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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Amendment of Section 73.202(b)) MM Docket No. 97-204
Table of Allotments) RM-9143
FM Broadcast Stations) RM-9158
(McFarland and Coalinga, California))

To: Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

COMMENTS OF JAMES K. ZAHN

James K. Zahn ("Mr. Zahn"), by his counsel, and pursuant to Section 1.420 of the Commission's Rules, files his Comments on the Commission's Notice of Proposed Rule Making, *McFarland and Coalinga, California*, DA 97-1976, released September 19, 1997 (herein, "NPRM"). The NPRM established November 10, 1997, as the deadline for filing comments and counterproposals, so Mr. Zahn's Comments are timely filed. In support of Mr. Zahn's proposal, the following is shown:

Background

Mr. Zahn has proposed the allotment of FM Channel 247A to Coalinga, California, as that community's second local FM transmission service. There also exists a mutually-exclusive petition filed by Kerner Broadcasting Company ("Kerner") that proposes the allotment of FM Channel 247A to McFarland, California, as its second local FM transmission service. Since Channel 247A cannot be allotted to both communities at the reference points requested by the parties in conformity with Section 73.207(b) of the Rules, the proposals are mutually exclusive and must be considered comparatively. Accordingly, the NPRM affords Mr. Zahn and Kerner

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an opportunity to demonstrate in comments why its community of choice should be preferred. Mr. Zahn herein shows that Coalinga is preferred to McFarland.

Coalinga is the Preferred Community

As noted in the NPRM, under *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982), if the comparative factors prove equal, the larger community would be preferred. In this case, Coalinga, with a 1990 population of 8,212 is preferred to McFarland with a population of 7,005. Since both Kerner and Mr. Zahn propose to bring a second local service to each community, the proposals are otherwise equal, and the population difference tips the scale in favor of Coalinga.

Potential Resolution of Mutual Exclusivity

However, in the unlikely event that the Commission finds that McFarland is preferred to Coalinga, it is still possible to allot Channel 247A to both communities if the reference point for the allotment at Coalinga is moved to North latitude $36^{\circ} 12' 37''$ and West longitude $120^{\circ} 25' 35''$, approximately 10 miles northwest of Coalinga. From that point, a city-grade signal can be placed over the entire city of Coalinga. Attached is an Engineering Statement demonstrating this and showing that the proposed reference point is fully spaced to all pertinent facilities.

Expression of Interest

If the Commission allots Channel 247A to Coalinga, Mr. Zahn restates his expression of interest in the channel, and states that he (or a company with which he is affiliated) will apply for a construction permit for a new FM station on Channel 247A under the Commission's procedures that may be in effect at the time the channel is allotted; and, upon grant of the

construction permit, Mr. Zahn (or a company with which he is affiliated) will construct and operate the new station at Coalinga, California.

Conclusion

Wherefore, Mr. Zahn respectfully requests the Commission to adopt the first option set out in the NPRM, and amend the FM Table of Allotments to allot FM Channel 247A to Coalinga, California, as follows:

<u>City</u>	<u>Channel No.</u>	
	<u>Present</u>	<u>Proposed</u>
Coalinga, California	261B	247A, 261B

In the event the Commission should select McFarland, California, as the preferred community, Mr. Zahn requests the Commission to allot Channel 247A to Coalinga, California, at reference coordinates North latitude 36° 12' 37" and West longitude 120° 25' 35".

Respectfully submitted,

JAMES K. ZAHN



By: _____

Gary S. Smithwick
His Counsel

Smithwick & Belendiuk, P.C.
1990 M Street, N.W.
Suite 510
Washington, D.C. 20554
(202) 785-2800

November 10, 1997

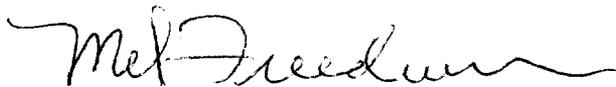
JAMES K. ZAHN
BF (New) - Coalinga, CA

PETITION FOR RULEMAKING
Engineering Statement

In Docket RM-9158, James K. Zahn proposed that FM Channel 247A be allocated to Coalinga, California, specifying the center coordinates of that city. In Docket RM-9143, Kerner Broadcasting Company proposed that FM Channel 247A be allocated to McFarland, California, specifying a reference point 10.3 km west of that community. In Docket No. 97-204, the Commission determined that the two proposals were mutually exclusive and sought comments on alternative resolutions.

In this statement, Zahn proposes to amend its petition so as to establish a reference point for its proposed transmitter at $36^{\circ}12'37''\text{N}$ and $120^{\circ}25'35''\text{W}$, approximately 10 km northwest of Coalinga, from which location a city grade signal may be obtained over the entire city. Attached Exhibit 1 is a table demonstrating that the proposed reference point is fully spaced (pursuant to the provisions of 47 CFR 73.208(c)(8)) to all pertinent facilities. Attention is further directed to the fact that the proposed reference point is elevated over the surrounding terrain, thereby making it suitable for a transmitter site, and that the radio path from the reference point to Coalinga is unobstructed.

