

ORIGINAL

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

FILED/ACCEPTED

OCT 15 2009

Federal Communications Commission
Office of the Secretary

In the Matter of)
)
Amendment of Section 73.202(b))
Table of Allotments)
FM Broadcast Stations)
(Milford, UT))
)

MB Docket No. _____
RM- _____

To: Office of Secretary
Attn: Chief, Audio Division
Media Bureau

PETITION FOR RULEMAKING

Introduction:

Canyon Media Group, LLC ("Petitioner"), authorized assignee of radio station KCLS(FM) Pioche, Nevada,¹ hereby submits the instant Petition for Rulemaking to amend the FM Table of Allotments contained in Section 73.202(b) of the Commission's Rules as part of a contingently filed "hybrid" application and rulemaking proceeding in order for the Petitioner to further the Commission's allotment priorities. Specifically, Petitioner seeks to modify a vacant FM allotment as follows:

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Milford, UT	285C	288C

KCLS(FM) Pioche, Nevada

In its contingently proposed "hybrid" 301 Application, being filed contemporaneously herewith, the Petitioner proposes to modify KCLS(FM)'s allotment

¹ See FCC File No. BALH-20090617AAS.

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reference site, change its community of license from Pioche, Nevada, to Leeds, Utah, as that community's first local transmission service, and change its channel from Channel 269C2 to mutually exclusive Channel 268C1. This proposal is shortspaced under Section 73.207 towards one licensed facility – KPLD(FM) 266C Kanab, Utah. See the Channel 268C1 Leeds, Utah, allotment site channel study in Exhibit 1, attached.

KPLD(FM) Kanab, Utah

In order for Channel 268C1 at Leeds, Utah to be fully spaced pursuant to Section 73.207 at the proposed allotment reference site and antenna site, the Petitioner, in its 301 Application has requested that KPLD(FM)'s current channel of 266C be involuntarily replaced with Channel 286C at its currently licensed site. In turn, the KPLD(FM) involuntary channel substitution is shortspaced under Section 73.207 towards the unused Vacant Allotment at Milford, Utah, on Channel 285C. See the Channel 286C Kanab, Utah, allotment site channel study in Exhibit 2, attached.

VAC 285C Milford, Utah

In order to eliminate the shortspacing created by the substitution of Channel 286C for KPLD(FM), the channel specified for the Class C vacant allotment at Milford, Utah, must also be changed. Therefore, the Petitioner hereby submits the instant, contingently filed "hybrid" Petition for Rulemaking requesting that the Commission modify the FM Table of Allotments to substitute Channel 288C for the unused Vacant Allotment at Milford, Utah, replacing the current allotment of Channel 285C. This channel substitution can be adopted without change to the existing allotment reference coordinates. The Milford Vacant Allotment on Channel 285C has not been designated for auction. As such, in order to eliminate the conflict to the instant proposal, the

applicant may request the channel substitution. Attached hereto at Exhibit 3 is a channel study for the Vacant Allotment at Milford demonstrating that Channel 288C is fully spaced pursuant to Section 73.207 towards all other authorizations, proposals, and reserved uses. Since this channel substitution is occurring at the current allotment reference site, no change in potential service will occur.

Conclusion

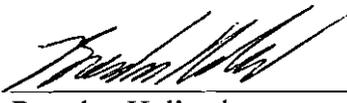
This proposal will result in a preferential arrangement of allotments under Section 307(b) of the Communications Act of 1934, as amended. 47 U.S.C. Section 307(b). A composite Section 307(b) exhibit describing how the instant “hybrid” application and rulemaking proposal furthers the Commission’s allotment priorities is included in the KCLS(FM) Form 301 application being filed contemporaneously herewith. To summarize that 307(b) showing here, by substituting Channel 288C for Channel 285C at Milford, Utah, a first local transmission service can be provided to the community of Leeds, Utah, under Priority Three of the Commission’s allotment priorities without creating white or gray area or depriving any community of its sole local transmission service.² In addition, a net increase of 126,746 persons in Utah will receive new reception service thereby positively impacting Priority Four of the allotment priorities. Consequently, the Petitioner respectfully requests that the Commission authorize the

² See *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982) (“FM Assignment Policies”). The four priorities are: (i) first full-time aural reception service to a community; (ii) a second full-time aural reception service to a community; (iii) first local transmission service to a community; and (iv) other public interest factors. The second and third criteria have equal priority. *Id.* at 91. See also *Revision of Procedures Governing Amendments to FM Table of Allotments and Changes of Community of License in the Radio Broadcast Services*, 21 FCC Red 14212, at ¶ 10 (2006) (Section 307(b) priorities and policies used by Commission since 1982 continue to apply under new application procedures).

aforementioned channel substitution at Milford, Utah. Approval of this hybrid rulemaking will serve the public interest and further the Commission's established allotment priorities.

Respectfully submitted,

CANYON MEDIA GROUP, LLC

By: 
Brendan Holland
Its Attorney

Davis Wright Tremaine LLP
1919 Pennsylvania Avenue, N.W.
Suite 200
Washington, D.C. 20006

Dated: October 15, 2009

Exhibit 1

KCLS(FM) 268C1 Leeds, UT

Channel Study

268C1 Leeds, UT
 Section 73.207 Channel Spacings Study

REFERENCE
 37 32 29.0 N.
 113 04 04.0 W.

