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

In the Matter of                    )  
  )  
Amendment of Section 73.202(b), ) MM Docket No. 97-180  
Table of Allotments,            ) RM-9104  
FM Broadcast Stations.         )  
(Hawthorne, Wisconsin)        )

REPORT AND ORDER  
(Proceeding Terminated)

Adopted: November 19, 1997      Released: December 5, 1997

By the Chief, Allocations Branch:

1. The Commission has before it for consideration the Notice of Proposed Rule Making, 12 FCC Rcd 11967 (1997), issued in response to a petition filed by Bruce F. Elving ("Elving"), proposing the allotment of Channel 293A to Hawthorne, Wisconsin, as that community's first local broadcast service. Elving filed comments in response to the Notice. WTRW, Incorporated ("WTRW") filed a counterproposal. Elving and WTRW filed reply comments.

2. In the Notice, Elving was requested to furnish sufficient information to support a finding that Hawthorne is a community for allotment purposes since it is not listed in the U.S. Census. Elving was also requested to provide specific information as to the social, economic cultural or government indicia to determine whether Hawthorne is a community for allotment purposes. The Notice further requested that Elving specify whether it is requesting Hawthorne or the Town of Hawthorne, as the community of allotment for Channel 293A. In response, Elving states that

applications for Channel 293A should specify the township boundaries as no city known as Hawthorne exists despite the 1995 Edition of the Rand McNally Commercial Atlas listing Hawthorne, 100 people. According to Elving the Town of Hawthorne has a laundromat, Johnson Materials and Forest Products, Covered Wagon Restaurant and bar. There is also a Gas Station and convenience store, Hunter's Chariot Wheels (used cars) and nearby is Priem's Forest Products. There is an Assembly of God church, Whispering Pines Evangelical Free church, a Baptist church just across the town line and the Town of Hawthorne has a volunteer fire department. Elving points out that Hawthorne has a town clerk, post office and zip code, while schools are in the neighboring towns of Maple and Lake Negagamon

3. Based on the totality of the evidence submitted by Elving, we believe he has failed to establish that Hawthorne qualifies as a community for allotment purposes and therefore it would not serve the public interest to allot a channel to Hawthorne. See Mokelumne Hill, California, 4 FCC Rcd 7108 (1989) and Lupton, Michigan, 11 FCC Rcd 14428 (1996). While Elving has alleged that there are some local businesses, churches and community services, he has not specifically identified these entities with street addresses or shown that they are intended to serve the residents of Hawthorne, as opposed to the surrounding area. This is a critical deficiency because, in past cases, we have rejected claims of community status where a nexus has not been shown between the political, social and commercial organizations and the community in question. See Gretna, Marianna, Quincy and Tallahassee, Florida, 6 FCC Rcd 633 (1991), and cases cited therein; Ellison Bay, Wisconsin, 9 FCC Rcd 2327 (1994), recon. denied, 10 FCC Rcd 8082 (1995). Elving has, in fact, stated that the channel should be allotted to Hawthorne Township instead of Hawthorne. We do acknowledge that Hawthorne can be located on a state map in Douglas County. Further, according to the 1995 edition of the Rand McNally Commercial Atlas and Marketing Guide ("Atlas"), Hawthorne does have a post office and is credited with a population of 100 people. However, we believe that the record in this proceeding is insufficient to find that Hawthorne is a community for allotment purposes. Therefore, we will not allot Channel 293A to Hawthorne.

4. IT IS FURTHER ORDERED, That the request of Bruce F. Elving for the allotment of Channel 293A at Hawthorne, Wisconsin, IS DENIED.

5. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

6. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

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

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

In the Matter of                    )  
  )  
Amendment of Section 73.202(b), ) MM Docket No. 97-8  
Table of Allotments,            ) RM-8957  
FM Broadcast Stations.         )  
(Amelia, Louisiana)            )  
  )

REPORT AND ORDER  
(Proceeding Terminated)

Adopted: September 10, 1997      Released: September 19, 1997

By the Chief, Allocations Branch:

1. At the request of Amelia Broadcasting of Louisiana ("petitioner"), the Commission has before it the Notice of Proposed Rule Making, 12 FCC Rcd 674 (1997), proposing the allotment of Channel 249C3 to Amelia, Louisiana, as the community's first local aural transmission service. Petitioner and Rice Capital Broadcasting Company ("Rice Capital") filed supporting comments stating their interest in applying for the channel at Amelia, if allotted. Guaranty Broadcasting Corporation ("Guaranty"), licensee of Station WDGL(FM), Baton Rouge, Louisiana, and Station WBBU(FM), Baker, Louisiana, also filed comments.

2. The Notice questioned the status of Amelia as a community for allotment purposes, and the suitability of the site petitioner has chosen since it is located in a relatively large swampy area. In response to our concerns regarding the status of Amelia as a community, petitioner states that Amelia is a Census Designated Place ("CDP") with a 1990 U.S. Census population of 2,447 persons.

It also possesses its own zip code. Petitioner argues that the presence of these factors and particularly the listing of Amelia as a CDP creates a strong presumption of community status, citing East Hemet, Indio, Rancho California, Sun City and Temecula, California, 4 FCC Rcd 7895, 7896, (1989). Petitioner contends that this presumption may only be rebutted where there is no indicia of such elements of community as social, economic or cultural activities. In this case, petitioner claims that the community of Amelia has an abundant indicia of community life, noting that the community was included in a 1992 Economic Census-Retail Trade Report published by the Center for Business & Economic Research, Northeast Louisiana University. Petitioner submits that this economic analysis indicates that Amelia possesses eight retail establishments: two supermarkets/grocery stores, two convenience food stores, one restaurant, two refreshment places and a drug store. Petitioner states that Amelia is a prominent shipbuilding and repair center. Petitioner further argues that if shipyards and retail establishments can be constructed in the area, it is "prima facie" evident that a transmitter can be erected. Furthermore, petitioner states it has actually flown over the community and identified several areas that would be available for a transmitter. In conclusion, petitioner states that it has amply demonstrated that Amelia is a community supporting a substantial commercial presence and because of the presence of these commercial establishments there must be sufficient dry ground upon which to construct an FM transmitter

3. Guaranty opposes the allotment of Channel 249C3 at Amelia stating that the proposed allotment could adversely affect Guaranty's anticipated upgrade of Station WBBU(FM) at Baker, Louisiana. It also argues that the proposed station would be located within a geographic area that simply is not suitable for sustaining a radio tower. In support of this, Guaranty provides a USGS 1:250,000 scale map which shows that the area where the suggested station would need to be located falls within a vast marsh or swamp area and is void of any roads. In addition, Guaranty submits a letter from Fred O. Dunham ("Dunham") Marine Fisheries Biologist Project Coordinator with the Louisiana Department of Wildlife and Fisheries. Dunham states the area in question is "almost one hundred percent marsh with small portions of it having swamp and shell middens." In addition, the required radio tower would most likely have to be erected on a barge or other stationary platform. He further notes that any proponent of such a structure would have to obtain several regulatory permits to construct in the area. Dunham states that the proposed tower would be located in an area that is subject to the direct forces of tropical storms and a high volume of low flying aircraft which supports the oil and gas industry. Guaranty argues that in view of Dunham's letter, it is apparent that placing a radio transmitter tower in the area suggested by petitioner is impractical, both economically and operationally.

4. Rice Capital and petitioner filed reply comments stating that Guaranty's opposition based on its future hopes for its station to upgrade are without legal basis for the Commission to refuse to allot the proposed channel to Amelia. Rice Capital argues that petitioner has shown in its comments that a suitable transmitter site could be found for the proposed allotment. Rice Capital also submits a map depicting the area in which a fully spaced transmitter site could be located.