Respectfully submitted,



Mel Freedman
Engineer for James K. Zahn

24 October 1997

Constraints Study FM Channel 247A

Title: James K. Zahn
 Reference City: Coalinga, CA
 Translators Are Not Included
 Audit File: fms10257.A01

Latitude: 36-12-37
 Longitude: 120-25-35
 FCC Database: 970930

Call City of	Auth License	Licensee Name St FCC File No.	Chan Freq	ERP-kW EAH-m	Latitude Longitude	Az-to -from	Dist (km)	Req (km)
Fowler Docket: 87-391	USED	CA	244B1 96.7		36-41-39 119-43-57	48.9 229.3	82.17 34.17	48 CLEAR
KEZL Fowler	LIC	Bilmar Communications CA BLH-920210KA	244B1 96.7	25.0* 100	36-41-39 119-43-57	48.9 229.3	82.17 34.17	48 CLEAR
KWAV Monterey	LIC	Buckley Broadcasting CA BLH-841127KT	245B 96.9	18.0 747	36-32-05 121-37-14	289.0 108.3	113.05 44.05	69 CLEAR
Monterey	USED	CA	245B 96.9		36-32-05 121-37-14	289.0 108.3	113.05 44.05	69 CLEAR
San Luis Obispo Docket: 84-231	USED	CA	246B1 97.1		35-16-36 120-39-54	191.8 11.6	105.81 9.81	96 CLEAR
KWQH San Luis Obispo	LIC	Clamshell Communicati CA BLH-960516KS	246B1 97.1	2.70 301	35-15-10 120-45-47	196.0 15.8	110.52 14.52	96 CLEAR
Visalia	USED	CA	246B 97.1		36-38-08 118-56-32	70.0 250.8	141.22 28.22	113 CLEAR
KSEQ Visalia	LIC	Buckley Broadcasting CA BLH-870320KD	246B 97.1	17.0 237	36-38-08 118-56-32	70.0 250.8	141.22 28.22	113 CLEAR
Coalinga Docket: 97-204	ADD	James K. Zahn CA RM-9158	247A 97.3		36-08-30 120-21-18	140.0 320.0	9.96 -105.0	115 SHORT
McFarland Docket: 97-204	ADD	Kerner Broadcasting C CA RM-9143	247A 97.3		35-40-16 119-20-30	121.2 301.9	114.71 -0.29	115 SHORT
Merced	USED	CA	248B 97.5		37-22-31 120-27-37	358.7 178.7	129.32 16.32	113 CLEAR

Constraints Study FM Channel 247A

Title: James K. Zahn
 Reference City: Coalinga, CA
 Translators Are Not Included
 Audit File: fms10257.A01

Latitude: 36-12-37
 Longitude: 120-25-35
 FCC Database: 970930

Call City of License	Auth License	Licensee Name St FCC File No.	Chan Freq	ERP-kW EAH-m	Latitude Longitude	Az-to -from	Dist (km)	Req (km)
KABXFM Merced	LIC	Radio One, Inc. CA BLH-7878	248B 97.5	50. 149	37-22-31 120-27-37	358.7 178.7	129.32 16.32	113 CLEAR
Fresno	USED	CA	250B 97.9		36-44-09 119-47-59	43.6 224.0	80.97 11.97	69 CLEAR
KNAX Fresno	CP	American Radio System CA BPH-941114IB	250B 97.9	10.5 328	36-55-48 119-38-27	41.0 221.5	106.41 37.41	69 CLEAR
KNAX Fresno	LIC	Breadbasket Broadcast CA BLH-911217KA	250B 97.9	2.10 606	37-04-29 119-25-52	42.4 223.0	130.86 61.86	69 CLEAR
KSEA Greenfield Docket: 88-142	CP	Troposphere Broadcast CA BPH-850712TI	300B 107.9	50. 150	36-19-50 121-10-16	281.5 101.1	68.24 53.24	15 CLEAR
KSEA Greenfield	APP	Troposphere Broadcast CA BMPH-891220IC	300B 107.9	50. 150	36-21-45 121-12-45	283.7 103.3	72.61 57.61	15 CLEAR
Greenfield Docket: 83-1063	USED	CA	300B 107.9		36-19-24 121-14-30	280.0 99.5	74.33 59.33	15 CLEAR

End of Constraints Study FM Channel 247A

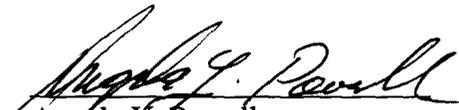
CERTIFICATE OF SERVICE

I, Angela Y. Powell, a secretary in the law offices of Smithwick & Belendiuk, P.C., certify that a copy of the foregoing was this the 10th day of November sent via first class mail, postage pre-paid, to the following:

Ms. Nancy Joyner*
Federal Communications Commission
Mass Media Bureau
2000 M Street, N.W.
Room 557
Washington, D.C. 20554

Henry E. Crawford, Esq.
Law Offices of Henry E. Crawford, Esq.
1150 Connecticut Ave., N.W.
Suite 900
Washington, D.C. 20036
(Counsel for Kerner Broadcasting Company)

*by hand


Angela Y. Powell