FCC MAIL SECTION

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

DISPATCHED BY

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	
Table of Allotments,	)	
FM Broadcast Stations.	)	
	)	
(Tallulah, Louisiana)	)	MM Docket No. 99-348
	)	RM-9765
	)	
(Hemet, California)	)	MM Docket No. 99-349
	)	RM-9766
	)	
(Simmesport, Louisiana)	)	MM Docket No. 99-350
	)	RM-9769
	)	
(Holbrook, Arizona)	)	MM Docket No. 99-351
	)	RM-9785
	)	
(Gaviota, California)	)	MM Docket No. 99-352
	)	RM-9786
	)	
(Mojave, California)	)	MM Docket No. 99-353
	)	RM-9787

NOTICE OF PROPOSED RULE MAKING

Adopted: December 1, 1999 **Released: December 10, 1999**

Comment Date: January 31, 2000
Reply Date: February 15, 2000

By the Chief, Allocations Branch

1. Before the Commission for consideration is a multiple docket Notice of Proposed Rule Making setting forth separate proposals to amend the FM Table of Allotments, Section 73.202(b) of the Rules. Each petitioner has stated that it will apply for its requested channel, if allotted. We believe that each proposal warrants consideration because it complies with our technical requirements and would serve the public interest.

2. This is a multiple docket Notice of Proposed Rule making issued in response to a Commission Public Notice released October 2, 1998 (DA 98-1987). We are combining separate FM allotment proposals into a single Notice of Proposed Rule Making. Each proposal has its own docket

and rule making number and the Commission's Reference Center will maintain a separate

file for each docket. As discussed in the Public Notice, this procedure will conserve Commission resources and expedite the processing of FM allotment petitions for rule making by avoiding duplicative actions. We request comments and/or counterproposals to the following proposals:

(1) MM Docket No. 99-348, RM-9765

Petitioner: Joe Kool Broadcasting

c/o Donald B. Brady
204 Duncan Avenue
Jackson, MS 39202

Proposal: Allot Channel 248A to Tallulah, Louisiana, as that community's second local FM transmission service.

Community	Present	Proposed
Tallulah, Louisiana	283C3	248A, 283C3

Coordinates: 32-25-07 NL; 91-12-15 WL

Additional Information: The proposed allotment requires a site restriction 2.0 kilometers (1.2 miles) northwest to avoid a short-spacing to Station WFMN, Channel 247C3, Flora, Mississippi, at coordinates 32-27-21 NL; 90-15-32 WL.

FCC Contact: Nancy Joyner, (202) 418-2180

(2) MM Docket No. 99-349, RM-9766

Petitioner: Arana Productions

c/o Peter Gutmann, Esq.
Pepper & Corazzini, L.L.P.
1776 K Street, N.W., Suite 200
Washington, DC 20006

Proposal: Allot Channel 273A to Hemet, California, as that community's second local FM transmission service.

Community	Present	Proposed
Hemet, California	289A	273A, 289A

Coordinates: 33-44-41 NL; 116-59-13 WL

Additional Information: Channel 273A can be allotted to Hemet with a site restriction 1.5 kilometers (.95 miles) west of the community to avoid a short-spacing to Station KJJZ, Channel 272A, Indio, California, at coordinates 33-52-14 NL; 116-13-39 WL. As Hemet is located within 320 kilometers (199 miles) of the U.S.-Mexico border, the Commission must obtain the concurrence of the Mexican government to this proposal. Additionally, Channel 273A will be limited to 5.4 kW ERP and 100m HAAT, or the equivalent, along the 180.1° azimuth towards Station XHUAN-FM, Channel 273B, Tijuana, Mexico, which is also limited.

FCC Contact: Nancy Joyner, (202) 418-2180

(3) MM Docket No. 99-350; RM-9769

Petitioner: C. Wayne Dowdy

c/o Lawrence J. Bernard, Jr., Esq.
5224 Chevy Chase Parkway, N.W.
Washington, DC 20015

Proposal: Allot Channel 287A to Simmesport, Louisiana, an incorporated community, as that locality's first local aural transmission service.

Community	Present	Proposed
Simmesport, Louisiana	--	287A

Coordinates: 30-53-30 NL; 91-47-00 WL

Additional Information: This proposal requires a site restriction 10.5 kilometers (6.5 miles) south of the community to avoid a short spacing to Station KTYX, Channel 286A, Jonesville, Louisiana, at coordinates 31-32-20 NL; 91-52-03 WL.

FCC Contact: Nancy Joyner, (202) 418-2180

(4) MM Docket No. 99-351; RM-9785

Petitioner: Navajo Broadcasting Company, Inc.

c/o Richard J. Hayes, Jr., Esq.
8404 Lee's Ridge Road
Warrenton, VA 20186

Proposal: Substitute Channel 253C1 for Channel 221C1 at Holbrook, Arizona, and modify the license for Station KZUA-FM accordingly.