#### Discussion

5. As stated in the Notice, we requested petitioner to provide a showing demonstrating that a suitable fully spaced area exists to locate a transmitter tower because the site petitioner requested was located in a relatively large swampy area. In this case, our engineering staff has confirmed that the site proposed by petitioner is located in a swampland. Although petitioner states that it has identified several areas that would be available for a transmitter, our engineering analysis indicates that Channel 249C3 at Amelia cannot be site restricted to clear the current licensed site of Station WDGL(FM), Channel 251C, Baton Rouge, Louisiana. Therefore, since we are unable to find a fully spaced site that is not located in swampland, we will deny petitioner's proposal to allot Channel 249C3 at Amelia, Louisiana.

6. Although we do not need to reach a decision regarding community status because of the

transmitter site problem, we find that the information provided by petitioner is insufficient to affirmatively find that Amelia is a "community" for allotment purposes. While petitioner states that Amelia is a Census Designated Place "CDP" with a 1990 U.S. Census population of 2,447 persons, this designation alone only give rise to the presumption of community status. It appears that the residents of Amelia do not receive any municipal local services. There is no local government, police, library, newspaper, churches, social organizations or schools. We note that Amelia has a post office. However, the presence of a post office is not sufficient to establish community status. See Coker, Alabama, 43 RR 2d 190 (1978). While petitioner claims there is commercial activity in Amelia, it has not specifically identified any business or organizations which identify themselves with Amelia or shown that these organizations are intended to serve the needs of community, as opposed to other areas. Commission policy is to reject assertions of community status where a connection has not been shown between political, social and commercial organizations and the community in question. See e.g., Gretna, Florida, 6 FCC Rcd 633 (1991), and cases cited therein.

7. In light of the above, IT IS ORDERED, that the petition for rule making filed by Amelia Broadcasting of Louisiana (RM-8957), IS DENIED.
8. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.
9. For further information concerning this proceeding, contact Pam Blumenthal, Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

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

EXHIBIT 13

COPY OF REPORT AND ORDER IN  
HAYFIELD, VIRGINIA

NOTICE

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

In the Matter of )  
)  
Amendment of Section 73.202(b), ) MM Docket No. 97-68  
Table of Allotments, ) RM-8999  
FM Broadcast Stations. )  
(Hayfield, Virginia) )  
)

REPORT AND ORDER  
(Proceeding Terminated)

Adopted: September 24, 1997

Released: October 17, 1997

By the Chief, Allocations Branch:

1. At the request of Vixon Valley Broadcasting ("petitioner"), the Commission has before it the Notice of Proposed Rule Making, 12 FCC Rcd 2953 (1997), proposing the allotment of Channel 263A at Hayfield, Virginia, as the community's first local aural transmission service. Petitioner filed comments restating its interest in applying for Channel 263A if allotted to Hayfield. Mid Atlantic Network, Inc. ("Mid Atlantic"), licensee of Stations WINC(AM)/WINC-FM, Winchester, Virginia, filed comments and reply comments.

2. The Notice requested that petitioner furnish information to demonstrate that Hayfield has the social, economic, cultural indicia to qualify it as a community for allotment purposes and to show that these entities identify themselves with Hayfield. In response petitioner states that Hayfield has a post office, two churches, a cemetery and several retail businesses. It notes that the community also has a commercial quarry.

