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October 4, 1999

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Secretary  
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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

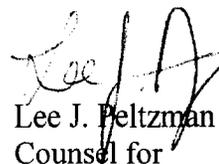
DOCKET FILE COPY ORIGINAL

Re: MM Docket Nos. 99-140 and 99-146  
RM-9490  
RM 9723  
RM-9724  
RM 9725  
Amendment of Section 73.202(b)  
Table of Allotments,  
FM Broadcast Stations  
North Tunica, Mississippi  
Kennett, Missouri  
Munford, Tennessee  
Friars Point, Mississippi  
Marianna, Arkansas

Dear Ms. Salas:

Transmitted herewith, on behalf of Legend Broadcasting, Inc., is an original and four (4) copies of its Comments and Counterproposal in the above-referenced rule making proceedings. Please contact the undersigned in the event the Commission has any questions with respect to these Comments.

Sincerely,



Lee J. Heltzman  
Counsel for  
LEGEND BROADCASTING, INC.

Enclosures

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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OCT - 4 1999

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	MM Docket Nos. 99-140 and 99-146
Table of Allotments,	)	RM-9490
FM Broadcasting Stations.	)	RM-9723
(North Tunica, Mississippi,	)	RM-9724
Kennett, Missouri	)	RM-9725
Munford, Tennessee,	)	
Friars Point, Mississippi and	)	
Marianna, Arkansas)	)	

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

**CONSOLIDATED REPLY COMMENTS**

Legend Broadcasting, Inc. ("Legend"), licensee of Station KTMO(FM), Kennett, Missouri, by its counsel, hereby submits its Consolidated Reply Comments in the above-referenced docket pursuant to Public Notice, Report No. 2362, released September 17, 1999, regarding (1) the Comments of Fred R. Flinn reiterating his support for the allotment of Channel 254A to North Tunica, Mississippi; (2) the Counterproposal of Delta Radio Inc., requesting the allotment of Channel 254A to Friars Point, Mississippi; (3) the Comments of Olvie E. Sisk ("Sisk"), which support the proposed allotment of Channel 254A to North Tunica, Mississippi, and (4) the Counterproposal of Bear Creek Radio ("Bear Creek") requesting the allotment of Channel 254A to Marianna, Arkansas. In these Reply Comments, Legend herein reiterates its support for its own Counterproposals that Channel 255C be reallocated from Kennett, Missouri to Munford, Tennessee as that community's first local service, and that Station KTMO's license be

modified accordingly, and that Channel 254A be allotted to Friars Point, Mississippi as that community's first local service. In support thereof, the following is respectfully shown:

Background

1. Docket 99-146 was instituted by Fred R. Flinn ("Flinn"), who proposed to allot Channel 254A to North Tunica, Mississippi, a census designated place with a population of 1,314, as that community's first local service. Both Flinn and Sisk have filed comments supporting the allotment of Channel 254A to North Tunica, Mississippi.

2. Bear Creek filed a Counterproposal requesting that Channel 254A be allotted instead to Marianna, Arkansas, a community of 5,910 persons, as the community's second aural radio service along with Station KAKY(FM).

3. Legend filed a Counterproposal that Channel 255C be reallocated from Kennett, Missouri to Munford, Tennessee as that community's first local service, and that Station KTMO's license be modified accordingly, and that Channel 254A be allotted to Friars Point, Mississippi as that community's first local service.<sup>1</sup> Delta Radio Inc. also filed a Counterproposal requesting the allocation of Channel 254A to Friars Point, Mississippi.

Legend's Counterproposal Must Be Preferred

4. There is no doubt that Legend's counterproposals, proposing Channel 255C to Munford, Tennessee and Channel 254A to Friars Point, Mississippi, both first local services, should be preferred over the allotment of Channel 254A to either North Tunica, Mississippi or

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<sup>1</sup> Legend is the petitioner in Docket No. 99-140 in which Legend has proposed the reallocation of Channel 255C from Kennett, Missouri to Munford, Tennessee as that community's first local service, which is also mutually exclusive with Flinn's proposal to allot Channel 254A at North Tunica. Consequently, we respectfully request that the two Dockets, Nos. 99-140 and 99-146 be merged.

