

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

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In the Matter of)
)
Amendment of Section 73.202(b),)
Table of Allotments,)
FM Broadcast Stations.)
(Meeteetse, Wyoming, Fruita, Colorado, Ashton,)
Burley, Dubois, Idaho Falls, Pocatello, Rexburg,)
Shelley, Soda Springs, and Weston, Idaho, Lima,)
Montana, American Fork, Ballard, Brigham City,)
Centerville, Delta, Huntington, Kaysville, Logan,)
Manti, Milford, Naples, Oakley, Orem, Price,)
Randolph, Roosevelt, Roy, Salina, South Jordan,)
Spanish Fork, Vernal, Wellington, and Woodruff,)
Utah, Diamondville, Evanston, Kemmerer,)
Marbleton, Superior, Thayne, and Wilson,)
Wyoming))

MB Docket No. 05-243
RM-11363
RM-11364
RM-11365

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**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: January 16, 2008

Released: January 18, 2008

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division considers herein the *Notice of Proposed Rule Making* ("Notice"),¹ which requested the substitution of Channel 259C for vacant Channel 273C at Meeteetse, Wyoming.² In response to the *Notice*, we received three Counterproposals. The first Counterproposal was filed jointly by Millcreek Broadcasting, LLC, licensee of Station KUUU(FM), Channel 223C2, South Jordan, Utah; Simmons SLC-LS, LLC, licensee of Station KAOX(FM), Channel 297C2, Kemmerer, Wyoming;³ 3 Point Media – Coalville, LLC, licensee of Station KCUA(FM), Channel 223C3, Naples, Utah; 3 Point Media – Delta, LLC, licensee of Station KMGR(FM), Channel 240C1, Delta, Utah; and College Creek Broadcasting, LLC, permittee of Station KADQ-FM, Channel 252C2 at Evanston, Wyoming and FM Station KRPX, Channel 237C3 at Wellington, Utah, (collectively "Joint Parties"). The second Counterproposal was filed jointly by Millcreek Broadcasting, LLC, licensee of Stations KNJQ(FM), Channel 286C, Manti, Utah, KUUU(FM), Channel 223C2, South Jordan, Utah, and KUDD(FM), Channel 300C, Roy, Utah; Simmon SLC, LS, LLC, licensee of Stations KDWY(FM), Channel 287C2, Diamondville, Wyoming, KAOX(FM), Channel 297C2, Kemmerer, Wyoming, and KRAR(FM), Channel 295C, Brigham City, Utah; 3 Point Media-Coalville, LLC, licensee of Station KCUA(FM), Channel 223C3, Naples, Utah; and College Creek Broadcasting, LLC, permittee of Station KHUN, Channel 296C2, Huntington, Utah,

¹ See *Meeteetse, Wyoming*, Notice of Proposed Rule Making, 20 FCC Rcd 12967 (MB 2005)("Notice").

² This proposed substitution would bring the Meeteetse allotment into compliance with Section 73.207(b) of the Commission's Rules (the "Rules"). See 47 C.F.R. § 73.207(b).

³ Station KAOX(FM) now has a license to specify operation on Channel 297C2 in lieu of Channel 297C1 at Kemmerer. See File No. BLH-20050404ACZ.

Station KRID, Channel 243C2, Ashton, Idaho, Station KKWY, Channel 293C, Superior, Wyoming,⁴ and Station KTYN(FM), Channel 290C1, Thayne, Wyoming,⁵ (collectively "Joint Proponents"). The third Counterproposal was filed jointly by Sand Hill Media Corporation, licensee of Station KADQ-FM, Channel 232C2, Rexburg, Idaho and Sandhill Media Group, LLC, licensee of Station KUPI-FM, Channel 256C1, Idaho Falls, Idaho (jointly "SHM"). Sierra Grande Broadcasting filed comments supporting the Joint Parties' counterproposal.⁶ Reply comments were filed separately by the Joint Parties, Joint Proponents; and SHM in response to the *Public Notices*.⁷ Brigham Young University filed Reply Comments and an Opposition to an *Order to Show Cause*.⁸ In response, SHM filed a motion to accept its Reply. Citicasters Licenses, L.P., licensee of Stations KOSY-FM, Spanish Fork, Utah, KXRV(FM), Centerville, Utah, KBUL-FM, Salt Lake City, Utah, and KJMY(FM), Bountiful, Utah, ("Citicasters") filed a response to Request For Exercise of Commission Staff Discretion. In response, the Joint Parties filed a Reply and Supplement to Reply. Citicasters also filed the same request in response to a separate *Order to Show Cause*.⁹ Tri-State Media Corporation ("Tri-State Media"), licensee of Station KITT(FM), Channel 261C2, Soda Springs, Idaho filed a letter withdrawing its consent.¹⁰ No counterproposals or other comments were received in response to this proceeding. For reasons discussed below, we are changing the Meeteetse allotment to Channel 259C and granting the three Counterproposals.

2. **Background.** The Joint Parties filed a Counterproposal, involving twenty-two communities in Colorado, Idaho, Utah and Wyoming. Included among these proposals was the proposed substitution of Channel 260C3 for Channel 261C2 at Soda Springs, Idaho, reallocation of Channel 260C3 from Soda Springs, Idaho to Wilson, Wyoming, as its first local service, and modification of Station KITT(FM)'s license.¹¹ The Joint Parties also proposed the substitution of Channel 228C for Channel 260C at Burley, Idaho, and modification of the Station KZDX license, which requires the substitution of Channel 230C for Channel 229C at Pocatello, Idaho and modification of the Station KZBQ(FM) license. We issued a third *Order to Show Cause* directed at Idaho Wireless Corporation, licensee of Station KZBQ(FM), Channel 229C, Pocatello, to show cause why its license should not be modified to Channel

⁴ Station KKWY has been granted a construction permit to specify operation on Channel 293C1 at Superior, Wyoming. See File No. BNPH-20041228AAC. As such, the Joint Proponents requests the substitution of Channel 298C1 for Channel 293C1 at Superior, Wyoming and modification of Station KKWY's authorization.

⁵ Station KTYN(FM) has been granted a construction permit to specify operation on Channel 290C3 at Thayne, Wyoming. See File No. BNPH-20041228AAB. Therefore, the Joint Proponents requests the substitution of Channel 286C3 for Channel 290C3 at Thayne, Wyoming and modification of Station KTYN(FM)'s authorization.

⁶ Sierra Grande Broadcasting, proponent of vacant Channel 233C at Salina, Utah, filed comments supporting the substitution of Channel 239C for vacant Channel 233C at Salina as proposed by the Joint Parties.

⁷ See *Public Notice*, Report No. 2808, released March 28, 2007 ("*Public Notice I*"); *Public Notice*, Report No. 2809, released March 28, 2007 ("*Public Notice II*"); and *Public Notice*, Report No. 2811, released April 2, 2007 ("*Public Notice III*") (together "*Public Notices*").

⁸ See *Meeteetse, Wyoming, et al.*, Order to Show Cause, 22 FCC Rcd 7470 (MB 2007).

