

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

In the matter of)
)
Amendment of Section 73.202(b),)
Table of Allotments,) MM Docket No. 00-87
FM Broadcast Stations.) RM-9870
(Brightwood, Madras, Prineville and Bend,) RM-9961
Oregon))

MEMORANDUM OPINION AND ORDER

Adopted: September 2, 2005

Released: September 6, 2005

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it a Petition for Reconsideration filed by Muddy Broadcasting Company ("Muddy") of a *Report and Order*¹ which allotted Channel 251C1 at Madras, Oregon. To accommodate the allotment at Madras, Channel 253C3 was substituted for Channel 252C3 at Bend, Oregon and the license for Station KTWS(FM) was modified to reflect the channel change. In addition, Channel 255C3 was substituted for vacant Channel 254C3 at Prineville consistent with the Commission's Rules at the allotment site.

2. **Background.** Muddy's petition for rule making proposed the allotment of Channel 251C3 at Brightwood, Oregon, as the community's first local aural transmission service. In response to the *Notice*, Madras Broadcasting ("Madras") filed comments and a counterproposal proposing the allotment of Channel 251C1 at Madras, Oregon as the community's first local aural transmission service.²

3. Channel 251C1 was allotted at Madras on a comparative basis as the larger community after finding that both Brightwood and Madras are communities for allotment purposes and deserving of an allotment. It was also determined that there were no alternate channels available for allotment at Brightwood, and that alternate channels available for allotment at Madras were infeasible or not equivalent to the requested Channel 251C. Muddy timely filed a Petition for Reconsideration challenging the determination that no alternate channel would work at Madras.

4. **Settlement.** On July 22, 2005, Madras and Muddy filed a Request for Approval of Settlement and Request for Expedited Action in this matter. Muddy also filed a separate Request for Withdrawal. They state that they have settled this case pursuant to the Commission's recently announced settlement window and that this is a complete and rule-compliant settlement because a Notice of Proposed Rule Making has been released and the comment date fell on or before June 14, 2005. They also state that absent the filing of Muddy's Petition for Reconsideration, the Report and Order in this case would now be final. Therefore, they claim, this is a universal settlement since there are no issues left unresolved and no remaining proposals which are mutually exclusive.

¹ *Brightwood, Madras, Prineville and Bend, Oregon*, 16 FCC Rcd 18893 (2001).

² Public Notice of the filing of the counterproposal was given on September 20, 2000, Report No. 2440.

5. Consistent with the *Public Notice*³ announcing a 90-day settlement window for certain pending FM allotment proceedings, we will waive the provisions of Section 1.420(j) and grant Muddy and Madras' Request for Approval of Settlement and Muddy's Request for Approval of Withdrawal by dismissing the Petition for Reconsideration.

6. Accordingly, IT IS ORDERED That the Petition for Reconsideration filed by Muddy Broadcasting Company IS DISMISSED.

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

8. For further information concerning this proceeding, contact Victoria M. McCauley, Audio Division, Media Bureau (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief
Audio Division
Media Bureau

³ *Window Announced for Universal Settlements of Pending Rulemaking Proceedings to Amend FM Table of Allotments*, 20 FCC Rcd 10756 (MB 2005) ("Public Notice").