

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

In the Matter of)	
)	
Amendment of Section 73.202(b),)	
Table of Allotments,)	MB Docket No. 03-141
FM Broadcast Stations.)	RM-10703
(Sierra Vista and Corona de Tucson,)	
Arizona))	

REPORT AND ORDER

Adopted: June 23, 2004

Released: June 25, 2004

By the Assistant Chief, Audio Division:

1. The Audio Division has before it the *Notice of Proposed Rule Making* in this proceeding.¹ The Christian Country Network (“Christian Country”) filed Comment and Counterproposal. Cochise Broadcasting, LLC (“Cochise Broadcasting”) filed Comments and Reply Comments. For the reasons discussed below, we are modifying the license of Station KKYZ to specify operation on Channel 267C3 at Corona de Tucson.

Background

2. At the request of Cochise Broadcasting, licensee of Station KKYZ, Channel 269A, Sierra Vista, Arizona, the *Notice* in this proceeding proposed the substitution of Channel 267C3 for Channel 269A at Sierra Vista, reallocation of Channel 267C3 to Corona de Tucson, Arizona, and modification of the Station KKYZ license to specify operation on Channel 267C3 at Corona de Tucson.² This proposal was filed pursuant to Section 1.420(i) of the Commission’s rules which permits the modification of a station authorization to specify a new community of license without affording other interested parties to file competing expressions of interest where the existing and proposed allotments are mutually exclusive.³ In considering a reallocation proposal, we compare the existing versus the proposed allotment to determine whether the reallocation will result in a preferential arrangement of allotments. This determination is based upon the FM allotment priorities.⁴

¹ *Sierra Vista and Corona de Tucson, Arizona*, 18 FCC Rcd 12686 (MB 2003).

² On August 5, 2002, we granted a one-step application to upgrade the Station KKYZ license to specify operation on Channel 269C2 (File No. BPH-20001023AEO). Accordingly, we are considering this proposal in the context of substituting Channel 267C3 for Channel 269C2 at Sierra Vista.

³ See *Modification of FM and TV Authorizations to Specify a New Community of License (“Community of License”)*, 4 FCC Rcd 4870 (1989), *recon. granted in part*, 5 FCC Rcd 7094 (1990).

⁴ The FM allotment priorities are: (1) First fulltime aural service, (2) Second fulltime aural service, (3) First local service, and (4) Other public interest matters. Co-equal weight is given to priorities (2) and (3).

3. In response to the *Notice*, Christian Country filed a Comment and Counterproposal. In its Counterproposal, Christian Country proposes that Channel 269A remain in Sierra Vista and that Channel 267C3 be allotted to Corona de Tucson as a new allotment and reserved for noncommercial educational (“NCE”) use.

4. We are dismissing the Christian Country Counterproposal for three reasons. First, the Christian Broadcasting was not represented by counsel and did not verify this Counterproposal as required by Section 1.52 of the rules.⁵ Second, the Christian Broadcasting Counterproposal did not submit an engineering exhibit demonstrating that its Counterproposal would be in compliance with Commission technical requirements.⁶ Even if we were to assume that Christian Broadcasting intended to propose the same coordinates proposed by Cochise Broadcasting, its Counterproposal for a Channel 267C3 allotment at Corona de Tucson would be in contravention of Section 73.208(a)(1) of the rules because it is short-spaced to the Station KKYZ authorization on Channel 269A. Third, there is no basis to reserve a Channel 267C3 allotment at Corona de Tucson for NCE use because Christian Broadcasting did not demonstrate that use of the reserved band is technically precluded or that the proposed facility would provide either a first or second NCE service to 10 per cent of the population within the proposed 1 mV/m contour.⁷

5. We are substituting Channel 267C3 for Channel 269C2 at Sierra Vista, Arizona, reallocating Channel 267C3 to Corona de Tucson, Arizona, and are modifying the Station KKYZ license to specify operation on Channel 267C3 at Corona de Tucson.⁸ This will result in a preferential arrangements of allotments by providing Corona de Tucson with a first local service while Sierra Vista will continue to receive local service from three stations. This will also permit Station KKYZ to provide additional service to over 400,00 persons. Corona de Tucson is a census Designated Place with a population of 813 persons according to the 2000 U.S. Census. It is not located in any Urbanized Area and will not provide a 70 dBu signal to more than 50% of any Urbanized Area.

6. The Channel 267C3 allotment at Corona de Tucson is short-spaced to two Mexican allotments. For this reason, this allotment will be limited to 2.6 kilowatts, effective radiated power, at 42 meters, height above average terrain, or equivalent along the 236.2° azimuth to protect the Channel 266B allotment at Sasabe, Sonora, Mexico, and 1.2 kilowatts, effective radiated power, at 32 meters, height above average terrain, or equivalent along the 123.7° azimuth to protect the Channel 267B allotment at Agua Prieta, Sonora, Mexico. This allotment is conditioned as follows:

“This allotment and its use are subject to immediate modification, suspension, or termination without right to hearing, if specifically objected to by the Secretaria de Comunicaciones Y Transportes (SCT) in Mexico or if the found by the Commission or the SCT to be necessary in order to conform to the 1992 USA-Mexico FM Broadcasting Agreement. This condition will be removed if formal approval for the allotment is received from the SCT”

⁵ See *Lincoln, Osage Beach, Steelville and Warsaw, Missouri*, 17 FCC Rcd 6119 (2002); see also *Lancaster, Groveton and Milan, New Hampshire*, 15 FCC Rcd 5620 (MMB 2000).

⁶ See *Big Spring, Sterling City and Coahoma, Texas*, 7 FCC Rcd 4834 (MMB 1992); *Liberty, New York*, 8 FCC Rcd 4085 (MMB 1993).

⁷ See *Reexamination of the Comparative Standards for Noncommercial Educational Applicants*, 18 FCC Rcd 6691 (2003).

⁸ The reference coordinates for the Channel 267C3 allotment at Corona de Tucson, Arizona, are 31-57-24 and 110-41-38.

7. Accordingly, pursuant to 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 August 9, 2004, 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 No.</u>
Sierra Vista, Arizona	265A
Corona de Tucson, Arizona	267C3

8. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Cochise Broadcasting, LLC for Station KKYZ, Channel 269A, Sierra Vista, Arizona, IS MODIFIED to specify operation on Channel 267C3 Corona de Tucson, Arizona, subject to the following conditions:

- (a) Within 90 days of the effective date of this Order the licensee shall submit to the Commission a minor change application for construction permit (FCC Form 301), specifying the new facility;
- (b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620 of the Commission's rules, unless the proposed facilities are categorically excluded from environmental processing ;
- (c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

9. Pursuant to Sections 1.1104(1)(k) and (3)(m) of the Commission's rules, any party seeking a change of community of license of an FM or television allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rulemaking fee when filing the application to implement the change in community license and/or upgrade. As a result of this proceeding, Cochise Broadcasting, LLC is required to submit a rulemaking fee in addition to the fee required for the application to effect the change of community of license and upgrade.

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

11. For further information concerning this proceeding, contact Robert Hayne, Media Bureau, (202) 418-2177.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief, Audio Division
Media Bureau