



Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MM Docket No. 96-66
Table of Allotments,)	RM-8729
FM Broadcast Stations.)	
(Sibley, Iowa and)	
Brandon, South Dakota))	

**COMMENTS & COUNTERPROPOSAL
OF
BRANDON BROADCASTERS**

Comes now **Brandon Broadcasters ("BB")**, by Counsel, pursuant to the *Notice of Proposed Rule Making (DA 96-364, released March 29, 1996) ("NPRM")*, and hereby respectfully submits these Comments & Counterproposal in the above-captioned Rule Making proceeding. In support hereof, BB submits the following:

Background

1. According to the NPRM, 21st Century Radio Ventures, Inc. ("21st") is the Permittee of Radio Station KAJQ-FM (Channel 262A) at Sibley, Iowa. 21st has requested that the Commission allow it to substitute Channel 261 for Channel 262, change the community of license of KAJQ-FM to Brandon, South Dakota and simultaneously upgrade its channel to Class C3 status on Channel 261C3. 21st states that it will apply for Channel 261C3 at Brandon, if allotted.

Counterproposal

2. BB requests that Channel 261A be allotted to the community of Brandon, South Dakota so that that community may receive its first local aural transmission service, and so that the opportunity to initiate such first local aural transmission service is offered to all members of the general public, not just 21st.

3. As the NPRM indicates, Brandon is qualified and deserving to receive the allotment since it is an incorporated community, is governed by elected officials and has its own police and volunteer fire department, among other factors. *See, NPRM at Para. 2.* In addition, Brandon is listed in the 1990 U.S. Census as a "Census Designated Place" ("CDP") with a population of 3,543. Generally if a community is incorporated or is listed in the U.S. Census, the community qualifies for FCC allotment purposes. *See generally, Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88, 101 (1992); Gretna, Marianna, Quincy and Tallahassee, Florida, 6 FCC Rcd 633 (1991).*

4. Although BB agrees with 21st that Brandon deserves its first local aural transmission service, BB does not believe that 21st should be the party to provide such service, nor does BB believe that Brandon should receive its first local FM service at the expense of Sibley. Under the proposal set forth herein by BB, Sibley can keep its only local FM service while a new FM channel can be allotted to Brandon and a filing window established so that all members of the general public may apply for the opportunity to provide local aural

transmission service to Brandon.

5. Since BB's counterproposal preserves the only local aural transmission service at Sibley, Commission policy must favor BB's counterproposal over the original proposal proffered by 21st. *See generally, Van Wert, Ohio and Monroeville, Indiana, 7 FCC Rcd. 6519 (1992).*

6. From a technical standpoint, the allotment of Channel 261A to Brandon, South Dakota fully complies with all applicable FCC Rules and Regulations. Attached hereto as **Exhibit No. 1** is a Technical Statement prepared by Jefferson G. Brock of Graham Brock, Inc., wherein it is demonstrated that Channel 261A can be allotted to Brandon at reference coordinates North Latitude 43 - 36 - 02, and West Longitude 96 - 31 - 15. This is the same site proposed in the NPRM for the Class C3 allotment.

7. Mr. Brock has also determined that a maximum Class A station on Channel 261 at Brandon would provide 1.0 mV/m service to 128,305 persons within a 2,492.5 square kilometer area. In so doing, Sibley, Iowa will maintain its only FM facility.

Statement of Interest

8. BB hereby states that, in the event Channel 261A is allotted to Brandon, South Dakota, it will file an FCC Form 301 Application with the Commission for the issuance of an FM Construction Permit for Channel 261A at Brandon, South Dakota.



Conclusion

WHEREFORE, the above premises considered, BB respectfully requests that its Comments and Counterproposal be ACCEPTED and that the Commission AMEND §73.202 of the Commission's Rules, as follows:

<u>City & State</u>	<u>Existing</u>	<u>Proposed</u>	
Sibley, Iowa	262A	262A	[no change]
Brandon, South Dakota	---	261A	

Respectfully submitted,

Brandon Broadcasters

By: 
Cary S. Tepper

Its Attorney

Booth, Freret & Imlay, P.C.
1233 20th Street, N.W.
Suite 204
Washington, D.C. 20554

(202) 296-9100

May 21, 1996



Exhibit No. 1

(Technical Statement of Jefferson G. Brock)

GRAHAM BROCK, INC.

BROADCAST TECHNICAL CONSULTANTS

COMMENTS AND COUNTERPROPOSAL

MM DOCKET #96-66

BRANDON BROADCASTERS

ALLOT CHANNEL 261A

BRANDON, SOUTH DAKOTA

May 1996

TECHNICAL EXHIBIT

Copyright 1996



COMMENTS AND COUNTERPROPOSAL

MM DOCKET #96-66

BRANDON BROADCASTERS

ALLOT CHANNEL 261A

BRANDON, SOUTH DAKOTA

May 1996

TECHNICAL STATEMENT

1. This Technical Statement and attached exhibits were prepared on behalf of Brandon Broadcasters ("BB") who is requesting the allotment of Channel 261A to Brandon, South Dakota, as that community's first local service. This request is mutually exclusive with the proposal of 21st Century Radio Ventures, Inc. ("21st"), in MM Docket #96-66 seeking to allot Channel 261C3 to Brandon.

BACKGROUND

2. 21st is the permittee of radio station KAJQ, Channel 262A, Sibley, Iowa. 21st is requesting an upgrade to its outstanding construction permit at Sibley and a change of community of license from Sibley, Iowa, to Brandon, South Dakota.

PROPOSAL

3. BB herein requests the allocation of Channel 261A at Brandon, South Dakota. That request is mutually exclusive with the 21st request for Channel 261C3 at Brandon. Channel 261A can be allocated to Brandon at geographic coordinates: North Latitude 43° 36' 02" and West Longitude 96° 31' 15". This is the same site proposed in the Notice of Proposed Rule Making for the C3 allocation. This represents a site restriction of 5.4 kilometers east of Brandon

to avoid shortspacing KIKN, Channel 263C1 at Salem, South Dakota. From the reference site a 3.16 mV/m contour can be delivered of all of Brandon. Exhibit #1 is a usable areas map depicting the usable area for Channel 261A at Brandon. Exhibit #2 is a §73.207 spacing analysis for Channel 261A and demonstrates the proposal meets the Commission's minimum distance separation requirements to all licensed, applied for or proposed facilities with the exception of the requested allocation of Channel 261C3 at Brandon. It is noted that Channel 261A at Brandon is fully spaced to the outstanding construction permit for KAJQ, Channel 262A at Sibley, Iowa.

