

## DOCKET FILE COPY ORIGINAL

**From:** "MICHAEL D BROWN" <mike@brownbroadcast.com>  
**To:** "FCC Mass Media SECRETARY (E-mail)" <MMBSecretary@fcc.gov>  
**Date:** Mon, Jul 15, 2002 5:27 PM  
**Subject:** COMMENTS IN OPPOSITION TO PROPOSED RULEMAKING DOCKET 02-123

(please forward this email, as necessary)

Attached are Comments in Opposition to MM Docket 02-123 (FM Table of Allotments for Terrebonne, OR)  
In accordance with FCC Order 01-345, Released November 29, 2001, these comments are being submitted by email. Debra Dupont and Bill Caton of the Office of the Secretary, FCC, verified with us today that this method of commenting on a Proposed Rulemaking for the FM Table of Allotments, is still acceptable as of this date.

Sincerely,

Thomas C. Holland  
Secretary/Treasurer - Muddy Broadcasting Company  
July 15, 2002

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON DC 20554**

**IN THE MATTER OF:**

**AMENDMENT OF SECTION 73.202(b)  
TABLE OF ALLOTMENTS  
FM BROADCAST STATION  
(TERREBONNE, OREGON)**

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**MM Docket No. 02-123  
RM-10445**

TO: Media Bureau

**COMMENTS IN OPPOSITION TO PROPOSED RULEMAKING**

July 12, 2002

Muddy Broadcasting Company ("Muddy") hereby comments in opposition to the above referenced Proposed Rulemaking to amend the FM Table of Allotments. This allotment was proposed by Hunt Broadcasting, Inc. ("Hunt"), to add Channel 293C2 to Terrebonne, OR, at 44:14:50N; 120:58:39W. This proposed allotment is mutually exclusive with the alternative allotment Ch 291C1 for Madras, OR, as proposed by Muddy in Docket 00-87. Docket 00-87 is still open as of this date, and a "placeholder" for Ch 291C1 at Madras still appears in the FCC database. Therefore, Docket 02-123 for Terrebonne is premature, and must be rejected or held in abeyance until Docket 00-87 is finally settled.

**DISCUSSION**

On March 16, 2000, Muddy filed a Petition for Rulemaking to add Ch 251C3 to the community of Brightwood, OR. Madras Broadcasting filed a Counterproposal to instead allocate Ch 251C1 to Madras, OR. Muddy filed Comments in Opposition showing that there were several other channels that could be allocated to Madras, including Ch 291C1. On October 26, 2001, the Commission released a Report and Order, granting Channel Ch 251C1 to Madras, and no channel to Brightwood. The Commission found that 291C1 would not work as an alternative channel to serve Madras, because of

“massive terrain blocking”. It also found that Channel 251C1 at Madras Broadcasting’s site (as presented in their original counterproposal) would not require an excessively tall tower to overcome a massive terrain obstruction, and was therefore acceptable.

On November 23, 2001, Muddy file a Petition for Reconsideration of the Report and Order. Muddy showed that another site, previously unavailable, existed for Ch 291C1 at Madras (44:49:12N; 120:38:57W), which does not have massive terrain blocking. Indeed, it has less terrain blockage than the site allocated by the FCC for Madras, on Ch 251C1. Furthermore, Muddy showed that presenting this information at that time met the provisions of 47 CFR §1.429(b), and therefore must be considered. No final decision has been rendered on this Petition for Reconsideration, therefore the Docket is still open.

Hunt Broadcasting filed its original Petition for Rulemaking for Ch 293C2 at Terrebonne, on January 24, 2002. Apparently they were not aware of the Petition for Reconsideration filed previously by Muddy, and assumed that the case was closed. The case is not closed.

#### **CONCLUSION**

Docket 02-123 is mutually exclusive with Docket 00-87 at the site for Ch 291C1 presented in Muddy’s Petition for Reconsideration of the Report and Order of November 23, 2001. Therefore, Docket 02-123 for Terrebonne is premature, as was the original filing of a Petition for Rulemaking by Hunt Broadcasting. Docket 02-123 must be rejected or held in abeyance until Docket 00-87 is finally settled.

I certify that the material contained herein is true, to the best of my knowledge and ability.  
MUDDY BROADCASTING COMPANY

By   
Thomas C. Holland, Secretary/Treasurer  
Muddy Broadcasting Company  
2780 SW Talbot Rd.  
Portland, Oregon 97201-1698

CERTIFICATE OF SERVICE

Betty J. McArdle

hereby certify that copies of the foregoing "Comments in Opposition to Proposed Rulemaking", MM Docket No. 02-123, were sent via First Class U.S. Mail, postage prepaid, on this 15th day of July, 2002, to the following:

Hunt Broadcasting, Inc.  
Law Offices of Scott C. Cinnamon, PLLC  
1090 Vermont Ave  
Suite 800  
Washington, D.C. 20005

signed: Betty J. McArdle

