

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

In the Matter of)
)
Amendment of Section 73.202(b))
Table of Allotments)
FM Broadcast Stations)
(Eldorado, Beeville, Brownwood,)
Colorado City, Cotulla, Cuero, Kerrville,
McQueeney, Mason, San Angelo, and
San Saba, Texas)

MM Docket No. 99-357
RM-9780
RM-9866

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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

REPLY COMMENTS

John R. Furr, permittee of Channel 281A, Pearsall, Texas, by its counsel, hereby submits reply comments to the Public Notice, Report No. 2407, issued May 1, 2000 in the above captioned proceeding. The purpose of this reply is to confirm that Mr. Furr's pending proposal in MM Docket 99-342 to substitute Channel 281C1 for 281A at Pearsall, Texas, will not be consolidated with the instant proceeding. In support hereof, Mr. Furr states as follows:

1. On August 24, 1999, Mr. Furr submitted his Petition for Rule Making to substitute Channel 281C1 for Channel 281A at Pearsall, Texas, substitute Channel 265A for 281A at George West, Texas and to modify the outstanding construction permits for these channels, accordingly. The petition is currently pending in MM Docket 99-342. Nevertheless, in the Report and Order in MM Docket 98-198 at paragraphs 32-33, the Commission staff noted a conflict between the proposed Channel 281C1 at Pearsall and a proposal to substitute Channel 281C2 at Mason, Texas.

The Commission staff stated "[i]nasmuch as the Pearsall upgrade was on file by the comment date

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in this proceeding, it is entitled to comparative consideration with the Luling reallocation proposal in this proceeding. ...we will process the Rawhide Radio Luling reallocation proposal as a counterproposal in MM Docket 99-342.

2. Subsequently the Commission corrected this statement in an Erratum in MM Docket 98-198 released April 3, 2000. The Commission stated that “subsequently, Rawhide Radio modified its Cuero proposal to specify reallocation to McQueeney, Texas in MM Docket 99-357. Inasmuch as the Pearsall upgrade was timely with respect to the McQueeney proposal, it is appropriate to consider the Rawhide Radio proposal in the context of a separate proceeding.” However, paragraph 33 of the Report and Order was left intact. Thus, the Cuero/McQueeney proposal was to be considered in MM Docket 99-342.

3. The Commission staff still appears to be confused as to the relationship between Channel 281C1 at Pearsall in MM Docket 99-342 and the proposed substitution of Channel 281C2 first in MM Docket 98-198 and then in MM Docket 99-357. A review of the Cuero/McQueeney counterproposal filed in MM Docket 99-357 reveals that the proposed substitution of Channel 281C2 was made at the Mason community coordinates with no site restriction. See Exhibit E, Figure 14 of the Engineering Statement (a copy is attached). As can be seen from the channel study, the Mason community coordinates for Channel 281C2 are not short spaced to the proposed Channel 281C1 at Pearsall, Texas. Thus, the Commission can and should accommodate both proposals by allotting Channel 281C2 at Mason either as a new allotment in response to the interest expressed by

Kent S. Foster in MM Docket 99-215 (Mason, Texas) or a substitute for Channel 249C2 for any of the three pending applicants at Mason.¹

4. BK Radio filed a Petition for Rule Making in MM Docket 99-215 proposing, inter alia, the allotment of Channel 273C2 for any of the applicants and thereby agreeing to amend its pending application for Channel 249C2 to specify Channel 273C2 at a different transmitter site. In this regard, Foxcom², one of the three Mason applicants is also on record in MM Docket 99-215 supporting the substitution of Channel 273C2 for Channel 249C2 at Mason. Since the Channel 273C2 proposal as submitted by Foxcom proposes a change in the reference point from the coordinates currently applied for by Foxcom on Channel 249C2, it can be presumed that Foxcom is willing to amend its application to specify a new transmitter site, as necessary, to specify Channel 273C2 at Mason. Thus, at least two of the three Mason applicants have supported a substitute Channel 273C2 which requires a different set of coordinates. In addition, the Cuero/McQueeney proposal offers Channel 289C2 at Mason which can be allotted at the same site as that specified in the application filled by Jayson and Janice Fritz. This channel is at a slightly different set of coordinates as BK Radio and Foxcom but both applicants are on record agreeing to amend their

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1. Also pending in MM Docket 99-215 are proposals to allot Channels 239C2 and 273C2 at Mason, Texas for use by two of the applicants.
 2. The filing was made by Foxcom's acknowledged affiliate entity, Munbiella Broadcasting Corp.(hereinafter referred to as Foxcom).

applications for a new site on a different channel. Accordingly, there are enough channels for each of the three Mason applicants (Channels 239C2, 273C2, and 289C2) and Channel 281C2 can be allotted at the Mason coordinates (which clears the Channel 281C1 Pearsall proposal) as a new allotment for a window application filing. The channel can also be used for one of the applicants.