⁹ See *Meeteetse, Wyoming et al.*, Order to Show Cause, 22 FCC Rcd 7466 (MB 2007).

¹⁰ Tri-State Media unilaterally withdraws its consent to the change in city of license for Station KITT(FM) from Soda Springs, Idaho to Wilson, Wyoming as proposed in the SHM amendment and reaffirms its willingness to consent to this identical proposal as requested in the Joint Parties' amendment.

¹¹ As originally filed, this proposal conflicted with the *Notice* proposal. However, the Joint Parties filed a minor amendment, which eliminated the conflict by requesting that Channel 261C3 be reallocated to Wilson, Wyoming instead of Channel 260C3 for Station KITT(FM) due to the unsuccessful efforts to secure a transmitter site for Channel 260C3. Thus, the Joint Parties states that their amendment should be accepted because no other party would be prejudiced. Citing *Murrieta, California, et al.*, Memorandum Opinion and Order, 17 FCC Rcd 19458, n. 4 (2002).

230C at Pocatello, Idaho.¹² While the Joint Parties' Counterproposal is identical to some of the proposals contained in the Joint Proponents and SHM Counterproposals, there is no conflict among the three Counterproposals.

3. The Joint Proponents filed a Counterproposal, involving twenty-nine communities in Colorado, Idaho, Utah, and Wyoming. Included in this Counterproposal was the substitution of Channel 259A for Channel 243C2 at Ashton, Idaho, and modification of the Station KRID authorization.¹³ Additionally, the Joint Proponents, proposed the reallocation of Channel 286C from Manti to American Fork, Utah, as the community's first local service, and modification of the Station KNJQ(FM) license. To accommodate this proposed reallocation, the Joint Proponents request the substitution of Channel 290C for Channel 289C at Centerville, Utah, and modification of the Station KXRV(FM) license, which requires the substitution of Channel 294C for Channel 293C at Spanish Fork, Utah, and modification of Station KOSY-FM's license. In this regard, we issued the *Order to Show Cause* directed at Citicasters, licensee of Station KOSY-FM, Channel 293C, Spanish Fork, Utah and Station KXRV(FM), Channel 289C, Centerville, Utah, to show cause why its stations' license should not be modified to Channel 294C at Spanish Fork and Channel 290C at Centerville, respectively.¹⁴

4. The SHM Counterproposal involves seven communities in Idaho, Montana, Utah and Wyoming. Included among these proposals was the substitution of Channel 260C3 for Channel 261C2 at Soda Springs, Idaho, and reallocation of Channel 260C3 from Soda Springs, Idaho to Wilson, Wyoming, as its first local service, and modification of the FM Station KITT license.¹⁵ This proposal is identical to the Joint Parties' proposal for FM Station KITT. The SHM Counterproposal also proposes the allotment of Channel 262C2 at Lima, Montana, as a first local service, which requires the substitution of Channel 232C1 for Channel 263C1 at Rexburg, Idaho, and modification of the Station KBYI license to reflect this change. As noted earlier, we issued an *Order to Show Cause* directed at Brigham Young University, licensee of Station KBYI, to show cause why its license should not be modified as proposed in SHM Counterproposal.¹⁶

5. **Discussion.** We are substituting Channel 259C for vacant Channel 273C at Meeteetse, Wyoming as proposed in the *Notice*.¹⁷ This channel substitution serves the public interest because it will

¹² See *Meeteetse, Wyoming et al.*, Order to Show Cause, 22 FCC Rcd 7473 (MB 2007) ("*Order III*"). No response was received from the licensee.

¹³ As originally filed, this proposal conflicted with the *Notice* proposal. However, the Joint Proponents filed a minor amendment, which eliminated the conflict by requesting the substitution of Channel 283A for Channel 245C2 at Ashton in lieu of Channel 259A due to unsuccessful efforts to secure a transmitter site for Channel 259A. The Joint Proponents state that their amendment should be accepted because no other party would be prejudiced. Citing *Murrieta, California, et al.*, Memorandum Opinion and Order, 17 FCC Rcd 19458, n. 4 (2002).

¹⁴ See *Meeteetse, Wyoming et al.* Order to Show Cause, 22 FCC Rcd at 7466. Citicasters filed pleadings in opposition to the proposed involuntary channel substitutions for these respective stations.

¹⁵ SHM filed two minor amendments to its counterproposal that eliminated the conflict with the *Notice* proposal. The first amendment proposed the reallocation of Station KITT(FM) to Channel 261C3 in lieu of Channel 260C3 at Wilson, Wyoming. As noted above, Tri-State Media Corporation, licensee of Station KITT(FM), withdrew its consent for this amended proposal. Therefore, SHM filed another amendment, requesting a new transmitter site for Channel 263C1 at Idaho Falls, Idaho, which eliminated the need for Station KITT(FM) to change its channel and community of license. SHM states that their amendment should be accepted because no other party would be prejudiced. Citing *Murrieta, California, et al.*, Memorandum Opinion and Order, 17 FCC Rcd 19458, n. 4 (2002).

¹⁶ *Id.* note 8. Brigham Young University filed an Opposition.

¹⁷ Channel 259C can be allotted to Meeteetse, Wyoming in conformity with the Rules without a site restriction at reference coordinates 44-09-26 NL and 108-52-15 WL.

eliminate a short-spacing with the licensed site of FM Station KHOC, Channel 273C, Casper, Wyoming. Generally, conflicting proposals are considered on a comparative basis consistent with the FM allotment priorities set forth in *Revision of FM Assignment Policies and Procedures*.¹⁸ In this instance, a comparison is no longer necessary because the Joint Parties, Joint Proponents and SHM (together “the Parties”) each filed an amendment to their respective Counterproposal, offering an alternative channel to resolve the conflict.¹⁹

6. Citicasters requests the dismissal of each Counterproposal because the proposals are no longer mutually exclusive with the *Notice’s* proposal. In addition, Citicasters asserts that interested parties have not been given adequate time, or proper and complete notice to formulate substantive comments given the complexity of each Counterproposal. We disagree with Citicasters’ arguments. We conclude that the public was given adequate time and proper and complete notice to file reply comments with respect to these Counterproposals.²⁰ Each Counterproposal was placed on public notice to provide official notice to the public of their acceptability and provided interested parties an opportunity to file reply comments in compliance with Sections 1.4 and 1.405 of the Rules.²¹ Additionally, Citicasters was afforded 30 days to respond to the *Order to Show Cause*.²² Aside from merely noting that the Counterproposals were complex, Citicasters has not provided a basis to conclude that this time period was inadequate to ascertain the technical compliance of these proposals or review the public interest benefits of first local services to seven communities involved. Moreover, Citicasters has not provided any basis to conclude that the three Counterproposals are not in the public interest. Finally, allotting an alternate channel in a rulemaking proceeding to resolve a conflict is consistent with both our long-standing processing practice as well as specific language in the Appendix of every FM allotment notice of proposed rule making.

7. **Joint Parties’ Counterproposal.** We find that the Joint Parties’ Counterproposal results in a preferential arrangement of allotments because it will provide first local services (priority 3) at Wilson and Ballard.²³ The affected licensees have consented to the proposed changes to their respective station’s

¹⁸ See *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 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)].

