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Mar 10 2004

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Section 73.202(b),)	
FM Table of Allotments,)	MM Docket No. 01-154
FM Broadcast Stations.)	RM-10163
(Goldthwaite, Texas))	

REPORT AND ORDER
(Proceeding Terminated)

Adopted: March 17, 2004

Released: March 19, 2004

By the Assistant Chief, Audio Division:

1. Before the Audio Division is the *Notice of Proposed Rule Making ("Notice")*,¹ issued in response to a Petition for Rule Making filed by Charles Crawford ("Petitioner"), proposing the allotment of Channel 297A to Goldthwaite, Texas, as that community's first local aural transmission service. Petitioner filed supporting comments in response to the *Notice*. First Broadcasting Company, L.P., Next Media Licensing, Inc., Rawhide Radio, L.L.C., Capstar TX Limited Partnership and Clear Channel Broadcasting Licenses, Inc. ("Joint Parties") filed comments to which Petitioner responded.² No counterproposals or other comments were filed in this proceeding.

2. In a separate proceeding in MM Docket No. 00-148, we issued a *Notice of Proposed Rule Making* proposing the allotment of Channel 233C3 to Quanah, Texas in which the deadline for filing comments and counterproposals was October 10, 2000.³ The Joint Parties filed a timely counterproposal in that proceeding that included a proposal to allot Channel 297A at Llano, Texas that is mutually exclusive with the present proposal to allot Channel 297A at Goldthwaite.⁴ The petition for rule making requesting Channel 297A at Goldthwaite, Texas, however, was filed on May 18, 2001, more than six months after the deadline for counterproposals in MM Docket No. 00-148.⁵

¹ *Goldthwaite, Texas*, 16 FCC Rcd 13927 (MMB 2001).

² Petitioner's reply comments reference comments filed in various rule making proceedings that conflicts with a counterproposal filed by the Joint Parties in MM Docket No. 00-148. The comments consist of the petitioning party's reply comments, the Joint Parties motion to strike, and an opposition thereto. However, any purported deficiency in the Joint Parties counterproposal will be considered in the context of MM Docket No. 00-148.

³ *See Quanah, Texas*, 15 FCC Rcd 15809 (MMB 2000).

⁴ The communities are 83.4 kilometers apart whereas a minimum distance of 115 kilometers is required between Class A co-channel allotments.

⁵ When the *Notice of Proposed Rule Making* in this proceeding was issued, the staff was unaware of the mutual exclusivity between the Goldthwaite proposal and the proposal for Channel 297A at Llano, Texas in MM Docket No. 00-148 because the staff had not entered all of the proposals identified in MM Docket No. 00-148, including (continued....)

Accordingly, we are dismissing the Goldthwaite proposal as untimely.⁶ In the event the Joint Parties' counterproposal is ultimately dismissed or Channel 297A at Llano, Texas, is not allotted in the *Quanah, Texas* proceeding, Petitioner may re-file the proposal for Channel 297A at Goldthwaite, Texas.

7. Accordingly, IT IS ORDERED, That the Petition for Rule Making filed on May 29, 2001, by Charles Crawford, proposing the allotment of Channel 297A at Goldthwaite, Texas, IS DISMISSED.

8. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

9. For further information concerning the above, contact Rolanda F. Smith, Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief, Audio Division
Media Bureau

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the Llano, Texas proposal into the data base at that time. If the Llano proposal was entered into the database at that time, Petitioner's petition for rule making requesting the allotment of Channel 297A at Goldthwaite, Texas would have been returned unacceptable for filing.

⁶ See *Benjamin and Mason, Texas*, 19 FCC Rcd 470 (2004) and *Pinewood, South Carolina*, 5 FCC Rcd 7609 (1990).