5. In summary, the Commission appears to have recognized that there is no conflict between Channel 281C2 at Mason, as proposed in MM Docket 99-357, and Channel 281C1 at Pearsall because in its May 1, 2000 Public Notice, the Commission specifically stated that the Mason Channel 289C2 (Cuero/McQueeney) proposal is to be considered as a counterproposal in MM Docket 99-357 only. No mention was made of any conflict or technical relationship with MM Docket 99-342. Therefore, unless and until the Commission states otherwise, Mr. Furr's position is that there is no current conflict between his proposal to substitute Channel 281C1 at Pearsall in MM Docket 99-342 and Channel 281C2 at Mason in MM Docket 99-357. Should the Commission determine there is a conflict, Mr. Furr requests the opportunity to submit comments on the comparative merits of the proposals.

Respectfully submitted,

JOHN R. FURR

By: _____


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May 16, 2000

ENGINEERING STATEMENT
In Support of a
Counterproposal
MM Docket 99-357
Rawhide Radio, LLC

Allocation Study - (AP 249C2) Ch 281C2 Mason, Texas
 [Depicting spacing required for proposed substitution]
 (using Mason community coordinates as reference)

30 44 55 N.		Class C2		Search Date			
99 13 49 W.		Current rules spacings		02-07-00			
-----		Channel 281 -104.1 MHz		-----			
Call	Ch#	City	State	Bear'	Dist'	R'qrd	Margin

Community of Mason			TX	0.0	0.00		
Reference Coordinates:							
North latitude: 30-44-55							
West Longitude: 99-13-49							
AD281	281A	Mason	TX	0.0	0.00	166.0	-166.00 *
Of No Concern:							
Entry remaining from previous NPRM							
DE281	281C1	Brownwood	TX	11.6	108.19	224.0	-115.81 *
KXYLFM	281C1	Brownwood	TX	11.6	108.19	224.0	-115.81 *
DE281	281C1	Brownwood	TX	11.6	108.19	224.0	-115.81 *
DE281	281C1	Brownwood	TX	11.6	108.19	224.0	-115.81 *
Of Concern:							
Substitution of Ch 245C1 @ KXYL site							
proposed in MM Docket 98-198 and							
also in instant counterproposal							
AD281	281C1	Pearsall	TX	170.3	225.02	224.0	1.02 *
Of Note:							
Proposed allotment in							
MM Docket 99-342							
DE284	284C3	Llano	TX	96.2	63.54	56.0	7.54 *
KBAE	284C3	Llano	TX	96.2	63.54	56.0	7.54 *
Of Note:							
Deletion of Ch 284C3 @ Llano &							
Allotment of Ch 285C2 @ Marble Falls							
MM Docket 97-174							
AL280	280C	Ciudad Acuna	CI	226.1	227.55	215.0	12.55
AD281	281C1	Beeville	TX	170.0	238.86	224.0	14.86
ALOPEN	283A	Eden	TX	311.6	78.37	55.0	23.37
KBLT	282A	Leakey	TX	205.7	129.90	106.0	23.90
KWTR.C	281C1	Big Lake	TX	293.4	248.98	224.0	24.98
AD281	281C3	Clifton	TX	55.6	205.03	177.0	28.03
AD281	281C3	Clifton	TX	55.6	205.03	177.0	28.03

CERTIFICATE OF SERVICE

I, Harry F. Cole, hereby certify that on this 16th day of May, 2000, I caused copies of the foregoing "Reply Comments" to be hand delivered (as indicated below) or placed in the U.S. Postal Service, first class postage prepaid, addressed to the following persons:

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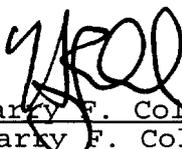
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