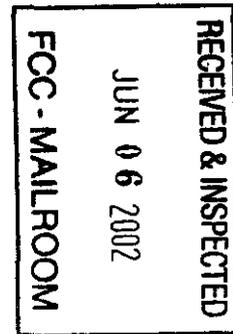




Federal Communications Commission
Washington, D.C. 20554

June 4, 2002



Lee J. Peltzman, Esq.
Shainis & Peltzman, Chartered
1850 M Street, NW, Suite 240
Washington, DC 20036

Dear Mr. Peltzman:

This is in response to the petition for rule making which you submitted on behalf of Bootheel Broadcasters ("Bootheel"), requesting the allotment of Channel 289C to Animas, New Mexico, as that community's first local aural transmission service. In order to accommodate the proposal in conformity with the minimum distance separation requirements of the Commission's Rules, Bootheel also requests the substitution of Channel 229C1 for Channel 288C1 at Hurley, New Mexico, and modification of the license of BBC Radio for Station KWNM(FM) accordingly. Additionally, the requested substitution at Hurley would require a relocation of the transmitter site for Station KWNM(FM), to which BBC has consented.¹

Our engineering study reflects that the distance between requested Channel 289C at Animas at coordinates 32-09-30 NL and 108-49-00 WL, and the license site of Station KWNM, Channel 288C1 at Hurley at coordinates 32-50-40 NL and 108-14-19 WL, is 93.5 kilometers. A minimum distance separation of 209 kilometers is required between first adjacent Class C-C1 channels. Therefore, the requested allotment of Channel 289C at Animas requires a modification of the facilities for Station KWNM, as requested by Bootheel.

Additionally, our engineering studies have determined that although Bootheel's requested substitution of Channel 229C1 for Channel 288C1 at Hurley complies with Section 73.207(b) of the Commission's Rules, it would not fulfill the requirements of Section 73.315 to provide a 70 dBU contour over the entire community. A computer generated terrain profile study reveals that, use of the requested coordinates for Channel 229C1 at Hurley specified in the petition (32-53-00 NL and 108-19-00 WL), would not clear a significant terrain obstruction in the direction of that community. In that regard, we determined that use of Channel 229C1 at the requested site would require an exceptionally high antenna height of approximately 890 meters (HAAT) to clear the

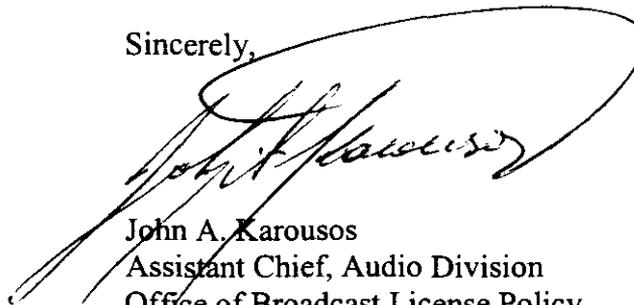
¹ BBC Radio's consent advises that it has filed a minor change application for Station KWNM at Hurley (File No. BPH-20020107AAC), to operate on Channel 287C1 at coordinates 32-48-18 NL and 107-57-05 WL. Additionally, BBC Radio states that its consent to Bootheel's request should be considered as a separate matter as it is not dependent on favorable action on its application. (The distance between requested Channel 289C at Animas and BBC's minor change application for Channel 287C1 at Hurley is 108.4 kilometers, whereas a minimum distance of 105 kilometers is required. However, Commission records reveals that BBC's application was returned by letter April 15, 2002.)

obstruction.² In addition, operation with an antenna for Channel 229C1 at such height would be limited to an effective radiated power of 7 kilowatts.

Bootheel's supporting engineering exhibits presented no specific showing attesting to BBC's ability to provide line-of-sight service from its requested site at Hurley. Therefore, we cannot entertain Bootheel's rule making request in the absence of a showing that a technically acceptable allotment reference site is available for Channel 229C1 at Hurley that will clear any major intervening obstructions and provide the community with a minimum signal of 70 dBu. See, e.g., Pinckneyville, Illinois, 41 R.R. 2d 69, 71 (1977).

In view of the above, the petition for rule making submitted on behalf of Bootheel Broadcasters is unacceptable for consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "John A. Karousos", is written over a large, loopy oval scribble.

John A. Karousos
Assistant Chief, Audio Division
Office of Broadcast License Policy
Media Bureau

² Although there are no airports or registered landing facilities within 8 kilometers of the proposed site for Channel 229C1 at Hurley, permission to build an extremely tall tower of the magnitude required in this instance would be subject to the requirements of Part 17 of the Commission's Rules, which requires FAA approval for antenna structures over 60.96 meters (200 feet).