4. BB herein requests the Commission amend §73.202(b) of its rules as follows:

Brandon, South Dakota

Present	Proposed
	261A

Sibley, Iowa

Present	Proposed
262A	262A ¹

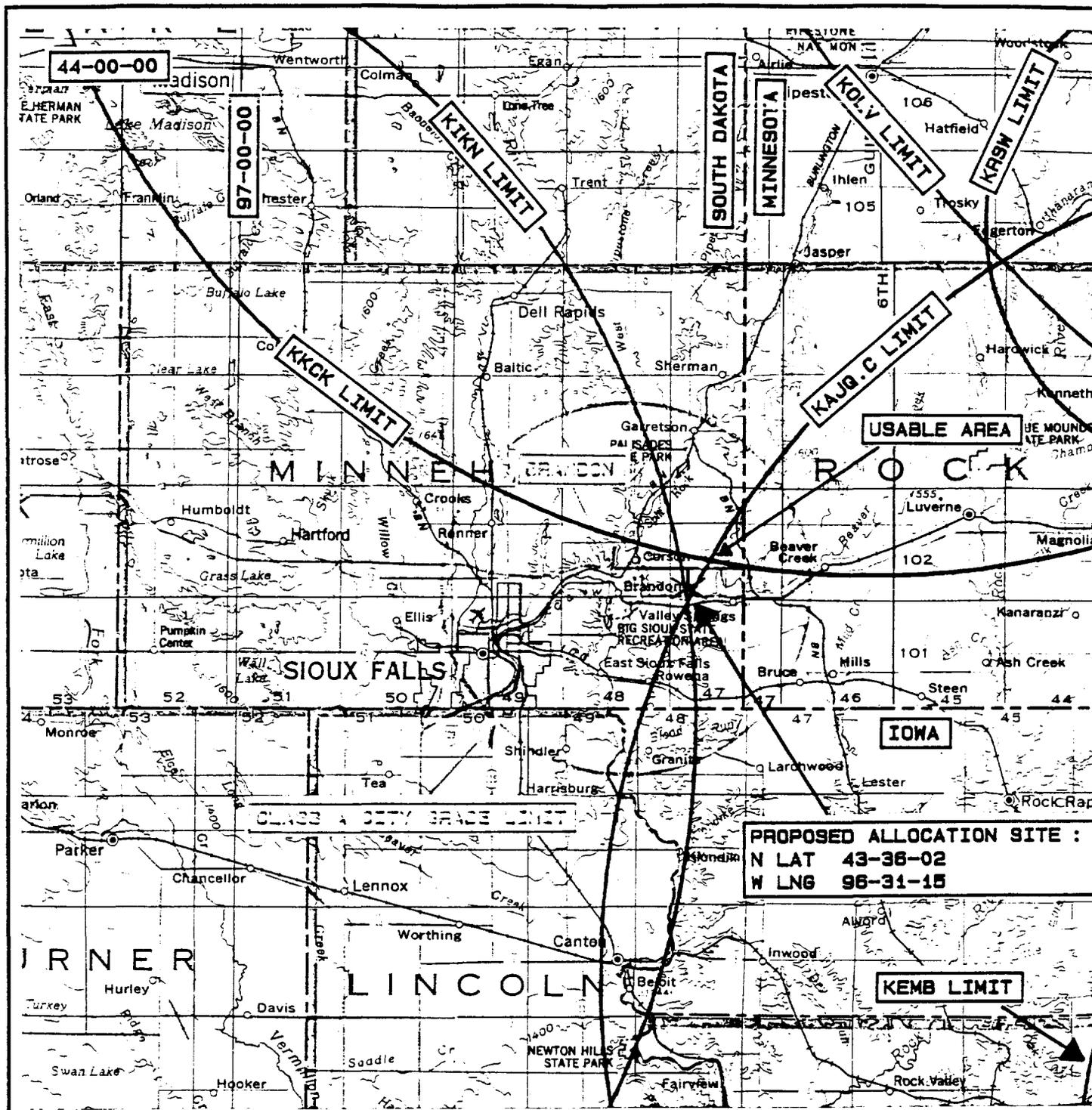
5. The Class A allocation at Brandon would allow this community of 3,543 persons (based on 1990 Census) its first locally licensable radio facility. A maximum Class A facility implemented from the reference site indicated above would provide 1.0 mV/m service to 128,305 persons in 2492.5 square kilometers without depriving Sibley of its only FM facility.

1) 21st requested the allocation of Channel 282A to Sibley, Iowa, as an alternate channel. The requested allotment of Channel 261A as proposed by BB has no impact on that portion of the 21st request.



6. Once the Commission allocates Channel 261A to Brandon, South Dakota, BB will, on a timely basis, file an application for construction permit seeking authority to construct a new FM station at Brandon.

7. The foregoing Technical Statement and attached exhibits were prepared on behalf of Brandon Broadcaster by Graham Brock, Inc., its Technical Consultants. All information contained herein is true and accurate to the best of our belief and knowledge. All data relating to FM allocations was extracted from the NTIA database as updated April 26, 1996. We assume no liability for errors or omission in that database which may be adverse to the requests contained herein.



USABLE AREA CHANNEL 261A

MAP IS A PORTION OF THE 1: 500, 000 SCALE
U.S.G.S. BASE MAP OF SOUTH DAKOTA, IOWA
AND MINNESOTA.

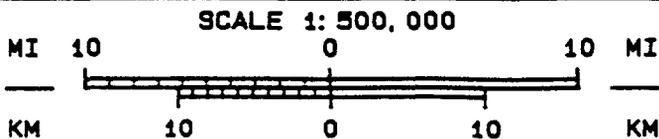


EXHIBIT #1

COMMENTS & COUNTERPROPOSAL
BRANDON BROADCASTERS
MM DOCKET # 96-66
ALLOT CHANNEL 261A
BRANDON, SOUTH DAKOTA
May 1996

GRAHAM BROCK, INC
BROADCAST TECHNICAL CONSULTANTS

ALLOCATION STUDY FOR BRANDON, SOUTH DAKOTA
USING PROPOSED ALLOCATION SITE AS REFERENCE

REFERENCE	CLASS A	DISPLAY DATES
43 36 02 N		DATA 04-26-96
96 31 15 W	Current rules spacings	SEARCH 05-17-96
----- CHANNEL 261 -100.1 MHZ -----		

CALL TYPE	CH# LAT	CITY LNG	STATE PWR	BEAR' HT	D-KM D-Mi	R-KM R-Mi	MARGIN (KM)
AD261 AD	261A 43 36 02	Brandon 96 31 15	SD 0.000 kw	0.0 OM	0.00 0.0	115.0 71.5	-115.00
Counterproposal - MM Docket #96-66							
KIKN LI CN	263C1 43 29 18	Salem 97 26 34	SD 100.000 kw	260.8 287M	75.55 47.0	75.0 46.6	0.55
Southern Minnesota Broadcasting BLH-931019KD							
KAJQ.C CP CN	262A 43 17 58	Sibley 95 43 21	IA 6.000 kw	117.2 72M	72.77 45.2	72.0 44.8	0.77
21st Century Radio Ventures, Inc. BPH-930809MA 960504							
KKCK LI CN	259C1 44 16 56	Marshall 96 19 05	MN 100.000 kw	12.0 282M	77.47 48.2	75.0 46.6	2.47
KMHL Broadcasting Company BLH-890627KB							
KRSW LI DCN	207C1 43 53 01	Worthington 95 55 44	MN 100.000 kw	56.3 169M	57.12 35.5	22.0 13.7	35.12
Minnesota Public Radio BLED-941220KA							
KOLV LI CN	261C3 44 45 49	Olivia 94 55 49	MN 10.000 kw	43.9 83M	181.32 112.7	142.0 88.3	39.32
Olivia Broadcasting Co. BLH-950724KF							
KEMB LI ZCN	261A 43 01 26	Emmetsburg 94 41 56	IA 5.000 kw	112.9 82M	161.10 100.1	115.0 71.5	46.10
Jacobson Broadcasting Corporation BLH-930907KC							
KKMA LI CN	258C1 42 28 56	Le Mars 96 15 30	IA 100.000 kw	170.2 241M	126.07 78.3	75.0 46.6	51.07
Klem, Inc. BLH-781206AE							

CHANNEL 261A SPACING STUDY

EXHIBIT #2
COMMENTS & COUNTERPROPOSAL
BRANDON BROADCASTERS
MM DOCKET # 96-66
ALLOT CHANNEL 261A
BRANDON, SOUTH DAKOTA
May 1996

GRAHAM BROCK, INC.