Marianna, Arkansas. First, Munford is an incorporated community with a 1990 census population of 2,326 (according to the 1996 census data, the population of Munford is 3,941). Munford is governed by a mayor/alderman system of government. The city provides water, sewer, natural gas, police and fire services to its residents. The community has an elementary, middle and high school, numerous banks, commercial establishments, restaurants, churches, a public recreation and its own post office. Munford is a self-sufficient, independent community deserving of its first local service.

5. Legend is also proposing the allotment of Channel 254A to Friars Point, Mississippi, a community with a 1990 census population of 1,334 individuals. Further, the proposed allotment of Channel 254A Friars Point would constitute that community's first local service. Friars Point was established in 1847 and incorporated in 1850 and served as the permanent county seat of Coahoma County until 1930. Friars Point is similarly governed by a mayor/alderman system of government. The city provides city services to its residents and has numerous commercial establishments as well as churches, a school, and its own post office. Therefore, Friars Point is an independent community of long-standing deserving of its first local service.

6. Legend is proposing two first local services -- a first local service to Munford, a well-established community with a 1990 population of 2,326 and a first local service to Friars Point, Mississippi, a long established incorporated community with a 1990 population of 1,334. In comparison, the proposed allocation of Channel 254A to North Tunica would bring a single first local service to a Census Designated Place which does not even qualify as a "community"

for allotment purposes and has a 1990 population of only 1,314 persons.<sup>2</sup> Since Legend's proposals provide the allotment of two first local services to two separate communities, each with a larger population than that single "community" proposed by Flinn for North Tunica, it is clear that Legend's proposals will provide a fair, more efficient, and more equitable distribution of radio facilities. See Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1982). Therefore, Legend's proposals are preferred over that of Flinn's.

7. Similarly, Legend's proposal must be preferred over that of Bear Creek, which merely proposes a second aural service to Marianna, Arkansas. Channel 287A is already allocated to the community and Station KAKY(FM) operates on that channel. The Commission's allotment criteria clearly mandates that a first local service be given priority over a second local service. See Revision of FM Assignment Policies and Procedures, supra. Since Legend is proposing two first services to two different communities, its proposal also must be preferred over that of Bear Creek.

8. Further, as reflected in the attached technical statement,<sup>3</sup> the reallocation of Channel 255C from Kennett, Missouri to Munford, Tennessee will provide 60 dBu service to 1,343,557 persons in 26,483.5 square kilometers representing an increase of nearly 1,140,000 persons in 15,741 square kilometers over the currently authorized facilities. Since KTMO(FM)'s present facilities only provide coverage to approximately 320,000 in 16,507 square kilometers, the proposed reallocation of Channel 255C to Munford, Tennessee represents a 300% plus

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<sup>2</sup> North Tunica is merely an unincorporated, adjacent suburb of the much larger incorporated community of Tunica, Mississippi (1990 population 8,164). See Legend's Comments and Counterproposal, filed June 28, 1999, at pp. 6-7.

<sup>3</sup> Legend also incorporates by reference the earlier filed technical statement attached to its June 28, 1999, Comments and Counterproposal in this proceeding.

increase in population served by KTMO(FM). Additionally, the allotment of Channel 255A to Friars Point, Mississippi will provide a new 60 dBu service to 52,302 persons in 2,514.1 square kilometers.

9. In comparison, Flinn's proposal to allot Channel 255A to North Tunica will only provide 60 dBu coverage to 32,927 persons, while Bear Creek's proposal to allocate 254A to Marianna, Arkansas will only provide 60 dBu service to 39,444 persons. Consequently, the allotment of Channel 254A to either North Tunica, Mississippi or Marianna, Arkansas, at the expense of Legend's proposals, would deprive over 1.1 million persons of new service as well as two communities of first service. Since all of the relevant areas presently receive five or more services, Legend's proposals should also be preferred on this basis in that they provide service to substantially more people than that proposed in either competing proposal, and are therefore far more efficient. See Greenup, Kentucky and Athens, Ohio, 68 RR2d 1437 (1991).

