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March 13, 2000

Ms. Magalie Salas  
Secretary  
Federal Communications Commission  
Portals II - 12<sup>th</sup> Street Lobby  
Filing Counter - TW-A325  
445 - 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

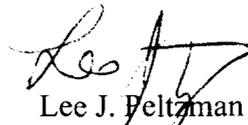
RECEIVED  
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FEDERAL COMMUNICATIONS COMMISSION  
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Re: MM Docket No. 00-5  
RM-9752  
Amendment of Section 73.202(b)  
Table of Allotments  
FM Broadcast Stations  
Las Vegas and Pecos, New Mexico

Dear Ms. Salas:

Transmitted herewith, on behalf of BK Radio, petitioner in the above-referenced rule making proceeding, is an original and four (4) copies of its *Erratum* to its Comments in MM Docket No. 00-5. Please contact the undersigned in the event the Commission has any questions with respect to these Comments.

Sincerely,

  
Lee J. Heltzman  
Counsel for  
BK RADIO

Enclosure

cc: Leslie Sh..., via hand-delivery)

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ORIGINAL

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

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In the Matter of )  
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Amendment of Section 73.202(b) ) MM Docket No. 00-5  
Table of Allotments ) RM-9752  
FM Broadcast Stations )  
Las Vegas and Pecos, New Mexico )

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

**ERRATUM**

BK RADIO ("BK"), by its attorney, hereby files an *Erratum* to those Comments filed March 2, 2000, in the above-captioned rule making proceeding. The *Erratum* consists of one (1) word change in Paragraph 5 on Page 2. The Commission should substitute the words "Las Vegas" for "Lordsburg." The remainder of the Comments should be unaffected by this change.

Respectfully submitted,

BK RADIO

By:   
\_\_\_\_\_  
Lee J. Peltzman  
Its Attorney

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March 13, 2000

Before The  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

|                                 |   |                    |
|---------------------------------|---|--------------------|
| In the Matter of                | ) |                    |
|                                 | ) |                    |
| Amendment of Section 73.202(b)  | ) | MM Docket No. 00-5 |
| Table of Allotments             | ) | RM-9752            |
| FM Broadcast Stations           | ) |                    |
| Las Vegas and Pecos, New Mexico | ) |                    |
| To: Chief, Allocations Branch   |   |                    |
| Policy and Rules Division       |   |                    |
| Mass Media Bureau               |   |                    |

**COMMENTS**

BK RADIO (“BK”), by its attorney, and pursuant to Sections 1.415 and 1.420 of the Commission’s Rules, hereby respectfully files its Comments in the above-captioned rule making proceeding.<sup>1</sup>

1. By Notice of Proposed Rule Making, DA 00-65, released January 14, 2000 (“NPRM”),<sup>2</sup> the Commission proposed the amendment of its FM Table of Allotments to substitute Channel 268C3 for Channel 268A at Las Vegas, New Mexico and allot Channel 268C3 to Pecos, New Mexico as that community’s first local aural service and the modification of BK’s construction permit (BPH-96829MH) to specify Pecos as its community of license.

2. BK supports the substitution of Channel 268C3 for Channel 268A and the allotment of Channel 268C3 to the community of Pecos pursuant to Section 1.420(i) of the

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<sup>1</sup> BK incorporates by reference its earlier-filed Petition for Rule Making in this proceeding.

<sup>2</sup> A copy of the Commission NPRM is attached hereto.

Commission's rules. As the Commission noted in its NPRM, Channel 268C3 may be allotted to Pecos in compliance with the Commission's minimum distance separation rules with a site restriction of 9.1 kilometers east to accommodate BK's desired transmitter site. The Commission noted that its own engineering study demonstrated that not only was Pecos not located within any Urbanized Area, but that the proposed operation would not encompass 50% or more of any Urbanized Area. Thus, the proposal does not represent the removal of service from a rural area to an urbanized one.

3. Moreover, the allotment of Channel 268C3 to Pecos would enable BK to provide service to an additional 70,316 people within a 3,275 square kilometer area. The change of community would result in a loss of service to only 845 people and would not result in the creation of any underserved area as the entire loss population will continue to receive at least five aural services. Thus, adoption of BK's proposal will result in a total net gain of 69,371 people. See Attachment.

4. Additionally, the proposal does not represent the removal of an "existing service" which the public has come to rely upon since the Station is unbuilt and, thus, is not on the air. See, Douglas, Tifton and Unionville, Georgia, 10 FCC Rcd 7706 (1995); Midway, Panacea and Quincy, Florida, 10 FCC Rcd 6112 (1995); Pawley's Island and Atlantic Beach, South Carolina, 8 FCC Rcd 8657 (1993).

5. The proposed substitution of Channel 268C3 for Channel 268A at Las Vegas[Lordsburg], its reallocation to Pecos and the modification of BK's outstanding construction permit to specify operation on the higher class channel with Pecos as its community of license would result in a preferential arrangement of allotments under the FCC's FM allotment priorities. It would provide Pecos with its first local aural service and enable the Station to

provide service to a greater number of people without removing a sole local service from Las Vegas, which will continue to be served by a number of stations.<sup>3</sup> Accordingly, there would be significant public interest benefits which would accrue from the grant of the instant NPRM.

6. In the event that the Commission substitutes Channel 268C3 for Channel 268A and reallocates the new channel to Pecos, New Mexico, BK states that it will promptly modify its Station permit, file an application for the new facilities and implement that granted application by constructing a Pecos station in an expeditious manner.

Accordingly, for the reasons stated above, BK supports the proposal contained in the Commission NPRM to substitute Channel 268C3 for Channel 268A at Las Vegas, New Mexico, and reallocate Channel 268C3 to Pecos, New Mexico as that community's first local aural service (without depriving Las Vegas of its sole local aural service) and permit BK to modify its Station permit to specify Channel 268C3 at Pecos.

Respectfully submitted,

BK RADIO

By: \_\_\_\_\_

Lee J. Peltzman  
Its Attorney

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March 13, 2000

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<sup>3</sup>. At present, Stations KNMX(AM), KFUN(AM), KBAC(FM), KEDP(FM) and KLVF-FM are all licensed to Las Vegas, and a construction permit has been issued for Station KTLR(FM) and an application is pending for a new station which will operate on Channel 212A. Therefore, under the Commission's Revision of FCC Assignment Policies and Procedures, 90 FCC 2d 88 (1982), the reallocation of Channel 268C3 at Pecos would trigger priority three (3), while retaining the channel in Las Vegas would only trigger priority four (4).