BROADCAST TECHNICAL CONSULTANTS



AFFIDAVIT AND QUALIFICATIONS OF CONSULTANT

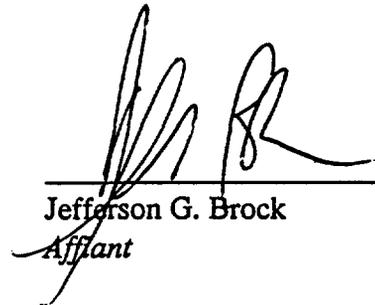
State of Georgia)
St. Simons Island) ss:
County of Glynn)

JEFFERSON G. BROCK, being duly sworn, deposes and says that he is an officer of Graham Brock, Inc. Graham Brock has been engaged by Brandon Broadcasters to prepare the attached Technical Exhibit.

His qualifications are a matter of record before the Federal Communications Commission. He has been active in Broadcast Engineering since 1979.

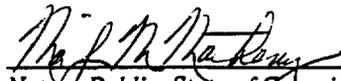
The attached report was either prepared by him or under his direction and all material and exhibits attached hereto are believed to be true and correct.

This the 17th day of May, 1996.



Jefferson G. Brock
Affiant

*Sworn to and subscribed before me
this the 17th day of May, 1996*



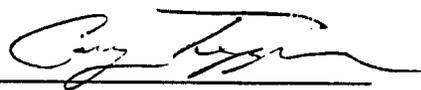
Notary Public, State of Georgia
My Commission Expires: September 12, 1999

CERTIFICATE OF SERVICE

I, Cary S. Tepper, Esquire, hereby certify that on this 21st day of May, 1996, I have served a copy of the foregoing "Comments & Counterproposal of Brandon Broadcasters" first-class, postage-prepaid, on the following:

*John A. Karousos
Chief, Allocations Branch
Federal Communications Commission
2020 M Street, N.W.; Room 561
Washington, D.C. 20554

James L. Primm, President
21st Century Radio Ventures, Inc.
530 Wilshire Blvd.
Suite 301
Santa Monica, CA 90401
(Petitioner)



Cary S. Tepper, Esq.

*/ indicates delivery by hand



STAMP & Re

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Amendment of Section 73.202(b)) MM Docket No. 96-66
Table of Allotments,) RM-8729
FM Broadcast Stations)
(Sibley, Iowa and Brandon, South)
Dakota)

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REPLY COMMENTS OF 21st CENTURY RADIO VENTURES, INC.

21st Century Radio Ventures, Inc. ("Petitioner") hereby respectfully submits these Reply Comments in the above-captioned Rule Making. In support hereof Petitioner hereby submits the following:

I. INTRODUCTION

Petitioner filed a Petition for Rule Making in the above captioned proceeding seeking the substitution of channel 261C3 for channel 262A at Sibley, Iowa and the reallocation of channel 261C3 from Sibley, Iowa to Brandon, South Dakota pursuant to the provisions of Section 1.420(i). The Commission sent out a Notice of Proposed Rule Making in the above referenced proceeding. Petitioner filed timely comments during the comment period. Concurrently with filing its comments, Petitioner filed a Petition for Rule Making seeking the allotment of Channel 282A at Sibley, Iowa. Comments were also filed by Brandon Broadcasters ("BB"). Petitioner now files these Reply Comments in response to the comments of BB.

II. THE COUNTERPROPOSAL OF BB WILL NOT SERVE THE PUBLIC INTEREST AS EFFECTIVELY AS THE PROPOSAL OF PETITIONER

A. 23,586 More People Will Be Served Under Petitioner's Proposal As Compared To The Proposal of BB

BB proposes to allot channel 261A to Brandon, South Dakota and seeks to deny Petitioner's Petition to move Channel 261C3 to Brandon. As a result, BB's

counterproposal should be considered a counterproposal for two conflicting allotments to serve the same community.

Conflicting proposals for an amendment of the FM Table of Allotments are compared using the allotment priorities set forth in Revision of FM Policies, 90 FCC 2d 88 (1982):

- (1) first full-time aural service;
- (2) second full time aural service;
- (3) first local service; and
- (4) other public interest matters.

Co-equal weight is given to priorities (2) and (3).

In this instance, both proposals would provide Brandon with its first local service. As a result, the Commission must review these proposals under the other public interest factors.

Generally, a higher class of station is preferred over a lower class since this tends to maximize the use of available spectrum. See Revision of FM Policies 90 FCC 2d 88. As a result, the Class C3 station proposed by Petitioner is to be preferred over the Class A allotment sought by BB.

The Commission has long held that when analyzing two proposals for the same priority, the proposal which would provide service to the larger population is to be preferred. Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License, Memorandum Opinion and Order, 5 FCC Rcd 7094, 7097 (1990); Greenup, Kentucky and Athens, Ohio, 68 RR 2d 1438, 1441 (1991); Cornwall Broadcasting, 51 RR 2d 389, 393; DuPage County Broadcasting, 19 FCC 2d 250, 253-54.

In this case, Petitioner's proposal for a Class C3 allotment will provide service to 151,891 people, this is 23,586 more than Petitioner who claims service to only 128,305 people. Petitioner's proposal therefore best serves the public interest as it will bring

service to the largest number of people. Indeed, Petitioner's proposal actually encompasses all of BB's proposal plus adding a much greater area beyond the area which BB is predicted to serve.

B. Petitioner's Proposal Will More Expeditiously Bring Service to The Public

Petitioner's proposal is further to be favored because it will bring service to the public in a more expeditious manner. It seems likely that there will be at least two applicants for BB's proposed allocation (Petitioner and BB). The Commission has indicated that it "will take some time" to develop new selection criteria for mutually exclusive applications for the same allocation. FCC Waives Limitations on Payments, Public Notice 95-391 (Sept. 15, 1995). As a result, this allocation must continue to await administrative action, which, as the Commission itself has suggested, may be an unforeseeably long time in the future. Petitioner, on the other hand, will be able to quickly bring service to the public once its proposal is granted because it will not have to await a comparative hearing.

In addition, Petitioner's proposal permits a much larger area to locate than the proposal of BB. Indeed, much of BB's area to locate appears to be near or within the Big Sioux State Recreation Area. It is unclear if any site would be available within the relatively small area to locate. Petitioner's larger area to locate will permit it to rapidly find a suitable transmitter site and then begin broadcasting in an expeditious manner.

III. USING THE COMMISSION'S ALLOTMENT REFERENCE COORDINATES FOR SIBLEY, IOWA, BB'S PROPOSAL FOR CHANNEL 261A IS SHORT SPACED TO CHANNEL 262A AT SIBLEY AND THEREFORE CHANNEL 261A IS UNAVAILABLE AT BRANDON UNDER BB'S PROPOSAL

BB filed a counterproposal in this proceeding. Because BB's proposal is a counter proposal to Petitioner's move of Channel 261C3, BB's proposal is properly reviewed as a new set of allocations. For allotment purposes, BB should therefore be required to

consider the location of Channel 262A at Sibley, Iowa as set forth in the allotment reference coordinates contained in the FCC's FM data base (see 73.208 (a)(ii) of the Commission's rules).

