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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of) MM Docket No. _____
)
Amendment of Section 73.202(b)) RM-_____
FM Table of Assignments)
(Llano, Texas))

TO: John A. Karousos, Chief, Allocations Branch
Policy and Rules Division, Mass Media Bureau

PETITION FOR RULE MAKING

1. Pursuant to Section 1.420 of the Commission's Rules, Elgin FM Limited Partnership, ("Elgin FM"), an applicant for a new FM radio station to operate on Channel 242A at Llano, TX (File No. ARN-970814MI), hereby petitions the Commission to make the following changes in the FM Table of Assignments, Section 73.202(b) of the Commission's Rules:

<u>Community</u>	<u>Current Channel Assignments</u>	<u>Proposed Channel Assignments</u>
Llano, TX	242A	242A, 275A, 293A

As will be demonstrated below, a number of Class A channels are available for assignment to Llano, and Elgin FM hereby requests that its pending Llano application be modified herein to specify operation on Channel 293A in lieu of Channel 242A.

BACKGROUND

2. In a Report and Order released in Docket 95-49, the Commission allocated Channel 242A at Llano, TX.^{1/} In so doing,

^{1/} Reconsideration of this docketed proceeding is currently being sought by Roy E. Henderson and Tichenor License Corporation.

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the Commission required that the proponent of Channel 242A at Llano, Maxagrid Broadcasting Corporation ("Maxagrid"), commit to the filing of an application proposing operation on Channel 242A at Llano so that no disruption to Llano would be occasioned by Maxagrid's proposal to move its existing facility at Llano to Marble Falls, TX where it intends to operate on Channel 285C3. Maxagrid filed an application for Channel 242A at Llano, TX on August 15, 1997 (ARN-970815ME). Maxagrid's application is mutually exclusive with Elgin FM's Llano application and an application filed by BK Radio, also filed on August 15, 1997 (ARN-970815MD).

3. According to the *Report and Order*, Maxagrid intended to simultaneously commence program test authority on both the Marble Falls and Llano allocations assuming no other competing applications for Llano were filed. In recognition of the fact that competing applications may be filed, the Commission on its own indicated that several channels exist which may be allocated to Llano, specifically referencing Channels 271, 273 and 275 in its *Report and Order* (*slip op.* at 4, ¶ 7). The Commission further indicated that it would entertain a petition for rule making for an additional channel to Llano if a competing application was filed. *Id.*

4. Consistent with the Commission's *Report and Order*, Elgin FM hereby petitions the Commission to add Channel 275A at Llano (which it has previously indicated would be available for such

allocation) and Elgin FM herein provides the requisite Allocation Narrative in support of its petition (attached as Appendix A hereto). In addition, the Commission on its own apparently has also set aside Channel 293A at Llano, TX (*see also* the Allocation Narrative of John Furr & Associates, Inc. attached hereto as Appendix A) as an alternate channel at Llano, TX. Accordingly, Elgin FM proposes that in order to eliminate the mutual exclusivity of the three Llano applicants, the Commission permit Elgin FM to modify its pending Llano application to specify operation on Channel 293A and afford its application cut-off protection. *Copeland Kansas*, 5 FCC Rcd. 7682 (1990). In addition, Channel 275A would be available to BK Radio for proposed operation and its application could be modified accordingly and afforded cut-off protection. Maxagrid could remain on Channel 242A and be afforded cut-off protection as well. According to the *Report and Order*, Channels 271 and 273 would still remain available for allocation at Llano should there be any other parties expressing an interest for a channel in Llano. *Id*, *see also Roseburg, Oregon*, 6 FCC Rcd. 4369 (1991) (at ¶ 2).