¹⁹ In response to the *Public Notices*, the Parties each reiterated their expression of interest in their respective amended proposal. In this instance, we will consider the Parties’ amended proposals because consideration will not prejudice another party. See *Murrieta, California, et al.* Report and Order, 17 FCC Rcd 19458, note 4 (MB 2002) and *Pikeville, Kentucky; Clincho, Virginia and Matewan, West Virginia*, 6 FCC Rcd 3732 (MMB 1991) (accepting amendments in cases where it would not prejudice the party that complied with the procedural requirements).

²⁰ See *Owensboro on the Air v United States*, 262 F.2d 702 (D.C.Cir.1958) (stating that both the actual counterproposal advanced by the proponent and any alternate channel for either the counterproposal or the original proposal are within the scope of the notice). See also; *Weyerhaeuser Company v Costle*, 590 F.2d 1011, 1031 (D.C.Cir. 1978) (applying the “logical outgrowth” test applied by the Court of Appeals to determine whether a rule making action was based on adequate notice and opportunity for public participation).

²¹ See 47 C.F.R. §§ 1.4 and 1.405. It is standard procedure to provide 15 days to file reply comments in FM rule making proceedings, relating to counterproposals that are considered acceptable. Moreover, all counterproposals, in their entirety, that are filed properly with the Commission’s Secretary are available on the Commission’s Electronic Comment Filing System (ECFS) within 3-4 days of its filing under ‘Search For Filed Comments’. available at <http://www.fcc.gov/cgb/ecfs/> (rulemaking proponents may search the Commission’s Electronic Comment Filing System for pleadings filed in connection with a rulemaking proposal).

²² *Id.* note 9.

²³ *Id.* note 18. See also; *Amendment of Commission’s Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License*, Report and Order, 4 FCC Rcd 4870, n. 26 (stating that the Commission will

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license. Millcreek Broadcasting, LLC has agreed to reimburse these licensees for their expenses. In accordance with our *Circleville* policy,²⁴ the Joint Parties has agreed to reimburse Idaho Wireless Corporation for its reasonable expenses in changing channels to Channel 230C at Pocatello. Accordingly, we are substituting Channel 252C for Channel 252C2 at Evanston, Wyoming, and modifying the Station KADQ-FM authorization.²⁵ To accommodate the Evanston channel substitution, we are substituting Channel 237C3 for Channel 252C3 at Price, Utah, and modifying the Station KARB(FM) license,²⁶ which requires the substitution of Channel 233C3 for Channel 237C3 at Wellington, Utah, and modification of the FM Station KRPX authorization.²⁷ In order to allot Channel 233C3 at Wellington, we are substituting Channel 239C for vacant Channel 233C at Salina, Utah,²⁸ which requires the substitution of Channel 240C0 for Channel 240C1 at Delta, Utah, reallocoting Channel 240C0 from Delta to Randolph, Utah, as its second local service, and modifying the Station KMGR(FM) license.²⁹ To accommodate the Randolph reallocation, we are substituting Channel 260C3 for Channel 240A at Weston, Idaho, and modifying the Station KLZX(FM) license.³⁰ The Channel 260C3 at Weston requires the substitution of Channel 228C for Channel 260C at Burley, Idaho, and modification of Station KZDX(FM)'s license to facilitate this change.³¹ In order to allot Channel 228C at Burley, we are substituting Channel 230C for Channel 229C at Pocatello, Idaho, and modifying the Station KZBQ(FM) license.³² To accommodate Channel 260C3 at Weston, we are substituting Channel 261C3 for Channel 261C2 at Soda Spring, Idaho, reallocoting Channel 261C3 from Soda Springs, Idaho to Wilson, Wyoming, as its first local service, and modifying the Station KITT(FM)'s license.³³ We are reallocoting Channel 297C2 from

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evaluate the proposal in order to determine whether the combined service gains in community B and the allotment of first local transmission service in community C outweigh the loss of second local service in community A).

²⁴ See *Circleville, Ohio*, Memorandum Opinion and Order, 8 FCC 2d 159 (1967).

²⁵ The reference coordinates for Channel 252C at Evanston are 41-14-14 NL and 110-58-09 WL, located 3.5 kilometers (2.2 miles) south of Evanston.

²⁶ The reference coordinates for Channel 237C3 at Price are 39-36-33 NL and 110-48-50 WL, located 1.1 kilometers (0.7 miles) north of Price.

²⁷ The reference coordinates for Channel 233C3 at Wellington are 39-30-41 NL and 110-45-54 WL, located 4.3 kilometers (2.7 miles) southwest of Wellington.

²⁸ The reference coordinates for Channel 239C at Salina are 38-50-58 NL and 112-00-28 WL, located 17.6 kilometers (11 miles) southwest of Salina.

²⁹ The reference coordinates for Channel 240C0 at Randolph are 41-56-46 NL and 111-00-04 WL, located 34.5 kilometers (21.5 miles) northeast of Randolph. This reallocation complies with Section 1.420(i) of the Rules because Channel 240C0 at Randolph is mutually exclusive with Channel 240C1 at Delta. Delta will continue to receive local service from "full-time" Station KNAK(AM). The gain area contains 124,749 persons. The loss area contains 329,074 persons. Currently, in the gain area, 293 persons receive one aural reception service, 3,440 persons receive two aural reception services, 4,102 persons receive three aural reception services, 3,449 persons receive four aural reception services, while the remainder of the area is considered well-served with at least five aural reception services. In regards to the loss area, 4,475 persons currently receive three aural reception services, while the remainder of the area is considered well served with at least six aural reception services. The Randolph reallocation will not encompass any urbanized area.

³⁰ The reference coordinates for Channel 260C3 at Weston are 41-52-18 NL and 111-48-31 WL, located 23.2 kilometers (14.4 miles) southwest of Weston.

³¹ The reference coordinates for Channel 228C at Burley are 42-29-33 NL and 113-44-44 WL, located 6.1 kilometers (3.8 miles) southwest of Burley.

³² The reference coordinates for Channel 230C at Pocatello are 42-51-57 NL and 112-30-46 WL, located 5.6 kilometers (3.5 miles) west of Pocatello.