As more fully set forth in the attached engineering statement of duTreil, Lundin & Rackley, the Channel 261A allotment reference coordinates are short-spaced to the allotment reference coordinates for Channel 262A at Sibley contained in the FCC's FM data base. There would be no fully-spaced area which would permit compliance with the FCC's city coverage requirements.

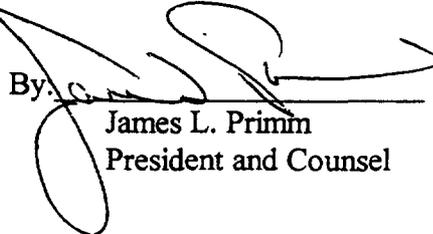
Because no fully spaced site is available, Channel 261A cannot be allocated in accordance with the Commission's rules. See Note at 73.207 of the Commission's Rules.

IV. CONCLUSION

Petitioner respectfully requests that its Petition for Rule Making be accepted and the counterproposal of BB be denied.

The statements in these Reply Comments are true, complete and correct to the best of my knowledge and belief.

21st Century Radio Ventures, Inc.

By: 
James L. Primm
President and Counsel

21st Century Radio Ventures, Inc.
530 Wilshire Blvd., suite 301
Santa Monica, CA 90401

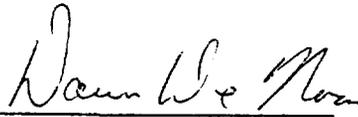
310-393-2741

June 3, 1996

CERTIFICATE OF SERVICE

I, Dawn E. DeNoon, hereby certify that on this 3rd day of June, 1996, I have served a copy of the foregoing "Reply Comments of 21st Century Radio Ventures, Inc., by United States mail, first class, postage pre-paid, on the following:

Cary S. Tepper, Esq.
Booth, Freret & Imlay, P.C.
1233 20th Street, N.W.
suite 204
Washington, D.C. 20554


Dawn E. DeNoon

TECHNICAL EXHIBIT
IN SUPPORT OF THE REPLY COMMENTS OF
21ST CENTURY RADIO VENUTRES, INC.
SIBLEY, IOWA AND BRANDON, SOUTH DAKOTA

This technical exhibit was prepared in support of the Reply Comments of 21st Century Radio Ventures, Inc. ("21st Century") in the Notice of Proposed Rule Making ("NPRM") in MM Docket No. 96-364 (RM-8729, released March 29, 1996, adopted March 11, 1996, DA 96-364). The NPRM was issued in response to a Petition for Rule Making filed by 21st Century which proposed the substitution of channel 261C3 for channel 262A and the reallocation of channel 261C3 from Sibley, Iowa to Brandon, South Dakota pursuant to the provisions of Section 1.420(i). Comments and Counterproposal were filed by Brandon Broadcasters ("BB") which proposed the allotment of channel 261A at Brandon. The purpose of this Technical Exhibit is to demonstrate that channel 261A is not available at Brandon, as proposed by BB, with consideration given to the allotment reference coordinates for channel 262A at Sibley.

Figure 1 is a tabulation of the required separations pertinent to the use of channel 261A at Brandon. The allotment reference coordinates for channel 261A at Brandon, as set forth by BB, were used for distance calculations.¹ As noted, the channel 261A

¹ BB has proposed the same reference coordinates for channel 261A at Brandon as set forth by 21st Century Radio Ventures, Inc. for channel 261C3 at Brandon.

allotment reference coordinates are short-spaced to the allotment reference coordinates for channel 262A at Sibley contained in the FCC's FM database. Figure 2 is a portion of a 1:250,000 scale topographic map showing the minimum distance separation requirements and the limit on the provision of city grade coverage to all of Brandon based on maximum Class A facilities (ERP 6 kW/HAAT 100 m). The Brandon city limits were obtained from a map contained in the 1990 U.S. Census of Population. It is apparent from examination of Figure 2 that there would be no fully-spaced area which would permit compliance with the FCC's city coverage requirements. Therefore, it does not appear that channel 261A is available for allotment to Brandon as proposed by BB.

W. Jeffrey Reynolds

W. Jeffrey Reynolds

du Treil, Lundin & Rackley, Inc.
240 North Washington Blvd.
Suite 700
Sarasota, Florida 34236
(813) 366-2611

May 30, 1996

TECHNICAL EXHIBIT
IN SUPPORT OF THE REPLY COMMENTS OF
21ST CENTURY RADIO VENUTRES, INC.
SIBLEY, IOWA AND BRANDON, SOUTH DAKOTA

FM SEPARATION STUDY

Job Title : Proposed Ch. 261A, Brandon, South Dakota Separation Buffer 32 km
FCC DB Date : 05/16/96
Channel 261A (100.1 MHz) Coordinates : 43-36-02 96-31-15

