

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

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MB Docket No. 02-186
Table of Allotments,)	RM-10494
FM Broadcast Stations.)	
(Los Banos and Planada, California))	

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: April 2, 2003**Released: April 4, 2003**

By the Assistant Chief, Audio Division:

1. In response to a petition filed by Buckley Communications, Inc. ("Petitioner"), licensee of FM Station KHTN, Channel 284B, Los Banos, California, the Audio Division issued a *Notice of Proposed Rulemaking* proposing the reallocation of Channel 284B from Los Banos to Planada, California and the modification of Station KHTN's license accordingly.¹ Petitioner's request was filed pursuant to the provisions of Section 1.420(i) of the Commission's Rules, which permits the modification of a station's authorization to specify a new community of license without affording other interested parties the opportunity to file competing expressions of interest in the proposed allotment.² Petitioner filed comments supporting the reallocation of Channel 284B at Planada, California. No other comments were received in response to the *Notice*.

2. The 2000 United States Census lists Planada as a Census Designated Place with a population of 4,369 persons. Petitioner states that Planada has several health care facilities, a community center, public recreational facilities, and two primary and secondary level schools. Petitioner states that 78 businesses are located in Planada, and that a Community Plan for further development has been commissioned and is in progress. Petitioner has supplied sufficient information to establish that Planada qualifies as a "community" for allotment purposes.

3. Neither Los Banos nor Planada is located in an urbanized area, and either allotment would provide city grade coverage over more than 50 percent of the same urbanized area. Both the present Los Banos Channel 284B allotment and the proposed Planada Channel 284B allotment provide 70 dBu coverage to 100

¹ 17 FCC Rcd 13,405 (2002).

² See *Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989), *recon. granted in part*, 5 FCC Rcd 7094 (1990).

percent of the Merced, California Urbanized Area. Under the circumstances presented in this proceeding, no *Tuck* analysis is necessary to demonstrate Planada's independence from Merced.³

4. Because petitioner does not propose to relocate the transmitter site of Station KHTN-FM, no white or gray areas would result (priorities one and two under the Commission's allotment priorities).⁴ If Channel 284B is reallocated to Planada, Los Banos will continue to receive local transmission service from Stations KQLB-FM, Channel 295A, and KLBS-AM. Retention of Channel 284B at Los Banos thus would constitute only a priority level four, while allotment of Channel 284B as a first local service at Planada satisfies the standard for priority level three. Reallocation of Channel 284B at Planada therefore would result in a preferential arrangement of allotments. For all of the foregoing reasons, we conclude that the public interest would be served by reallocating Channel 284B at Planada, California.

5. Channel 284B can be allotted to Planada in compliance with the minimum distance separation requirements of the Commission's Rules at the current site for the allotment at Los Banos. That location has a site restriction of 22.2 kilometers (13.8 miles) southwest of Planada at coordinates 37-11-29 NL and 120-32-03 WL. The proposed 60 dBu contour at Planada will provide service to 315,542 persons in an area of 8,560 square kilometers.

6. 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), 0.283, and 1.420(i) of the Commission's Rules, IT IS ORDERED, That effective May 19, 2003, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the communities listed below, as follows:

Community	Channel Number
Los Banos, California	295A
Planada, California	284B

7. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Buckley Communications, Inc., for Station KHTN-FM, IS MODIFIED to specify operation on Channel 284B at Planada, California, subject to the following conditions:

(a) Nothing contained herein shall be construed as authorizing any change in license BLH1980506AG, except the change specified above. Any other changes, except for those so specified under Section 73.1690 of the Rules, require prior authorization pursuant to an application for construction permit (FCC Form 301).

³ See *Headland, Alabama and Chattahoochee, Florida*, 10 FCC Rcd 10352 (1995), and *Faye and Richard Tuck*, 3 FCC Rcd 5374 (1988).

⁴ *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982), recon. denied, 56 RR 2d 448 (1983).

(b) Program tests may be conducted in accordance with the provisions of Section 73.1620 of the Rules, PROVIDED the transmission facilities comply in all respects with license BLH1980506AG, except for the community as specified above, and a license application (FCC Form 302) is filed within 10 days of commencement of program tests.

(c) Pursuant to Commission Rule Section 1.1104(1)(k) and (3)(m), any party seeking a change in community of license of a TV or FM allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Petitioner, licensee of Station KHTN-FM, is required to submit a rule making fee in addition to the fee required for the applications to effectuate the change in community of license at Planada, California.

8. IT IS FURTHER ORDERED, That the Secretary of the Commission shall send by Certified Mail Return Receipt Requested, a copy of this Order to the following:

Martin R. Leader
David D. Oxenford
Colette M. Capretz
Shaw Pittman
2300 N Street, N.W.
Washington, D.C. 20037-1128
(Counsel for Petitioner)

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

10. For further information concerning this proceeding, contact Deborah Dupont, Media Bureau, (202) 418-7072.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief, Audio Division
Media Bureau