

OCT 11 2012

FCC Mail Room

F. W. HANNEL & ASSOCIATES

Registered Professional Engineers

Internet
http://www.fwhannel.com
Email: fred@fwhannel.com

10733 East Butherus Drive
Scottsdale, AZ 85255
(480) 585-7475
(800) 868-6592

FAX
(815)-327-9559

October 10, 2012

Federal Communications Commission
Office of the Secretary
Attn: Marlene H. Dortch
445 Twelfth Street SW
Washington, DC 20554

Re: Petition for Rule Making
FM Channel 265A
Peach Springs, AZ

Dear Ms. Dortch,

Enclosed is a Petition for Rule Making filed by the Hualapai Tribe seeking the assignment of FM Channel 265A to the community of Peach Springs, Arizona with a Tribal Priority attached to the proposed assignment.

If there are any questions regarding the proposal, please contact the undersigned.

Very truly yours,



F. W. Hannel, PE

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

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MB Docket No. _____
Table of Allotments,)	RM- _____
FM Broadcast Stations.)	
(Peach Springs, Arizona))	

To: Office of the Secretary
Attention: Chief, Audio Division
Media Bureau

PETITION FOR RULEMAKING

The Hualapai Tribe, a recognized Native American entity, hereby petitions the Federal Communications Commission to initiate a Rulemaking Proceeding to amend Section 73.202(b) of the Commission's Rules, the FM Table of Allotments, to add the below channel to the Table of Allotments. The Hualapai Tribe requests that the allotted channel be assigned a Tribal Priority and that its pending application be processed in accordance with Section 73.3573 of the Commission's Rules.

City	Present	Proposed
Peach Springs, AZ	281C3	281C3, 265A

Simultaneously with the filing with this Petition For Rulemaking, The Hualapai Tribe has also filed a complete FCC Form 301 application seeking authorization to construct the newly assigned channel at Peach Springs, in accordance with the Commission's Rules.

The Hualapai Tribe is located in northern Arizona on a reservation covering 1,142 square miles. The reservation was established in 1883 by Presidential Executive order of Chester A. Arthur and the Tribe adopted the Hualapai Constitution in 1937. That Constitution forms the basis for The Hualapai Tribe government. The Tribe is governed by the Hualapai Tribal Council which has a chairperson, vice chairperson and seven other

council members all of whom are elected for 4 year terms on a staggered basis to ensure continuity of Tribal leadership. The Tribal Council members are elected by a majority vote of registered voters who have to be over the age of 18 years and enrolled tribal members. The Tribal Council has only legislative and executive authority and a separate judicial branch handles legal matters as is provided in its Constitution.

As is demonstrated in the attached Engineering Statement as Exhibit 1, the proposed assignment of FM Channel 265A to Peach Springs, Arizona at reference coordinates N35-33-17, W113-23-40.8, can be completed in full compliance with the Commission's Rules. This allocation reference site for FM Channel 265A meets the mileage separation requirements of Section 72.207 to all domestic licensed, proposed, or applied for facilities. In addition, at the reference coordinates, the community of Peach Springs, Arizona is completely within the City Grade Contour of the proposed facility.

Peach Springs, Arizona has been recognized as a community for FM Allotment purposes in prior Rulemaking proceedings. It has one commercial channel already assigned to it and this requested assignment of FM Channel 265A would be the first channel that is owned by a Tribal Entity, (The Hualapai Tribe), at Peach Springs, Arizona. There a numerous businesses located in Peach Springs, it is the headquarters of the Hualapai Tribe, it has its own zip code and Post Office as well as its own schools, Health Department and other Governmental entities. It clearly meets the standards as a community for FM Allotment purposes.

The community of Peach Springs, Arizona is headquarters for The Hualapai Tribe. The community has a 2010 population of 1,090 persons, 1,057 of whom are listed as Native Americans¹. The community has grown from a population of 600 persons in the 2000 census to the present 1,090 persons, a growth rate of 81.7% over the 10 year span. Clearly this is a growing community with a Native American population of considerable size.

