

Federal Communications Commission

DA 05-2935

Nov 9 4 42 PM '05

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

DISPATCH

In the Matter of)

Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations.
(Terrebonne, Oregon))

MB Docket No. 02-123
RM-10445

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: November 4, 2005

Released: November 7, 2005

By the Assistant Chief, Audio Division, Media Bureau:

1. In response to a petition filed by Hunt Broadcasting, Inc. ("Hunt"), the Commission has before it for consideration a *Notice of Proposed Rulemaking*,¹ requesting the allotment of Channel 293C2 at Terrebonne, Oregon, as the community's first local FM transmission service. Petitioner filed comments supporting the allotment of Channel 293C2 at Terrebonne, Oregon.

2. Muddy Broadcasting Company ("Muddy") filed comments objecting to the allotment of Channel 293C2 at Terrebonne. Muddy's basis for objection was a potential conflict with a proposal rejected in MM Docket No. 00-87, wherein reconsideration of the initial *Report and Order* was pending at the time that Muddy submitted its comments in this proceeding.² In reply comments, Hunt argued that pending reconsideration proceedings should not delay the processing of other rule making petitions that are based on the final allotments adopted in the *Report and Order*. Hunt's argument is consistent with the policy adopted in *Auburn, Alabama*,³ and we therefore reject Muddy's objection to the proposed allotment.

¹Owen, Wisconsin, Hartington, Nebraska, Lone Pine, California, Terrebonne, Oregon, Amboy, California, Sutton, Nebraska, Wynnewood, Oklahoma, Roundup, Montana, and Centerville, Texas, 17 FCC Rcd 9557 (MB 2002).

²In MM Docket No. 00-87, Muddy argued that Channel 291C1 could be allotted at Madras, Oregon, rather than Channel 251C1, as requested in a counterproposal in that proceeding. The allotment of Channel 291C1 at Madras would be mutually exclusive with the allotment of Channel 293C2 at Terrebonne. In MM Docket No. 00-87, we allotted Channel 251C1, rather than Channel 291C1, at Madras, and Muddy filed a petition for reconsideration. Muddy subsequently entered into a settlement and sought to dismiss its petition for reconsideration, and we dismissed Muddy's petition for reconsideration and terminated the proceeding. *Brightwood, Madras, Prineville, and Bend, Oregon*, DA 05-2368 (released September 16, 2005).

³See *Auburn, Alabama, et al.*, 18 FCC Rcd 10,333, 10,341 (MB 2003) ("accepting rulemaking proposals that rely upon actions in earlier rulemaking proceedings that are effective but not final will benefit the public," but "any contingent rulemaking proposals would be granted subject to the outcome of earlier allotment proceedings"). See also *Tipton, Oklahoma*, MB Docket No. 05-128, DA 05-1986 (rel. July 15, 2005); *Tenino, Washington*, 20 FCC Rcd 8835 (MB 2005); and *Clatskanie, Oregon, Long Beach and Ilwaco, Washington*, 19 FCC Rcd 23,598 (MB 2004) and 20 FCC Rcd 8811 (MB 2005).

3. We find that the public interest would be served by allotting Channel 293C2 to Terrebonne, Oregon.⁴ Terrebonne is a community for allotment purposes, deserving of a local FM transmission service. Channel 293C2 can be allotted to Terrebonne in compliance with the minimum distance separation requirements of the Commission's Rules with a site restriction of 19.8 kilometers (12.3 miles) southeast of Terrebonne at the following reference coordinates: 44-14-50 NL and 120-58-39 WL.

4. A filing window for Channel 293C2 at Terrebonne, Oregon, will not be opened at this time. Instead, the issue of opening this allotment for auction will be addressed by the Commission in a subsequent order.

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, **IT IS ORDERED**, That effective December 22, 2005, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, **IS AMENDED** for the community listed below, as follows:

Community	Channel Number
Terrebonne, Oregon	293C2

6. **IT IS FURTHER ORDERED**, That the Secretary of the Commission shall send by Certified Mail Return Receipt Requested, a copy of this Order to the following:

Scott C. Cinnamon, Esq.
Law Offices of Scott C. Cinnamon, PLLC
1090 Vermont Avenue, N.W.
Suite 800
Washington, D.C. 20005
(Counsel for Hunt Broadcasting, Inc.)

Thomas C. Holland, Secretary/Treasurer
Muddy Broadcasting Company
2780 SW Talbot Road
Portland, Oregon 97201-1698

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

8. For further information concerning this proceeding, contact Deborah Dupont, Media Bureau, (202)418-2180. Questions related to the application filing process for Channel 293C2 at Terrebonne,

⁴ The allotment of Channel 293C2 at Terrebonne, Oregon, need not be made subject to the final outcome of MB Docket 00-87, because the petition for reconsideration in that proceeding was withdrawn and a *Memorandum Opinion and Order* was issued, dismissing the petition for reconsideration and terminating the proceeding. See n. 2, *supra*.

Oregon, should be addressed to the Audio Division, Media Bureau, (202) 418-2700.

FEDERAL COMMUNICATIONS COMMISSION

**John A. Karousos
Assistant Chief
Audio Division
Media Bureau**