



Federal Communications Commission
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

March 16, 2001

Ms. M. Jayne Sawyer
P.O. Box 1074
Chico, California 95927

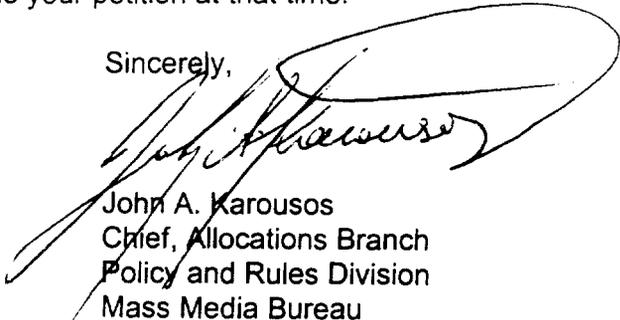
Dear Ms. Sawyer:

This is in response to the petition for rule making you filed on October 10, 2000, requesting the substitution of Channel 262A for Channel 259A at Chester, California, due to possible receiver interference caused by the mixing of FM signals from several FM translator stations and Station KBNF(FM), Channel 255C in Chester. To accommodate the substitution, you also requested (1) the substitution of Channel 265A for Channel 262A at Quincy, California; and (2) the downgrade of Channel 264C1 to Channel 264B at Corning, California.

As background information, you state that a Report and Order was adopted on April 23, 1996 in consolidated Dockets 94-76 and 94-77, allotting Channel 259A in lieu of Channel 296A at Chester, California. You filed a Petition for Reconsideration and an Application for Review, which were both denied. You were granted a construction permit for Channel 259A at Chester on July 5, 2000. In the instant proposal, you state that you are "still concerned about the FM receiver interference near Channel 259A (99.7 MHz) in the Chester area." Although you claim that you have submitted a viable option for moving from Channel 259A, you have not sufficiently demonstrated that the use of Channel 259A would be subject to interference since the channel is not yet operational. Generally, controlled engineering field testing serves as the basis for any finding of interference from a channel that is operational, unless the petitioner can provide other convincing showings. Furthermore, your allegation that interference could possibly be caused by translators is irrelevant because translators are secondary services and are not entitled to protection from full-service radio facilities such as FM broadcast stations. Moreover, the one full-service station and two of the three translators operate on frequencies that are neither co-channel nor a first, second, or third adjacent channel to Channel 259A at Chester, and accordingly, are deemed by the Commission never to result in interference to or from operation of that channel.

Therefore, for the reasons stated above, we are returning your petition for rule making. However, should you find after Channel 259A at Chester is operational that the channel is subject to interference, you may refile your petition at that time.

Sincerely,


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

Enclosures

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RECEIVED ROOM

**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.)
(Chester and Quincy, California))

07-11-2000
FCC

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

PETITION FOR RULEMAKING AND ORDER TO SHOW CAUSE.

m. JAYNE sawyer ("sawyer"), Permittee of FM Station KTOR, Chester, California (Facility ID#: 82891), hereby requests that the Federal Communications Commission ("Commission") institute a Rulemaking proceeding to Amend Section 73.202 (b) of the Commission's Rules and Regulations to modify the FM Allotments at Chester and Quincy, California. Specifically, sawyer requests that the FCC, via Rulemaking, substitute FM Channel 262A for FM Channel 259A at Chester, California, and substitute FM Channel 265A for FM Channel 262A at Quincy, California.

Additionally, sawyer requests that an ORDER TO SHOW CAUSE be served on the Licensee of KSPY(FM), Quincy, California (Facility ID#: 31618), regarding the proposed Amendment to the FM Allotments at Chester and Quincy, California. sawyer pledges to reimburse the Licensee of KSPY(FM), Quincy, California for reasonable costs associated with the FM Channel change at Quincy, consistent with Commission policy under Circleville, Ohio, 8 FCC 2d 159 (1967).

BACKGROUND.

m. JAYNE sawyer filed a Petition for Rulemaking to Allot FM Channel 296A to Chester, California on 12 May 1994. That Petition resulted in RM-8477/MM Docket 94-76. sawyer filed COMMENTS in the Matter of MM Docket 94-76, supporting her proposal to Allot FM Channel 296A to Chester, and stating her intention to apply for a Construction Permit for that FM Channel at Chester, California.