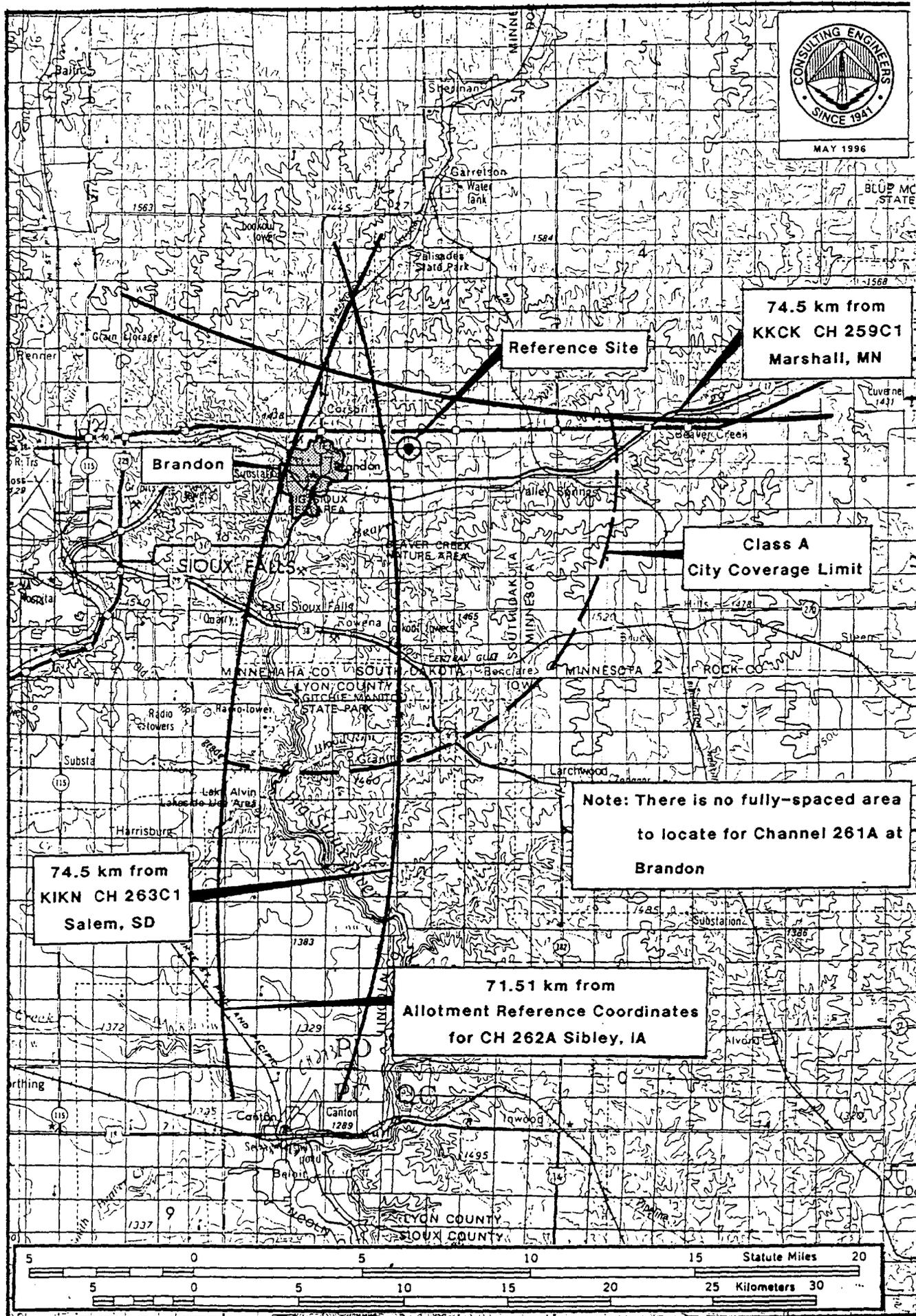
Call Status	City State	FCC File No.	Channel Freq.	ERP (kW) HAAT (m)	Latitude Longitude	Bearing deg-Tru	Dist. (km)	Req. (km)
KRSW LIC	Worthington MN	BLED941220KA	207C1 89.3	100. DA 169.0	43-53-01 95-55-44	56.3	57.13 35.13	22 CLEAR
KKMA LIC	Le Mars IA	BLH781206AE	258C1 99.5	100. 241.0	42-28-56 96-15-30	170.2	126.08 51.08	75 CLEAR
KKCK LIC	Marshall MN	BLH890627KB	259C1 99.7	100. 282.0	44-16-56 96-19-05	12.0	77.48 2.48	75 CLOSE
KAJQ PADD	Brandon SD	RM8729	261C3 100.1	.0	43-36-02 96-31-15	.0	.00 -142.00	142 SHORT ¹
Change of Community from Sibley, IA								
K261CI CPM	Sioux Falls SD	BMPFT950309TD	261D 100.1	.1 86.0	43-33-14 96-41-05	248.6	14.23 .00	0 TRANS
Translator for KIKN, Salem, SD- From Channel 288								
KAJQ PDEL	Sibley IA	RM8729	262A 100.3	.0	43-24-06 95-44-48	109.2	66.41 -5.59	72 SHORT ²
Change of Community to Brandon, SD								
KAJQ CP	Sibley IA	BPH930809MA	262A 100.3	6. 72.0	43-17-58 95-43-21	117.2	72.78 0.78	72 CLOSE
KIKN LIC	Salem SD	BLH931019KD	263C1 100.5	100. 287.0	43-29-18 97-26-34	260.8	75.56 0.56	75 CLOSE

** End of separation study for channel 261A **

¹ Brandon Broadcasters has proposed the same reference coordinates for channel 261A at Brandon as set forth by 21st Century Radio Ventures, Inc. for channel 261C3 at Brandon.

² Short-spacing with the allotment reference coordinates for channel 262A at Sibley contained in the FCC's FM database.

Figure





Before the
FEDERAL COMMUNICATIONS COMMISSION
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FM Broadcast Stations.)	
(Sibley, Iowa and)	
Brandon, South Dakota))	

**COMMENTS
OF
BRANDON BROADCASTERS**

Comes now **Brandon Broadcasters** ("BB"), by Counsel, pursuant to the *PUBLIC NOTICE Report No. 2135 (released June 5, 1996)* and hereby respectfully submits these additional Comments in above-captioned Rule Making proceeding. In support hereof, BB submits the following:

1. In response to the *Notice of Proposed Rule Making (DA 96-364, released March 29, 1996)*, BB submitted Comments and a Counterproposal on May 21, 1996 requesting that Channel 261A be allotted to the community of Brandon, South Dakota so that that community may receive its first local aural transmission service. Under the proposal set forth by BB, Sibley, Iowa can keep its only local FM service while a new FM channel can be allotted to Brandon and a filing window established so that all members of the general public may apply for the opportunity to provide local aural transmission service to Brandon.

2. On or about June 3, 1996, 21st Century Radio Ventures, Inc. ("21st") submitted Reply Comments, which include two incorrect conclusions: (1) that the Commission's allotment priorities favor its original proposal over

the counterproposal submitted by BB because more people will be served under its proposal as compared to BB's proposal, and (2) BB's proposal for Channel 261A is short-spaced to Channel 262A at Sibley, Iowa and, therefore, cannot be approved.

3. The conclusions set forth by 21st in its Reply Comments are grossly incorrect. There is no preferential arrangement of allotments under the plan proffered by 21st because 21st fails to take into consideration that its plan requires the abandonment of a community's only local aural service. The Commission has long held that a greater station to population ratio is not the only factor that must be considered. *See, e.g., Table of Allotments, Sumter, Orangeburg and Columbia, South Carolina: Report & Order DA 96-843 (released June 4, 1996).*

4. Here the Commission must also weigh the provisions of 47 U.S.C. §307(b) -- namely equitable and efficient factors. For example, the Commission must compare the two communities and their needs in terms of radio broadcast service. *See, KFNR, 7 FCC 2d 623 (1967).* Further, the Commission has permitted the only local transmission service in a small town to change its community of license to that of a larger nearby city only when the station is not seeking to diminish its service to the small town. *See, Amendment of Section 73.606(b), 6 FCC Rcd. 5317 (1991).* In this instance, the proposal of 21st to abandon Sibley so that it may provide service to more people cannot compare to the proposal set forth by BB whereby the only local aural service at Sibley is preserved. *See generally, Van Wert, Ohio and Monroeville, Indiana, 7 FCC Rcd. 6519 (1992).*

5. 21st also alleges that BB's proposal for Brandon does not comply

with the Commission's spacing requirements. 21st is wrong. BB's proposal protects Sibley's *authorized* transmitter site -- there is no longer a requirement to protect the allocation reference site once a Construction Permit issues, as is the case in Sibley. Attached hereto is a letter from BB's technical consultant verifying the fact that BB's proposal for Brandon protects Sibley's authorized transmitter site.

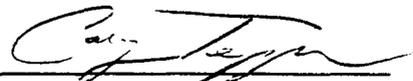
Conclusion

WHEREFORE, the above premises considered, BB respectfully requests that its Comments and Counterproposal that were filed May 21, 1996 be ACCEPTED and that the Commission AMEND §73.202 of the Commission's Rules, as follows:

<u>City & State</u>	<u>Existing</u>	<u>Proposed</u>	
Sibley, Iowa	262A	262A	[no change]
Brandon, South Dakota	---	261A	

Respectfully submitted,

Brandon Broadcasters

By: 
Cary S. Tepper

Its Attorney

Booth, Freret & Imlay, P.C.
1233 20th Street, N.W.
Suite 204
Washington, D.C. 20036

(202) 296-9100

June 19, 1996

GRAHAM BROCK, INC.

