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

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MAY 22 2006
FCC Mail Room

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MB Docket No. 05-5
Table of Allotments,)	RM-11139
FM Broadcast Stations.)	
(Morro Bay and Oceano, California))	

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: May 17, 2006

Released: May 19, 2006

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it a *Notice of Proposed Rule Making*¹ issued at the request of Lazer Broadcasting Corporation, licensee of Station KLMM(FM), Channel 231A Morro Bay, California ("Petitioner"), proposing the reallocation of Channel 231A from Morro Bay to Oceano, California, as the community's first local transmission service, and the modification of the license for Station KLMM(FM) to reflect the new community. Petitioner filed comments reiterating its intention to file an application for the channel and to construct the facilities if the application is granted.

2. Petitioner filed this proposal for reallocation in accordance with the provisions of Section 1.420(i) of the Commission's Rules, which permits the modification of a station's license to specify a new community of license while not affording other interested parties the opportunity to file competing expressions of interest in the proposed allotment.² In considering a reallocation proposal, we compare the existing allotment to the proposed allotment to determine whether the reallocation will result in a preferential arrangement of allotments. This determination is based upon the FM Allotment priorities.³

3. We will grant the change of community. This proposal will serve the public interest, will result in a preferential arrangement of allotments, and meets the requirements for reallocation set forth in *Change of Community R&O*. First, Oceano is a community for allotment purposes,⁴ it is not in any urbanized area, and its proposed 70dBu will cover less than 50 percent of any urbanized area.⁵ Second,

¹ *Morro Bay and Oceano, California*, Notice of Proposed Rule Making, 20 FCC Rcd 402 (MB 2005).

² See *Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License ("Change of Community R&O")*, Report and Order, 4 FCC Rcd 4870 (1989), *recon. granted in part*, Memorandum Opinion and Order, 5 FCC Rcd 7094 (1990).

³ See *Revision of FM Assignment Policies and Procedures*, Second Report and Order, 90 FCC2d 88, 91 (1988). The FM Allotment priorities are (1) First full-time aural service. (2) Second full-time aural service. (3) First local service. (4) Other public interest matters. [Co-equal weight is given to priorities (2) and (3)].

⁴ Oceano is a Census Designated Place and has its own post office and zip code. It has a 2000 U.S. Census population of 7,260 persons. The community has its own government, the Oceano Community Services District, with an elected Board of Directors, which provides water and sewer service, fire protection, and street lighting services. It has its own airport and schools. There are also parks, churches, community service organizations, and businesses.

⁵ No analysis under *Faye and Richard Tuck, Inc.*, Memorandum Opinion and Order, 3 FCC Rcd 5374 (1988), is required. See *Headland, Alabama, and Chatahoochee, Florida*, Report and Order, 10 FCC Rcd 10352 (1995). While Station KLMM's 70dBu signal currently covers 100% of the San Luis Obispo, California Urbanized Area,

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the allotment of Channel 231A at Oceano is mutually exclusive with the current use of Channel 231A at Morro Bay. Third, the community of Morro Bay, 2000 U.S. Census population 10,350 persons, will not be deprived of its sole local service.⁶ Fourth, the proposal will provide a first local aural transmission service at Oceano under Priority (3), which will result in a preferential arrangement of allotments over the retention of a second local transmission service at Morro Bay, which would serve Priority (4).

4. Channel 231A can be reallocated at Oceano at a site 12.4 kilometers (7.7 miles) south of the community.⁷

5. Accordingly, pursuant to the authority contained in 47 U.S.C. §§ 4(i), 5(c)(1), 303(g), and (r), and 307(b), and 47 C.F.R. §§0.61, 0.204(b) and 0.283, IT IS ORDERED That effective July 3, 2006, the FM Table of Allotments, 47 C.F.R. § 73.202(b) IS AMENDED, with respect to the communities listed below, as follows:

<u>Community</u>	<u>Channel</u>
Morro Bay, California	259A
Oceano, California	231A

6. IT IS FURTHER ORDERED, That pursuant to 47 U.S.C. Section 316(a), the authorization of Lazer Broadcasting Corporation for FM Station KLMM, Channel 231A, Morro Bay, California, IS MODIFIED to specify operation on Channel 231A at Oceano, California, subject to the following conditions:

- (a) Within 90 days of the effective date of the *Order*, the licensee of FM Station KLMM shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility;
- (b) Upon grant of the construction permit, program tests may be conducted in accordance with 47 C.F.R. Section 73.1620; and
- (c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to 47 C.F.R. Section 1.1307, unless the proposed facilities are categorically excluded from environmental processing.

7. Pursuant to 47 C.F.R. Sections 1.1104(1)(k) and (3)(l) of the Commission's rules, Lazer Broadcasting Corporation, licensee of Station KLMM(FM), Morro Bay, California, is required to submit a rulemaking fee in addition to the fee required for the application to effectuate the community of license for FM Station KLMM to specify operation on Channel 231A at Oceano, California at the time its Form 301 application is submitted.

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

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Petitioner's proposed Oceano facilities' 70dBu signal would cover less than 20% of the Santa Maria, California Urbanized Area, and none of the San Luis Obispo Urbanized Area.

⁶ Station KTXY(FM) will remain in Morro Bay.

⁷ The coordinates for Channel 231A at Oceano are 34-59-20 NL and 120-37-56 WL.

9. For further information concerning this proceeding, contact Victoria M. McCauley (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

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Audio Division
Media Bureau