

RECEIVED

BEFORE THE

Federal Communications Commission

JUL 5 1996

WASHINGTON, D. C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matters of)
)
Amendment of Section 73.202(b),)
Table of Allotments)
FM Broadcast Stations)
(Banks, Redmond and Corvallis, Oregon))
)
 and)
)
Amendment of Section 73.202(b),)
Table of Allotments)
FM Broadcast Stations)
(The Dalles and Corvallis, Oregon))

MM Docket No. 96-7

MM Docket No. 96-12

DOCKET FILE COPY ORIGINAL

To: Chief, Allocations Branch

COMMENTS

Madgekal Broadcasting, Inc. ("MBI"), licensee of Station KFLY(FM), Corvallis, Oregon, herein submits, pursuant to an FCC Public Notice released June 5, 1996 (Report No. 2135), comments in the above-captioned FM allocation proceedings.

A. BACKGROUND

On February 6, 1996, MBI filed an application for a one-step upgrade of Station KFLY from Class C2 to Class C status on Channel 268. On the same day, the Commission released a Notice of Proposed Rule Making and Order to Show Cause in MM Docket No. 96-7, DA 96-14 ("Banks/Redmond NPRM"), in which the Commission proposed substitution of Channel

298C1 for Channel 298C2 at Banks, Oregon and the modification of the license of Station KDBX, Banks, to specify the higher class channel. To accommodate the Banks allotment, also proposed was the substitution of Channel 269C2 for Channel 298C2 at Redmond, Oregon, and the modification of the license of Station KLRR, Redmond, to specify the substitute Class C2 channel.

On February 13, 1996, the Commission released a Notice of Proposed Rule Making in MM Docket No. 96-12, DA 96-106 ("The Dalles NPRM"), proposing allotment of Channel 268C3 to The Dalles and its reservation for noncommercial educational use.

Apparently, KFLY's modification application is mutually exclusive with both the proposed channel substitution at Redmond and the proposed new allotment at The Dalles, Oregon. The Commission's June 5 Public Notice reported that MBI's modification application is being treated as a counterproposal in both above-captioned dockets and provided 30 days for the filing of comments.¹

¹ On March 28, 1996, Hurricane Broadcasting, Inc. ("Hurricane") submitted a counterproposal urging that Channel 269C2 be allotted to Sun River, Oregon, as its first local service instead of being used at Redmond, to facilitate the KDBX upgrade. In Reply Comments, Common Ground Broadcasting, Inc. ("Common Ground"), licensee of KDBX, and Combined Communications, Inc. ("CCI"), licensee of KLRR(FM), proposed that Channel 224C2 be allotted to Sun River instead of Channel 269C2. In a letter filed with the Commission on May 7, 1996, Hurricane stated it would not raise any objection to allocation of Channel 224C2 to Sun River instead of Channel 269C2. Because no conflict would exist between the allotment of Channel 224C2 to Sun River and grant of KFLY's modification application, the Sun River allotment need not be considered further in these comments.

**B. GRANT OF KFLY's MODIFICATION APPLICATION
WILL BETTER SERVE THE PUBLIC INTEREST**

If no substitute channels are available for allotment at Redmond and The Dalles, the grant of KFLY's modification application will better serve the public interest. KFLY is one of only two commercial FM stations licensed to Corvallis, a community with a population of 46,244 (1994 Census Bureau estimate). Indeed, there are only two FM allotments in Benton County, in which Corvallis is situated.² Benton County has a population of 75,235 (1995 Census Bureau estimate).

KDBX's city of license, Banks, Oregon, is a small suburb of Portland, Oregon. Banks, with a 1994 population of 654, is situated in Washington County and is within the Portland-Vancouver PMSA. The KDBX transmitter site, which is used as the reference coordinates in the Banks/Redmond NPRM, is approximately 30 kilometers east of Banks and is very near Portland itself. Portland is the 24th largest radio market according to Arbitron. The M Street Radio Directory (1996 Edition) reports that the Portland market has 42 stations (22 AM, 20 FM), including KDBX.

² Corvallis has two Class C (previously Class IV) AM stations, KEJO and KLOO. Additionally, Corvallis has a noncommercial educational AM station, KOAC, and a noncommercial educational FM station, KVBR. KVBR operates with an ERP of 340 watts at an antenna height 25 meters below average terrain.

As noted in the engineering statement attached to Hurricane's comments, the additional area that would be served as a result of KDBX's upgrade is within the primary service contour³ of 44 other stations.

