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Before the  
**Federal Communications Commission** AUG 18 2006  
Washington, D.C. 20554

Federal Communications Commission  
Office of Secretary

In the Matter of	)	
	)	
Amendment of Section 73.202(b)	)	MB Docket No. 04-305
Table of Allotments,	)	RM-10980
FM Broadcast Stations.	)	RM-11328
	)	RM-11329
(Oak Harbor and Sedro-Wooley,	)	
Washington)	)	

To: **Office of the Secretary**  
**(Attention: Assistant Chief, Audio Division)**

**REPLY COMMENTS**

Bible Broadcasting Network, Inc. ("BBN"), by its attorneys, respectfully files these Reply Comments as invited by the *Public Notices*, Report Nos. 2669-Correction and 2770-Correction, released August 3, 2006.<sup>1</sup> BBN reiterates its request that Channel \*289A be allotted to Oak Harbor, Washington, as a noncommercial educational allotment, and that the Commission deny the competing proposals for use of Channel 289A.

**Background**

By *Notice of Proposed Rule Making*, 19 FCC Rcd 15303 (2004) ("NPRM"), the Commission proposed, *inter alia*, to allot FM Channel 289A to Oak Harbor, Washington.

<sup>1</sup> The Public Notices were re-issued as a correction to Report No. 2770, released April 21, 2006, to provide the proposed channel, coordinates, and community. The deadline for submitting this Reply is August 18, 2006, so it is timely filed. On May 6 and May 8, 2006, BBN previously filed Reply Comments in this Docket.

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On September 30, 2004, the deadline for filing comments and counterproposals, BBN supported the allotment of the channel to Oak Harbor, Washington, but requested that it be reserved for noncommercial educational (“NCE”) use as Channel \*289A in the Commission’s Table of Allotments. BBN is taking this additional opportunity to demonstrate why BBN’s proposal for the use of Channel \*289A at Oak Harbor is superior and should be granted.

### **Channel \*289A Should Be Allotted to Oak Harbor**

On May 5, 2006, BBN filed a Statement generally summarizing the pleadings in this docket and reaffirming BBN's interest in the use of Channel \*289A at Oak Harbor. On May 8, 2006, BBN filed a second Statement with comments on the May 1, 2006, Reply Comments filed by Jodesha Broadcasting, Inc. ("Jodesha"), counterproponent for the use of Channel 289A at Sedro-Wooley, Washington. There is no need for BBN to restate its previous comments in this docket, however, it should be noted that no party in this case has demonstrated, pursuant to *Reexamination of the Comparative Standard for Noncommercial Educational Applicants*, 18 FCC Rcd 6691 (2003) (“*Comparative NCE Standards*”) why Channel \*289A should not be reserved for NCE use.<sup>2</sup> Thus, BBN’s counterproposal should be granted.

Jodesha's Reply Comments attempted two mutually-exclusive goals: (1) to argue

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<sup>2</sup> Paragraph 37 of *Comparative NCE Standards, supra*, provides in pertinent part as follows: “A reservation showing will be conclusively rebutted if a party that desires a non-reserved allotment can both identify a single location from which a facility with a class-permissible power/height combination can be authorized in compliance with the rules, and show, with respect to that location, that the specified facilities would satisfy the ‘first or second service’ criterion. If no acceptable rebuttal showing is submitted, the allotment generally will be reserved.”

that no showing of community independence pursuant to *Faye and Richard Tuck*<sup>3</sup> is required, citing *Easton, Merced and North Fork, California*<sup>4</sup>, but (2) to submit a *Tuck* analysis anyway, “on the chance that the Allocation Branch<sup>5</sup> may wish to revisit its policy...” [footnote added.] As BBN has previously stated, and reasserts, the *Tuck* analysis should have been submitted at the time Jodesha submitted its counterproposal so the Commission could make an informed decision under Title 47 USC § 307(b)<sup>6</sup>. BBN has shown that the allotment of Channel 289A to Sedro-Wooley would result in a fifth local service to the Mount Vernon Urbanized Area, while the BBN proposal would result in a second local service to Oak Harbor, and a preferential arrangement of allotments. BBN also stated that if it is the Commission’s policy to permit Jodesha to correct deficiencies in its counterproposal at this time, then BBN should be permitted to express its interest in Channel \*289A as a noncommercial educational allotment at Sedro-Wooley should the Commission allot Channel 289A there. In the case of the allotment of Channel \*289 at Sedro-Wooley, BBN would file an application during the applicable window period, and if BBN’s application were granted, BBN would promptly construct and operate a noncommercial educational station on Channel \*289A at Sedro-Wooley.<sup>7</sup>

In light of the foregoing, BBN, once again, respectfully requests the Commission

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<sup>3</sup> 3 FCC Rcd 5374 (1988).

<sup>4</sup> 15 FCC Rcd 5046.

<sup>5</sup> The Allocations Branch of the Mass Media Bureau has been abolished. Decisions in rule making proceedings are now made by the Assistant Chief, Audio Division, Media Bureau.

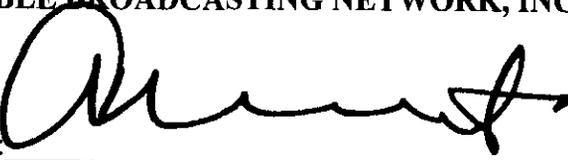
<sup>6</sup> Section 307(b) of the Communications Act of 1934, as amended (herein the “Act”).

<sup>7</sup> This request would, of course, become moot, should the Commission agree with BBN that Jodesha’s counterproposal was defective.

to reserve Channel \*289A at Oak Harbor, Washington, for NCE use, and deny Jodesha's Counterproposal for use of Channel 289A at Sedro-Wooley, Washington.

Respectfully submitted,

**BIBLE BROADCASTING NETWORK, INC.**

By: 

Gary S. Smithwick  
Its Attorney

SMITHWICK & BELENDIUK, P.C.  
5028 Wisconsin Avenue, NW  
Suite 301  
Washington, DC 20016  
202-363-4560

August 18, 2006

## CERTIFICATE OF SERVICE

I, Sherry L. Schunemann, do hereby certify that a copy of the foregoing "Reply Comments and Statement Regarding Counterproposals" was mailed by First Class U.S. Mail, postage prepaid (or hand delivered as marked with an asterisk), this 18<sup>th</sup> day of August 2006, to the following:

\*Ms. Rolanda F. Smith  
Federal Communications Commission  
Media Bureau  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Mr. Dana J. Puopolo  
2134 Oak Street, Unit C  
Santa Monica, California 90405

David Tillotson, Esq.  
Counsel, Jodesha Broadcasting, Inc.  
In re: MB Docket No. 04-305  
4606 Charleston Terrace NW  
Washington, D.C. 20007

Dr. Sandra Woodruff  
2708 Hampton Court, SE  
Olympia, WA 98501

  
Sherry L. Schunemann