BROADCAST TECHNICAL CONSULTANTS

June 14, 1996

Mr. Cary Tepper
Booth, Freret & Imlay
1233 20th Street, NW
Suite 204
Washington, DC 20036

RE: MM Docket #96-66
Sibley, Iowa, and Brandon, South Dakota

Dear Cary:

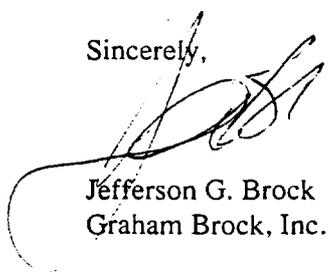
At your request, we have reviewed the reply comments filed by 21st Century Radio Ventures, Inc., the petitioner in Docket #96-66. These reply comments were in response to Brandon Broadcasters' counterproposal for Channel 261A at Brandon, South Dakota, rather than the proposed upgrade and change community of license proposed by 21st Century.

In its comments, 21st Century indicated that Channel 261A could not be allotted to Brandon and adequately protect Channel 262 at Sibley, based on the allocation site for the channel at Sibley. However, pursuant to §73.208 of the Commission's rules, the reference point which must be used to determine distance separation requirements for petitions to amend the Table of Allotments must first consider authorized transmitter sites. As indicated in Brandon Broadcasters' counterproposal, we utilized the authorized transmitter site for KAJQ, Channel 262A at Sibley. 21st Century's comments reference the allocation site which is to be used as a second reference point only if there is no authorized transmitter site. In this case, since there is an authorized transmitter site, that is the site which should be and was utilized in the initial Brandon filing.

In addition, 21st Century indicates their proposed C3 at Brandon would provide service to 23,586 persons above our Class A proposal. However, they failed to take into consideration the loss of service which would result from the removal of the Class A CP at Sibley. Based on our calculations, 19,403 persons would receive service from KAJQ if it were to remain in Sibley. For a more proper comparison, this figure should be subtracted from the proposed gain for the Brandon C3 to show the actual gain. Therefore, to be correct, a Class A in Brandon and a Class A in Sibley together should be compared to the C3 at Brandon.

Should you have any questions regarding this information, please do not hesitate to contact me.

Sincerely,



Jefferson G. Brock
Graham Brock, Inc.

JGB/mm

cc: Brandon Broadcasters

10 SYLVAN DRIVE, SUITE 26 • P.O. BOX 24466 • ST. SIMONS ISLAND, GA 31522
912-638-8028 • 202-393-5133 • FAX 912-638-7722

CERTIFICATE OF SERVICE

I, Cary S. Tepper, Esquire, hereby certify that on this 19th day of June, 1996, I have served a copy of the foregoing "**Comments of Brandon Broadcasters**" first-class, postage-prepaid, on the following:

*John A. Karousos
Chief, Allocations Branch
Federal Communications Commission
2020 M Street, N.W.; Room 561
Washington, D.C. 20554

James L. Primm, President
21st Century Radio Ventures, Inc.
530 Wilshire Blvd.
Suite 301
Santa Monica, CA 90401
(Petitioner)


Cary S. Tepper, Esq.

* / indicates delivery by hand



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

MM Docket No. 95-49

In the Matter of

Amendment of Section 73.202(b).
Table of Allotments.
FM Broadcast Stations.
(Llano and Marble Falls, Texas)

RM-8558

NOTICE OF PROPOSED RULE MAKING

Adopted: April 19, 1995;

Released: May 1, 1995

Comment Date: June 22, 1995

Reply Comment Date: July 7, 1995

By the Chief, Allocations Branch:

1. The Commission has before it the petition for rule making filed by Maxagrid Broadcasting Corporation ("petitioner"), licensee of Station KLKM(FM), Channel 284C3, Llano, Texas, proposing the substitution of Channel 285C3 for Channel 284C3, the reallocation of Channel 285C3 from Llano to Marble Falls, Texas, and the modification of petitioner's license to specify Marble Falls as Station KLKM(FM)'s community of license. Petitioner also proposes the allotment of Channel 242A at Llano, Texas. Petitioner states it will apply for Channel 285C3 at Marble Falls, if allotted.¹

2. Petitioner seeks modification of Station KLKM(FM)'s license pursuant to the provisions of Section 1.420(i) of the Commission's Rules, which permits the modification of a station's license to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest. Petitioner contends that adoption of its proposal will result in a preferential arrangement of allotments by bringing a first local aural transmission service to Marble Falls. In support of its proposal, petitioner states that Marble Falls is an incorporated city with a 1990 U.S. Census of 4,007 persons, while the city of Llano only has a population of 2,962 persons. Petitioner notes that Marble Falls is served by a Mayor, City Council, Chamber of Commerce, library, Post Office, independent school system, as well as police and fire departments.

3. Based on the information before us, we are unable to determine whether petitioner's proposal would result in a preferential arrangement of allotments. Our initial analysis of petitioner's proposal indicates that while it would provide a first local aural transmission service to Marble Falls, it also would deprive Llano of its sole local service, since Station KLKM(FM) is the only station licensed to the community. Although, petitioner suggests that Channel 242A could be allotted to Llano, this is not an equivalent substitution for three reasons. First, the Commission has specifically stated that the replacement of an operating station with a vacant allotment does not adequately cure the disruption of existing service to the public.² Second, whether Channel 242A could ultimately be allotted to Llano through a rule making proceeding is speculative. In this regard, petitioner does not state its intention to apply for Channel 242A at Llano. In order for the Commission to propose a change to the FM Table of Allotments, the proponent of an allotment proposal must site a clear intention to apply for the channel and indicate a willingness to construct a station. Absent such an expression of interest, the Commission will not propose the allotment of a channel. Third, if we were so inclined to allot Channel 242A, this does not negate the loss of service to a segment of Llano's population, as petitioner suggests to replace a Class C1 station at Llano with a Class A facility. Thus, we find that petitioner's proposal represents a request to remove the sole local commercial FM service from Llano.

4. Although the *Community of License MO&O* restricts the removal of a community's sole local broadcast service, that document also states that a waiver of the prohibition will be considered "in the rare circumstances where removal of a local service might serve the public interest." *Id.*, 5 FCC Rcd 7096. However, we do not believe that the public interest is served by removing a community's sole local transmission service merely to provide a first local transmission to another community. The reallocation proposal must serve the Commission's allotment priorities and policies.³ In this case, petitioner simply maintains that adoption of its proposal would provide service to a larger community. In order to evaluate this proposal it is necessary to solicit more information. Therefore, we request that petitioner provide information showing the areas and populations which will receive new service and the areas and populations which will lose existing service if Channel 285C3 is allotted to Marble Falls. Petitioner should also indicate the number persons located in any white or grey areas that are created by the adoption of this proposal. The study should also indicate the number of reception services which are now available within the gain and loss areas. Finally, we request petitioner to submit any additional information as to the overall public interest benefits that would flow from grant of this proposal.

5. Channel 285C3 can be allotted to Marble Falls, Texas, in compliance with the minimum distance separation requirements with a site restriction of 16.1 kilometers (10.0 miles) southeast to accommodate petitioner's desired trans-

¹ Petitioner advances the allotment of Channel 242A at Llano, Texas, as part of its reallocation proposal. However, petitioner has not expressed an interest in applying for Channel 242A at Llano, therefore, we will not propose the allotment of Channel 242A to the community.

