

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

In the Matter of)	
)	
Amendment of Section 73.202(b))	MB Docket No. 03-27
Table of Allotments,)	RM-10631
FM Broadcast Stations.)	
(Cotulla and Dilley, Texas))	

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: April 28, 2003

Released: April 30, 2003

By the Assistant Chief, Audio Division:

1. The Audio Division has before it a *Notice of Proposed Rule Making* (“*Notice*”)¹ filed by IH-35 South Broadcasters (“*Petitioner*”), proposing the allotment of Channel 264A to Cotulla, Texas, as a third local FM service. In order to accommodate this allotment, the *Petitioner* also requested the substitution of Channel 229A for vacant Channel 264A at Dilley, Texas.² *Petitioner* filed comments reaffirming its intention to apply for Channel 264A if it is allotted to Cotulla, as requested. No counterproposals or additional comments were received in response to this proceeding.

2. As discussed in the *Notice*, Cotulla is an incorporated community with a 2000 U.S. Census population of 3,614 persons located in southeast Texas between San Antonio and Laredo on Interstate Highway 35. Cotulla has its own museum, school district, chamber of commerce, convention center, city and county government offices and services. It has libraries, churches, banks and numerous retail and service businesses.

3. In view of the interest expressed in providing a third local FM service to Cotulla, Texas, we will allot Channel 264A to that community, as requested since this allotment will not deprive the community of Dilley with a second local service and is in the public interest. Therefore, in order to accommodate the allotment at Cotulla, we will substitute Channel 229A for vacant Channel 264A at Dilley, Texas.³

4. As stated in the *Notice*, Channel 264A can be allotted to Cotulla, Texas, consistent with the minimum distance separation requirement of the Commission’s Rules at city reference coordinates.⁴ Although concurrence has been requested for Channel 264A at Cotulla, notification has not been received.

¹ *Cotulla and Dilley, Texas*, 18 FCC Rcd 1023 (MB 2003)

² Channel 264A was allotted to Dilley, Texas, in MM 01-200 at the request of Jeraldine Anderson. The *Report and Order* allotting Channel 264A at Dilley stated that a filing window for applications would not be opened at this time but the issue of opening a window would be addressed by the Commission in a subsequent order. See *Public Notice* released February 25, 1994, *FCC Freezes Comparative Proceedings*, 9 FCC Rcd 1055 (1994)

³ As indicated in the *Notice*, *Petitioner* received a statement from Jeraldine Anderson in support of the substitution of Channel 229A for vacant Channel 264A at Dilley, Texas.

⁴ The reference coordinates for Channel 264A at Cotulla are 28-26-12 North Latitude and 99-14-05 West Longitude.

If a construction permit is granted prior to the receipt of formal concurrence in the allotment by the Mexican government, the construction permit will include the following condition: "Operation with the facilities specified for Cotulla 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.". Moreover, Channel 229A can also be allotted to Dilley, Texas, consistent with the minimum distance separation requirements of the Commission's Rules, provided there is a site restriction 6.3 kilometers (3.9 miles) south of the community.⁵ While concurrence has been requested for Channel 229A at Dilley, notification has not been received. If a construction permit is granted prior to the receipt of formal concurrence in the allotment by the Mexican government, the construction permit will include the following condition: "Operation with the facilities specified for Dilley 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."

5. Accordingly, pursuant to the authority found 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 **June 16, 2003**, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the communities listed below, to read as follows:

<u>Community</u>	<u>Channel Number</u>
Cotulla, Texas	242A, 264A, 289A
Dilley, Texas	229A, 255C1

6. The window period for filing applications for Channel 264A at Cotulla, Texas and Channel 229A at Dilley will not be opened at this time. Instead, the issue of opening these allotments for auction will be addressed by the Commission in a subsequent order.

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

8. For further information concerning this proceeding, contact Rolanda F. Smith, Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief, Audio Division
Media Bureau

⁵ The reference coordinates for Channel 229A at Dilley are 28-36-56 North Latitude and 99-10-48 West Longitude.