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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY
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November 10, 1997

BY HAND DELIVERY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

Re:

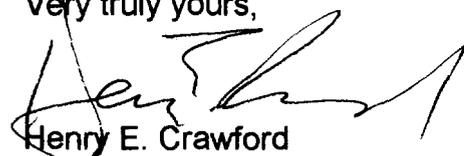
In the Matter of Amendment of Section 73.202(b) Table of Allotments FM Broadcast Stations McFarland and Coalinga, California MM Docket No. 97-204; RM-9143, RM-9158

Dear Mr. Caton:

Transmitted herewith on behalf of Kerner Broadcasting Company are an original and four (4) copies of its "Comments of Kerner Broadcasting Company" as directed to the Chief, Allocations Branch.

Should any additional information be required, please contact this office.

Very truly yours,


Henry E. Crawford
Counsel for
Kerner Broadcasting Company

cc: The Chief, Allocations Branch

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

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

To: The Chief, Allocations Branch

COMMENTS OF KERNER BROADCASTING COMPANY

Kerner Broadcasting Company ("Kerner"), by counsel, pursuant to 47 CFR §1.420(a), hereby files its Comments in response to the Notice of Proposed Rule Making, DA-97-1976, Released on September 19, 1997 ("NPRM"). In support of its Comments, Kerner states as follows:

I. INTRODUCTION

1. On July 9, 1997, Kerner filed its Petition for Rulemaking, seeking the allotment of Channel 247A to the community of McFarland, California. On September 19, 1997, the Commission released the NPRM. In the NPRM the Commission added the community of Coalinga, California to the proceeding, based on a petition filed by James K. Zahn ("Zahn") on August 6, 1997.

2. In the NPRM, the Commission observed that the proposals filed by Kerner and Zahn were mutually exclusive. Consequently, the Commission requested in the NPRM that the parties demonstrate in their comments why their particular community should be preferred in accordance with Revision of FM Policies and Procedures, 90 FCC 2d 88 (1982).

II. ARGUMENT

A. McFarland is the Less Served Community

3. The FM allotment priorities are based on Section 307(b) of the Communications Act and the Revision of FM Assignment Policies and Procedures, surpa, which set forth the following criteria with respect to conflicting FM channel proposals: 1) first full-time aural service, 2) second full-time aural service, 3) first local service and 4) other public interest matters.

4. In the present case, Kerner seeks to bring a second aural service to McFarland, California. The only other aural service assigned to McFarland is KSUVFM on Channel 275A. Hence, the instant proposal would further the goals of the Commission by providing the community of McFarland with two local aural services.

5. Zahn states that its proposal would "...bring a third potential aural service to Coalinga." Zahn Petition, p. 1, ¶1. However, that statement is no longer complete and accurate. Coalinga was already served by KKFO(AM) and KNGS(FM). Zahn, Petition, Id. Additionally, as noted in the NPRM, at the time of the petition, an application was on file to bring a new noncommercial FM station to Coalinga. NPRM, p. 1, n1. On October 14, 1997, the Commission granted the application of American Educational Broadcasters, Inc. ("American") to operate on Channel 202B at Coalinga, California. See, Broadcast Actions, Report No. 44101, October 21, 1997.

6. Noncommercial FM stations are generally counted as services for purposes of performing a Section 307(b) allotment comparison. Ankeny and

West Des Moines, Iowa, 10 FCC Rcd 7671 (1995), citing Modification of FM and TV Authorizations to Specify a New Community of License, 5 FCC Rcd at 7097 and n.19; Valley Broadcasters, Inc., 5 FCC Rcd 2785 (1990); Channel 32 Broadcasting Company, 6 FCC Rcd 5188 (1991), *recon. denied*, 7 FCC Rcd 1694 (1992). Moreover, the Commission has also held that an active construction permit is to be counted as a service in such an analysis. See, Latta, Marion, Camden and Blythewood, South Carolina, 10 FCC Rcd 7204, n. 3 (1995). Therefore, following the grant of the American application, the Zahn proposal would represent a third local FM service and the fourth overall local aural service.

7. In addition to the above, Coalinga is served by local FM translator, K208CO. Moreover, construction permits and applications exist for at least two more FM translators. There is an application for a new FM Translator on Channel 214 and an outstanding construction permit for an FM Translator on Channel 226 - K226AJ.

8. In sum, Kerner's proposal which involves only the second aural service at McFarland is superior to that of Zahn which involves a third FM service and a fourth aural service at Coalinga. This is particularly so in view of the fact that the two communities possess comparable populations - 7,005 at McFarland as opposed to 8,212 at Coalinga. Therefore, McFarland which has much fewer existing services than the comparable community of Coalinga is more deserving of the allotment of Channel 247A.

B. Restatement Of Commitment To Apply And Construct

9. If the Commission assigns Channel 247A to McFarland, California, Kerner will apply for a construction permit and will construct a new facility upon award of that permit.

III. CONCLUSION

10. McFarland, California has been shown to possess substantially fewer aural services than the comparable community of Coalinga, California. Therefore, the public interest will be served by the assignment of Channel 247A to McFarland, California.

WHEREFORE, in accordance with the above, Kerner Broadcasting Company respectfully requests that Channel 247A be assigned to McFarland, California.

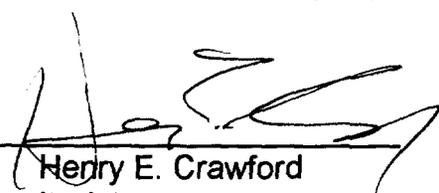
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Respectfully Submitted,

Kerner Broadcasting Company

By:


Henry E. Crawford
Its Attorney

CERTIFICATE OF SERVICE

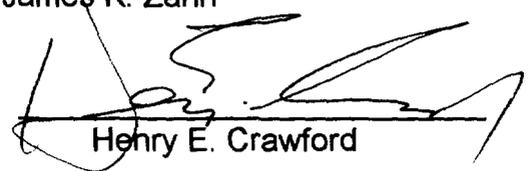
I, Henry E. Crawford, do hereby certify that copies of the foregoing
Comments of Kerner Broadcasting Company have been served by United States
mail, postage prepaid this 10th day of November, 1997 upon the following:

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