

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

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	MM Docket No. 00-6
Table of Allotments,	)	RM-9791
FM Broadcast Stations.	)	RM-9890
(McCook, Alliance, Imperial, Nebraska, and	)	
Limon, Parker, Aspen, Avon, and Westcliffe,	)	
Colorado) <sup>1</sup>	)	

**ORDER TO SHOW CAUSE**

**Adopted: November 8, 2000**

**Released: November 17, 2000**

Comment Date: January 8, 2001

Reply Comment Date: January 23, 2001

By the Chief, Allocations Branch:

1. At the request of McCook Radio Group, LLC ("petitioner"), the Commission has before it the Notice of Proposed Rule Making, 15 FCC Rcd 738 (2000), proposing the allotment of Channel 271C1 at McCook, Nebraska, as the community's fifth local FM service. Petitioner filed comments reiterating its intention to apply for the channel, if allotted. Comments and counterproposal were also filed by The Meadowlark Group, Inc. ("Meadowlark").<sup>2</sup> Before we can proceed with Meadowlark's counterproposal, it is necessary to issue an Order to Show Cause to Halstead Communications ("Halstead"), licensee of Station KPNY, Channel 263C1, Alliance, Nebraska, and Imperial Media Association ("Imperial Media"), permittee of a new station on Channel 275C, Imperial, Nebraska.

2. In its counterproposal, Meadowlark, permittee of Station KAVD(FM), Limon, Colorado, requests the substitution of Channel 276C for Channel 276C1, its reallocation to Parker, Colorado, as its first local aural service, and the modification of Station KAVD's construction permit accordingly. To accommodate Station KAVD's upgrade and change of community, Meadowlark also requests the substitution of: (1) Channel 276C3 for Channel 249C3 at Aspen, Colorado, and the modification of Station KSPN's license to specify the alternate channel; (2) Channel 249C2 for Channel 276C2 at Avon, Colorado, and the modification of Station KZYR's license to specify the alternate channel at a new transmitter site; (3) Channel 227A for vacant and unapplied-for Channel 276A at Westcliffe, Colorado; (4) Channel 263C1 for Channel 271C1 at Alliance, Nebraska, and the modification of Station

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<sup>1</sup> The communities of Alliance and Imperial, Nebraska, and Limon, Parker, Aspen, Avon and Westcliffe, Colorado, have been added to the caption.

<sup>2</sup> Public Notice of the filing of the counterproposal was given on June 6, 2000, Report No. 2415.

KPNY's license to specify the alternate channel; and (5) Channel 271C for Channel 275C at Imperial, Nebraska, and the modification of Imperial Media Association's construction permit (BPH-19970924ML) to specify the alternate channel. Alternatively, should the Commission deny the change of community from Limon to Parker, Meadowlark requests the substitution of Channel 276C for Channel 276C1 at Limon and the modification of Station KAVD's permit accordingly. All of the channel changes detailed above are also required if Channel 276C is allotted to Limon. The McCook Channel 271C1 and Imperial Channel 271C proposals are mutually exclusive because the two communities are located only 106 kilometers apart while the Commission's Rules specify a minimum distance separation of 270 kilometers for co-channel Class C and C1 channels. However, Meadowlark states that the two proposals need not be comparatively considered since Channel 275C1 instead of the proposed Channel 271C1 can be allotted to McCook.

3. Whenever an existing licensee or permittee is ordered to change frequency to accommodate a new channel allotment, Commission policy requires the benefitting party, or parties, to reimburse the affected station for costs incurred. See Circleville, Ohio, 8 FCC 2d 159 (1967). Meadowlark has stated its willingness to reimburse all affected licensees and permittees. In addition, we find that Meadowlark's proposal complies with the Commission's policy of not considering proposals where more than two channel substitutions involving authorized stations are required because Meadowlark has provided agreements with all but two authorized stations stating their agreement to the modification of their licenses as proposed herein. See, Columbus, Nebraska, 59 RR 2d 1185 (1986).