³³ The reference coordinates for Channel 261C3 at Wilson are 43-27-40 NL and 110-45-09 WL, located 10.8 kilometers (6.7 miles) southeast of Wilson. The census designated place of Wilson has a 2000 U.S. Census

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Kemmerer, Wyoming to Shelley, Idaho, as its second local service, and modifying the Station KAOX(FM) license to prevent the creation of white area caused by the reallocation of Station KITT(FM) to Wilson.³⁴ To facilitate the Shelley reallocation, we are substituting Channel 300C1 for Channel 296C1 at Idaho Falls, Idaho, and modifying the Station KEQO(FM)'s license³⁵ and substituting Channel 223C1 for Channel 223C3 at Naples, Utah, reallocation Channel 223C1 from Naples, Utah, to Diamondville, Wyoming and modifying the Station KCUA(FM) license.³⁶ In order to allot Channel 223C1 to Diamondville, we are substituting Channel 223A for Channel 223C2 at South Jordan, Utah, and modifying the Station KUUU(FM) license.³⁷ Moreover, we are substituting Channel 255C2 for Channel 253C2 at Roosevelt, Utah, reallocation Channel 255C2 from Roosevelt, Utah, to Naples, Utah, to prevent removal of Naples' sole local service, and modifying the Station KIFX(FM) license.³⁸ To accommodate

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population of 1,294 persons. This reallocation complies with Section 1.420(j) of the Rules because Channel 261C3 at Wilson is mutually exclusive with Channel 261C2 at Soda Springs. Soda Springs will continue to receive first local service from "full-time" Station KBRV(AM). The gain area contains 20,135 persons, while the loss area contains 20,715 persons. Currently, in the gain area, 66 persons receive four aural reception services, while the remainder of the area is considered well-served with at least five aural reception services. In the loss area, 293 persons currently receive one aural reception service, 5,227 persons currently receive two aural reception services, 5,214 currently receive three aural reception services, and 3,150 persons currently receive four aural reception services, while the remainder is considered well-served with at least five aural reception services. The reallocation of Station KAOX to Shelley will provide service to the 293 persons that would lose their first aural reception service from the Station KITT(FM) reallocation. This reallocation does not encompass any urbanized areas.

³⁴ The reference coordinates for Channel 297C2 at Shelley are 43-02-00 NL and 111-55-34 WL, located 41.8 kilometers (26 miles) south of Shelley. This reallocation complies with Section 1.420(i) of the Rules because Channel 297C2 to Shelley is mutually exclusive with Channel 297C2 at Kemmerer. Kemmerer will receive local service from "full-time" Station KMER(AM). This reallocation will result in a net gain of 153,817 persons. Currently, in the gain area 3,699 persons are receiving three aural reception services and 29 persons four aural reception services while the loss area contains 937 persons receiving two aural reception services and 3,756 persons receiving three aural reception services. In both instances, the remainder of the populated area is considered well-served with at least five aural reception services. This reallocation does not encompass any urbanized areas.

³⁵ The reference coordinates for Channel 300C1 at Idaho Falls are 43-46-04 NL and 111-57-57 WL, located 33.9 kilometers (21.1 miles) north of Idaho Falls.

³⁶ The reference coordinates for Channel 223C1 at Diamondville are 41-54-14 NL and 110-31-06 WL, located 13.9 kilometers (8.6 miles) north of Diamondville. This reallocation complies with Section 1.420(i) of the Rules because Channel 223C3 at Naples is mutually exclusive with Channel 223C1 at Diamondville. The reallocation will prevent the creation of gray area caused by the removal of Station KAOX(FM), Channel 297C2 at Kemmerer. Station KIFX(FM) will be reallocated to Naples to prevent removal of Naples' sole local service. The gain area contains 12,575 persons in which 780 persons currently receive one aural reception service; 37 persons currently receive two aural reception services, and 975 persons currently receive three aural reception services, while the remainder is considered well-served with at least five aural reception services. The loss area contains 31,178 persons in which 30,594 persons currently receive four aural reception services, while the remainder is considered well-served with at least five aural reception services.

³⁷ The reference coordinates of Channel 223A at South Jordan are 40-27-11 NL and 111-56-36 WL, located 12.2 kilometers (7.6 miles) south of South Jordan.

³⁸ The reference coordinates of Channel 255C2 at Naples are 40-33-24 NL and 109-38-08 WL, located 18.5 kilometers (11.5 miles) northwest of Naples. This reallocation complies with Section 1.420(i) of the Rules because Channel 253C2 at Roosevelt is mutually exclusive with Channel 255C2 at Naples. Roosevelt will receive local service from Stations KNUE(AM) and KXRQ(FM). The gain area contains eleven persons to which is considered well-served with at least five aural reception services. The loss area contains 1,485 persons to which 539 persons currently receive three aural reception services, while the remainder of the area is considered well-served with at least five aural reception services.

the Naples reallocation, we are substituting Channel 268C3 for vacant Channel 255C3 at Fruita, Colorado.³⁹ To accommodate the Randolph reallocation, we are substituting Channel 239C3 for Channel 239C1 at Marbleton, Wyoming, reallocating Channel 239C3 from Marbleton, Wyoming, to Ballard, Utah, as its first local service, and modification of the Station KFMR(FM) authorization.⁴⁰ To prevent removal of potential first local service at Marbleton, we are allotting Channel 257C1 at Marbleton, Wyoming.⁴¹

8. **Joint Proponents' Counterproposal.** We also find that the Joint Proponents' Counterproposal results in a preferential arrangement of allotments because it will provide first local services (priority 3) at Milford, American Fork, and Kaysville, and provide a first aural reception service to 197 persons (priority 1).⁴² The affected licensees have consented to the proposed changes to their respective station's license. Millcreek Broadcasting, LLC has agreed to reimburse these licensees for their expenses. In accordance with our *Circleville* policy,⁴³ the Joint Proponents have agreed to reimburse Citicasters for its reasonable expenses in changing channels for Stations KOSY-FM to Channel 294C at Spanish Fork and KXRV(FM) to Channel 290C at Centerville. Therefore, we are allotting Channel 285C at Milford, Utah, as its first local service and a first aural reception service to 197 persons.⁴⁴ To accommodate this vacant allotment, we are reallocating Channel 286C from Manti to American Fork, Utah, as the community's first local service, and modifying the Station KNJQ(FM) license.⁴⁵ This reallocation

³⁹ The reference coordinates for Channel 268C3 at Fruita are 39-06-52 NL and 108-51-09 WL. The Joint Proponent originally proposed Channel 255A. However, we are allotting this alternative Class C3 allotment since this allotment has not been available for auction.

⁴⁰ The reference coordinates for Channel 239C3 at Ballard are 40-27-04 NL and 109-56-25 WL, located 18 kilometers (11.2 miles) north of Ballard. The town of Ballard has a 2000 U.S. Census population of 566 persons. This reallocation complies with Section 1.420(i) of the Rules because Channel 239C3 at Ballard is mutually exclusive with Channel 239C1 at Marbleton. Marbleton will not be deprived of its only local service because Station KFMR(FM) is an unbuilt station. *See Linden, Texas et al.*, Report and Order, 16 FCC Rcd 10853 (MMB 2001)(holding that removal of unbuilt facilities does not present the same loss of service concerns as removal of a licensed station). Additionally, Station KFMR(FM) at Marbleton could provide a first aural reception service to 759 persons. The allotment of Channel 257C1 at Marbleton, Wyoming will serve this white area. The allotment of Channel 257C1 at Marbleton does not violate our policy, concerning the use of vacant allotments to replace loss of either a first or second aural reception service because Station KFMR(FM) is an unbuilt FM station. *See Sells, Arizona*, Report and Order, 19 FCC Rcd. 22459 (MB 2004), *app. for review, pending*.

⁴¹ The reference coordinates of Channel 257C1 at Marbleton are 42-19-28 NL and 110-19-12 WL, located 30.8 kilometers (19.2 miles) southwest of Marbleton.

