

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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of Section 73.202(b)) MM Docket No. 99-140
Table of Allotments) RM-9374
FM Broadcast Stations)
(Kennett, Missouri & Keiser, Arkansas))

To: Chief, Allocations Branch
Policy and Rules Division

Comments

Fred R. Flinn, by his attorney, hereby respectfully submits his Comments in partial opposition to the Counterproposal filed by Legend Broadcasting, Inc. (hereinafter Legend") on June 21, 1999 in the above-referenced proceeding (i.e., seeking to reallocate Channel 255C from Kennett, Missouri to Munford, Tennessee).¹ In support thereof, the following is shown:

1. On May 7, 1999, in response to a request by Fred R. Flinn, the Commission issued a Notice of Proposed Rule Making (see DA 99-867) wherein it was proposed that the Commission would allot Channel 254A at North Tunica, Mississippi as its first local service. On June 29, 1999, Fred R. Flinn filed Comments reiterating his support for the allotment of Channel 254A to North Tunica, Mississippi (See MM Docket No. 99-146; RM-9490).

¹ The subject Comments are filed in response to the Commission's Report No. 2362, dated September 17, 1999.

2. On June 21, 1999, Legend filed its "Comments and Counterproposal" in the subject MM Docket 140 (i.e., wherein it proposed to modify its previous request to change the community of license for KTMO (FM) from Kennett, Missouri to Keiser, Arkansas) in order to propose yet another community of license, i.e., Munford, Tennessee. On June 28, 1999, Legend filed a copy of the MM Docket 140 "Comments and Counterproposal" for consideration in the related MM Docket 146.

3. The net effect of the proposed amendment to the FM Table of Allotments proffered by Legend is that a first service to North Tunica, Mississippi (a Census Designated Place) would be precluded.

4. As noted in the attached Engineering Statement, the Commission can allocate first services to **both** Munford and North Tunica, i.e., "the spectrum can fully accommodate the allotment of Channel 255C1 at Munford as well as the allotment of Channel 254A at North Tunica". While Legend may argue that there will be a loss of "population served" should the Commission approve the slight compromise in KTMO's proposed power (which would allow the North Tunica first service allotment), the "loss" of proposed service would be an area which is already well served by over five aural signals. In short, while Legend would not be able to maximize its 'population served", it would serve the people undoubtedly most important to it -- the citizens of the Munford, Tennessee area. As important, a new service to a community (North Tunica) which truly needs it due to its tremendous population and economic growth, would not be thwarted.

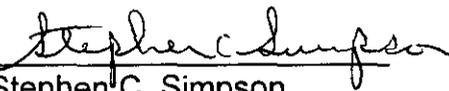
5. It should be noted that the Commission's Report No. 2362, dated September

17, 1999 (to which the subject Comments are directed), also referenced Legend's proposed allotment of Channel 254A at Friar's Point, Mississippi. As the enclosed Engineering Statement demonstrates conclusively, North Tunica, particularly with its burgeoning population, is the preferred first service allotment. Similarly, Bear Creek Radio's proposed "second" service to Marianna, Arkansas referenced in the Commission's Report No. 2362 is inferior from an allotment perspective to the North Tunica "first" service proposal.

Wherefore, based on the foregoing, Fred R. Flinn respectfully submits that Channel 255C1 (as opposed to Channel 255C) be allotted to Munford, Tennessee and that the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, be amended to include Channel 254A at North Tunica, Mississippi. As stated in earlier filings, it is Fred R. Flinn's intention to apply for Channel 254A if it is allotted by the FCC and, if authorized, to build the station promptly.