4. Channel 275C1 can be allotted to McCook, Nebraska, in compliance with the Commission's minimum distance separation requirements with a site restriction of 19.6 kilometers (12.2 miles) west, to avoid a short-spacing to Station KKQY, Channel 270C1, Hill City, Kansas, and the pending application of Station KRNK, Channel 272C1, Kearney, Nebraska.<sup>3</sup> Channel 271C can be allotted to Imperial, Nebraska, at the site specified in Imperial Media's construction permit (BPH-19970924ML).<sup>4</sup> Channel 263C1 can be allotted to Alliance, Nebraska, at Station KPNY's presently licensed transmitter site.<sup>5</sup> Channel 276C can be allotted to Parker with a site restriction of 63.4 kilometers (39.4 miles) east to accommodate Meadowlark's desired transmitter site.<sup>6</sup> Alternatively, Channel 276C can be allotted to Limon, Colorado, with a site restriction of 33.3 kilometers (20.7 miles) northwest, to accommodate petitioner's desired transmitter site.<sup>7</sup> Channel 249C2 can be allotted to Avon, Colorado, with a site restriction of 5.3 kilometers (3.3 miles) east.<sup>8</sup>

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<sup>3</sup> The coordinates for Channel 275C1 at McCook are 40-12-00 NL; 100-51-25.

<sup>4</sup> The coordinates for Channel 271C at Imperial are 40-45-31 NL; 101-54-32 WL.

<sup>5</sup> The coordinates for Channel 263C1 at Alliance are 42-07-01 NL; 103-07-09.

<sup>6</sup> The coordinates for Channel 276C at Parker are 39-26-08 NL; 104-02-05 WL.

<sup>7</sup> The coordinates for Channel 276C at Limon are 39-25-27 NL; 104-00-38 WL.

<sup>8</sup> The coordinates for Channel 249C2 at Avon are 39-37-52 NL; 106-27-42 WL.

Channel 276C3 can be allotted to Aspen, Colorado, at Station KSPN-FM's licensed transmitter site.<sup>9</sup> Channel 227A can be allotted to Westcliffe, Colorado, at the same coordinates for presently allotted Channel 276A.<sup>10</sup>

5. Accordingly, IT IS ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, Halstead Communications, licensee of Station KPNY, Channel 263C1, Alliance, Nebraska, and Imperial Media Association, permittee of a new station (BPH-19970924ML) on Channel 275C, Imperial, Nebraska, SHALL SHOW CAUSE why its license/permit SHOULD NOT BE MODIFIED to specify operation on Channel 263C1 and 271C, respectively.

6. Pursuant to Section 1.87 of the Commission's Rules, Halstead Communications and/or Imperial Media Association may, not later than January 8, 2001, file a written statement showing with particularity why its license/permit should not be modified as proposed in the Order to Show Cause. The Commission may call on Halstead Communications and/or Imperial Media Association to furnish additional information. If Halstead Communications and/or Imperial Media Association raises a substantial and material question of fact, a hearing may be required to resolve such a question pursuant to Section 1.87. Upon review of the statements and/or additional information furnished, the Commission may grant the modification, deny the modification, or set the matter of modification for hearing. If no written statement is filed by the date referred to above, Halstead Communications and/or Imperial Media Association will be deemed to have consented to the modification as proposed in the Order to Show Cause and a final Order will be issued by the Commission, if the above-mentioned channel modification is ultimately found to be in the public interest.

7. IT IS FURTHER ORDERED, That the Secretary SHALL SEND, by Certified Mail, Return Receipt Requested, a copy of the Request for Supplemental Information and Orders to Show Cause to the following:

Imperial Media Association  
HC30 Box 157  
McCook, NE 69001  
(Permittee for Ch. 275C, Imperial, NE)

Halstead Communications, Inc.  
P.O. Box 1153  
Scottsbluff, NE 69361  
(Licensee of Station KPNY, Alliance, NE)

8. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 418-2180. For purposes of this restricted notice and comment rule making proceeding, members of the public are advised that no ex parte presentations are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the proceeding has been decided and such decision is no longer subject to reconsideration by the Commission or review by

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<sup>9</sup> The coordinates for Channel 276C3 at Aspen are 39-13-33 NL; 106-50-00 WL.

<sup>10</sup> The coordinates for Channel 227A at Westcliffe are 38-04-28 NL; 105-32-13 WL.

any court. An ex parte presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or a summary of any new oral information shall be served by the person making the presentation upon the other parties to the proceeding unless the Commission specifically waives this service requirement. Any comment which has not been served on the petitioner constitutes an ex parte presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an ex parte presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau