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July 16, 1998

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie Salas, Secretary
Federal Communications Commission
1919 M Street, NW
Washington, D.C. 20554

RE: Petition to Amend the FM Table of Allotments
Buxton, North Carolina
Buxton Radio Group, Petitioner

Dear Ms. Salas:

Transmitted herewith, on behalf of Buxton Radio Group, through counsel, is an original and six (6) copies of a "Petition to Amend the FM Table of Allotments" (47 C.F.R. 73.202(b)).

Buxton Radio Group requests Commission consideration regarding the addition of a new, first local broadcast service at Buxton, North Carolina.

Should any questions arise concerning this matter, please contact the undersigned, directly.

Respectfully submitted,


Richard J. Hayes, Jr.,
Counsel to
Buxton Radio Group

RJH:tb
Enclosures

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**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON DC 20554**

IN THE MATTER OF:

**AMENDMENT OF SECTION 73.202(B)
TABLE OF ALLOTMENTS
FM BROADCAST STATIONS
BUXTON, NORTH CAROLINA**

**BC DOCKET NO:
RM NO:**

TO: CHIEF, ALLOCATIONS BRANCH

PETITION FOR RULE MAKING

COMES NOW, Buxton Radio Group, through counsel, and pursuant to the provisions of Section 1.401 of the Commission's Rules (47 C.F.R.1.401) requesting that the Table of Allotments in Section 73.202(b) of the Federal Communications Commission's Rules and Regulations be amended.

Buxton Radio Group hereby requests that the FM Table of Allotments in Section 73.202(b) be amended to include a new, first local broadcast service at Buxton, North Carolina on Channel 268A. Buxton Radio Group requests that the FM Table of Allotments be amended as follows:

Location	Present	Proposed
Buxton, North Carolina	-----	268A

There are compelling, public interest justifications for granting this rule making, and in support thereof, the following is shown:

1. PRELIMINARY STATEMENT

A. FIRST, LOCAL BROADCAST SERVICE

The purpose of this request is to provide a much needed, first local broadcast service to the community of Buxton, North Carolina. At present, Buxton, North Carolina does not enjoy the service of either an AM or FM facility within its community. The Petitioner proposes that the Commission amend the FM Table of Allotments to allot Channel 268A to Buxton, North Carolina as that community's first, local broadcast service.

Buxton is a continuously growing community with a progressive business attitude. Buxton has a current population of 1,300 persons according to the Rand McNally Atlas. In the spring, summer and autumn months, the population swells to several thousand persons. The population turnover during the three seasonal months reaches the tens of thousands. The proposed facility will encompass an area of 2,513.1 square kilometers. The total number of fulltime residents served by the facility will be 3.814. Clearly, this proposed facility will provide first local service to a substantial population and will further the Commission's goal of diversity of expression in the marketplace.

Buxton is a substantial community with its own post office, fire department, elementary and high schools, water department and numerous businesses. For allocation purposes, Buxton is a bona fide community. It has been well documented that the Outer Banks of North Carolina are exposed to threats of major hurricanes and other, destructive storms. Buxton's strategic location on Hatteras Island and its position as the most populated area of the island demonstrate that there is the need for a local broadcast facility which can keep the residents informed during local emergencies and evacuations. The needs of Hatteras Island, and Buxton, are quite different from those of the highly populated beach communities fifty to sixty miles north. The stations in Kill Devil Hills, Kitty Hawk and Manteo concentrate their efforts on those communities while the population of Hatteras Island, and Buxton in particular, are at a loss when it comes to receiving accurate, local information. Clearly, there is a demonstrated need for a local broadcast service in Buxton.

A. EFFICIENT USE OF SPECTRUM

Such an amendment of the FM Table of Allotments would further the Commission's goal of providing a more efficient use of the FM Spectrum by providing a first, local FM broadcast service at Buxton, North Carolina. The Amendment of Section 73.202(b) of the Commission's Rules to include Channel 268A at Buxton, North Carolina would provide coverage to a substantial area and population. Certainly, the citizens of Buxton and, additionally, those citizens in the predicted 1.0 mV/m contour of the proposed facility, would benefit from a first, full time, local FM broadcast service. No other person or community has expressed any interest in this channel at Buxton, North Carolina.

II. ENGINEERING CONSIDERATIONS

A. Substantial Area to Receive Additional Service

Petitioner's engineering exhibit, as attached, provides an analysis of a complete search of the FM band. That study concludes that Channel 268A would provide city-grade coverage to Buxton, North Carolina. Channel 268A could be allotted, consistent with the mileage separation and city-grade service requirements of the Commission's Rules. The consideration of all factors shows that this proposal can be accommodated and that Channel 268A can be added to the FM Table of Allotments at Buxton, North Carolina without jeopardizing any other community or facility. No community would lose any present or potential service and a substantial area of service would be added if this proposed allocation is granted. Finally, the allotment of Channel 268A at Buxton, North Carolina results in first, local broadcast service.

III. PETITIONER'S INTENTION TO APPLY FOR CHANNEL 268A

If these proposed changes are implemented by the Commission, the Petitioner intends, pursuant to the Rules of the Commission, to file an application for a construction permit, and if awarded the permit, to promptly construct the facility. Financially, the Petitioner is qualified to construct and operate the facility sought.