This request to amend the FM Table of Allotments and a grant of Tribal Priority to The Hualapai Tribe would advance the Commission's goal of increasing broadcast

¹ Enrollment records maintained by the Tribe shows that there are currently 2,253 enrolled Tribal members and 1,276 of those members live in Peach Springs.

capacity on tribal lands and would result in a preferential arrangement of allotments under Section 307(b) of the Communications Act of 1934. It would bring a first local tribal owned transmission service to the Peach Springs, Arizona and no community would lose any present or proposed service should the Commission amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, to assign FM channel 265A to Peach Springs, Arizona with a Tribal Preference.

Conclusion

In view of the foregoing, The Hualapai Tribe requests that the Commission adopt the proposed assignment of FM Channel 265A at Peach Springs, Arizona with a Tribal Preference. Adoption of the proposal will serve the public interest and advance the Commission's tribal allotment priorities.

Should the Commission assign FM Channel 265A to Peach Springs, The Hualapai Tribe will prosecute its pending application and, if awarded the Construction Permit for the newly assigned facility, will promptly construct the station.

Respectfully submitted,
The Hualapai Tribe

By: 
F. W. Hannel, PE

F. W. Hannel & Associates
10733 East Butherus Drive
Scottsdale, AZ 85255
(480) 585-7475
Fax (815) 327-9559
<http://www.fwhannel.com>

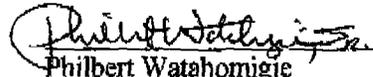
Dated: October 10, 2012

Certification

The undersigned, Philbert Watahomigie, Vice Chairman of the Hualapai Tribe, has read the Petition for Rulemaking seeking the allotment of FM Channel 265A to the community of Peach Springs, Arizona. The statements in this Petition for Rulemaking are true and correct to the best of my knowledge.

Dated this 10th day of October 2012.

Respectfully,



Philbert Watahomigie
Vice Chairman
Post Office Box 179
Peach Springs, AZ 86434
(928)769-2216

Exhibit 1

**Engineering Statement
Petition for Rulemaking**

**Peach Springs, Arizona
FM Channel 265A**

October 10, 2012

**Prepared by: F. W. Hannel, PE
10733 East Butherus
Scottsdale, AZ 85255
480-585-7475**

Engineering Statement

This firm has been retained by The Hualapai Tribe to prepare this Engineering Statement in support of its Petition for Rulemaking which seeks the Allotment of FM Channel 265A to the community of Peach Springs, Arizona as a Tribal Allotment.

Allotment

The requested assignment of FM Channel 265A at Peach Springs, Arizona can be made at allotment reference coordinates N35-33-17, W113-23-40.8. This allotment site is 5 miles northeast of Peach Springs, Arizona and a transmitter operating from this site provides city grade coverage to the entire community of Peach Springs. The allotment site for FM Channel 265A fully complies with the minimum mileage separation requirements of the Commission's Rules with respect to all existing or proposed facilities that have to be considered as is shown in Exhibit E-1.

International Coordination

The allotment site is located 337.5 kilometers from the US-Mexican Border and international coordination is not required for this proposed facility.

Tribal Allotment

In order to qualify a proposed allotment as a Tribal Allotment, the applicant must show that it is either a federally recognized Tribe or Tribal consortium, or an entity 51 percent or more of which is owned or controlled by a Tribe or Tribes. The Hualapai Tribe has been recognized by the Federal Government since at least 1883 when Chester A. Arthur created a 1,142 square mile reservation designated as the "Hualapai Indian Reservation". It is a member of the National Congress of American Indians, founded in 1944, and is the oldest, largest and most representative of the Native American Indian. In order to qualify for membership, the tribe must be a recognized by the Department of the Interior, Court of Claims Commission or a state. As a sovereign Indian Nation, the Tribe

is governed by an executive and judicial branch of government established under a constitution adopted in 1937.