² See *Modification of FM and TV Authorizations to Specify a New Community of License ("Change of Community R&O")*, 4

FCC Rcd 4870 (1989), *recon. granted in part ("Change of Community MO&O")*, 5 FCC Rcd 7094 (1990).

³ The FM priorities are: (1) first aural service, (2) second aural service, (3) first local service, and (4) other public interest matters. Co-equal weight is given to priorities (2) and (3). See *Revision of FM Assignment Policies and Procedures*, 40 FCC 2d 88 (1982).

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See Section 1.420(a), (b) and (c) of the Commission's Rules.) Comments should be filed with the Secretary, Federal Communications Commission, Washington, D.C. 20554.

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street N.W., Washington, D.C.

Federal Communications Commission

DA 97-1115

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

In the Matter of)
)
Amendment of Section 73.202(b),) MM Docket No. 95-49
Table of Allotments,) RM-8558
FM Broadcast Stations.)
(Llano and Marble Falls, Texas))

REPORT AND ORDER
(Proceeding Terminated)

Adopted: May 14, 1997

Released: May 30, 1997

By the Chief, Allocations Branch:

1. The Commission has before it the Notice of Proposed Rule Making, 10 FCC Rcd 4913 (1995), and the Further Notice of Proposed Rule Making, 11 FCC Rcd 12647 (1996), in this proceeding. Maxagrid Broadcasting Corporation ("Maxagrid") and Kirkman Group, Inc. ("Kirkman Group") filed comments. Maxagrid filed reply comments. Roy E. Henderson ("Henderson") filed a counterproposal. In response to the Further Notice, Maxagrid again filed comments and reply comments. Henderson filed comments, and a Motion to Withdraw Counterproposal. Along with Tichenor License Corporation ("Tichenor"), Henderson also filed a new counterproposal, and reply comments. For the reasons discussed below, we are substituting Channel 285C3 for Channel 284C3 at Llano, Texas, reallocating Channel 285C3 to Marble Falls, Texas, and are modifying the license of Station KBAE to specify operation on Channel 285C3 at Marble Falls. In addition, we are allotting Channel 242A to Llano, Texas. In a related context, we are dismissing counterproposals filed by Henderson proposing a Channel 285A reallocation to Katy, Texas, and a 285C3 reallocation to Missouri City, Texas, as well as a counterproposal filed by Tichenor for a Channel 242C2 reallocation to Menard, Texas.

Background

2. At the request of Maxagrid, licensee of Station KBAE, Channel 284C3, Llano, Texas, the Notice proposed the substitution of Channel 285C3 for Channel 284C3 at Llano, reallocation of Channel 285C3 to Marble Falls, Texas, and modification of the Station KBAE license to specify operation on Channel 285C3 at Marble Falls.¹ In response to the Notice, Henderson, licensee of Station KLTO, Channel 285A, Rosenberg, Texas, filed a counterproposal proposing

¹In a related matter, Maxagrid submitted a letter to the International Bureau regarding the required notification to the Mexican government concerning its proposed reallocation to Marble Falls. Inasmuch as a copy of this letter was served on all parties in this proceeding and did not go to the merits of this restricted proceeding, further inquiry as to a possible *ex parte* communication is unwarranted.

the reallocation of Channel 285A to Katy, Texas, and modification of his Station KLTO license to specify operation at Katy. In its comments, Maxagrid acknowledged that its reallocation proposal would remove the sole local service from Llano. To address this concern, Maxagrid proposed a Channel 242A allotment at Llano and stated its intention to apply for this channel and construct the facility.² The Further Notice proposed the allotment of Channel 242A to Llano. In response to the Further Notice, Henderson filed a Motion to Withdraw Counterproposal and a second counterproposal.³ Along with Tichenor, licensee of Station KLTP, Channel 285A, Galveston, Texas, Henderson now proposes the substitution of Channel 285C3 for Channel 285A at Rosenberg, the reallocation of Channel 285C3 to Missouri City, Texas, and modification of his Station KLTO license to specify operation on Channel 285C3 at Missouri City. To accommodate the Henderson proposal for Channel 285C3 at Missouri City, Tichenor proposes the substitution of Channel 242C2 for Channel 285A at Galveston, reallocation of Channel 242C2 from Galveston to Menard, Texas, and modification of its Station KLTP license to specify operation on Channel 242C2 at Menard.

3. The underlying reallocation proposal for Channel 285C3 at Marble Falls, as well as the subsequent counterproposals proposing the reallocation of Channel 285C3 to Missouri City and Channel 242C2 to Menard are all filed pursuant to Section 1.420(i) of the Commission's Rules. Section 1.420(i) permits the modification of a station authorization to specify a new community of license without affording other interested parties an opportunity to file a competing expression of interest. See Modification of FM and TV Authorizations to Specify a New Community of License ("Community of License"), 4 FCC Rcd 4870 (1989); recon. granted in part, 5 FCC Rcd 7094 (1990). In considering a reallocation proposal, we compare the existing allotment versus the proposed allotment to determine whether the reallocation will result in a preferential arrangement of allotments. This determination is based upon the FM allotment priorities set forth in Revision of FM Assignment Policies and Procedures ("FM Priorities"), 90 FCC 2d 88 (1982).⁴ In making the evaluation, we consider the "totality of factors." LaGrange and Rollingwood, Texas, 10 FCC Rcd 3337 (1995).

²At the time of the Notice, Maxagrid had suggested that a Channel 242A allotment could be allotted Llano as a replacement service. Inasmuch as Maxagrid did not state its intention to apply for a Channel 242A allotment at Llano, this proposal was not included in the original Notice.

³The original counterproposal filed by Henderson required Station KBUK, Channel 285A, LaGrange, Texas, to reallocate its channel to Smithville, Texas, and relocate its transmitter site. Because Fayette Broadcasting Corporation, licensee of Station KBUK, has not consented to the proposed reallocation and transmitter relocation, the Henderson counterproposal was not acceptable and would not have been considered. See Claremore, Oklahoma, 3 FCC Rcd 4037 (1988); Lopez and Dushore, Pennsylvania, 7 FCC Rcd 854 (1992). Subsequently, Henderson filed, on September 23, 1996, a Motion to Withdraw his counterproposal. A Declaration of No Consideration was submitted indicating that no consideration was received in exchange for his withdrawal pursuant to Section 1.420(j) of the Commission's Rules.

⁴The FM allotment priorities are as follows: 1) First full-time aural service; 2) Second full-time aural service; 3) First local service; and 4) Other public interest matters. Co-equal weight is given to priorities (2) and (3).

Rosenberg, Missouri City, Galveston and Menard, Texas

4. We are dismissing both the proposal by Henderson for a Channel 285C3 reallocation to Missouri City, and the proposal by Tichenor for a Channel 242C2 reallocation to Menard, Texas. Section 1.420(i) specifically requires that the allotment at the new community be mutually exclusive with the existing authorization. In this situation, a Channel 242C2 allotment at Menard is not mutually exclusive with the Tichenor Station KLTP license on Channel 285A at Galveston. As such, this proposal cannot be considered in the context of Section 1.420(i) of the Rules. In this vein, a Channel 242C2 proposal is mutually exclusive with the Channel 242A allotment proposed in the Further Notice. The Channel 242C2 proposal at Menard could have been considered in this proceeding as a counterproposal for a new allotment. However, Tichenor specifically stated in its counterproposal that it commits to applying for and constructing the Channel 242C2 facilities at Menard "upon adoption of this entire counterproposal and the deletion of Channel 285A from Galveston and the reallocation of that facility to KLTP as Channel 242C2 in Menard." We do not construe this statement as a commitment to apply for a Channel 242C2 as a new allotment for Menard subject to competing applications filed during a filing window. In the absence of such a commitment, we will not allot Channel 242C2 to Menard.

