

DOCKET FILE COPY ORIGINAL

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

In the Matter of)
)
Amendment of Section 73.202(b),) MB Docket No. 07-183
Table of Allotments,) RM-11394
FM Broadcast Stations.)
(Dilley and Cotulla, Texas))

MAILED

JUL 30 2008

FCC MAIL ROOM

REPORT AND ORDER
(Proceeding Terminated)

Adopted: July 23, 2008

Released: July 25, 2008

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division considers herein the *Notice of Proposed Rule Making* ("Notice"),¹ issued at the request of Katherine Pyeatt ("Petitioner"), proposing the allotment of Channel 291A at Dilley, Texas, as its fourth local FM transmission service. Petitioner filed comments. No counterproposals or other comments were received in response to this *Notice*. For the reasons discussed below, we are amending the FM Table of Allotments, Section 73.202(b) of the Commission's Rules,² by allotting Channel 291A at Dilley, Texas.

2. **Background.** The *Notice* proposed the allotment of Channel 291A at Dilley, Texas, as its fourth local FM transmission service. To accommodate the proposed Dilley allotment, it also proposed the relocation of reference coordinates for vacant Channel 289A at Cotulla, Texas. Petitioner filed comments reiterating her interest in the proposed Channel 291A at Dilley, Texas. As stated in the *Notice*, Petitioner has filed a FCC Form 301 new station application for Channel 291A at Dilley, and the necessary filing fee.³

3. **Discussion.** Accordingly, we are allotting Channel 291A at Dilley, Texas, as its fourth local FM transmission service under priority (4).⁴ The reference coordinates for Channel 291A at Dilley are 28-36-06 NL and 99-06-21 WL. This site is located 9.6 kilometers (6 miles) southeast of Dilley. This site is located within 320 kilometers of the Mexican border. Although concurrence has been requested for Channel 291A at Dilley, notification has not been received. If a construction permit is granted prior to the receipt of formal concurrence in the allotment by the Mexican government, the construction permit will include the following condition: "Operation with the facilities specified for Dilley herein 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 1992 USA-Mexico FM Broadcast Agreement."

¹ See *Dilley and Cotulla, Texas*, Notice of Proposed Rule Making, 22 FCC Rcd 17618 (MB 2007).

² 47 C.F.R. § 73.202(b).

³ See File No. BNPH-20070119ACA; see also *Revision of Procedures Governing Amendments to FM Table of Allotments and Changes of Community of License in the Radio Broadcast Services*, Report and Order, 21 FCC Rcd 14212, 14223 ¶ 18 (2006).

⁴ 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)]. See *Revision of FM Assignment Policies and Procedures*, Second Report and Order, 90 FCC 2d 88, 91 (1988).

4. To accommodate this allotment, we are also changing the reference coordinates of vacant Channel 289A at Cotulla, Texas. The new reference coordinates for vacant Channel 289A at Cotulla are 28-22-00 NL and 99-17-00 WL. This site is located 9.1 kilometers (5.7 miles) southwest of Cotulla.

5. 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).

6. **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 September 8, 2008, the FM Table of Allotments, 47 C.F.R. Section 73.202(b), IS AMENDED, with respect to the community listed below, to read as follows:

<u>Community</u>	<u>Channel No.</u>
Dilley, Texas	291A ⁵

7. The window period for filing applications for Channel 291A at Dilley, Texas will not be opened at this time. Instead, the issue of opening this allotment for auction will be addressed by the Commission in a subsequent order.

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

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

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief
Audio Division
Media Bureau

⁵ FM Stations KKDL, KVWG-FM, and KLMO-FM are authorized to provide a commercial FM local aural transmission service to the community of Dilley. See File Nos. BNPB-20070501AAC, BLH-20070517ABA, BLH-20050324ABT, respectively.