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Before the  
Federal Communications Commission  
Washington, DC 20554

MAILED

JUN 18 2008

FCC

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	MB Docket No. 04-348
FM Table of Allotments,	)	RM-10718
FM Broadcast Stations.	)	RM-11153
	)	RM-11154
Cross Plains, Granite Shoals, Llano, Junction,	)	
Blanket, Burnet, Kempner, and Cherokee,	)	MB Docket No. <u>04-407</u>
Texas	)	RM-11106
	)	
Bertram, Texas <sup>1</sup>	)	

**REPORT AND ORDER  
(Proceeding Terminated)**

**Adopted: June 11, 2008**

**Released: June 13, 2008**

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it: (1) a *Notice of Proposed Rule Making* in MB Docket No. 04-348 issued at the request of Charles Crawford (“Crawford”);<sup>2</sup> (2) a *Notice of Proposed Rule Making* in MB Docket No. 04-407 issued at the request of Crawford;<sup>3</sup> (3) a counterproposal in response to *NPRM I* filed by Munbilla Broadcasting Properties, Ltd. (“MBPL”), licensee of Station KHLE(FM), Burnet, Texas;<sup>4</sup> (4) a rulemaking petition to allot Channel 285A to Cherokee, Texas, filed by Crawford;<sup>5</sup> (5) a *Public Notice*<sup>6</sup> consolidating MB Dockets 04-348, 04-407, and RM-11154; (6) various related pleadings; and (7) requests for withdrawal of the Crawford and MBPL proposals.<sup>7</sup> For the reasons discussed below, we will grant the requested withdrawals.

2. This consolidated proceeding commenced with the issuance of *NPRM I* and *NPRM II*. First, at the request of Crawford, *NPRM I* proposed the allotment of Channel 294A at Cross Plains, Texas

<sup>1</sup> The communities of Granite Shoals, Llano, Junction, Blanket, Burnet, Kempner, Cherokee, and Bertram, Texas, have been added to the caption.

<sup>2</sup> *Cross Plains, Texas*, Notice of Proposed Rule Making, 19 FCC Rcd 17452 (MB 2004) (“*NPRM I*”).

<sup>3</sup> *Bertram, Texas*, Notice of Proposed Rule Making, 19 FCC Rcd 22010 (MB 2004) (“*NPRM II*”).

<sup>4</sup> The call letters for this station were changed from KHLB(FM) to KHLE(FM), effective October 1, 2005. We will refer to this station by its current call letters.

<sup>5</sup> RM-11154 (“*Cherokee Petition*”).

<sup>6</sup> Report No. 2692 (rel. Feb. 3, 2005) (“*Counterproposal Public Notice*”).

<sup>7</sup> These pleadings include (1) a Withdrawal of Counterproposal filed on January 14, 2008, by MBPL and Munbilla Fort Hood, Ltd. (“MFHL”), the successor in interest to MBPL pursuant to consummation of the transaction set forth in short-form assignment application (File No. BALH-20070719ABG); (2) three Requests for Approval of Withdrawal filed on March 3, 2008, by Crawford; and (3) Amended Sworn Affidavits filed on May 12, 2008, by Crawford in response to a staff request for additional information.

(pop. 1,068) as the community's first local aural service. *NPRM I* established a counterproposal deadline of October 25, 2004. Second, at the request of Crawford, *NPRM II* proposed the allotment of Channel 284A at Bertram, Texas (pop. 1,222) as a first local service. *NPRM II* set forth a counterproposal deadline of December 27, 2004. The proposed allotments of Channel 294A at Cross Plains and Channel 284A at Bertram did not conflict with each other under the Commission's minimum distance separation requirements.<sup>8</sup>

