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April 14, 2004

VIA HAND DELIVERY

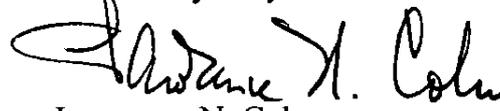
Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
The Portals II
445 - 12th Street, S.W.
Room TW-A325
Washington, D.C. 20554

Dear Ms. Dortch

On behalf of Rawhide Radio, LLC, there are herewith submitted and original and three (3) copies of its Opposition in MM Docket No. 01-105 (Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Shiner, Texas)).

Please direct any communications regarding the enclosure to the undersigned counsel.

Yours very truly


Lawrence N. Cohn

Enclosures

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BEFORE THE

Federal Communications Commission

In the Matter of)
)
Amendment of Section 73.202(b))
Table of Allotments)
FM Broadcast Stations)
(Shiner, Texas))

MM Docket No. 01-105
RM-10104

To: The Commission

Opposition to Application of Charles Crawford for Review

Rawhide Radio, LLC ("Rawhide") , by its counsel, hereby submits its Opposition to the Application of Charles Crawford for Review ("Application for Review") submitted by Charles Crawford ("Crawford") on March 30, 2004, with reference to Report and Order DA 04-548 (Audio Division, rel. March 12, 2004) ("Report and Order") in the above-referenced matter. In support of its opposition to the Application for Review, Rawhide states the following.

The Audio Division dismissed Stargazer Broadcasting, Inc.'s petition for rule making to allot FM Channel 232A at Shiner, Texas, on the ground that it conflicted with an element in the Counterproposal which Rawhide (joined by other parties¹) timely filed in MM Docket No. 00-148 (Quanah, Texas), and it was filed after the publicly-announced comment date in that proceeding. Report and Order, Paragraph 2. In reaching its decision, the Audio Division cited and relied on the decision of the Commission in Benjamin and Mason, Texas, F.C.C. 03-327, 19 F.C.C. Rcd. 470 (rel. Jan. 8, 2004) ("Benjamin and Mason"), appeal pending, sub nom. Crawford

¹ Rawhide is one of the Joint Parties which filed the Counterproposal referred to in the Report and Order and which is the subject of Crawford's Application for Review. The fact that other parties to the Counterproposal have not joined in this formal Opposition to the Application for Review should not be interpreted as indicating that they agree with position taken by Crawford in his Application for Review.

v. F.C.C. and United States of America, Case No. 04-1031. Id., footnote 3. In Benjamin and Mason, the Commission affirmed the decision of the Audio Division (18 FCC Rcd 103 (Media Bur. 2003)) and upheld the dismissal of Crawford's petitions to allot FM channels in those communities for precisely the same reason as the Audio Division has now dismissed Stargazer's petition to allot FM Channel 232A to Shiner, Texas--i.e., the petitions conflicted with an element of the Counterproposal which Rawhide timely filed in MM Docket No. 00-148 (Quanah, Texas), and it was filed after the publicly-announced comment date in that proceeding.

Crawford's Application for Review merely incorporates by reference the arguments which he advanced in his Application for Review in the Benjamin and Mason proceeding. Since the Commission considered and expressly rejected all of Crawford's arguments in its decision in Benjamin and Mason²), Rawhide sees no reason to respond to these rejected arguments at this time.^{3 4}

² Crawford's position in his Application for Review in the Benjamin and Mason proceeding is encapsulated in this assertion: "The Commission's dismissal of the Benjamin and Mason petitions due to conflicts with the counterproposal cannot be sustained under the Administrative Procedure Act and related judicial and agency decisions" (page iv.) The Commission, however, determined that that this assertion is not well founded. Id., Paragraph 4 ("We conclude that the dismissal of his petitions due to conflicts with the Quanah NPRM complies with APA requirements"); Id., footnote 6 ("We are not required by the Administrative Procedure Act to issue separate notices for every channel under consideration. The release of the Notice of Proposed Rule Making in MM Docket No. 00-148 placed all parties on constructive notice that a rulemaking proceeding was occurring regarding the communities at issue and that an alternative, potentially preclusive allotment could occur."); and Id., footnote 8 ("Our FM allotment procedure also meets the "logical outgrowth" test applied by the Court of Appeals to determine whether a rulemaking action was based upon adequate notice and opportunity for public participation.")

³ Crawford comments that because of "the staff's reliance on the Commission's decision in Benjamin and Mason, Texas, FCC 03-327 (January 8, 2004) involving similar circumstances, no purpose would be served by lodging a Petition for Reconsideration." (Id., page 2). Rawhide agrees. It observes, however, that insofar as the merits of this proceeding is concerned, Crawford's impeccable reasoning (i.e., "no useful purpose would be served...") is, beyond peradventure, just as applicable to, and fully dispositive of, his Application for Review.

⁴ Rawhide does, however, hereby incorporate by reference its views as set forth in its Opposition to Application for Review submitted on February 19, 2003, in the Benjamin and Mason proceeding.

As the arguments advanced in the Application of Charles Crawford for Review have already been considered and rejected by the Commission, the Commission should summarily deny the relief sought therein and terminate this proceeding.

Respectfully submitted

RAWHIDE RADIO, LLC

By 

Lawrence N. Cohn

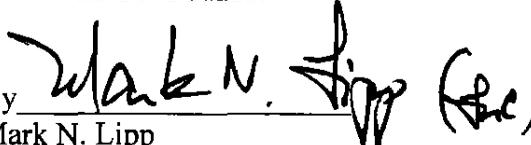
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Date: April 14, 2004

Certificate of Service

I, Brenda Chapman, hereby certify that on this 14th day of April, 2004, a copy of the foregoing "Opposition to Application of Charles Crawford for Review" was mailed via first class, U.S. mail, postage prepaid or delivered via hand delivery where indicated to the following:

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