As shown in Exhibit E-2, the proposed facility at Peach Springs, Arizona covers a total area of 816 sq. km within the 70 dbu contour. The tribal land coverage is 693 sq. km, or 84.9% of the total area and only 123 sq. km, or 15 % of the coverage area is outside the Reservation Boundary. For a Tribal Allotment, the city grade, (70 dbu), contour must provide Tribal Land coverage of at least 50% of the total coverage area. Under this proposal, 84.9% of the total city grade coverage is on Reservation Land, well in excess of the required 50% threshold.

The proposed community of license of a new allotment with Tribal Priority must be located on Tribal Land. The proposed community of license, Peach Springs, Arizona is wholly within the Reservation Boundary, as is shown in Exhibit E-2, and fully complies with the Tribal Land requirement for a new allocation with a Tribal Allotment designation.

The proposed allotment of FM Channel 265A at Peach Springs, Arizona would be the first local Tribal owned commercial transmission service for the Hualapai Tribe. The Tribe has no interest in any other broadcast service.

This proposal meets all of the requirements for a new allocation with a Tribal Priority. The Hualapai Tribe is a Federally recognized Tribe, the proposed service contains more than 50% of Tribal Land within the city grade, (70 dbu), contour, the community of Peach Springs is located on Tribal Land and the proposed service would be a first local Tribal owned transmission service. The requested amendment of the FM Table of Allotments to assign FM Channel 265A to Peach Springs, Arizona with a Tribal Priority fully complies with the Commission's Rules.

Conclusion

This Petition for Rulemaking seeking the allotment of FM Channel 265A to the Community of Peach Springs, Arizona as a Tribal Allotment fully complies with all of the Commission's Rules. It provides a first local tribal owned facility to the community within Tribal Lands in advancement of the Commission's goal of making aural services available to recognized Tribes to expand the aural services on Tribal Lands.

CERTIFICATION

This engineering statement has been prepared by the undersigned and is true and correct to the best of his knowledge and belief, and is submitted in good faith. My qualifications are a matter of record before the Commission.

The undersigned is aware that this document is being filed with the Federal Communications Commission in connection with a Petition for Rulemaking for Peach Springs, Arizona and hereby consents to its use for that purpose.

Dated this 10th day of October 2012.

Respectfully,



F. W. Hannel, PE

F. W. Hannel & Associates
10733 East Butherus Drive
Scottsdale, AZ 85255
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Fax (815) 327-9559
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**The Hualapai Tribe
Peach Springs, Arizona**