3. On October 25, 2004, MBPL timely filed a counterproposal that is mutually exclusive with *NPRMs I and II*, as well as the undocketed *Cherokee Petition*.<sup>9</sup> MBPL's counterproposal proposes the allotment of Channel 293A at Granite Shoals, Texas (pop. 2,040) as a first local aural service. To accommodate this allotment, MBPL also proposes (1) the substitution of Channel 284C3 for vacant Channel 293C3 at Llano, Texas; (2) the substitution of Channel 252A for vacant Channel 284A at Junction, Texas; (3) the substitution of Channel 295A for vacant Channel 284A at Blanket, Texas; and (4) the reallocation of Channel 295A from Burnet, Texas, to Kempner, Texas (pop. 1,004) and the associated modification of the license for Station KHLE(FM), pursuant to Section 1.420(i) of the Commission's rules.<sup>10</sup> The counterproposal is mutually exclusive with *NPRM I* because Channel 295A at Blanket conflicts with Channel 294A at Cross Plains under the Commission's minimum distance separation requirements. The counterproposal also is mutually exclusive with *NPRM II* because the proposed substitution of Channel 284C3 at Llano conflicts with the allotment of Channel 284A at Bertram. Finally, the counterproposal is mutually exclusive with the *Cherokee Petition* because Channel 284C3 at Llano would be short-spaced to Channel 285A at Cherokee. Because MBPL's counterproposal was filed prior to the counterproposal deadlines in MB Dockets 04-348 and 04-407 and because the *Cherokee Petition* was also filed before these counterproposal deadlines, the *Counterproposal Public Notice* consolidated MB Dockets 04-348, 04-407, and the *Cherokee Petition* and accepted MBPL's counterproposal and the *Cherokee Petitions* as counterproposals in this consolidated proceeding.

4. MFHL requests approval to withdraw its counterproposal because it has determined that it can achieve its desired Station KHLE(FM) modification by means of a one-step application.<sup>11</sup> Further, MFHL states that it has decided to withdraw its request for the allotment of Channel 293A to Granite Shoals due to market changes. MBPL and MFHL each submit sworn affidavits, stating that each has not or will not receive any consideration in return for the withdrawal of its proposal. Likewise, Crawford requests approval to withdraw his expressions of interest for Channel 294A at Cross Plains, Texas, Channel 285A at Cherokee, Texas, and Channel 284A at Bertram, Texas, because he has decided not to pursue stations in these communities at this time. He submits sworn affidavits, stating that he has not received or been promised any payment or other consideration in exchange for the dismissals

5. We approve MFHL's and Crawford's withdrawal of their counterproposal and rulemaking petitions. The withdrawal of these FM allotment rulemaking proposals complies with Section 1.420(j)<sup>12</sup> because MBPL, MFHL, and Crawford have documented that they have not or will not receive any consideration in exchange for the withdrawal of their petitions. Because no other expressions of interest were filed for Channel 294A at Cross Plains, Channel 284A at Bertram, Channel 293A at Granite

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<sup>8</sup> See 47 C.F.R. § 73.207.

<sup>9</sup> This petition was filed by Crawford on July 16, 2004, and requests the allotment of Channel 285A to Cherokee (pop. 175) as a first local service.

<sup>10</sup> This rule permits the modification of a station's authorization to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest.

<sup>11</sup> See File No. BPH-20080114ABE.

<sup>12</sup> 47 C.F.R. § 1.420(j).

Shoals, and Channel 285A at Cherokee, we will not make these allotments.

6. Accordingly, IT IS ORDERED, That the rulemaking petitions (RM-10718, RM-11106, and 11154) filed by Charles Crawford ARE DISMISSED

7. IT IS FURTHER ORDERED, That the counterproposal (RM-11153) filed by Munbilla Broadcasting Properties, Ltd. IS DISMISSED.

8. The Commission will send a copy of this *Report and Order* to John Joseph McVeigh, Esq., 16230 Falls Road, P.O. Box 128, Butler, Maryland 21023-0128 (Counsel to MBPL and MFHL); and Charles Crawford, 2215 Cedar Springs Rd., #1910, Dallas, Texas 75201.

9. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

10. For further information concerning this proceeding, contact Andrew J. Rhodes, Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Assistant Chief  
Audio Division  
Media Bureau