Community	Present	Proposed
Holbrook, Arizona	221C1	253C1

Coordinates: 34-41-25 NL; 110-06-00 WL

Additional Information: This proposal requires a site restriction 24.1 kilometers (15 miles) south of the community to avoid short-spacing to the present authorization of Station KBDT, Channel 255C, Oraibi, Arizona, at coordinates 35-26-34 NL; 110-58-40 WL. In support of its proposal, petitioner asserts that KZUA-FM's present tower is located near the Holbrook, Arizona, airport. At that location KZUA-FM is limited by FAA rules to a tower of 300 feet, thereby severely limiting service within its 60 dBu contour to 7,478 persons. The proposed substitution of Channel 253C1 at Holbrook would enable Station KZUA-FM to relocate to a site that will afford it an opportunity to maximize its Class C1 authorization and increase the coverage potential within its reception service area to approximately 23,500 persons.

FCC Contact: Nancy Joyner, (202) 418-2180

(5) MM Docket No. 99-352; RM-9786

Petitioner: Brian Costello

c/o Brian Costello
15275 Old Cazadero Road
Guerneville, CA 95446

Proposal: Allot Channel 266A to Gaviota, California, as that locality's first local aural transmission service.

Community	Present	Proposed
Gaviota, California	--	266A

Coordinates: 34-27-37 NL; 120-04-25 WL

Additional Information: This proposal requires a site restriction 12.8 kilometers (7.9 miles) east of Gaviota to avoid a short spacing to Station KSTT-FM, Channel 267B, Los Osos-Baywood Park, California, at coordinates 35-21-37 NL; 120-39-18 WL. Petitioner describes Gaviota (population 70)[1] as a rural California coastal community, that is not incorporated. However, petitioner asserts that Gaviota has its own school and fire districts, ranching activity, a large petroleum and water desalinization plants, and the Gaviota State Park. Petitioner also advises that Gaviota is located along U.S. Highway 101, a very heavily traveled arterial for approximately 10,000 commuters from the outlying communities of Santa Inez, Santa Maria, and Lompoc, to name a few, that comprise much of the workforce for the concentrated business environment of Santa Barbara. Petitioner reports that the Santa Inez mountains to the north of Gaviota creates significant terrain shadowing for the area, resulting in non-existent to very weak FM radio reception to motorists traversing the region. Therefore, petitioner asserts that the requested allotment of Channel 266A to Gaviota could provide reliable, unobstructed service directly into Gaviota as well as along the Coastal shelf to the east and west, and would provide essential communication to motorists traveling in that area, citing Essex, California, 4 FCC Rcd 8084 (1989).

We invite comments on this proposal regarding the attributes of Gaviota for allotment purposes. Further, given Gaviota's location along the coastal shelf, petitioner is requested to provide proof of site availability to accommodate the requested allotment of Channel 266A to that locality.

FCC Contact: Nancy Joyner, (202) 418-2180.

(6) MM Docket No. 99-353; RM-9787

Petitioner: Linda A. Davidson

c/o Linda A. Davidson
2134 Oak St., Unit C
Santa Monica, CA 90405

Proposal: Allot Channel 241A to Mojave, California, as that community's second local FM transmission service.

Community	Present	Proposed
Mojave, California	249A	241A, 249A

Coordinates: 35-06-11 NL; 118-10-22 WL

[1] Population figure was taken from the 1998 Rand McNally Commercial Atlas and Marketing Guide.

Additional Information: This proposal requires a site restriction 5.9 kilometers (3.7 miles) North of the community to avoid a short-spacing to Station KFSG, Channel 242B, Los Angeles, California, at coordinates 34-05-05 NL; 118-12-10 WL. As Mojave is located within 320 kilometers (199 miles) of the U.S.-Mexico border, the Commission must obtain concurrence of the Mexican government to the proposed allotment of Channel 241A to that community.

FCC Contact: Nancy Joyner, (202) 418-2180.

3. Comments, reply comments, counterproposals and other pleadings filed in response to this multiple docket Notice of Proposed Rule Making should reference **only** the specific docket to which the filing pertains. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required in paragraph 2 of the Appendix before a channel will be allotted.

4. Interested parties may file comments on or before January 31, 2000, and reply comments on or before February 15, 2000, and are advised to read the Appendix for the proper procedure. Additionally, a copy of any filing should be served on the petitioner listed for the particular docket.

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

6. For further information concerning a proceeding listed above, contact the FCC contact listed for that proceeding. For purposes of this restricted notice and comment rule making proceeding, members of the public are advised that no ex parte presentations are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the proceeding has been decided and such decision is no longer subject to reconsideration by the commission or review by any court. An ex parte presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or a summary of any new oral information shall be served by the person making the presentation upon other parties to the proceeding unless the Commission specifically waives this service requirement. Any comment

which has not been served on the petitioner constitutes an ex parte presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an ex parte presentation and shall not be considered in this proceeding.

FEDERAL COMMUNICATIONS COMMISSION

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

Attachment: Appendix

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204.(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. Showings Required. Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. Cut-off Procedures. The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules).

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comment herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(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, 445 Twelfth Street, SW.; TW-A325, 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 Reference Information Center (Room CY-A257) at its headquarters, 445 Twelfth Street, SW., Washington, D. C.