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

MAILED
JUN 18 2008
FCC

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MB Docket No. 07-211
Table of Allotments,)	RM-11400
FM Broadcast Stations.)	
(Harper, Texas))	
)	

**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 issued a *Notice of Proposed Rule Making* in response to a Petition for Rule Making filed by Katherine Pyeatt ("Petitioner").¹ The *Notice* proposes to amend the FM Table of Allotments, Section 73.202(b) of the Commission's rules, by allotting FM Channel 256C3 at Harper, Texas.

2. Petitioner filed comments supporting the allotment proposed in the *Notice*. No other comments were received.

3. We believe that the proposed allotment would serve the public interest because it will provide Harper, Texas, with its first local transmission service. Channel 256C3 can be allotted at Harper with a site restriction of 12.9 km (8.0 miles) east of Harper. The reference coordinates for Channel 256C3 at Harper are: 30-16-20 NL and 99-07-25 WL.

4. Concurrence in the allotment by the Government of Mexico is required because the proposed allotment is located within 320 kilometers (199 miles) of the U.S.-Mexican border. Although Mexican concurrence has been requested, notification has not been received. If a construction permit for Channel 256C3 at Harper, Texas, is granted prior to receipt of formal concurrence by the Mexican government, the authorization will include the following condition: "Operation with the facilities specified herein for Harper, Texas, is subject to modification, suspension, or termination without right to hearing, if found by the Commission to be necessary in order to conform to the Mexico-United States FM Broadcast Agreement, or if specifically objected to by the Government of Mexico."

¹ Harper, Texas, Notice of Proposed Rule Making, 22 FCC Rcd 17,607 (MB 2007) ("*Notice*").

5. In addition, the allotment of Channel 256C3 at Harper, Texas, is subject to the final outcome of two proceedings, MM Docket No. 00-148 and MB Docket No. 05-112.² The allotment of Channel 256C3 at Harper conflicts with the proposed allotment of FM Channel 256A at Ingram, Texas, as proposed in dismissed counterproposals in MM Docket No. 00-148 and in MB Docket No. 05-112. The decisions in those proceedings are effective but not final.³ For that reason, the Channel 256C3 allotment in this proceeding is conditioned on the outcome of MM Docket No. 00-148 and MB Docket No. 05-112, and the Harper channel will not be available for auction until final resolution of those proceedings.

6. 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.⁴

7. Accordingly, IT IS ORDERED, That effective July 28, 2008, the FM Table of Allotments, 47 C.F.R. Section 73.202(b), IS AMENDED as follows:

<u>Community</u>	<u>Channel Number</u>
Harper, Texas	256C3

8. 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:

Katherine Pyeatt
3500 Maple Avenue, #1320
Dallas, Texas 75219

Gene A. Bechtel, Esq.
Law Office of Gene Bechtel
1050 17th Street, N.W. – Suite 600
Washington, D.C. 20036
(Counsel for Katherine Pyeatt)

² *Quanah, Texas*, Report and Order, 18 FCC Rcd 9405 (MB 2003), *recon. denied*, Memorandum Report and Order, 19 FCC Rcd 7159 (MB 2004), *app. for review pending*; and *Fredericksburg, Texas*, Report and Order, 22 FCC Rcd 10,883 (MB 2007), *pet. for recon. pending*. The Report and Order for *Fredericksburg, Texas*, was issued in a proceeding consolidating MB Docket Nos. 05-112 and 05-151. In order to avoid confusion, our Consolidated Data Base System shows the reconsideration proceeding for *Fredericksburg, Texas*, under only one docket number, MB Docket No. 05-151; nonetheless, the pending petition for reconsideration seeks reinstatement of the counterproposal in MB Docket No. 05-112.

³ See *Auburn, Alabama*, Memorandum and Opinion, 18 FCC 10,333 (MB 2003).

⁴ See 5 U.S.C. § 801 (a)(1)(A).

9. The window period for filing applications for FM Channel 256C3 at Harper, Texas, will not be opened at this time. Instead, the issue of opening a filing window for this allotment will be addressed by the Commission in a subsequent *Order*.

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

11. For further information concerning this proceeding, contact Deborah Dupont, Media Bureau, (202) 418-7072. Questions related to the application filing process for Channel 268C3 at Peach Springs, Arizona, should be addressed to the Audio Division, Media Bureau, (202) 418-2700.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief
Audio Division
Media Bureau