5. The foregoing proposal was contemplated by the Commission in its *Report and Order* at p. 4, ¶ 7, wherein the Commission cited its decision in *Albion, Nebraska*, 10 FCC Rcd. 11927 (1995). As the Commission noted, "[t]his will avoid any significant disruption in service or delay in instituting

replacement service in Llano." *Id.* Maxagrid has previously pledged that it would file an application for operation on Channel 242A and, if authorized, would build the facility promptly. *Id.* Elgin FM hereby commits that if its allocation request herein is granted it will modify its pending Llano application for operation on Channel 293A and upon grant of its application, it will build the station promptly. Channel 275A is available for BK Radio to seek to modify its pending Llano proposal. In addition, at least two other channels (271 and 273) remain available for allocation at Llano. To the extent BK Radio would be required to modify its technical proposal as a result of the channel change proposed herein, Elgin FM commits to reimburse BK Radio for such reasonable costs associated with the channel change consistent with the Commission's policies established in *Circleville, Ohio*, 8 FCC 2d 159 (1967).^{2/}

6. As has been demonstrated, significant public interest reasons exist which would warrant the grant of the instant proposal, including the institution of earlier replacement service to Llano as well as the earlier institution of additional diverse voices in Llano to be provided by Elgin FM and BK Radio. *Albion, Nebraska, supra.*

For the reasons stated above, Elgin FM Limited Partnership hereby petitions the Commission to make the following change in

^{2/} Elgin FM would request that any rule making fee be waived given that the instant rule making petition is being tendered in response to the Commission's express invitation.

the FM Table of Assignments, Section 73.202(b) of the Commission's Rules:

<u>Community</u>	<u>Current Channel Assignments</u>	<u>Proposed Channel Assignments</u>
Llano, TX	242A	242A, 275A, 293A

Further, Elgin FM requests that, simultaneously with the adoption of these proposed changes in the Table of Assignments, the Commission order that (a) Elgin FM amend its pending FM application at Llano, Texas (ARN-970814MI) to specify operation on newly-assigned Channel 293A; (b) BK Radio amend its pending FM application at Llano, Texas (ARN-970815MD) to specify operation on Channel 275A; (c) the applications of Elgin FM and BK Radio, as amended, be afforded cut-off protection from other applications proposing to use the channels in question in Llano; and (d) the applications of Elgin FM and BK Radio, as amended, and Maxagrid, be granted.

Respectfully submitted,

Ann C. Farhat

/s/ Ann C. Farhat
Ann C. Farhat

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Counsel for Elgin FM Limited
Partnership

October 8, 1997

Appendix A

ALLOCATION NARRATIVE

This statement is prepared on behalf of Elgin FM Limited Partnership. This is a counter petition for Rulemaking to resolve a conflict in filings which requests an amendment of the Table of FM Channel Allotments, Section 73.202(b) of the FCC Rules. The request is to add a third FM station on Channel 275A to Llano, Texas. This statement discusses the technical factors involved in the above change.

1. The reference coordinates for this Llano proposal are:

Latitude 30°42'27" North, Longitude 98°46'25" West

2. As can be seen from the attached allocation study, the Class A operation from this site will comply with all separation requirements as set forth in §73.207 of the FCC Rules.

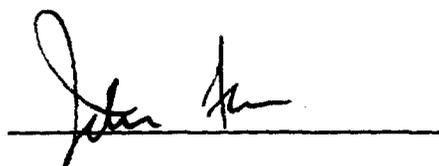
3. From the reference site the entire city of Llano will be served with the 70 dBu contour as required by §73.315(a) and (b) as shown in the contour map.

4. The site proposed herein is 252 km to the nearest point of the US-Mexican Border and therefore within the 320 km coordination distance required with Mexico.

The community of Llano is already established by the FCC. This third allocation will resolve the multiple requests to render service to Llano, Texas.

I, John R. Furr, am a Communications Consultant, and represent Elgin FM Limited Partnership. My qualifications are a matter of record with the Federal Communications Commission, and all statements made herein are true and correct to the best of my knowledge and belief.

September 18, 1997



John R. Furr
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San Antonio, TX 78217

JF&A
COMMUNICATIONS
CONSULTANTS

NARRATIVE

NEW
LLANO, TX
CONTOUR PROPOSAL

09-18-1997

John Furr & Associates Inc.