3. Mid Atlantic filed comments objecting to the requested allotment at Hayfield, arguing that Hayfield is devoid of any indicia that would qualify it as a community for allotment purposes. In support of its position, Mid Atlantic submits a letter from Mr. James L. Longerbeam ("Longerbeam"), Chairman of the Frederick County Board of Supervisors and a letter from Eric R. Lawrence ("Lawrence"), a Planner with the Frederick County Department of Planning and Development. Longerbeam states that Hayfield is the name of a crossroads and the County of Frederick does not consider this location a community. He further notes that at this intersection location is a small grocery store, which he believes has closed recently, a motel, an Assembly of God Church, and a few houses. Lawrence submits that Hayfield might be better referred to as an area of the County rather than a community. He states that Hayfield does not have its own local government and no public utility provisions for water and sewer. Mid Atlantic further submits an article from the Winchester Star newspaper dated March 1, 1997, reporting the closing of the Hayfield Contract (Postal) Station, noting that people who had mailboxes will have the option of either getting a post office box at the Winchester or Gore Post Offices or constructing mailboxes at their homes for rural route mail delivery. Mid Atlantic argues that there is none of the indicia of community status present in Hayfield, stating that petitioner has failed to supply any showing indicating the presence of social or cultural organizations, municipal services or governmental units that identify themselves with Hayfield. On the contrary, Mid Atlantic submits the only indication of community status under the Commission's criteria provided by petitioner is the existence of a church, a cemetery, a quarry and an exit off of Highway 50.

4. Mid Atlantic also filed reply comments noting that petitioner did not submit the information necessary to demonstrate that Hayfield is a community for allotment purposes. It alleges that the only arguable indication of community status under the Commission's well established criteria is the Assembly of God Church and that petitioner failed to provide a showing indicating that the Church identifies itself with Hayfield or is intended to serve Hayfield as opposed to other areas, citing e.g., Ellison Bay, Wisconsin, 10 FCC Rcd 8082 (1995). Furthermore, Mid Atlantic notes that the only commercial establishment in the area is closing. Petitioner filed no reply comments.

5. In consideration of the information submitted in this proceeding, we are unable to find that Hayfield is a "community" for allotment purposes. Although the 1995 edition of the Rand McNally Commercial Atlas ("Atlas") lists Hayfield as having a population of 100 persons, the town is neither incorporated nor listed in the U.S. Census. In this regard, the Commission has stated that mere geographical location is not sufficient to establish "community status." See Vimville, Mississippi, 48 FR 5974 (1983), and Hannibal, Ohio, 6 FCC Rcd 2144 (1991). In addition, petitioner has not provided sufficient objective evidence indicating the existence of a community or any subjective evidence such as testimony of local residents indicating that they perceive themselves as belonging to a distinct geographical grouping. See Beacon Broadcasting, 2 FCC Rcd 3469 (1987), *aff'd*, 2 FCC Rcd 7562 (1987). While petitioner claims there are several businesses in Hayfield, it has not specifically identified these businesses or any other organizations which identify themselves with Hayfield or shown that these organizations are intended to serve the needs of the community, as opposed to other areas, as requested by the Notice. Indeed, it appears that the only retail business in the area, the Hayfield market, has closed. While in the past we have found places which are not incorporated or listed in the census to be communities for allotment purposes, Hayfield has none of the attributes associated with community status. See Kenansville, Florida, 5 FCC Rcd 2663 (1990), *aff'd* 10 FCC Rcd 9831 (1995). In Kenansville, evidence was provided demonstrating the existence of seven civic organizations and over 30 businesses which provided support for a finding that the residents of Kenansville conceived of themselves as a community. In this case, we believe that the record in this proceeding is insufficient to find that Hayfield is a community for allotment purposes. Therefore, we will not allot Channel 263A to Hayfield, Virginia.

6. In light of the above, IT IS ORDERED, that the petition for rule making filed by Vixon Valley Broadcasting (RM-8999), IS DENIED.

7. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

8. For further information concerning this proceeding, contact Pam Blumenthal, Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

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

EXHIBIT 14

COPY OF REPORT AND ORDER IN  
DEERFIELD, MISSOURI

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

In the Matter of )  
)  
Amendment of Section 73.202(b), ) MM Docket No. 97-111  
Table of Allotments, ) RM-9052  
FM Broadcast Stations. )  
(Deerfield, Missouri) )

REPORT AND ORDER  
(Proceeding Terminated)

Adopted: August 13, 1997 Released: August 22, 1997

By the Chief, Allocations Branch:

1. In response to a petition filed by Deerfield FM Radio ("petitioner") , the Commission has before it for consideration the Notice of Proposed Rule Making, 12 FCC Rcd 3734 (1997), seeking the allotment of Channel 264C3 to Deerfield, Missouri. Petitioner filed comments supporting the allotment of Channel 264C3 at Deerfield. No other comments were received at the Commission in response to this proposal.
2. The Notice requested that petitioner furnish information to demonstrate that Deerfield has the social, economic and cultural indicia to qualify it as a community for allotment purposes. Petitioner advises that the community of Deerfield is governed by the local Deerfield Township Board which meets weekly at the Deerfield Community Center. According to petitioner, the Deerfield Volunteer Fire Department and the Deerfield Water District Board also use the Deerfield Community Center for meetings. Petitioner states that the Deerfield Baptist Church was

established in 1888 and is still active with a large local membership, and that there are two more churches in the community. There is an active 4-H Club in Deerfield as well as the Clover Kids which has additional activities for young people. Petitioner points out that the Deerfield economy is based largely on agriculture and commercial establishments that serve the agriculture industry such as Deerfield Grain, Farmers Agriculture and Grain Co., Metz Grain, Hummer Engineering, Hemstead Co., Inc., Vernon County Grain and Supply, State Line Trailers, Phillips 66 LPG Co. and Heffler Farm Equipment Co. Petitioner continues that

a number of other business, such as Emery and Sons Heating and Air Conditioning, Trail Blazer Cafe, Conoco Service Center and Grocery and Sechrist Antiques, are also located in Deerfield.

3. We believe that petitioner has provided us with sufficient indicia to conclude that Deerfield is a community for allotment purposes. It is an identifiable population grouping with businesses that identify themselves with the residents of Deerfield. See Garrison, Kentucky, 6 FCC Rcd 1428 (1991), Shell Knob, Missouri, 11 FCC Rcd 12196 (1996) and Kenansville, Florida, 10 FCC Rcd 983 (1995).

4. After consideration of the information filed in this proceeding, we believe the public interest would be served by the allotment of Channel 264C3 at Deerfield, Missouri. Channel 264C3 can be allotted to Deerfield in compliance with the Commission's spacing requirements provided there is a site restriction 16.2 kilometers (10.1 miles) southwest of the community. The site restriction will prevent a conflict with Station KMZU, Channel 264C1, Carrollton, Missouri.

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective October 6, 1997, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the community listed below, as follows:

Community	Channel Number
Deerfield, Missouri	264C3

6. The window period for filing applications for Channel 264C3 at Deerfield, Missouri, will open on October 6, 1997, and close on November 6, 1997

