

ORIGINAL

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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In Re)	
)	
Amendment Of Section 73.202(b),)	MM Docket 92-194
Table of Allotments)	RM-8052 and RM-8117
FM Broadcast Stations)	
(Essex and Needles, California))	

To: Mass Media Bureau

REPLY COMMENTS
ON COUNTERPROPOSAL

David A. Petrik, by his attorneys, hereby submits his Reply Comments on Counterproposal in the above-referenced proceeding, pursuant to Public Notice, Report No. 1918, released November 20, 1992. In support thereof, the following is stated:

Mr. Petrik has proposed the allotment of Channel 280B to the community of Needles, California, in lieu of allotting that channel to Essex, California. He has contended in this regard that Needles is a significant, growing community which merits a new broadcast outlet, while the area labeled Essex does not comprise a community for allotment purposes.

Mr. Petrik also has pointed out that an earlier determination by the Commission that Essex may be considered to be a community does not necessarily preclude a finding by the Commission at this

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point that Essex does not constitute a community.¹ Indeed, recent discussions by the undersigned with personnel of the school in Essex have confirmed that the Commission's earlier evaluation of the matter is no longer accurate. Thus, in its 1989 Report and Order allotting Channel 255B to Essex (4 FCC Rcd 8084), the Commission found that Essex then had a population of 75 persons, a school, and local organizations which included "a parent-teacher organization at the school, a social square dance club that holds dances every Saturday night at the school... a Cub Scout Pack and a Girl Scout Troop. . . ." The current information obtained from Essex reveals, however, that the area presently has a population of approximately 30 people, the school (with one classroom) has 13 students, square dances are held only 2-3 times per year, and there no longer is either a Cub Scout Pack or Girl Scout Troop. Rather, we were advised, when children in Essex wish to participate in activities such as Scouting or Little League, they are driven to Needles, California.

In short, no matter what the Commission previously may have determined, Essex certainly does not at present satisfy the definition of a community. See, Vimville, Mississippi, 48 FR 5974 (1983). The FM channel in question therefore should be allotted

¹ Petrik has cited Hannahs Mill, Georgia, 7 FCC Rcd 3944 (MMB 1992) and East Hemet, California, 4 FCC Rcd 7895 (MMB 1989).

to Needles, California, as set forth in Mr. Petrik's Comments and Counterproposal.²

Mr. Petrik hereby confirms that if Channel 280B is allotted to Needles, California, he will promptly apply for a permit to construct a station to operate on such channel and that, if his application is granted, he will promptly construct and operate that station.

Respectfully submitted,

DAVID A. PETRIK

BY:



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His Attorneys

December 7, 1992
ESK:Petrik.Agr:BJ

² Petrik also has proposed that Channel 242A be assigned to Bagdad, California, in lieu of Channel 280A. Petrik understands that Chris Sarros, the proponent of the Bagdad allotment, will be submitting comments supporting the proposed substitution, because the allotment of Channel 280B to either Essex or Needles will limit his selection of tower sites from which to serve his community of license. Those comments will also reflect that Sarros received appropriate notice of Petrik's proposal and that his rights have been fully protected.

CERTIFICATE OF SERVICE

I, Beverles Jenkins, a secretary in the law firm of Brown, Nietert & Kaufman, Chartered, do hereby certify that on this 7th day of December, 1992, I caused a true copy of the foregoing "**Reply Comments on Counterproposal**" to be sent via U.S. Mail, postage pre-paid to the persons listed below:

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Beverles Jenkins