10. In conclusion, Legend's proposals must be preferred in the instant proceeding because Legend proposes the reallocation of Channel 255C from Kennett, Missouri to Munford, Tennessee, which will allow Station KTMO(FM) to provide a first local service to Munford, a community with a 1990 population of 2,326, and further proposes the allotment of a first local service, Channel 254A, to Friars Point, Mississippi, a community with a population 1,334, whereas Flinn only proposes a single first service to the CDP of North Tunica, Mississippi with a population of 1,314. Each of Legend's proposals, by itself, is superior to the North Tunica proposal, and, together, Legend's proposals are vastly superior. Additionally, Legend's reallocation of Channel 255C to Munford will allow KTMO to provide 60 dBu to over a million more people than it presently does and the allotment of Channel 254A to Friars Point alone will provide service to 20,000 more people than the North Tunica proposal. Similarly, Legend's

proposals, both singularly, as well as together, must be preferred over the proposal of Channel 254A to Marianna, Arkansas. Again, Legend proposes two new first services to two separate communities, while the allotment of the channel to Marianna would only constitute a second service. Moreover, Legend would also provide service to 1.1 million more persons and the allotment of Channel 254 to Friars Point would provide service to 13,000 more people than the allotment of the channel to Marianna.

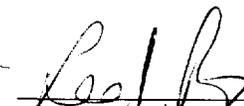
11. Petitioner hereby states that should the Commission grant the instant Counterproposal to reallocate Channel 255C from Kennett, Missouri to Munford, Tennessee and modify Radio Station KTMO(FM)'s license accordingly, petitioner will file an application for the new facilities and implement that application expeditiously after Commission grant. Additionally, petitioner states that should the Commission grant the instant proposal to allot Channel 254A to Friars Point, Mississippi, petitioner will file an application for those new facilities and will implement that application expeditiously after Commission grant.

12. Accordingly, for the reasons stated above, Legend Broadcasting, Inc. respectfully requests that the Commission deny the proposal in the NPRM to allot Channel 254A at North Tunica, Mississippi and deny Bear Creek Radio's counterproposal to allot Channel 254A at Marianna, Arkansas and instead grant Legend's mutually exclusive Counterproposals to reallocate Channel 255C from Kennett, Missouri to Munford, Tennessee, at the reference point proposed herein, and additionally allot Channel 254A at Friars Point, Mississippi, at the reference point

proposed herein as each community's first local service and amend the Table of Allotments to reflect the foregoing.

Respectfully submitted,  
LEGEND BROADCASTING, INC.

SHAINIS & PELTZMAN, CHARTERED  
1901 L Street, N.W. - Suite 290  
Washington, D.C. 20036  
202 293 0011

By:  \_\_\_\_\_  
Aaron Shainis  
Lee J. Peltzman  
Its Attorneys

October 4, 1999

# GRAHAM BROCK, INC.

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BROADCAST TECHNICAL CONSULTANTS

**TECHNICAL COMMENTS**  
**LEGEND BROADCASTING, INC.**  
**MM DOCKET #99-140**  
**MUNFORD, TENNESSEE**  
**MM DOCKET #99-146**  
**FRIARS POINT, MISSISSIPPI**  
**September 1999**

**TECHNICAL EXHIBIT**

*Copyright 1999*

**TECHNICAL COMMENTS**  
**LEGEND BROADCASTING, INC.**  
**MM DOCKET #99-140**  
**MUNFORD, TENNESSEE**  
**MM DOCKET #99-146**  
**FRIARS POINT, MISSISSIPPI**  
**September 1999**

**TECHNICAL STATEMENT**

This technical statement and attached exhibits were prepared on behalf of Legend Broadcasting, Inc. ("LBI"), licensee of KTMO, Kennett, Missouri, and counterproponent in both MM Docket #99-140 and #99-146. The notice of the counterproposal in both of the aforementioned dockets was issued by the Commission on September 17, 1999 (Report Number 2363), in which the LBI counterproposal was listed in the two dockets.

**BACKGROUND**

LBI is the petitioner in MM Docket #99-140, in addition to submitting a counterproposal to its own request. Specifically, LBI requested the re-allotment of Channel 255C from Kennett, Missouri, to Munford, Tennessee, as that community's first locally licensed service.<sup>1</sup> As a result of the proposed new community (Munford, Tennessee), the LBI request became mutually exclusive with the request of Fred Flynn ("Flynn") who was seeking the allotment of Channel 254A at North Tunica, Mississippi. LBI also submitted a counterproposal in MM Docket #99-146, in which it requested the allotment of Channel 254A to Friars Point, Mississippi, in lieu of North Tunica. The Friars Point proposal is mutually exclusive with the North Tunica request.