Respectfully submitted,

Fred R. Flinn

By: 
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ENGINEERING STATEMENT

In Support of an

Objection to the Allotment of

**Channel 255C, Munford, Tennessee,
Channel 254A, Friars Point, Mississippi,
And
Channel 254A, Marianna, Arkansas**

Fred R. Flinn, Individually

MM Dockets 99-140 and 146

Introduction

The instant engineering statement supports an objection from the petitioner, Fred R. Flinn, ("Flinn") for channel 254A at North Tunica, Mississippi. Flinn was the original petitioner for channel 254A at North Tunica as that community's first local service. Flinn, in his original petition, gave more than adequate verification that North Tunica is a Census Designated Place (CDP), and therefore meets the Commission's *indicia* for the allocation of a FM channel. In the Comment Period, Legend Broadcasting, Inc. ("Legend"), licensee of KTMO, Kennett, Missouri, filed a Counterproposal that seeks to delete channel 255C at Kennett and allot the channel to Munford, Tennessee. It requests that the licensee of KTMO be modified accordingly. The spacing between the allotment of channel 255C at Munford, using the Legend requested coordinates, and the allotment of channel 254A at North Tunica, using the Flinn requested coordinates, is 146.51 kilometers, while a spacing of 165.0 kilometers is necessary to be fully spaced. Therefore, these two proposal are mutually exclusive (MX) by 18.49 kilometers.

Secondly, Bear Creek Radio ("Bear Creek") requests amendment of the Table of Allotments to allot channel 254A to Marianna, Arkansas as that community's second local service. The distance between the allotment of channel 254A at North Tunica and

channel 254A at Marianna is 18.54 kilometers, whereas 115.0 kilometers are required for fully spaced co-channel class A stations. Therefore, the allotments are MX by 96.46 kilometers. No additional discussion is given to the allotment preference to channel 254A at Marianna, since the first local service proposed at North Tunica has a higher allotment priority than a second local service at Marianna.

The Commission's Public Notice of September 17, 1999 also noted the proposed allotment of channel 254A to Friars Point, Mississippi. Two different petitioners proposed the allotment of channel 254A at Friars Point. The distance between the proposed allotment of channel 254A at Friars Point and the allotment of channel 254A at North Tunica is 40.58 kilometers, whereas 115.0 kilometers are required for fully spaced co-channel class A stations. Therefore, the two facilities are MX by 74.42 kilometers. The arguments for the allotment of channel 254A to North Tunica in lieu of channel 254A at Friars Point are discussed in a subsequent section.

According to the US Census Bureau 1990 data, Munford, Tennessee has a population of 2,326 persons, while North Tunica has a population of 1,314 persons. If the Commission were choosing service for a new first local service based entirely on population, Munford would be superior by 1,012 persons. However, this argument is not applicable in the instant setting, since the spectrum can accommodate both Munford (Ch 255C1) and North Tunica (Ch 254A).

The Flinn Alternative

Flinn does not argue Legend's need to provide a first local service at Munford. He does take the position that the request for a full class C at Munford prohibits the use of channel 254 at North Tunica. The spectrum can fully accommodate the allotment of channel 255C1 at Munford as well as the allotment of channel 254A at North Tunica. (See

Exhibit E, Figure 1.) Population studies were conducted using channel 255C and channel 255C1 at the proposed Legend allotment coordinates. The study shows a full class C hypothetical 60-dBu contour serves 533,212 persons, while the class C1 serves 378,432 persons. This is a difference of 154,780 persons. However, all of the 154,780 persons in this area are served by a minimum of 5 other aural services. (See Exhibit E, Figure 2.) Therefore, this is not adequate ground for the Legend proposal to be preferred over the denial of a first local service at North Tunica, Mississippi.

Additional Considerations

The option Flinn sets forth in the instant reply comments provides a method for a new first local service at North Tunica, Mississippi AND Munford, Tennessee. It should be endorsed if the KTMO licensee's sole intent is to provide first local service at Munford. However, if the KTMO licensee has other objectives, such as a subsequent downgrade to a class C1 and a southern movement into the Memphis metro area, it will more than likely object to the Flinn alternative. The existence of channel 254A at North Tunica greatly inhibits the relocation of KTMO to the Memphis area, should channel 255C be allocated to Munford. Therefore, it is not question of Legend's desire to provide first local service to Munford; it is a question of attempting to provide a new service to a currently heavily served metropolitan area.

North Tunica Versus Friars Point

According to the 1990 US Census, Friars Point has a population of 1,334, while North Tunica has a population of 1,314 persons. However, when projected population figures are taken into account, the population of North Tunica is 1,475 persons, while the projected Friars Point population is 1,338. The Friars Point population figures were taken from the US Census Bureau's web site at www.census.gov. Because North Tunica

is a CDP, the projected population figures were unavailable at this web site. However, the information is still attainable by using the projected population inside the appropriate census tract. This was done with MapInfo, Version 5.0, and projected US Census Bureau 1994 data. With the burgeoning casino industry in Tunica County, the population of North Tunica is certain to greatly outpace that of Friars Point for years to come. Therefore, North Tunica must prevail in the Commission's choice for the addition of channel 254A over the allotment of channel 254A at Friars Point.