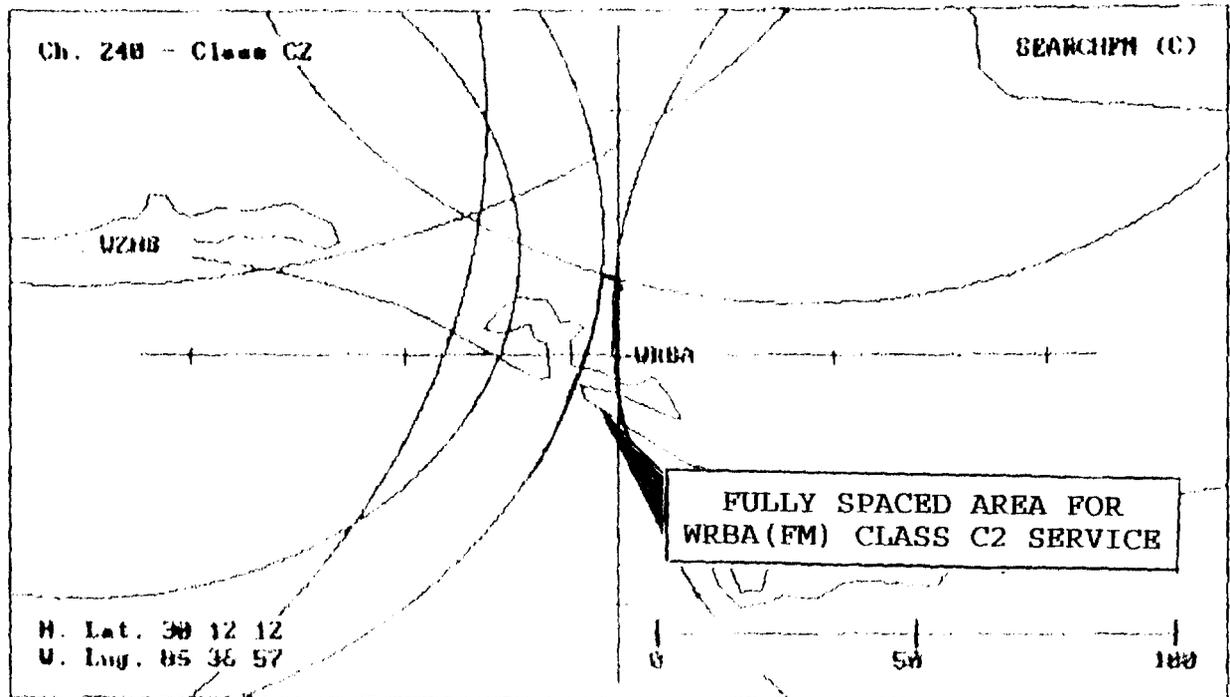
7. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

8. For further information concerning the above, contact Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180. Questions related to the window application filing process

for Channel 264C3 at Deerfield, Missouri, should be addressed to the Audio Services Division, Mass Media Bureau, (202) 418-2700.

EXHIBIT 15

FM CHANNEL SPACING STUDY SHOWING AREA  
WHERE STATION WRBA (FM) COULD UPGRADE FACILITIES



Search 01-19-98

Data 12-20-97

Current rules spacings  
CHANNEL 240 - 95.9 MHz

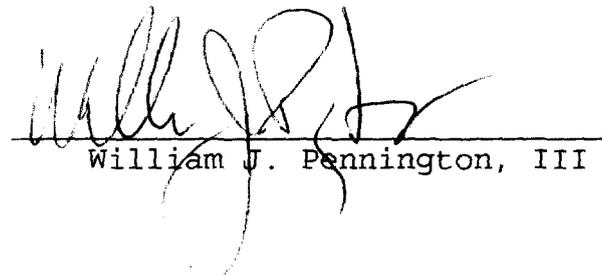
CALL	CH#	CITY	STATE	BEAR'	D-KM	R-KM	MARGIN
WRBA	240C2	Springfield	FL	0.0	0.00	190.0	-190.00 *
WHBX	241C2	Tallahassee	FL	86.8	129.22	130.0	-0.78 *
AD239	239C3	Navarre	FL	282.7	123.18	117.0	6.18
WTVYFM	238C	Dothan	AL	16.3	121.39	105.0	16.39
WZNS	243C1	Fort Walton Beach	FL	283.5	100.10	79.0	21.10
WRKH	241C	Mobile	AL	284.2	219.41	188.0	31.41
WXXN	240A	Greenville	AL	331.5	207.04	166.0	41.04

**CERTIFICATE OF SERVICE**

I, William J. Pennington, III, hereby certify that the Reply Comments of 550-AM were hand delivered or mailed first class, postage prepaid, on January 27, 1998 to the following:

Howard M. Liberman, Esq.  
Naomi S. Travers, Esq.  
Elizabeth A. Hammond, Esq.  
Arter & Hadden  
1801 K Street, N.W.  
Suite 400K  
Washington, DC 20006

**COUNSEL TO ROOT COMMUNICATIONS GROUP, LP**

  
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William J. Pennington, III