In addition to LBI, additional comments were submitted in MM Docket #99-146; Delta Radio, Inc. ("Delta"), requesting Channel 254A be allotted to Friars Point, Mississippi; Bear

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1) LBI originally requested the re-allotment of Channel 255C from Kennett, Missouri, to Keiser, Arkansas.

Creek Radio ("BCR") requested the allotment of Channel 254A to Marianna, Arkansas; Flynn filed supportive comments to his original request and Olvie Sisk submitted an expression of interest in Channel 254A at North Tunica.

### **DISCUSSION**

As a result of the LBI request at Munford, Tennessee, the proposals contained in MM Docket #99-140 and #99-146 should be combined for consideration since aspects of each docket impact the other. As noted above, the allotment of Channel 255C to Munford, Tennessee, is mutually exclusive with the North Tunica proposal, as well as with the requested allotment of Channel 254A at Marianna, Arkansas (Marianna and North Tunica are also mutually exclusive with each other; see Exhibit #1).

Since the proposals are linked together, LBI's comments are addressed to the proposals in each docketed proceeding. As LBI noted in its comments in Docket #99-146, the allotment of Channel 255C at Munford, Tennessee (with a 1990 population of 2,326), will provide 60 dBu service to 1,343,557 persons, which represents an increase of 1,139,398 persons over the presently licensed facilities of KTMO.<sup>2</sup> Further, the allotment of Channel 254A at Friars Point, Mississippi (with a 1990 population of 1,334), will provide 60 dBu service to 52,302 persons.<sup>3</sup> Thus 1,395,859 persons will receive new service as a result of the LBI request. Further, two communities will receive first locally licensed service (Munford and Friars Point).

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- 2) As previously authorized, KTMO provides service to 320,028 persons within its 60 dBu contour. While these persons will lose service, this area, as demonstrated in comments filed by LBI in June of 1999 in MM Docket #99-146, was shown to be served by at least five other FM services.
  - 3) This is based on the LBI site proposed in its comments at North Latitude 34° 23' 07" and West Longitude 90° 45' 24. The Commission has issued a Public Notice for this site in Report # 2362, but has entered the coordinates proposed by Delta in the engineering database. It is respectfully requested that proposed allotment site submitted by LBI be utilized, rather than the requested Delta site.

The proposed Channel 254A allotment to North Tunica, Mississippi (1990 population of 1,314), would provide service to only 32,927 persons and would preclude the allotments to both Munford and Friars Point, depriving over 1.1 million persons new service and two communities of first licensed service.

Similarly, the proposed allotment of Channel 254A to Marianna, Arkansas (with a 1990 population of 5,910), would provide service to 39,444 persons. An allotment to Marianna would likewise, preclude nearly 1.1 million persons from receiving service that would be provided by the LBI request, and provide the second locally licensed service to Marianna over first service to two communities.

Of the proposals before the Commission for consideration, the allotment of Channel 255C to Munford, Tennessee, and Channel 254A to Friars Point, Mississippi, as first locally licensed service to each community and new service to 1,395,859 persons, should be given preference over first locally licensed service to North Tunica or second service to Marianna, Arkansas. Therefore, LBI requests that its counterproposals be implemented.

The foregoing technical statement and attachments were prepared on behalf of Legend Broadcasting, Inc., by Graham Brock, Inc., its Technical Consultants. All data related to FM facilities was extracted from the NTIA database, as updated September 24, 1999. All data related to population information was taken from the 1990 United States Census and the computer population database PL 94-171. We assume no liabilities for errors or omissions in the above referenced databases.