Conclusion

Flinn has proven conclusively that the allotment of channel 254A to North Tunica must prevail over Legend's MX proposal for channel 255C at Munford, since Flinn has shown the allotment of channel 255C1 at Munford provides more than adequate for a community of 2,326 persons. In addition, that channel 255C1 at Munford is compatible with channel 254A at North Tunica. Finally, North Tunica is preferred over a second local service at Marianna, Arkansas, and due to the population shifts since the 1990 Census, North Tunica is a preferable allotment over Friars Point by 137 persons.

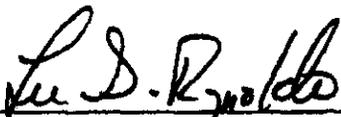
Statement of the Consultants

The engineering section for the instant counterproposal was prepared for Fred R. Flinn, Individually ("Flinn") and supports an objection to the allotment of channel 255C at Munford, Tennessee (MM Dockets 99-140 and 146). It was developed by Lee S. Reynolds and Paul H. Reynolds of Reynolds Technical Associates ("RTA") and may not be used for purposes other than submission to the Commission by Flinn.

It may not be reproduced in its entirety, or in part, by anyone (other than from the Commission) without the written consent of RTA.

The information in this application is compiled from the most recent Commission and outside data. RTA is not responsible for errors resulting from incorrect data or unpublished rule and procedure changes.

For Reynolds Technical Associates:



Lee S. Reynolds

October 4th, 1999

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ENGINEERING STATEMENT
In Support of

Second Reply Comments
Fred R. Flinn, Individually
MM Dockets 99-140 & 146

ALLOTING CH 254A TO NORTH TUNICA, MISSISSIPPI
[Depicting spacing to all existing FM facilities & allotments proposed
in MM Dockets 99-140 & 146]

34 39 50 N.	Class A						Search Date
90 28 13 W.	Current rules spacings						10-04-99
----- Channel 254 - 98.7 MHz -----							
Call	Ch#	City	State	Bear'	Dist'	R'grd	Margin
AD254	254A	North Tunica	MS	0.0	0.00	115.0	-115.00 *
Of Note: Proposed Flinn allotment							
AD254	254A	Marianna	AR	282.5	18.54	115.0	-96.46 *
Of Concern: Allotment proposed by Bear Creek in MM Docket 99-146							
AD254	254A	Friars Point	MS	220.4	40.58	115.0	-74.42 *
Of Concern: Allotment proposed by Legend & Delta Radio, Inc.							
AD255	255C	Munford	TN	32.2	146.51	165.0	-18.49 *
Of Concern: Proposed allotment of Ch 255C & Munford by Legend							
WZLQ	253C1	Tupelo	MS	114.5	132.72	133.0	-0.28 *
AD255	255C	Keiser	AR	8.8	164.75	165.0	-0.25 *
KTMO	255C	Kennett	MO	8.8	164.75	165.0	-0.25 *
WSRREFM	251C1	Millington	TN	47.4	80.43	75.0	5.43 *
WSRREFM	251C1	Millington	TN	47.4	80.43	75.0	5.43 *
WSRREFM	251C1	Millington	TN	45.3	80.47	75.0	5.47 *
AD255	255C1	Memphis	TN	32.2	146.51	133.0	13.51
Of Note: Flinn alternative for Ch 255C1 & Memphis, TN							
KURB	253C	Little Rock	AR	274.6	186.09	165.0	21.09
WYMX	256C	Greenwood	MS	175.9	120.94	95.0	25.94
WYMX.C	256C	Greenwood	MS	175.9	120.97	95.0	25.97

Certificate of Service

I hereby certify that a copy of the foregoing document was this 4th day of October, 1999 sent by First Class U.S. mail, postage prepaid, to the following:

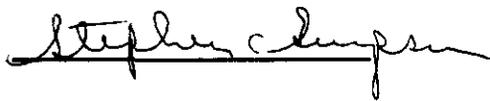
Nancy Joyner *
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* By Hand Delivery to FCC's Mail Room.