Upgrading KFLY, one of Corvallis' two commercial FM stations, to Class C status would better serve the public interest than upgrading what is in essence a Portland market station.⁴

With respect to the proposed allotment of Channel 268C3 to The Dalles, it must be noted that the population of The Dalles is approximately one-fourth of that of Corvallis.⁵ Moreover, The Dalles already has three FM allotments as well as two AM stations, KACI and KODL. The Dalles also receives noncommercial educational service from an FM translator, K218AZ, of which Oregon Public Broadcasting is the licensee.

Furthermore, the petitioner in The Dalles proceeding, LifeTalk Broadcasting Associations ("LifeTalk"), has failed to address the concerns raised by the Commission in The Dalles NPRM. Specifically, The Dalles NPRM noted that in order to overcome intervening terrain obstructions,

³ 60 dBu for FM stations, 5 mV/m contour for AM stations.

⁴ Grant of the KFLY modification application would bring that station's technical facilities to parity with that of Corvallis' other FM station, KFAT, which operates on Channel 292C.

⁵ The 1990 Census Bureau the most recent figure available, places The Dalles population at 11,060. As noted above, the 1994 Census Bureau figure for Corvallis is 46,244.

5.

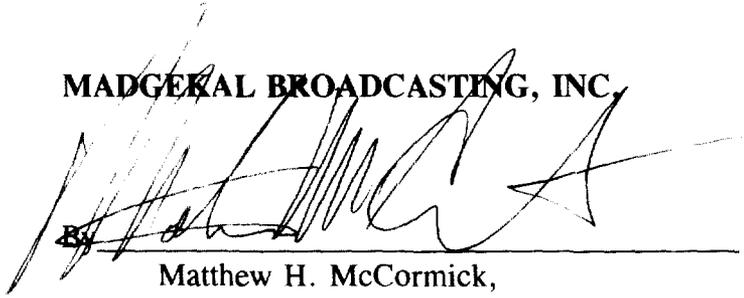
a tower of at least 209 meters (686 feet) would be required. Because of those circumstances, LifeTalk was requested to affirmatively state that it would apply for and construct a station with the necessary higher tower. LifeTalk, however, failed to include any such affirmative statement in its Comments filed April 5, 1996. While LifeTalk stated it would construct the new station and place it in operation promptly, it was silent regarding construction of the tall tower needed to place a city-grade signal over The Dalles.

In light of the fact that LifeTalk has failed to make the affirmative statement required, its rule making proposal should be dismissed.

C. CONCLUSION

In light of all circumstances present, MBI's application should be GRANTED and, if alternative frequencies cannot be found, the conflicting rule making proposals in MM Docket No. 96-7 and 96-12 should be DENIED.

MADGEKAL BROADCASTING, INC.

A handwritten signature in black ink, appearing to read 'Matthew H. McCormick', is written over a horizontal line. The signature is stylized and somewhat messy.

Matthew H. McCormick,
Its Counsel

CERTIFICATE OF SERVICE

I, Pamela R. McKethan, hereby certify that on this 5th day of July, 1996, copies of the foregoing **COMMENTS** were hand delivered or mailed, first-class, postage prepaid, to the following:

James P. Riley, Esquire
Anne Goodwin Crump, Esquire
Fletcher Heald & Hildreth, P.L.C.
1300 N. 17th Street, 11th Floor
Rosslyn, Virginia 22209
Counsel for Common Ground Broadcasting, Inc.

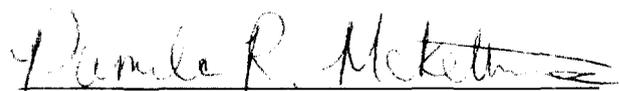
Jerold L. Jacobs, Esquire
Rosenman & Colin
1300 19th Street, N.W., Suite 200
Washington, D.C. 20036
Counsel for American Radio Systems, Inc

J. Dominic Monahan
Luvaas Cobb Richards & Fraser, P.C.
777 High Street, Suite 300
Eugene, Oregon 97401
Counsel for Combined Communications, Inc.

Donald E. Martin, Esquire
Donald E. Martin, P.C.
P.O. Box 19351
Washington, D.C. 20036
Counsel for Life Talk Broadcasting Association

Roger J. Metzler, Jr., Esquire
Keck Mahin & Cate
One Maritime Plaza, 23rd Floor
San Francisco, California 94111
Counsel for Hurricane Communications, Inc.

Leslie K. Shapiro *
Federal Communications Commission
Mass Media Bureau
2025 M Street, N.W., Room 8308-G
Washington, D.C. 20554


Pamela R. McKethan

* HAND DELIVERED