CLASS = C1
 Current Spacings

DISPLAY DATES
 DATA 10-14-09
 SEARCH 10-15-09

----- Channel 268 - 101.5 MHz -----

Call	Channel	Location	Azi	Dist	FCC	Margin
KPLD	LIC 266C	Kanab	UT 143.9	33.75	104.5	-70.75
R10990	DEL 266C	Kanab	UT 143.9	33.75	104.5	-70.75
Of Concern: Applicant Requests an Involuntary Channel Substitution for KPLD(FM) of Channel 286C in place of Channel 266C at its currently licensed site.						
KCLS	LIC 269C2	Pioche	NV 287.0	138.84	157.5	-18.66
Of Note: Mutually exclusive current authorization for KCLS(FM).						
1209030	APP 268C1	Cameron	AZ 141.2	237.35	244.5	-7.15
1211764	RSV 268C1	Cameron	AZ 141.2	237.35	244.5	-7.15
Of No Concern: The proposal to add Channel 268C1 at Cameron, AZ, in MB Docket 07-164 was withdrawn on January 7, 2008, and the Report and Order in that docket granted the withdrawal on January 30, 2008.						
NEW	CP -D 215C1	Colorado city	AZ 170.2	39.42	33.5	5.92
R10990	ADD 271C	Monroe	UT 34.3	114.00	104.5	9.50
AU7912047	VAC 268C3	Peach Springs	AZ 189.0	222.25	210.5	11.75
AP4117	APP 268C3	Peach Springs	AZ 189.0	222.25	210.5	11.75
KQLP	CP -Z 268C1	Leupp	AZ 140.7	298.82	244.5	54.32

Exhibit 2

KPLD(FM) 286C Kanab, UT

Channel Study

KPLD(FM) 286C Kanab, UT
 Section 73.207 Channel Spacings Study

REFERENCE 37 17 45.0 N. CLASS = C DISPLAY DATES
 112 50 34.0 W. Current Spacings DATA 10-14-09
 Channel 286 - 105.1 MHz SEARCH 10-15-09

Call	Channel	Location		Azi	Dist	FCC	Margin
AL2519	VAC 285C	Milford	UT	344.2	141.30	240.5	-99.20
Of Concern: As part of this "Hybrid" filing, through a contemporaneously proposed Petition for Rulemaking, the Applicant requests Channel 285C be deleted at at Milford, UT, with Channel 288C.							
KOEZ-LP	LIC 286L1	St. George	UT	248.4	69.79	129.5	-59.71
Of Concern: The applicant requests that KOEZ-LP have its channel modified to Channel 266.							
KQRT	LIC 286C2	Las Vegas	NV	245.2	248.82	248.5	0.32
KAUU	LIC-N 286C	Manti	UT	21.5	294.98	289.5	5.48
R12341	DEL 286C2	Kachina Village	AZ	154.8	284.83	248.5	36.33
KFLX	LIC 286C2	Kachina Village	AZ	154.8	284.83	248.5	36.33
R12695	DEL 286C2	Kachina Village	AZ	154.8	284.83	248.5	36.33
R12731	ADD 287C2	williams	AZ	165.1	232.99	187.5	45.49
1266495	RSV 287C2	williams	AZ	165.1	232.99	187.5	45.49
1265795	APP 287C2	williams	AZ	165.1	232.99	187.5	45.49
KJUL	CP 284C0	Moapa Valley	NV	247.5	159.87	104.5	55.37
KJUL	LIC 284C1	Moapa valley	NV	245.8	163.51	104.5	59.01

Exhibit 3

VAC ALLO 288C Milford, UT

Channel Study

AL2519 288C Milford, UT
 Section 73.207 Channel Spacings Study

REFERENCE
 38 31 11.0 N.
 113 17 07.0 W.

CLASS = C
 Current Spacings
 Channel 288 - 105.5 MHz

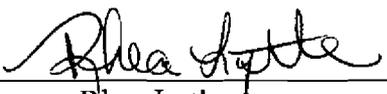
DISPLAY DATES
 DATA 10-14-09
 SEARCH 10-15-09

Call	Channel	Location		Azi	Dist	FCC	Margin
AL2519	VAC	285C	Milford	UT	0.0	0.00	104.5 -104.50
Of Note: Current Milford Allotment being instantly proposed for to be substituted by Channel 288C.							
KNRS-FM	LIC	289C	Centerville	UT	21.0	255.15	240.5 14.65
KHUN	CP	287C3	Huntington	UT	66.9	201.07	175.5 25.57
KPLD	LIC	286C	Kanab	UT	163.9	141.30	104.5 36.80
Of Note: Contemporaneously proposed Involuntary Channel Substitution of Channel 286C at Kanab for use by KPLD(FM).							
KDWY	APP	288C	Oakley	UT	36.1	326.70	289.5 37.20
AL2565	RSV	288C	Oakley	UT	36.1	326.70	289.5 37.20
KWBR-LP	LIC	289L1	St. George	UT	189.0	163.62	119.5 44.12
KCIN	LIC	235C1	Cedar City	UT	169.3	85.35	40.5 44.85
KCIN	CP -D	235C1	Cedar City	UT	184.5	97.36	40.5 56.86

CERTIFICATE OF SERVICE

I, Rhea Lytle, a Secretary in the law firm of Davis Wright Tremaine LLP, hereby certify that on this 15th day of October 2009, I caused a copy of the foregoing **“PETITION FOR RULEMAKING”** to be served by hand delivery, upon the following:

James D. Bradshaw*
Deputy Chief, Audio Division
Media Bureau
Federal Communications Commission
445 12th Street, S.W., Room 2-A262
Washington, D.C. 20554



Rhea Lytle

*Via Hand Delivery