⁴² *Id.* note 23.

⁴³ *See Circleville, Ohio*, Memorandum Opinion and Order, 8 FCC 2d 159 (1967).

⁴⁴ The reference coordinates for Channel 285C at Milford are 38-31-11 NL and 113-17-07 WL. This site is located 27.6 kilometers (17.2 miles) northwest of Milford. The city of Milford has a 2000 U.S. Census population of 1,451 persons.

⁴⁵ The reference coordinates for Channel 286C at American Fork are 40-39-34 NL and 112-12-05 WL. This site is located 46.6 kilometers (28.9 miles) northwest of American Fork. The city of American Fork has a 2000 U.S. Census population of 21,941 persons. This reallocation complies with Section 1.420(i) of the Rules because Channel 286C at American Fork conflict with Channel 286C at Manti. Manti will receive local service from "full-time" Station KMTI(AM). The gain area contains 1,400,981 persons that is considered well-served with at least six aural reception services. The loss area contains 60,053 persons to which 5,165 persons currently receive four aural reception services, while the remainder of the area is considered well-served with at least five aural reception services. The Joint Proponents submitted a *Tuck* showing, demonstrating that American Fork is independence of the urbanized areas, thus, warranting a first local preference for American Fork since this reallocation will cover 86.1 percent of the Provo-Orem, Utah urbanized area, 79.5 percent of the Ogden-Layton, Utah Urbanized Area, and 100 percent of the Salt Lake City, Utah Urbanized Area. *See Faye and Richard Tuck, Inc.*, Memorandum Opinion and Order, 3 FCC Rcd 5374 (1988).

requires the substitution of Channel 290C for Channel 289C at Centerville, Utah and modification of the Station KXRV(FM) license.⁴⁶ In order to allot Channel 290C to Centerville, we are substituting Channel 245C2 for Channel 290A at Vernal, Utah, and modifying Station KLCY-FM's license⁴⁷ and substituting Channel 294C for Channel 293C at Spanish Fork, Utah, and modifying Station KOSY-FM's license.⁴⁸ To accommodate the Channel 294C to Spanish Fork, we are substituting Channel 296C for Channel 295C at Brigham City, Utah, reallocating Channel 296C from Brigham City to Woodruff, Utah, as the community's second local service, and modifying the Station KRAR(FM) license,⁴⁹ which requires reallocating Channel 297C2 from Kemmerer, Wyoming to Shelley, Idaho, as its second local service, and modifying the Station KAOX(FM) license.⁵⁰ To facilitate the Shelley reallocation, we are substituting Channel 300C1 for Channel 296C1 at Idaho Falls, Idaho, and modifying the Station KEQO(FM) license.⁵¹ In order to allot Channel 296C to Woodruff, we are substituting Channel 297C2 for Channel 296C2 at Huntington, Utah, and modifying the Station KHUN authorization,⁵² which requires reallocating Channel 298C from Orem to Kaysville, Utah, as the community's first local service, and modifying the Station KKAT-FM license.⁵³ To accommodate the Kaysville reallocation, we are reallocating Channel 300C from Roy to Randolph, Utah, as the community's second local service and modifying the Station KUDD(FM) license.⁵⁴ To accommodate Channel 290C at Centerville, we are substituting Channel 286C3

⁴⁶ The reference coordinates for Channel 290C at Centerville are 40-39-34 NL and 112-12-05 WL. This site is located 40 kilometers (24.9 miles) southwest of Centerville.

⁴⁷ The reference coordinates for Channel 245C2 at Vernal are 40-32-16 NL and 109-41-57 WL. This site is located 17.1 kilometers (10.7 miles) northwest of Vernal.

⁴⁸ The reference coordinates for Channel 294C at Spanish Fork are 40-39-34 NL and 112-12-05 WL. This site is located 76.2 kilometers (47.4 miles) northwest of Spanish Fork.

⁴⁹ The reference coordinates for Channel 296C at Woodruff are 40-56-07 NL and 111-00-03 WL. This site is located 66.5 kilometers (41.3 miles) south of Woodruff. This reallocation complies with Section 1.420(i) of the Rules because the Channel 296C at Woodruff is mutually exclusive with Channel 295C at Brigham City. Brigham City will continue to receive local services from Station KXOL(AM) and Station KEGH(FM). The gain area contains 1,093,394 persons, while the loss area contains 211,956 persons. In the gain area, 426 persons currently receive three aural reception services, while the remainder is considered well-served with at least six aural reception services. The loss area is considered well-served with at least five aural reception services.

⁵⁰ *Id.* note 34.

⁵¹ *Id.* note 35.

⁵² The reference coordinates for Channel 297C2 at Huntington are 39-10-41 NL and 111-01-22 WL. This site is located 17.3 kilometers (10.7 miles) south of Huntington.

⁵³ The reference coordinates for Channel 298C at Kaysville are 40-39-34 NL and 112-12-05 WL. This site is located 47.3 kilometers (29.4 miles) southwest of Kaysville. The city of Kaysville has a 2000 U.S. Census population of 20,351 persons. This reallocation complies with Section 1.420(i) of the Rules because the Channel 298C at Kaysville is mutually exclusive with Channel 298C at Orem. Orem will retain existing local service from Station KOHS(FM). The gain area contains 255,457 persons, which is considered well-served with at least six aural reception services. The loss area contains 14,474 persons, which is considered well served with at least six aural reception services. The Joint Proponents submitted a *Tuck* showing, demonstrating Kaysville independence from the urbanized areas, thus, warranting a first local preference since the reallocation will cover 86.1 percent of Provo-Orem, Utah Urbanized Area, 79.6 percent of Ogden-Layton, Utah Urbanized Area, and 100 percent of the Salt Lake City, Utah Urbanized Area. See *Faye and Richard Tuck, Inc.*, Memorandum Opinion and Order, 3 FCC Rcd 5374 (1988).

⁵⁴ The reference coordinates for Channel 300C at Randolph are 41-04-48 NL and 111-05-32 WL. This site is located 65.5 kilometers (40.7 miles) south of Randolph. This reallocation complies with Section 1.420(i) of the Rules because the Channel 300C at Randolph is mutually exclusive with Channel 300C at Roy. Roy will retain existing local service from "full-time" Station KANN(AM). The gain area contains 122,026 persons of which 2,623

(continued...)