5. We are dismissing the Henderson counterproposal for a Channel 285C3 allotment at Missouri City because it is untimely. The Further Notice invited comments and counterproposals with regard to the proposed Channel 242A allotment at Llano. In this connection, the Further Notice specifically stated that we would not accept counterproposals regarding the reallocation of Channel 285C3 from Llano to Marble Falls. To be considered as a timely counterproposal in this proceeding, Henderson should have filed his Channel 285C3 counterproposal for Missouri City by the June 22, 1995, comment date set forth in the original Notice. Henderson did not file his counterproposal until September 23, 1996.

Llano and Marble Falls, Texas

6. The reallocation of Channel 285C3 to Marble Falls coupled with the Channel 242A allotment to Llano is a preferential arrangement of allotments as required by Community of License.⁵ We will discuss the public interest benefits of both actions. In doing so, it is first necessary to evaluate the reallocation to Marble Falls versus retaining the allotment at Llano. Both allotments are entitled to consideration as a first local service under priority (3) of EM Priorities. We are granting the proposed reallocation from Llano to Marble Falls, Texas. There are three reasons for this action. First, after comparing Llano and Marble Falls, the larger of the two communities would have the first local service. See Three Oaks and Bridgman, Michigan, 5 FCC Rcd 1004 (1990). The population of Marble Falls (4,007 persons) is greater than the

⁵ The reference coordinates for the Channel 285C3 allotment at Marble Falls, Texas, are 30-26-45 and 98-11-45. The reference coordinates for the Channel 242A allotment at Llano, Texas, are 30-49-57 and 98-40-44. Since Marble Falls and Llano are located within 320 kilometers (199 miles) of the Mexican border, concurrence of the Mexican government has been obtained for these allotments.

Federal Communications Commission

DA 97-1115

population of Llano (2,962 persons). Second, this reallocation will result in a gain in service to 34,860 persons in an area of 2,761 square kilometers. In this regard, we recognize that 13,801 persons would lose service in an area of 3,295 square kilometers and this would create a gray area (an area having only one reception service) containing 35 persons in an area of 23.3 square kilometers. Third, the allotment of Channel 242A to Llano addresses this concern. At the reference coordinates, a Channel 242A allotment at Llano will reduce the gray area to 16.3 square kilometers and a population of 24. Further, a revised site (30-49-50 and 98-43-15) exists for Channel 242A at Llano which would eliminate the gray area entirely. Inasmuch as the Channel 242A allotment at Llano is the direct result of reallocating Channel 285C3 to Marble Falls, our action in this proceeding will result in both Llano and Marble Falls having first local services. In a related context, we note that a Channel 242A allotment at Llano will serve 9,735 persons in an area 2,450 square kilometers. This reduces the loss of service resulting from the reallocation of Channel 285C3 to Marble Falls. Most of the loss area is well served with at least 5 full-time reception services. We do recognize, however, that in the loss area 54 people would go from 4 to 3 reception services and 87 people would go from 5 to 4 reception services.

7. We are also concerned by any disruption in service that would be occasioned by removing the sole local service from Llano. In Community of License, 5 FCC Rcd at 7097, the Commission specifically stated that the public has a legitimate expectation that existing service will continue, and that this expectation is a factor to be weighed independently against the service benefits that may result from reallocating a channel. We did so in this proceeding. Ordinarily, allotment of a replacement channel is not sufficient to overcome the concern pertaining to a disruption of local service. To address this adverse result of its proposal, Maxagrid proposed a Channel 242A allotment at Llano. In regard to disruption of service, Maxagrid states that "assuming no one else applies for Channel 242A at Llano, Maxagrid intends to simultaneously commence program tests on Channel 285C3 at Marble Falls and on Channel 242A at Llano." The Maxagrid commitment to avoid any disruption in service is predicated on no competing applications for the Channel 242A allotment at Llano. In the event that we do receive multiple applications for a Channel 242A allotment at Llano, we note that Channels 271A, 273A and 275A are available for allotment to Llano. In view of the public interest benefits of having both a first local service in Marble Falls coupled with the new allotment in Llano, we will entertain a petition for rule making for an additional channel in Llano if a competing application is filed for this allotment. See Albion, Nebraska, 10 FCC Rcd 11927 (1995). This will avoid any significant disruption in service or delay in instituting the replacement service in Llano. Therefore, grant of Maxagrid's proposal is premised on its pledge that Maxagrid will file an application to operate Channel 242A at Llano and, if authorized, to build the facility promptly. Were it not for this pledge, we would not consider granting this proposal.⁶ We will condition the grant of an authorization to operate Station KBAE(FM) on 285C3 at Marble Falls upon Maxagrid's activation of Channel 242A at Llano, Texas.

8. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and

⁶ See Albion, Lincoln, and Columbus, Nebraska, 8 FCC Rcd 2876 (1993).

(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 July 14, 1997, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the communities listed below, to read as follows:

City	Channel No.
Llano, Texas	242A
Marble Falls, Texas	285C3

9. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Maxagrid Broadcasting Corporation for Station KBAE(FM), Llano, Texas, IS MODIFIED to specify operation on Channel 285C3 at Marble Falls, Texas, in lieu of Channel 284C3 at Llano, Texas, subject to the following conditions:

(a) Within 90 days of the effective date of this Order, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility.

(b) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

(c) Operation of Station KBAE(FM) on Channel 285C3 in Marble Falls, Texas, including program test operation pursuant to Section 73.1620, will not be commenced until such time as express authorization from the Commission has been granted. Such authorization will not be granted until a construction permit has been issued for Channel 242A at Llano, Texas, and activation of service has been initiated on Channel 242A at Llano.

10. Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(k), any party seeking a change of community of license of an FM or television allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rule making fee when filing its application to implement the change in community of license and /or upgrade. As a result of this proceeding, Maxagrid Broadcasting Corporation, licensee of Station KBAE(FM), is required to submit a rule making fee in addition to the fee required for the applications to effect the change in community of license and/or upgrade.

11. IT IS FURTHER ORDERED, That the counterproposal filed by Roy E. Henderson proposing the change of community of license for Station KLTO(FM), Channel 285A, from Rosenberg to Katy, Texas, and simultaneously changing the community of license for Station KBYK(FM), Channel 285A, from La Grange to Smithville, Texas, IS DISMISSED.

12. IT IS FURTHER ORDERED, That the counterproposal filed by Roy E. Henderson proposing the substitution of Channel 285C3 for Channel 285A at Rosenberg, Texas, the reallocation of Channel 285C3 from Rosenberg to Missouri City, Texas, the modification of

Federal Communications Commission**DA 97-1115**

Station KLTO's license to specify Missouri City as the station's community of license; the substitution of Channel 242C2 for Channel 285A at Galveston, Texas, the reallocation of Channel 242C2 from Galveston to Menard, Texas, and the modification of Station KLTP(FM)'s license accordingly, IS DISMISSED.

13. The window period for filing applications for Channel 242A at Llano, Texas, will open on July 14, 1997, and close on August 14, 1997.

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

15. 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