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

JUN 28 2005

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	MB Docket No. 04-124
Table of Allotments,	)	RM-10936
FM Broadcast Stations.	)	RM-10937
(Dallas, Oregon)	)	RM-10938
	)	RM-10939
	)	

MEMORANDUM OPINION AND ORDER  
(Proceeding Terminated)

Adopted: June 23, 2005

Released: June 27, 2005

By the Chief, Audio Division, Media Bureau:

1. The Audio Division, on its own motion, hereby sets aside its earlier decision set forth in the *Report and Order*<sup>1</sup> in this proceeding pursuant to Section 1.113(a) of the Commission's rules. For the reasons discussed below, we are reserving vacant Channel 252C3 at Dallas, Oregon for noncommercial educational ("NCE") use.

2. **Background.** Northwest Community Radio Project, Dallas, Oregon Seventh-day Adventist Church, Radio Bilingue, Inc. and Lifetime Ministries, Inc. each filed a petition proposing the reservation of vacant Channel 252C3 at Dallas, Oregon for noncommercial educational ("NCE") use. The *Report and Order* denied the NCE reservation requests because Channel 252C3 at Dallas would only provide a second NCE service to 9,776 persons (2.5 percent) of the total population of 397,890 persons. In order for a nonreserved channel to be reserved for NCE use, a proponent must demonstrate that there are no NCE channels available and the proposed NCE allotment would provide either a first or second NCE service to at least ten percent of the population within the proposed service area, such population must exceed 2,000 persons.<sup>2</sup> In this instance, the inclusion of NCE Station KOAC(AM) precluded such a determination.

3. **Discussion.** Under Section 1.113(a) of the Commission's rules, we may modify or set aside on our own motion any action taken pursuant to delegated authority with 30 days of the public notice of such action.<sup>3</sup> The *Report and Order* included both reserved and nonreserved band NCE stations to calculate first and second NCE service levels. We find that the better approach is to harmonize our reservation policies with the approach the Commission has adopted for its Section 307(b) "fair distribution" analysis for competing NCE FM applications. The Commission excludes nonreserved band station from the fair distribution analysis.<sup>4</sup> Accordingly, we will exclude KOAC(AM) from the

<sup>1</sup> *Dallas, Oregon*, DA 05-1477, released May 27, 2005

<sup>2</sup> *Reexamination of the Comparative Standards for Noncommercial Educational Applicants*, 18 FCC Rcd 6691 (2003).

<sup>3</sup> 47 C.F.R. § 1.113(a)

<sup>4</sup> See *Reexamination of the Comparative Standards for Noncommercial Educational Applicants*, 17 FCC Rcd 13,132, 13133-34 (para 3) (2002) (declining to include non-reserved band NCE service in NCE fair distribution analysis because of the "potentially temporary" nature of such service).

reservation analysis. The NCE reservation of vacant Channel 252C3 at Dallas, Oregon would provide a first and/or second NCE service to 57,570 persons (14.5 percent) of the total population of 397,890 persons. Therefore, we are reserving vacant Channel 252C3 at Dallas, Oregon for NCE use.<sup>5</sup>

4. The Commission will send a copy of this *Memorandum Opinion and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

5. Accordingly, IT IS ORDERED, that the *Report and Order* in MB Docket No. 04-124, IS SET ASIDE. Pursuant to the authority found in 47 U.S.C. Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) and 47 C.F.R. Sections 0.61, 0.204(b) and 0.283, IT IS FURTHER ORDERED, That effective August 11, 2005, the FM Table of Allotments, 47 C.F.R. Section 73.202(b), IS AMENDED, with respect to the communities listed below, to read as follows:

<u>Communities</u>	<u>Channel No.</u>
Dallas, Oregon	*252C3

6. The window period for filing noncommercial educational applications for Channel \*252C3 at Dallas, Oregon will not be opened at this time. Instead, the issue of opening a filing window for this NCE allotment will be addressed by the Commission in a subsequent order.

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

8. For further information concerning this proceeding, contact Rolanda F. Smith, Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

Peter H. Doyle, Chief  
Audio Division  
Media Bureau

<sup>5</sup> The reference coordinates for Channel \*252C3 at Dallas, Oregon are 44-55-06 NL and 123-19-00 WL.