PAGE 1

FM Study for: NEW
Location: LLANO, TX
Call City, State
Status Proponent

FCC Database Date: 8/97
Channel Class: A
Chan Class Freq kW Latitude Dist.
File Number HAAT Longitude Azm. Required
Clear (km)

>>>>>>> Study For Channel 275 102.9 MHz <<<<<<<<

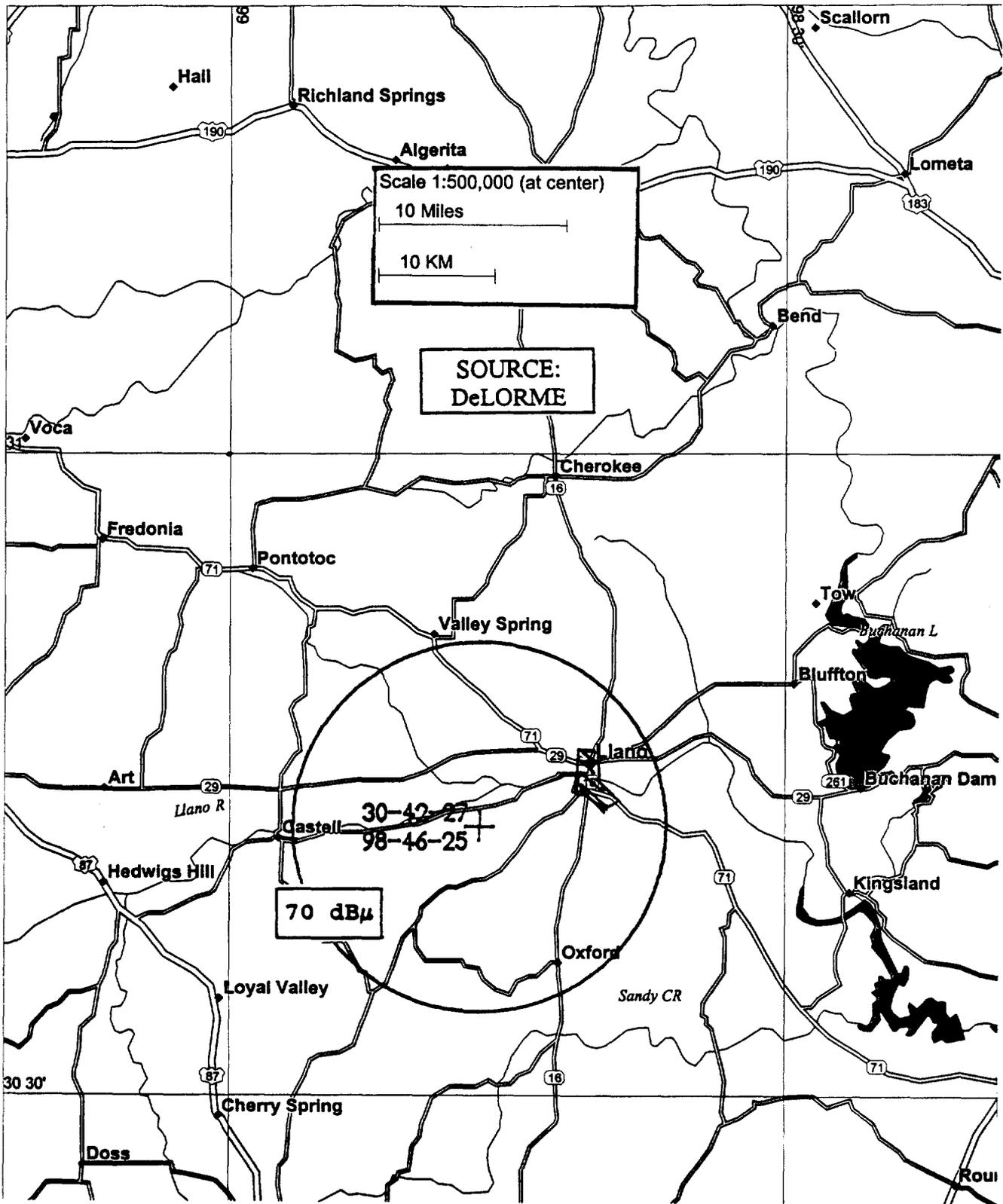
KOOV	COPPERAS COVE, TX	276 C3	103.1	8.6+	31-05-05	89.00	89	73.215
LIC	CENTROPLEX COMMUNICAT	BLH-931229KC	170		97-57-07	61.8	+0.00	CLOSE
KTFM	SAN ANTONIO, TX	274 C1	102.7	100.	29-25-09	145.5	133	
LIC	WATERMAN BROADCASTING	BLH-801009AC	204		98-29-06	168.9	+12.5	CLOSE
KEYIFM	SAN MARCOS, TX	278 C	103.5	96.	30-02-42	113.0	95	
LIC	CLEAR CHANNEL RADIO L	BLH-880113KA	383		97-52-50	130.3	+18.0	CLEAR
ALLOC	BANDERA, TX	276 A	103.1		29-51-22	99.2	72	
ADD	REDING BROADCASTING	Docket-90-466	0		99-05-25	198.0	+27.2	CLEAR