**BUXTON RADIO GROUP
PETITION FOR RULE MAKING
PAGE FOUR**

IV. SUMMARY

No community will lose any present or proposed service as a result of a grant of this "Petition for Rule Making" and, furthermore, a substantial new area of service will be added. As indicated above, a grant of this "Petition" will provide a much needed, first, local, FM broadcast service to Buxton, North Carolina. This "Petition" would, if granted, provide for an efficient utilization of both Commission and spectrum resources.

THEREFORE, in view of the foregoing facts, Petitioner requests that the FM Table of Allotments (Section 73.202(b)) be amended to allot FM Channel 268A to Buxton, North Carolina

Respectfully submitted,

BUXTON RADIO GROUP

By: _____

Richard J. Hayes, Jr.
Its Attorney

Richard J. Hayes, Jr.
Attorney at Law
8404 Lee's Ridge Road
Warrenton, Virginia 20186

540-349-9970

Date: July 14, 1998

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON DC 20554**

IN THE MATTER OF:

**AMENDMENT OF SECTION 73.202(B)
TABLE OF ALLOTMENTS)
FM BROADCAST STATIONS
BUXTON, NORTH CAROLINA**

**BC DOCKET NO:
RM NO:**

NOTICE OF PROPOSED RULE MAKING

Adopted:

Released:

By the Chief, Policy and Rules Division:

1. The Commission has before it for consideration the Petition for Rule Making submitted by Buxton Radio group requesting the allotment of Channel 268A to Buxton, North Carolina.
2. Channel 268A can be allotted to Buxton, North Carolina in compliance with the Commission's minimum distance separation requirements as evidenced in the attached engineering statement. Petitioner states that the public interest would benefit from the allotment of this channel as it would provide Buxton with its first, local FM broadcast service.
3. In order to effectuate this proposal, the Commission proposes to amend the Table of Allotments, Section 73.202(b) of the Commission's Rules with respect to the following community:

	Present	Proposed
Buxton, North Carolina	-----	268A

4. The Commission's authority to institute rule making proceedings, showings required, cutoff procedures, and filing guidelines are incorporated by reference, herein. NOTE: A showing of continuing interest is required by Paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before, and reply comments on or before, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the Petitioner, as follows:

Notice of Proposed Rule Making
Page Two

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8404 Lee's Ridge Road Road
Warrenton, VA 20186
Counsel to Buxton Radio Group

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, Section 73.202(b), of the Commission's Rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules, 46 Fed. Reg. 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact the Mass Media Bureau (202) 418-2710. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all ex parte contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An ex parte contact is a message (spoken or written) officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an ex parte presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an ex parte presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

Chief, Policy and Rules Division
Mass Media Bureau

PETITION FOR RULEMAKING

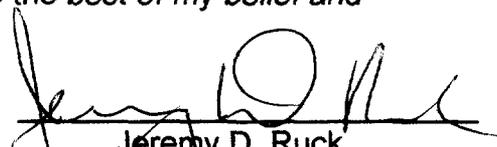
The following engineering statement and attached exhibits have been prepared for Buxton Radio Group, and are in support of their Petition for Rulemaking to modify Section 73.202(b), Table of Allotments, of the Federal Communications Commission Rules and Regulations.

The petitioner requests that the Table of Allotments be modified as follows:

<u>City</u>	<u>Existing</u>	<u>Proposed</u>
Buxton, NC	-----	268A

As shown on the attached single channel spacing study, channel 268A may be allocated to Buxton with no site restrictions relative to the community. For the purposes of allocation, the reference coordinates for Buxton are 35° 21' 7" North Latitude and 75° 30' 39" West Longitude. If allocated, the petitioner will apply for the channel 260A allocation at Buxton, North Carolina.

The preceding statement, and attached studies were prepared by me, or under my direction, and is true and accurate to the best of my belief and knowledge.



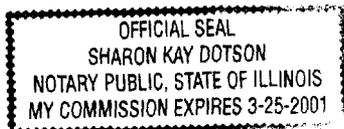
 Jeremy D. Ruck

Subscribed and sworn to before me this 13th day of July, 1998.

My Commission Expires:



 Notary Public



Single Channel Study For: Buxton, NC On Ch. 268 A -101.5 Mhz.

States Searched: NC, SC, VA, TN, GA, MD, DC, DE, WV, KY

35° 21' 7" N.

Run Date: 07-13-1998

75° 30' 39" W.

CHANNEL	ALLOTMENT OR STATION	CLASS	CALCULATED - KM. (MI.)	REQUIRED KM.	BEARING Deg. T.
214	NO CONFLICT				
215	NO CONFLICT				
265	VACANT Southern ShoresNC	C2	86.07(53.48)	55	347.30
265 NEW	APP Southern ShoresNC	C2	58.25(36.19)	55	347.60
266	NO CONFLICT				
267	NO CONFLICT				
268	NO CONFLICT				
269	NO CONFLICT				
270	NO CONFLICT				
271	NO CONFLICT				

*-Short Spaced

Only listings with clearances less than 32 Km. are shown.

This study utilized a copy of the FCC FM Database obtained directly from the Federal Communications Commission. D. L. Markley & Associates, Inc. believes this information to be accurate and current. However, D. L. Markley & Associates, Inc. does not assume any responsibility for any erroneous or incomplete data furnished as part of that database.