ALLOCATION STUDY FOR MARIANNA, ARKANSAS  
 USING PROPOSED ALLOCATION SITE AS REFERENCE

REFERENCE		DISPLAY DATES
34 42 00 N	CLASS A	DATA 09-24-99
90 40 04 W	Current rules spacings	SEARCH 09-27-99
----- CHANNEL 254 - 98.7 MHz -----		

CALL TYPE	CH# LAT	CITY LNG	STATE PWR	BEAR' HT	D-KM D-Mi	R-KM R-Mi	MARGIN (KM)
AD254	254A	Marianna	AR	0.0	0.00	115.0	-115.00
AD	34 42 00	90 40 04	0.000 kW	0M	0.0	71.5	
		Bear Creek Radio				RM	
AD254	254A	North Tunica	MS	102.5	18.54	115.0	-96.46
AD	34 39 50	90 28 13	0.000 kW	0M	11.5	71.5	
		Fred R. Flinn				RM-9490	
AD254	254A	Friars Point	MS	176.8	33.05	115.0	-81.95
AD	34 24 09	90 38 51	0.000 kW	0M	20.5	71.5	
		Delta Radio, Inc.				RM	
AD255	255C	Munford	TN	38.2	153.67	165.0	-11.33
AD	35 46 53	89 36 46	0.000 kW	0M	95.5	102.6	
		Legend Broadcasting, Inc.				RM	
DE255	255C	Kennett	MO	15.0	164.56	165.0	-0.44
DE	36 07 53	90 11 34	0.000 kW	0M	102.3	102.6	
		Legend Broadcasting, Inc.				RM-9374	
KTMO	255C	Kennett	MO	15.0	164.56	165.0	-0.44
LI CN	36 07 53	90 11 34	100.000 kW	303M	102.3	102.6	
		Legend Broadcasting, Inc.				BLH-890504KB	
KURB	253C	Little Rock	AR	274.3	167.72	165.0	2.72
LI CY	34 47 56	92 29 44	100.000 kW	392M	104.2	102.6	
		GHB of Little Rock, Inc.				BLH-880727KA	
WSRRFM	251C1	Millington	TN	54.7	91.79	75.0	16.79
LI CN	35 10 28	89 50 41	100.000 kW	234M	57.0	46.6	
		KOOL Broadcasting, Inc.				BLH-950302KA	

**AFFIDAVIT AND QUALIFICATIONS OF CONSULTANT**

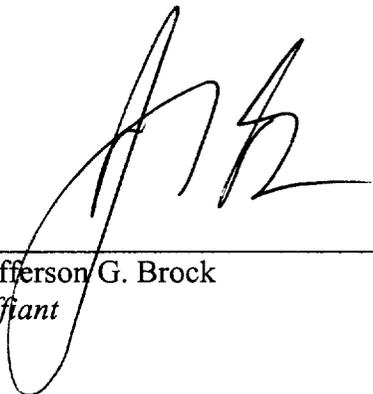
State of Georgia )  
St. Simons Island ) ss:  
County of Glynn )

**JEFFERSON G. BROCK**, being duly sworn, deposes and says that he is an officer of Graham Brock, Inc. Graham Brock has been engaged by Legend Broadcasting, Inc., licensee of Radio Station KTMO, to prepare the attached Technical Exhibit.

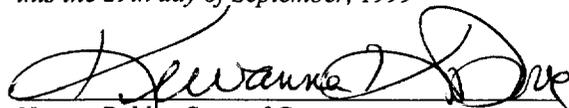
His qualifications are a matter of record before the Federal Communications Commission. He has been active in Broadcast Engineering since 1979.

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 29th day of September, 1999.*

  
\_\_\_\_\_  
Jefferson G. Brock  
Affiant

*Sworn to and subscribed before me  
this the 29th day of September, 1999*

  
\_\_\_\_\_  
Notary Public, State of Georgia  
My Commission Expires: April 20, 2002

**CERTIFICATE OF SERVICE**

I, Michael S. Goldstein, secretary at the law firm of Shainis & Peltzman, Chartered, do hereby certify that on this 4<sup>th</sup> day of October, 1999, I sent via U.S. mail, postage prepaid, a copy of the foregoing to the following persons:

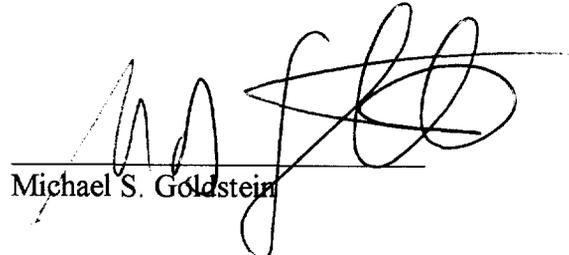
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\_\_\_\_\_  
Michael S. Goldstein

\*By Hand Delivery