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FCC MAIL SECTION FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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IN REPLY REFER TO:

DISPATCHED BY

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Marjorie R. Esman, Esq.
Hardy and Carey
111 Veterans Boulevard
Metairie, Louisiana 70005

Dear Ms. Esman:

This is in response to the petition for rule making you filed August 25, 1993, on behalf of Basso Broadcasting, Inc., requesting the substitution of Channel 253C2 for Channel 253A at Clarksville, Texas, and modification of the Basso's license for Station KCBZ-FM accordingly. The petition further requests that the Commission downgrade Station KFYZ-FM from Channel 252C3 to Channel 252A at Bonham, Texas, to accommodate the upgrade at Clarksville.

You state that Channel 252C3 was allotted to Bonham pursuant to MM Docket 89-209, 5 FCC Rcd 2152 (1990), effective May 18, 1990. You further state that although Bonham Broadcasting Company, licensee of Station KFYZ-FM, never applied for Channel 252C3, the channel has not been downgraded. It is your contention that the Commission inadvertently neglected to downgrade the Bonham allotment since for more than three years Channel 252C3 has been vacant and unapplied for.

The Commission's Rules do not provide for the automatic downgrading of an allotment when a licensee or permittee fails to file a minor change application to implement an upgrade within ninety days of the effective date of the action modifying the authorization of the affective station. Furthermore, on August 26, 1993, Bonham Broadcasting Company submitted a construction permit application specifying Class C3 facilities for Station KFYZ-FM (BPH-930826IB), thereby demonstrating its interest in the Class C3 channel. The site you have requested for Channel 253C2 at Clarksville, 33-36-47 and 95-01-03, is 5.2 kilometers short-spaced to the site specified in Bonham's application and 4.9 kilometers short-spaced to the reference coordinates for Channel 252C3 at Bonham, Texas.

Accordingly, we are returning this petition for rule making. You may refile the petition, provided that you specify a site for Channel 253C2 at Clarksville that is fully spaced to the site specified in the application for Station KFYZ-FM, Channel 252C3, Bonham.

Sincerely,

Victoria M McCauley
Acting Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

Enclosure

cc: Jeffrey D. Southmayd, Esq.
bcc: FCC Reference Center (Room 239) via Secretary's Office (Room 222) (2 copies) (petition filed 8/25/93)
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