A Report & Order ("R&O") DA 96-965 was Adopted 23 April 1996, and Released 3 May 1996, that consolidated MM Docket Nos. 94-76 and 94-77. In that R&O, the FCC Allotted FM Channel 259A to Chester in lieu of FM Channel 296A, as requested by sawyer. sawyer filed a PETITION FOR RECONSIDERATION and an APPLICATION FOR REVIEW to R&O DA 96-965, specifically because sawyer was aware that the use of FM Channel 259A in Chester, California would be subject to FM Receiver interference near that frequency (99.7 MHz), caused by the mixing of FM signals from several FM Translator Stations and FM Station KBNF(FM), Chester, California (Facility ID#: 54981).

In April 2000, the Commission denied sawyer's APPLICATION FOR REVIEW via FCC 00-129 (Adopted 6 April 2000, Released 19 April 2000). sawyer's pending Application for an FM Construction Permit on FM Channel 259A at Chester, California was GRANTED on 5 July 2000 (sawyer was the **ONLY Applicant**). sawyer, still concerned about the FM Receiver interference near FM Channel 259A (99.7 MHz) in the Chester area, researched what

options, if any, where available for moving from FM Channel 259A in a timely and expeditious manner. That research revealed that substituting FM Channel 262A for FM Channel 259A at Chester, and substituting FM Channel 265A for FM Channel 262A at Quincy was viable. Furthermore, because these FM Channel changes involved moving to 3rd Adjacent FM Channels at both Chester and Quincy, only Minor Modification Applications (FCC Form 301) would be required to effect the FM Channel changes once the Table of Allotments was Amended.

TECHNICAL INFORMATION.

Attached as **EXHIBIT 1** is an FM Spacing Study that demonstrates that the substitution of FM Channel 265A for FM Channel 262 A at Quincy, California is fully Spaced from other relevant FM Station Allocations consistent with Section 73.202 (b)(1) of the FCC Rules at the Authorized transmitter site of KSPY(FM).

Attached as **EXHIBIT 2** is an FM Spacing Study that demonstrates that the substitution of FM Channel 262A for FM Channel 259A at Chester, California is fully Spaced from relevant FM Station Allocations, consistent with Section 73.202 (b)(1) of the FCC Rules at the Authorized transmitter site of KTOR (FM), with the exception of one (1) unused FM Allocation.

In regards to that one (1) unused FM Allocation that is slightly Short-Spaced to sawyer's use of FM Channel 262A at the Authorized site of KTOR(FM), sawyer requests that the

Commission resolve that issue by downgrading that Allocation from an FM Class C1 to an FM Class B Allocation. The C1 Allocation in question is FM Channel 264C1 at Corning, California. This Allocation became effective on 13 Sept. 1993 (58 FR 42020), however FM Construction Permit File No.: BPH-940426 IA to build those C1 Facilities at the Allocated site (40-15-31, 122-05-20) EXPIRED on 25 February 1996. To date, no other Application has been filed with the Commission to build C1 Facilities based upon this Allocation to Corning, California. And in fact, FM Station KTHU(FM), Corning, California (Facility ID#: 52509) remains Licensed as a Class B FM Station (File NO. BLH-880419 KA) at the Authorized transmitter site (39-53-17, 122-37-38), which is not Short-Spaced to sawyer's proposal to use FM Channel 262A at Chester, California. Retaining a theoretical FM Allocation of FM Channel 264C1 at Corning, California not only causes a Short-Spacing of 7.96 kilometers to sawyer's Authorized transmitter site of KTOR(FM) at Chester, California (40-17-02,121-18-05) with regard to the use of FM Channel 262A, but it also precludes sawyer and other Adjacent Channel Stations to FM Channel 264 from upgrading their FM Facilities in the future. (Co-Channel Stations on FM Channel 264 are affected as well.)

REQUEST FOR WAIVER OF TOLLING PROVISIONS.