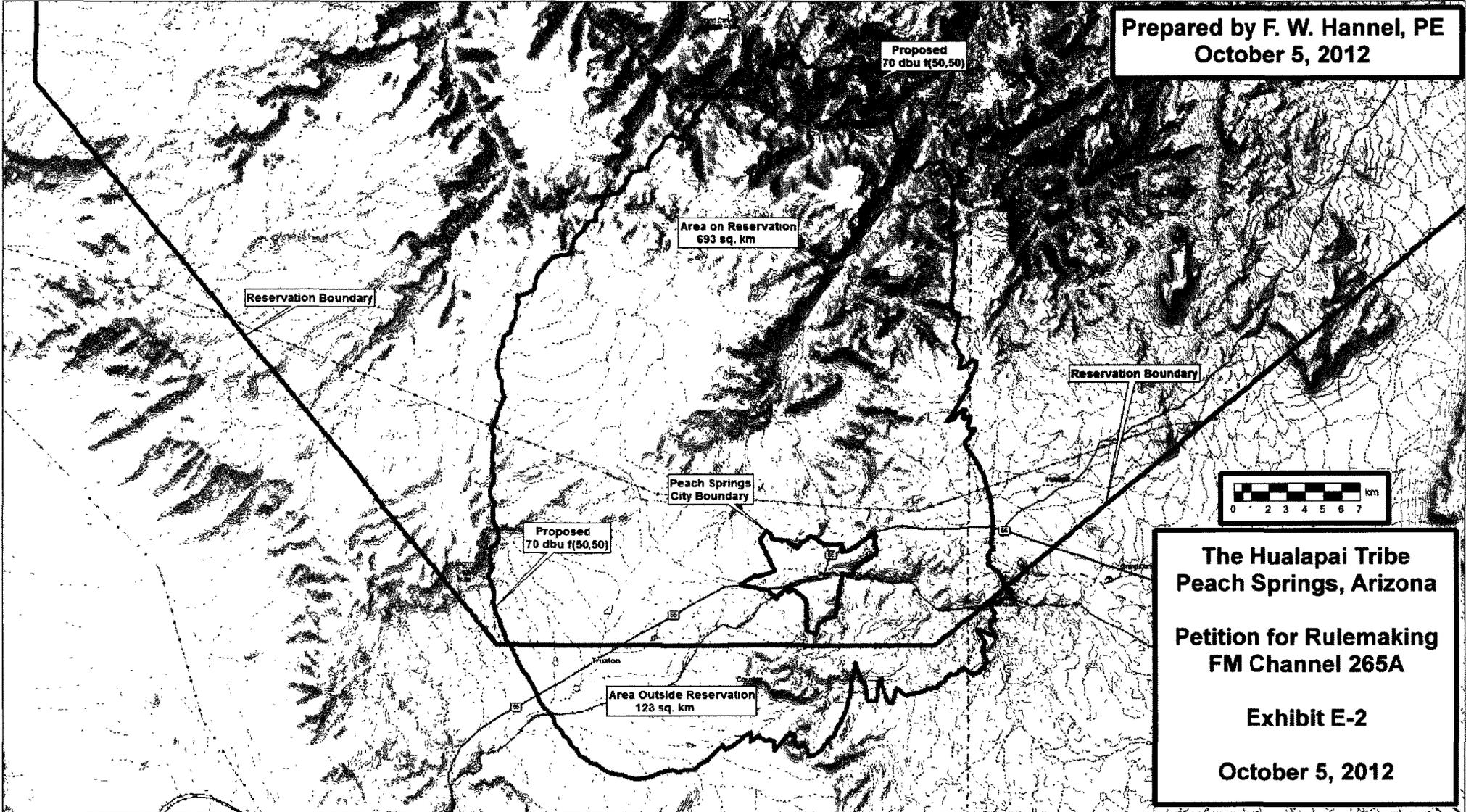
**Petition for Rulemaking
FM Channel 265A Study**

N35-33-17
W113-23-40.8

Exhibit E-1

Call Sign	State	City	Freq	Channel	Class	Status	Distance(km)	Sep(km)	Clearance(km)
	AZ	SPRING VALLEY	101.1	266	C	ADD	174.86	165	9.9
KNRJ	AZ	CORDES LAKES	101.1	266	C	LIC	175.24	165	10.2
	CA	ESSEX	100.9	265	B	ADD	191.62	178	13.6
KXMK	AZ	OATMAN	101.3	267	C2	USE	78.05	55	23
KRRK	AZ	DESERT HILLS	100.7	264	C3	LIC	133.02	89	44
KXMK	AZ	OATMAN	101.3	267	C2	CP	105.63	55	50.6
KRRK	AZ	DESERT HILLS	100.7	264	C3	CP	140.37	89	51.4
K212FP	AZ	SELIGMAN	90.3	212	D	LIC	53.19	0	53.2
KCLS	UT	LEEDS	101.5	268	C0	LIC	143.65	86	57.6
KXNT	NV	HENDERSON	100.5	263	C	USE	154.08	95	59.1
KXNT	NV	HENDERSON	100.5	263	C	LIC	154.1	95	59.1

Prepared by F. W. Hannel, PE
October 5, 2012



**The Hualapai Tribe
Peach Springs, Arizona**

**Petition for Rulemaking
FM Channel 265A**

Exhibit E-2

October 5, 2012

CERTIFICATE OF SERVICE

I, F. W. Hannel, principal of F. W. Hannel & Associates, hereby certify that on this 10th day of October 2012, I caused a true and complete copy of the foregoing "Petition for Rulemaking" to be served on the following persons:

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Geoffrey Blackwell
Chief, Office of Native Affairs and Policy Consumer & Governmental Affairs Bureau
Federal Communications Commission 445 12th Street, S.W.
Washington, DC 20554



F. W. Hannel
F. W. Hannel, PE