Proposed as Class AA to Mexico 960621-Accepted by Mexico 960911
Petition For Reconsideration

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COMMUNICATIONS
CONSULTANTS

ALLOCATION STUDY

NEW
LLANO, TX
CONTOUR PROPOSAL



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 CONSULTANTS

CONTOUR MAP

NEW
 LLANO, TX
 CONTOUR PROPOSAL

FM Study for: ALLOC
 Location: LLANO, TX
 Call City, State
 Status Proponent

FCC Database Date: 9/97
 Channel Class: A
 Chan Class Freq kW Latitude Dist.
 File Number HAAT Longitude Azm.

30-45-00
 98-40-36
 Required
 Clear (km)

 >>>>>> Study For Channel 293 106.5 mHz <<<<<<<<

ALLOC	LLANO, TX	293 A	106.5		30-45-00	0.0	115	
ADD	FCC STAFF	Docket-95-49		0	98-40-36	0.0	-115.0	SHORT

Mexican Concurrence Required
 Alternate Channel-Petition for Recon and Motion for Stay 970701

KHLBFM	BURNET, TX	295 A	106.9	4.7+	30-44-12	36.7	31	73.215
LIC	KIRKMAN GROUP, INC.	BLH-970728KA	109		98-17-36	92.2	+5.7	CLOSE

KCJZ	TERRELL HILLS, TX	294 C	106.7	100.	29-11-03	174.3	165	
LIC	NEWCITY COMMUNICATION	BLH-850508KY	310		98-30-49	174.8	+9.3	CLOSE

KMRTFM	GRANBURY, TX	294 C	106.7	100.	32-15-07	177.0	165	
LIC	KCYT-FM LICENSE CORPO	BLH-900125KC	302		98-02-48	19.6	+12.0	CLOSE

KOOC	BELTON, TX	292 C3	106.3	11.5	31-03-46	114.8	89	
LIC	SHELDON COMMUNICATION	BLH-920811KB	149		97-31-54	72.1	+25.8	CLEAR

NEW	ROUND ROCK, TX	290 C2	105.9	36.	30-29-17	80.9	55	
APP	GRASS ROOTS RADIO, IN	BPH-880714NJ	174		97-53-22	110.8	+25.9	CLEAR

NEW	ROUND ROCK, TX	290 C2	105.9	25.0	30-29-17	80.9	55	73.215
APP	AUGUST COMMUNICATIONS	BPH-880714MN	199		97-53-22	110.8	+25.9	CLEAR

Amended 900119-Application for Review Dismissed by Commission 950316

ALLOC	ROUND ROCK, TX	290 C2	105.9		30-34-05	81.5	55	
VAC		Docket-86-442		0	97-51-09	104.1	+26.5	CLEAR

SITE RESTRICTED 17.9 KM WEST-EFFECTIVE 6-13-88

NEW	ROUND ROCK, TX	290 C2	105.9	50.0	30-22-55	81.8	55	
APP	ELINOR LEWIS STEPHENS	BPH-880714ML	150		97-56-17	119.7	+26.8	CLEAR

CERTIFICATE OF SERVICE

Ann C. Farhat, a member of the firm of Bechtel & Cole Chartered, certifies that copies of the foregoing rulemaking petition were served by United States Mail, first class postage prepaid, on the 8th day of October, 1997, upon the following:

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Mass Media Bureau
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Washington, D.C. 20554

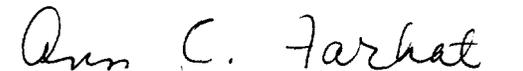
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