for Channel 290C3 at Thayne, Wyoming, and modifying the Station KTYN(FM) authorization,⁵⁵ which requires substituting Channel 243A for vacant Channel 286A at Dubois, Idaho.⁵⁶ To accommodate the Dubois vacant allotment, we are substituting Channel 283A for Channel 243C2 at Ashton, Idaho, and modifying the Station KRID authorization.⁵⁷ To accommodate Channel 286C3 at Thayne, we are substituting Channel 288C for Channel 287C2 at Diamondville, Wyoming, reallocating Channel 288C from Diamondville, Wyoming to Oakley, Utah, as the community's second local service, and modifying the Station KDWY(FM) license.⁵⁸ To prevent removal of Diamondville's sole local service, we are substituting Channel 223C1 for Channel 223C3 at Naples, Utah, reallocating Channel 223C1 from Naples, Utah, to Diamondville, Wyoming and modifying the Station KCUA(FM) license.⁵⁹ To prevent removal of Naples' sole local service, we are substituting Channel 255C2 for Channel 253C2 at Roosevelt, Utah, reallocating Channel 255C2 from Roosevelt, to Naples, Utah and modifying the Station KIFX(FM) license.⁶⁰ To accommodate the Naples reallocation, we are substituting Channel 268C3 for vacant Channel 255C3 at Fruita, Colorado.⁶¹ To accommodate the Diamondville reallocation, we are substituting Channel 223A for Channel 223C2 at South Jordan, Utah, and modifying the Station KUUU(FM) license.⁶² To facilitate Channel 290C to Centerville, we are substituting Channel 292C for Channel 291C at Evanston, Wyoming, and modifying the Station KBMG(FM) license,⁶³ which requires substituting Channel 298C1 for Channel 293C1 at Superior, Wyoming, and modifying of the Station KKWY authorization.⁶⁴

(...continued from previous page)

persons currently receive three aural reception services, while the remainder is considered well-served with at least six aural reception services. The loss area contains 232,831 persons of which 126 persons currently receive two aural reception services, while the remainder is considered well-served with at least six aural reception services. The 126 persons that would lose their second aural reception service from this reallocation is considered *de minimis*. See *Seabrook, Huntsville, Bryan, Victoria, Kennedy and George West, Texas*, Memorandum Opinion and Order, 10 FCC Rcd 9360 (1995).

⁵⁵ The reference coordinates for Channel 286C3 at Thayne are 43-06-18 NL and 111-07-17 WL. This site is located 22.7 kilometers (14.1 miles) northwest of Thayne.

⁵⁶ The reference coordinates for Channel 243A at Dubois are 44-15-50 NL and 112-09-00 WL. This site is located 11.6 kilometers (7.2 miles) northeast of Dubois.

⁵⁷ The reference coordinates for Channel 283A at Ashton are 43-58-32 NL and 111-34-40 WL. This site is located 14.9 kilometers (9.3 miles) southwest of Ashton.

⁵⁸ The reference coordinates for Channel 288C at Oakley are 40-52-16 NL and 110-59-43 WL. This site is located 31 kilometers (19.3 miles) northeast of Oakley. This reallocation complies with Section 1.420(i) of the Rules because the Channel 288C at Oakley is mutually exclusive with Channel 287C2 at Diamondville. Diamondville will receive local service because Station KCUA(FM) will be reallocated to Diamondville to prevent removal of its sole local service. The gain area contains 1,512,406, which is considered well-served with at least six aural reception services. The loss area contains 5,388 persons, which contains 931 persons currently receiving three aural reception services and 3,756 persons currently receiving four aural reception services, while the remainder is considered well-served with at least six aural reception services.

⁵⁹ *Id.* note 36.

⁶⁰ *Id.* note 38.

⁶¹ *Id.* note 39.

⁶² *Id.* note 37.

⁶³ The reference coordinates for Channel 292C at Evanston are 40-52-16 NL and 110-59-43 WL. This site is located 44.2 kilometers (27.5 miles) south of Evanston.

⁶⁴ The reference coordinates for Channel 298C1 at Superior are 41-25-32 NL and 109-07-42 WL. This site is located 40.5 kilometers (25.1 miles) south of Superior.

9. **SHM's Counterproposal.** To accommodate the allotment of Channel 262C2 at Lima, we issued an *Order to Show Cause*⁶⁵ to Brigham Young University, proposing the substitution of Channel 232C1 for Channel 263C1 at Rexburg, Idaho and modification of the Station KBYI license. In response to the *Order to Show Cause*, Brigham Young University suggests alternative Channel 221C2 and Channel 265C2 at Lima, Montana, at the same coordinates as proposed for Channel 262C2 by SHM because these alternate channels would not require Station KUPI-FM and Station KSNA(FM), to change their respective channels. Therefore, Brigham Young University states that SHM's Counterproposal does not provide significant public interest benefits to warrant disruption of noncommercial educational service provided by Station KBYI on Channel 263C1 at Rexburg since an alternate channel is available that could provide first local service at Lima.

10. In reply, SHM states that its Counterproposal is preferred over an alternative allotment at Lima because it would result in a first aural reception service to 325 persons; second aural reception service to 158 persons; first local service at Lima; and additional aural reception service to 61,000 as a result of the Station KUPI-FM amended proposal for Channel 263C1 at Idaho Falls.

11. Accordingly, we are allotting alternate Channel 265C2 at Lima, Montana, as its first local service to avoid the ultimate permittee of this vacant allotment to reimburse Brigham Young University for its reasonable expenses associated with changing Station KBYI's frequency to Channel 232C1 at Rexburg.⁶⁶ In this regard, we find that the substitution of Channel 263C1 at Idaho Falls provides significant public interest benefits under priority (4) to warrant the disruption of noncommercial educational service currently provided by Station KBYI because the proposal could result in 61,000 persons, receiving an additional aural reception service within the Station KBYI service area.⁶⁷ Accordingly, we are substituting Channel 232C1 for Channel 263C1 at Rexburg, Idaho and modifying the Station KBYI license⁶⁸ to accommodate the substitution of Channel 263C1 for Channel 256C1 at Idaho Falls, Idaho and modification of the FM Station KUPI license.⁶⁹ To facilitate the Channel 232C1 substitution at Rexburg, we are also substituting Channel 233C0 for Channel 233C at Logan, Utah, and modifying the Station KVFX(FM) license⁷⁰ and substituting Channel 256C2 for Channel 232C2 at Rexburg, Idaho and modifying the Station KSNA(FM) license.⁷¹ The affected licensees have consented to these changes to their respective station's license. SHM has agreed

⁶⁵ *Id.* note 8.

⁶⁶ The reference coordinates for Channel 265C2 at Lima are 44-42-58 NL and 112-40-40 WL. This site is located 11.2 kilometers (6.9 miles) northwest of Lima. The town of Lima has a 2000 U.S. Census population of 242 persons.

⁶⁷ An engineering staff analysis has determined that the proposed area affected by the Station KBYI proposal is considered well-served with at least five aural reception services with the exception of an unpopulated area currently receiving three aural reception services.

⁶⁸ The reference coordinates for Channel 232C1 at Rexburg are 43-45-44 NL and 111-57-30 WL. The site is located 15.4 kilometers (9.6 miles) southwest of Rexburg.

⁶⁹ The reference coordinates for Channel 263C1 at Idaho Falls are 43-21-06 NL and 12-00-22 WL. The site is located 13 kilometers (8.1 miles) south of Idaho Falls. Sandhill Media Group, LLC, licensee of Station KUPI-FM, has subsequently filed a minor change application that is inconsistent with the Channel 263C1 substitution at Idaho Falls. This application is untimely to this proceeding. *See* File No. BPH-20070119AFZ.

⁷⁰ The reference coordinates for Channel 233C0 at Logan are 41-53-50 NL and 111-57-39 WL. The site is located 20.8 kilometers (12.9 miles) northwest of Logan.

⁷¹ The reference coordinates for Channel 256C2 at Rexburg are 43-45-20 NL and 111-57-56 WL. The site is located 16.2 kilometers (10.1 miles) southwest of Rexburg.

to reimburse these licensees for their expenses. In accordance with our *Circleville* policy,⁷² SHM has agreed to reimburse Brigham Young University for its reasonable expenses in changing its channel for Station KBYI to Channel 232C1 at Rexburg, Idaho.

12. The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. § 801(a)(1)(A).

13. **Ordering clauses.** Accordingly, pursuant to the authority found in 47 U.S.C. Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) and 47 C.F.R. Sections 0.61, 0.204(b) and 0.283, IT IS ORDERED, That effective March 3, 2008, the FM Table of Allotments, 47 C.F.R. Section 73.202(b), IS AMENDED, with respect to the communities listed below, to read as follows:

| <u>Communities</u> | <u>Channel No.</u> |
|--------------------|--------------------|
| Dubois, Idaho | 243A |
| Fruita, Colorado | 268C3 |
| Lima, Montana | 265C2 |
| Marbleton, Wyoming | 257C1 |
| Meeteeste, Wyoming | 259C |
| Milford, Utah | 285C |
| Salina, Utah | 239C |

14. The window period for filing applications for these allotments will not be opened at this time. Instead, the issue of opening these allotments for auction will be addressed by the Commission in a subsequent order.

15. IT IS FURTHER ORDERED, That pursuant to the authority contained in 47 U.S.C. Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b), and 47 C.F.R. Sections 0.61, 0.204(b), and 0.283, IT IS ORDERED, That effective March 3, 2008, the Media Bureau's Consolidated Data Base System will reflect the following FM Channel as the reserved assignment for the listed stations, respectively: Channel 252C in lieu of Channel 252C2 at Evanston, Wyoming for Station KADQ-FM; Channel 237C3 in lieu of Channel 252C3 at Price, Utah for Station KARB(FM); Channel 233C3 in lieu of Channel 237C3 at Wellington, Utah for FM Station KRPX; Channel 240C0 at Randolph, Utah in lieu of Channel 240C1 at Delta, Utah for Station KMGR(FM); Channel 260C3 in lieu of Channel 240A at Weston, Idaho for Station KLZX(FM); Channel 228C in lieu of Channel 260C at Burley, Idaho for Station KZDX(FM); Channel 230C in lieu of Channel 229C at Pocatello, Idaho for Station KZBQ(FM); Channel 261C3 at Wilson, Wyoming in lieu of Channel 261C2 at Soda Spring, Idaho for Station KITT(FM); Channel 297C2 at Shelley, Idaho in lieu of Kemmerer, Wyoming for Station KAOX(FM); Channel 300C1 in lieu of Channel 296C1 at Idaho Falls for Station KEQO(FM); Channel 223C1 at Diamondville, Wyoming in lieu of Channel 223C3 at Naples, Utah for Station KCUA(FM); Channel 223A in lieu of Channel 223C2 at South Jordan, Utah for Station KUUU(FM); Channel 255C2 at Naples in lieu of Channel 253C2 at Roosevelt, Utah for Station KIFX(FM); Channel 239C3 at Ballard, Utah in lieu of Channel 239C1 at

⁷² See *Circleville, Ohio*, Memorandum Opinion and Order, 8 FCC 2d 159 (1967).

Marbleton, Wyoming for Station KFMR(FM); Channel 286C at American Fork, Utah in lieu of Manti, Utah for Station KNJQ(FM); Channel 290C in lieu of Channel 289C at Centerville, Utah for Station KXRV(FM); Channel 245C2 in lieu of Channel 290A at Vernal, Utah for Station KLCY-FM; Channel 294C in lieu of Channel 293C at Spanish Fork, Utah for Station KOSY-FM; Channel 296C at Woodruff, Utah in lieu of Channel 295C at Brigham City, Utah for Station KRAR(FM); Channel 297C2 in lieu of Channel 296C2 at Huntington, Utah for Station KHUN; Channel 298C at Kaysville, Utah in lieu of Orem, Utah for Station KKAT-FM; Channel 300C at Randolph, Utah in lieu of Roy, Utah for Station KUDD(FM); Channel 286C3 in lieu of Channel 290C3 at Thayne, Wyoming for Station KTYN(FM); Channel 283A in lieu of Channel 243C2 at Ashton, Idaho for Station KRID; Channel 288C at Oakley, Utah in lieu of Channel 287C2 at Diamondville, Wyoming for Station KDWY(FM); Channel 292C in lieu of Channel 291C at Evanston, Wyoming for Station KBMG(FM); Channel 298C1 in lieu of Channel 293C1 at Superior, Wyoming for Station KKWY; Channel 232C1 in lieu of Channel 263C1 at Rexburg, Idaho for Station KBYI license; Channel 263C1 in lieu of Channel 256C1 at Idaho Falls, Idaho for Station KUPI-FM license; Channel 256C2 in lieu of Channel 232C2 at Rexburg, Idaho for Station KSNA(FM) license; and Channel 233C0 in lieu of Channel 233C at Logan, Utah for Station KVFX(FM).

16. IT IS FURTHER ORDERED, That pursuant to Section 316 of the Communications Act of 1934, as amended College Creek Broadcasting, LLC's construction permit for Station KADQ-FM is modified to specify operation on Channel 252C instead of Channel 252C2 at Evanston, Wyoming; Millcreek Broadcasting, LLC's license for Station KARB(FM) is modified to specify operation on Channel 237C3 instead of Channel 252C3 at Price, Utah; College Creek Broadcasting, LLC's construction permit for FM Station KRPX is modified to specify operation on Channel 233C3 in lieu of Channel 237C3 at Wellington, Utah; 3 Point Media – Delta, LLC's license for Station KMGR(FM) is modified to specify operation on Channel 240C0 at Randolph, Utah instead of Channel 240C1 at Delta, Utah; Millcreek Broadcasting, LLC's license for Station KLZX(FM) is modified to specify operation on Channel 260C3 instead of Channel 240A at Weston, Idaho; Millcreek Broadcasting, LLC's license for Station KZDX(FM) is modified to specify operation on Channel 228C instead of Channel 260C at Burley, Idaho; Millcreek Broadcasting, LLC's license for Station KZBQ(FM) is modified to specify operation on Channel 230C instead of Channel 229C at Pocatello, Idaho; Tri-State Media Corporation's license for Station KITT(FM) is modified to specify operation on Channel 261C3 at Wilson, Wyoming instead of Channel 261C2 at Soda Springs, Idaho; Simmons SLC-LS, LLC's license for Station KAOX(FM) is modified to specify operation on Channel 297C2 at Shelley, Idaho instead of Kemmerer, Wyoming; Millcreek Broadcasting, LLC's license for Station KEQO(FM) is modified to specify operation on Channel 300C1 instead of Channel 296C1 at Idaho Falls; 3-Point Media – Coalville, LLC's license for Station KCUA(FM) is modified to specify operation on Channel 223C1 at Diamondville, Wyoming instead of Channel 223C3 at Naples, Utah; Millcreek Broadcasting, LLC's license for Station KUUU(FM) is modified to specify operation on Channel 223A instead of Channel 223C2 at South Jordan, Utah; Evans Broadcasting, Inc.'s license for Station KIFX(FM) is modified to specify operation on Channel 255C2 at Naples instead of Channel 253C2 at Roosevelt, Utah; Millcreek Broadcasting, LLC's construction permit for Station KFMR(FM) is modified to specify operation on Channel 239C3 at Ballard, Utah instead of Channel 239C1 at Marbleton, Wyoming; Millcreek Broadcasting, LLC's license for Station KNJQ(FM) is modified to specify operation on Channel 286C at American Fork, Utah instead of Manti, Utah; Citicasters Licensees, L.P.'s license for Station KXRV(FM) is modified to specify operation on Channel 290C instead of Channel 289C at Centerville, Utah; Ashley Communications, Inc.'s license for Station KLCY-FM is modified to specify operation on Channel 245C2 for Channel 290A at Vernal, Utah; Citicasters Licensees, L.P.'s license for Station KOSY-FM is modified to specify operation on Channel 294C instead of Channel 293C at Spanish Fork, Utah; Simmons SLC-LS, LLC's license for Station KRAR(FM) is modified to specify operation on Channel 296C at Woodruff, Utah instead of Channel 295C at Brigham City, Utah; College Creek Broadcasting, LLC's construction permit for Station KHUN is modified to specify operation on Channel 297C2 instead of Channel 296C2 at Huntington, Utah; Millcreek Broadcasting, LLC's license for Station KKAT-FM is modified to specify operation on Channel 298C at Kaysville, Utah instead of Orem, Utah; Millcreek

