching the issue, we discovered that the reason the FCC would not allow satellite delivery of our signal for the Midland translator was because it was licensed in the commercial band of FM radio, not the non-commercial band. That non-commercial band is from 88.1 to 91.9 MHz. The only available frequency for our Midland translator when we were displaced was in the commercial band on 99.5 MHz. Thus, without knowing it, we have not been operating in accordance with that particular FCC rule since 2010 in Midland.

As soon as we discovered this non-compliance, we filed an acknowledgement of our error and requested a waiver from the FCC to use satellite delivery to our Midland translator. After many months we just received word that the FCC has denied our request. We immediately filed an appeal for FCC reconsideration and that is now pending. It will probably take some months for our appeal to be reconsidered. I am afraid that the FCC will again turn us down, but I truly cannot understand why. We are a non-commercial operation and we feed other translators via satellite. Of course, we recognize they are in the non-commercial band. However, as with all of our translators, we are striving to serve various communities by providing public radio to underserved areas. In addition, in the case of Midland, we are attempting to honor the wishes of those Midland folks who originally contributed money to build the translator. In summation, the FCC has approved us moving the translator closer to

Midland in order to provide better service, but we cannot do that without the satellite feed, and we cannot use a satellite feed without a waiver of the rules from the FCC.