Commission document FCC 99-267, (Adopted 29 Sept. 1999,

Released 6 Oct. 1999), was a Memorandum Opinion and Order ("MO&O") concerning Petitions for Reconsideration to the Report and Order in MM Docket Nos. 98-43 and 94-149 (13 FCC Rcd 23,056 (1998), the "Streamlining Order"). In that document, the Commission indicated that Waivers of the Tolling provisions for Broadcast Construction Permits would be considered in some individual cases (MO&O at paragraph 42). This Petition for Rulemaking is a circumstance whereby the Petitioner, sawyer, has no way to gauge how much time the Commission will need to make a decision regarding the FM Channel substitutions requested in this Petition. Unlike routine Minor Modifications Applications, this Petition for Rulemaking and subsequent MM Docket could be prolonged for years by a third party who may be in Opposition to sawyer's proposal. And in fact, a third party opposed to sawyer's proposal could indeed adopt a strategy to file their own Petitions with the Commission regarding this Matter to slow down the process and simply "wait out" sawyer.

sawyer respectfully seeks a Waiver of the Tolling provisions for FM Construction Permits, and requests that the Construction Permit for KTOR(FM) be tolled for the duration of time the Matter of this Petition for Rulemaking and any subsequent proceedings related to this Petition, are before the Commission.

CONCLUSION.

sawyer requests that the Commission issue a Notice of Proposed Rulemaking in response to this Petition of Rulemaking.

Further, sawyer requests that an ORDER TO SHOW CAUSE be issued to the Licensee of FM Station KSPY(FM), Quincy, California, regarding the Allotment changes proposed by sawyer in this Petition for Rulemaking.

In compliance with Section 1.52 of the Commission's Rules, the statements and data contained in this Petition for Rulemaking are accurate to the best of my knowledge.

DATE: October

SIGNATURE: *m. Jayne Sawyer*
(m. JAYNE sawyer)

P.O. Box 1074,
Chico, California 95927

CERTIFICATION OF SERVICE.

I, m. JAYNE sawyer, do certify that a copy of the foregoing Petition for Rulemaking has been mailed via first-class mail, postage paid, to the parties listed below.

Licensee KSPY(FM)
Ukiah Broadcasting Corporation
P.O. Box 77766,
Stockton, CA. 95267

Licensee KTHU(FM)
Results Radio Licensee, LLC
1355 N. Dutton Ave.,
Suite 225,
Santa Rosa, CA. 95401

DATE: 06 oct 00

SIGNATURE: m Jayne s
(m. JAYNE sawyer)

EXHIBIT 1.

PETITION FOR RULEMAKING.
m. JAYNE sawyer
(Chester and Quincy, California)

Co-Channel, Adjacent Channel, and I.F. Spacing for FM Channel
265A at Quincy, California.

KSPY(FM) Auhtorized Site: 39-56-14, 120-56-51.

CALL SIGN CITY OF LICENSE	CHANNEL FREQ.(MHZ)	REQUIRED DISTANCE(km)	ACTUAL DISTANCE(km)
NEW Greenville, CA	212A 90.3	10.0	33.45
KZZO Sacramento, CA	263B 100.5	69.0	144.4
KTHU Corning, CA	264B 100.7	113.0	143.7
KRZQ-FM Sparks, NV	265A 100.9	115.0	118.1
KHYL Auburn, CA	266B 101.1	113.0	120.0
NEW Truckee, CA	268A 101.5	31.0	86.17

Data supplied by Dataworld, Inc.

EXHIBIT 2.

PETITION FOR RULEMAKING.
m. JAYNE sawyer
(Chester and Quincy, California)

Co-Channel, Adjacent Channel, and I.F. Spacing for FM Channel
262A at Chester, California.

KTOR(FM) Authorized Site: 40-17-02, 121-18-05.

CALL SIGN CITY OF LICENSE	CHANNEL FREQ(MHZ)	REQUIRED DISTANCE(km)	ACTUAL DISTANCE(km)
KRCX-FM Marysville, CA	260B 99.9	69.0	127.7
KZRO Dunsmuir, CA	261C3 100.1	89.0	136.9
ALLOCATION Corning, CA	264C1 100.7	75.0	67.04

NOTE: No I.F. Spaced Stations in the Chester, California area.

Data supplied by Dataworld, Inc.