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

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	
Table of Allotments,	)	MB Docket No. 04-350
FM Broadcast Stations.	)	RM-10815
(Oroville, California)	)	

REPORT AND ORDER

(Proceeding Terminated)

Adopted: October 12, 2005 **Released: October 14, 2005**

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division considers herein the *Notice of Proposed Rule Making* ("*Notice*")[1] issued at the request of Linda A. Davidson ("Petitioner") requesting the allotment of Channel 272A at Oroville, California, as its second local service. Petitioner filed comments. Deer Creek Broadcasting, LLC ("Deer Creek") filed a counterproposal. No other comments or counterproposals were received in this proceeding.

2. **Background.** The *Notice* proposed the allotment of Channel 272A at Oroville, California, as its second local service with a site restriction of 9.4 kilometers (5.8 miles) north at reference coordinates 39-35-51 NL and 121-34-11 WL.[2] Petitioner filed comments stating her intentions to file an application to activate Channel 272A at Oroville, if allotted.

3. In response to the *Notice*, Deer Creek filed a timely counterproposal. Deek Creek asserts that the proposed Oroville allotment violates Section 73.315(a) of the Commission's rules because the predicted 70 dBu contour for Channel 272A does not cover the entire community of Oroville. In this regard, the southern tip of the community of Oroville extends 17.3 kilometers from the proposed transmitter site. The proposed 70 dBu contour for Channel 272A at Oroville only extends 16.2 kilometers. Moreover, Deek Creek contends that an adjustment to the reference coordinates for the proposed Oroville allotment could not correct the city-grade coverage deficiency without simultaneously creating a short-spacing to FM Station KSFM. Instead, Deek Creek requests the allotment of Channel 272A to Quincy, California, as its sixth local service at reference coordinates 39-51-35 NL and 120-53-24 WL.

4. **Discussion.** Conflicting proposals are considered on a comparative basis consistent with the FM allotment priorities set forth in *Revision of FM Assignment Policies and Procedures* in instances where no alternate channels are available.[3] We find that no comparison is needed in this instance.

[1] *Oroville, California*, 19 FCC Rcd 17452 (MB 2004).

[2] The site restriction is necessary to avoid short-spacing to the license sites of FM Stations KCEZ, Channel 271B1, Los Molin, California and KSFM, Channel 273B, Woodland, California.

[3] The FM allotment priorities are: (1) first full-time aural service; (2) second full-time aural service; (3) first local service; and (4) other public interest matters. [Co-equal weight is given to priorities (2) and (3).] *See Revisions of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982).

Specifically, the Deek Creek counterproposal is defective because it violates Section 73.315(a) of the Commission's rules. A staff engineering analysis determined that the proposed 70 dBu contour for Channel 272A would not provide city-grade coverage to the entire community of Quincy due to severe terrain obstruction.

5. Moreover, we agree with Deek Creek's assertion that the *Notice's* proposal setting forth the allotment of Channel 272A at Oroville at the above listed reference coordinates violates Section 73.315(a) of the Commission's rules. A further staff engineering analysis revealed that the proposed Channel 272A allotment would not provide city-grade coverage to the entire community of Oroville. Therefore, we are dismissing the petition requesting the allotment of Channel 272A at Oroville because the proposal would not provide the community of Oroville with a hundred percent city-grade coverage pursuant to Section 73.315(a) of the Commission's rules.[4]

6. This document is not subject to the Congressional Review Act. (The Commission, is, therefore, not required to submit a copy of this Report and Order to GAO, pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A) because the proposed rule was dismissed.

7. IT IS FURTHER ORDERED, That the Petition for Rulemaking filed by Linda A. Davidson IS DISMISSED.

8. IT IS FURTHER ORDERED, That the counterproposal filed by Deer Creek Broadcasting, LLC IS DISMISSED.

9. IT IS FURTHER ORDERED, That the aforementioned proceedings ARE TERMINATED.

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

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief
Audio Division
Media Bureau

[4] *See Terrell and Daingerfield,* 5 FCC Rcd 556 (1990); *Clemson, South Carolina,* 2 FCC Rcd 3583 (MMB 1987); *Wadley and Dadeville, Alabama,* 60 RR 2d 1462 (MMB 1986)