

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

In the Matter of)	
)	
Amendment of Section 73.202(b))	MB Docket No. 04-220
Table of Allotments,)	RM-10861
FM Broadcast Stations.)	
(Clayton and Raton, New Mexico))	
)	

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: December 1, 2004

Released: December 3, 2004

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division considers herein the *Notice of Proposed Rule Making* (“Notice”)¹, issued at the request of Clayton Community Broadcasters (“Petitioner”), requesting the allotment of Channel 248C1 at Clayton, New Mexico, as its second FM commercial aural broadcast service.² To accommodate Channel 248C1 at Clayton, Petitioner requests the deletion of vacant Channel 248C1 at Raton, New Mexico. Petitioner filed comments. No counterproposals or additional comments were received in response to this proceeding.

2. The *Notice* proposed the allotment of Channel 248C1 at Clayton, as its second FM commercial aural broadcast service.³ To accommodate the proposed Clayton allotment, the *Notice* proposed the deletion of Channel 248C1 at Raton, New Mexico.⁴ Petitioner filed comments stating that it would file the necessary application to implement the proposed Raton allotment, if allotted. No comments were received expressing an interest in vacant Channel 248C1 at Raton during the comment cycle.

3. Accordingly, we are allotting Channel 248C1 to Clayton, as its second FM commercial aural broadcast service. To accommodate the Clayton allotment, we are deleting Channel 248C1 at Raton because no interest was expressed in this allotment. In a related content, we dismissed a counterproposal in MB Docket No. 03-57 which, *inter alia*, proposed a substitution of channel 248C1 at Raton.⁵ Channel 248C1 can be allotted to Clayton in compliance with the Commission’s spacing requirements without a site restriction at coordinates 36-27-00 NL and 103-10-54 WL.

¹ *Clayton, New Mexico*, 19 FCC Rcd 10198 (MB 2004).

² Channel 228A is assigned to Clayton.

³ Clayton is the County Seat of Union County, New Mexico and is listed in the 2000 U.S. Census with a population of 2,524 persons. Clayton has its own post office, fire and police departments, local school system, Tourist Information Center and numerous organizations such as the American Legion and Boy Scouts and Girl Scouts. The community has a weekly newspaper, *The Union County Leader*, two banks, several restaurants and a hospital.

⁴ N³Joy Broadcasting filed an application for Channel 248C1 at Raton and was granted a construction permit for Channel 248C1. That application has been dismissed by letter on June 10, 2003 and the call sign KGOY at Raton, New Mexico was deleted. See BMPH-20011217AAI.

⁵ An Application for Review directed against that action is pending. In view of our action in this proceeding deleting Channel 248C, it will not be an impediment on the aspects of the Application for Review.

4. The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the General Accounting Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

5. Accordingly, pursuant to the authority found in 47 U.S.C. Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) and 47 C.F.R. Sections 0.61, 0.204(b) and 0.283, IT IS ORDERED, That effective January 18, 2005, the FM Table of Allotments, 47 C.F.R. Section 73.202(b), IS AMENDED, with respect to the community listed below, to read as follows:

<u>Community</u>	<u>Channel No.</u>
Clayton, New Mexico	228A, 248C1
Raton, New Mexico	230C1, 243A

6. The window period for filing applications for Channel 248C1 at Clayton, New Mexico 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 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