

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

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MM Docket No. 01-133
Table of Allotments,)	RM-10143
FM Broadcast Stations.)	RM-10150
(Mason, Texas))	

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: June 5, 2002**Released: June 14, 2002**

By the Assistant Chief, Audio Division:

1. In response to petitions filed by two separate parties, the Commission has before it for consideration the Notice of Proposed Rule Making, 16 FCC Rcd 12694 (2001), seeking the allotment of FM channels at Mason, Texas. Charles Crawford ("Crawford") requested the allotment of Channel 249C3 at Mason while Katherine Pyeatt ("Pyeatt") requested the allotment of Channel 269C3 at Mason. Crawford and Pyeatt filed supporting comments, reaffirming interest in the allotment of Channels 269C3 and 249C3 at Mason.¹ First Broadcasting Company, L.P., Next Media Licensing, Inc., Rawhide Radio, L.L.C., Capstar TX Limited Partnership, and Clear Channel Broadcasting Licenses, Inc. ("Joint Parties") filed comments. Crawford filed reply comments.

2. The Joint Parties' interest in this proceeding stems from the counterproposal they filed in MM Docket No. 00-148. See 15 FCC Rcd 15809 (2000). Joint Parties state that one of the proposals in their counterproposal was the allotment of Channel 249C1 at Converse, Texas, as a first local service which is short spaced to the allotment of Channel 249C3 at Mason, Texas. Joint Parties indicate that the Commission may have failed to identify this short spacing between Mason and Converse due to a lapse in the data base but that on August 3, 2001, the Commission issued a Public Notice, Report No. 2500, announcing acceptance of the proposal for Converse, Texas, in MM Docket No. 00-148. Joint Parties have no objection to the allotment of Channel 269C3 at Mason as its sixth local service but request that the proposal requesting the allotment of Channel 249C3 at Mason be dismissed.

3. In reply comments, Crawford argues that Joint Parties are incorrect in their assertion that the proposed allotment of Channel 249C3 at Mason should be dismissed. Crawford points out that at the time the Mason proposal was submitted, the Converse proposal had not been entered into the Commission's data base, denying notice of its pendency to the public. Crawford contends that the Joint Parties appear to be taking the position that their counterproposal precludes other allotments that conflict with the counterproposal even though it was not entered into the Commission's data base.

¹ The Notice requested that Crawford and Pyeatt submit a subscription and verification statement in compliance with Section 1.52 of the Commission's Rules. Crawford and Pyeatt have responded with the requested statements.

4. We believe that the public interest would be served by the allotment of Channel 269C3 at Mason, Texas, as it will provide the community with additional local broadcast service. A staff engineering analysis indicates that Channel 269C3 can be allotted to Mason in compliance with the Commission's spacing requirements with a site restriction 5.7 kilometers (3.6 miles) east of the community.² Although Mexican concurrence has been requested for the allotment of Channel 269C3 at Mason, notification has not been received. Therefore, operation with the facilities specified for Mason 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 or if specifically objected to by Mexico. We shall dismiss Crawford's proposal for the allotment of Channel 249C3 at Mason due to the short spacing with a proposal to allot Channel 249C1 at Converse, Texas, in MM Docket No. 00-148. Although not in the FCC data base at the time Crawford filed his proposal for Mason on May 25, 2001, the proposal for Converse, timely filed on October 10, 2000, is entitled to protection from competing proposals. See Pinewood, South Carolina, 5 FCC Rcd 7609 (1980). Crawford's proposal for Channel 249C3 at Mason would have been considered in MM Docket 00-148 if it had been timely filed in that proceeding.³

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective July 29, 2002, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the community listed below, as follows:

Community	Channel Number
Mason, Texas	224A, 239C2, 269C3, 273C2, 281C2, 289C2

6. A filing window for Channel 269C3 at Mason, 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.

7. IT IS FURTHER ORDERED, That the proposal filed by Charles Crawford to allot Channel 249C3 at Mason, Texas IS DISMISSED.

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

² The coordinates for Channel 269C3 at Mason are 30-45-00 and 99-10-14.

³ In the Report and Order in MM Docket No. 99-257, 15 FCC Rcd 9179 (2000), the Commission substituted Channel 281C2 for vacant Channel 249C2 at Mason, Texas.

9. For further information concerning this proceeding, contact Kathleen Scheuerle, Media Bureau, (202) 418-2180. Questions related to the application filing process for Channel 269C3 at Mason, Texas, should be addressed to the Audio Division, Media Bureau, (202) 418-2700.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief, Audio Division
Office of Broadcast License Policy
Media Bureau