Broadcasting, LLC's license for Station KUDD(FM) is modified to specify operation on Channel 300C at Randolph, Utah instead of Roy, Utah; College Creek Broadcasting, LLC's construction permit for Station KTYN(FM) is modified to specify operation on Channel 286C3 instead of Channel 290C3 at Thayne, Wyoming; College Creek Broadcasting, LLC's construction permit for Station KRID is modified to specify operation on Channel 283A instead of Channel 243C2 at Ashton, Idaho; Simmons SLC-LS, LLC's license for Station KDWY(FM) is modified to specify operation on Channel 288C at Oakley instead of Channel 287C2 at Diamondville, Wyoming; Rocky Mountain's license for Station KBMG(FM) is modified to specify operation on Channel 292C instead of Channel 291C at Evanston, Wyoming; College Creek Broadcasting, LLC's construction permit for Station KKWY is modified to specify operation on Channel 298C1 instead of Channel 293C1 at Superior, Wyoming; Brigham Young University-Idaho's license for Station KBYI is modified to specify operation on Channel 232C1 in lieu of Channel 263C1 at Rexburg, Idaho; Sandhill Media Group, LLC's license for Station KUPI-FM is modified to specify operation on Channel 263C1 in lieu of Channel 256C1 at Idaho Falls, Idaho; Sandhill Media Corporation's license for Station KSNA(FM) is modified to specify operation on Channel 256C2 in lieu of Channel 232C2 at Rexburg, Idaho; and Sun Vally Radio, Inc.'s license for Station KVFX(FM) is modified to specify operation on Channel 233C0 in lieu of Channel 233C at Logan, Utah, subject to the following conditions:

- (a) Within 90 days of the effective date of this *Order*, each licensee and permittee specified above shall submit to the Commission a minor change application for construction permit (Form 301).
- (b) Upon grant of each construction permit, program tests may be conducted in accordance with Section 73.1620 of the Commission's rules; 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 Section 1.1307 of the Commission's rules.
- (d) Operation of Station KITT(FM) on Channel 261C3 at Wilson, Wyoming, including program test operation pursuant to 47 C.F.R. Section 73.1620, will not be permitted until Station KAOX(FM) activates service on Channel 297C2 at Shelley, Idaho.
- (e) Operation of Station KAOX(FM) on Channel 297C2 at Shelley, Idaho, including program test operation pursuant to 47 C.F.R. Section 73.1620, will not be permitted until Station KCUA(FM) activates service on Channel 223C1 at Diamondville, Wyoming.
- (f) Operation of Station KCUA(FM) on Channel 223C1 at Diamondville, Wyoming, including program test operation pursuant to 47 C.F.R. Section 73.1620, will not be permitted until Station KIFX(FM) activates service on Channel 255C2 at Naples, Utah.
- (g) Operation of Station KDWY(FM) on Channel 288C at Oakley, Utah, including program test operation pursuant to 47 C.F.R. Section 73.1620, will not be permitted until Station KCUA(FM) activates service on Channel 223C1 at Diamondville, Wyoming.

17. Pursuant to 47 C.F.R. Sections 1.1104(1)(k) and (3)(l) of Rules, the following licensees are required to submit a rulemaking fee in addition to the fee required for the application to effectuate the new community of license, as follows, at the time its Form 301 application is submitted: 3 Point Media – Delta, LLC, licensee of Station KMGR(FM) for the new operation of Channel 240C0 at Randolph, Utah instead

of Channel 240C1 at Delta, Utah; Tri-State Media Corporation, licensee of Station KITT(FM) for the new operation of Channel 261C3 at Wilson, Wyoming instead of Channel 261C2 at Soda Springs, Idaho; Simmons SLC-LS, LLC, licensee of Station KAOX(FM) for the new operation of Channel 297C2 at Shelley, Idaho instead of Kemmerer, Wyoming; 3-Point Media – Coalville, LLC, licensee of Station KCUA(FM) for new operation of Channel 223C1 at Diamondville, Wyoming instead of Channel 223C3 at Naples, Utah; Evans Broadcasting, Inc., licensee of Station KIFX(FM) for new operation of Channel 255C2 at Naples instead of Channel 253C2 at Roosevelt, Utah; Millcreek Broadcasting, LLC, permittee of Station KFMR(FM) for new operation of Channel 239C3 at Ballard, Utah instead of Channel 239C1 at Marbleton, Wyoming; Millcreek Broadcasting, LLC, licensee of Station KNJQ(FM) for Channel 286C at American Fork, Utah instead of Manti, Utah; Simmons SLC-LS, LLC, licensee of Station KRAR(FM) for the new operation of Channel 296C at Woodruff, Utah instead of Channel 295C at Brigham City, Utah; Millcreek Broadcasting, LLC, licensee of Station KKAT-FM for the new operation of Channel 298C at Kaysville instead of Orem, Utah; Millcreek Broadcasting, LLC, licensee of Station KUDD(FM) for the new operation of Channel 300C at Randolph, Utah instead of Roy, Utah; and Simmons SLC-LS, LLC, licensee of Station KDWY(FM) for the new operation of Channel 288C at Oakley instead of Channel 287C2 at Diamondville, Wyoming;

18. IS FURTHER ORDERED, That the aforementioned proceeding IS TERMINATED.

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

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
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Audio Division
Media Bureau