

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

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MB Docket No. 05-125
Table of Allotments,)	RM-11176
FM Broadcast Stations.)	
(Weaverville, Palo Cedro, and Alturas, California))	

**REPORT AND ORDER
 (Proceeding Terminated)**

Adopted: May 10, 2006

Released: May 12, 2006

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division of the Media Bureau has before it for consideration the *Notice of Proposed Rule Making*¹ proposing changes in the FM Table of Allotments, 47 C.F.R. § 73.202(b). In response to a petition filed by George S. Flinn, Jr. (“Flinn”), licensee of Station KWCA(FM), Channel 266A, Weaverville, California, the *Notice* proposes to change the community of license for Station KWCA(FM) from Weaverville to Palo Cedro, California, and to upgrade to Channel 266C3. Flinn’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. In order to accommodate that change of community, Flinn further proposes to downgrade vacant Channel 267C to Channel 268C1 at Alturas, California. Flinn represents that if his request is granted, he will file an application to modify the facilities of Station KWCA(FM) to specify operation on Channel 266C3 at Palo Cedro, California, and will file the necessary applications and take all necessary actions to construct the facilities for Station KWCA(FM), Channel 266C3, Palo Cedro, California. Flinn filed comments supporting the changes proposed in the *Notice*. No other comments were received.

2. In determining whether to approve a change of community, we compare the existing versus the proposed arrangement of allotments using the FM allotment priorities set forth in *Revision of FM Assignment Policies and Procedures*.² Retention of Channel 266A at Weaverville would satisfy only the fourth allotment priority, “other public interest matters,” whereas the proposed reallocation of Channel 266C3 at Palo Cedro would satisfy the third allotment priority, “first local service.”³

¹ *Weaverville, Palo Cedro, and Alturas, California*, Notice of Proposed Rule Making, 20 FCC Rcd 5860 (MB 2005) (“*Notice*”).

² Second Report and Order, 90 FCC 2d 88 (1982), *recon. denied*, 56 RR 2d 448 (1983). The FM allotment priorities are: (1) first full-time aural service; (2) second full-time aural service; (3) first local service; and (4) other public interest matters. Co-equal weight is given to priorities (2) and (3).

³ Weaverville will continue to be served by Station KHRD-FM, Channel 276C2, Weaverville, California.

3. Palo Cedro is not located within any urbanized area, but its 70 dBu signal would encompass approximately 88 percent of the Redding, California, Urbanized Area. Flinn has supplied a *Tuck* analysis demonstrating that Palo Cedro meets at least five of the eight *Tuck* factors.⁴ We therefore find that Palo Cedro is separate and distinct from Redding, and that it is deserving of its own local transmission service. We further find that it would serve the public interest to downgrade vacant Channel 267C at Alturas, California, to Channel 268C1, in order to allot Channel 266C3 at Palo Cedro, California, as a first local service.

4. The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. §801(a)(a)(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), 0.283, and 1.420(i), IT IS ORDERED, That effective June 26, 2006, the FM Table of Allotments, 47 C.F.R. Section 73.202(b), IS AMENDED, with respect to the communities listed below, to read as follows:

<u>Community</u>	<u>Channel Number</u>
Alturas, California	268C1, 277C, ⁵ 293C1, 297C
Weaverville, California	276C2
Palo Cedro, California	266C3

Coordinates for Channel 268C1 at Alturas, California: 41-25-00 NL and 121-06-32 WL, with a site restriction of 48.1 km (29.9 miles) west of Alturas.

Coordinates for Channel 266C3 at Palo Cedro, California: 40-40-04 NL and 122-25-31 WL, with a site restriction of 19.6 km (12.2 miles) northwest of Palo Cedro.

6. IT IS FURTHER ORDERED, That pursuant to 47 U.S.C. Section 316(a), the license of George S. Flinn, Jr., for Station KWCA(FM), Channel 266A, Weaverville, California, IS MODIFIED to specify operation on Channel 266C3 at Palo Cedro, California, 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 a construction permit (Form 301), specifying the new facility;

(b) Upon grant of the construction permit, program tests may be conducted in accordance with 47

⁴ In his petition for rule making and comments, Flinn supplied evidence demonstrating that Palo Cedro has its own post office and zip code (96073); its own newspaper that covers the community's local needs and interests; numerous commercial establishments (including health care facilities); its own schools, fire department, and utilities; and finally, that the residents of Palo Cedro perceive Palo Cedro as being separate from the larger metropolitan area. *See Faye and Richard Tuck, Inc.*, Memorandum Opinion and Order, 3 FCC Rcd 5374, 5378 (1998) ("*Tuck*").

⁵ Concurrent with the release of this *Report and Order* we are allotting Channel 277C at Alturas in MB Docket No. 05-123. *See Alturas, California*, Notice of Proposed Rule Making, 20 FCC Rcd 6057 (MB 2005), and Report and Order, DA 06-1006 (released May 12, 2006).

C.F.R. Section 73.1620; and

(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 47 C.F.R. Section 1.1307, unless the proposed facilities are categorically excluded from environmental processing.

7. Pursuant to 47 C.F.R. Sections 1.1104(1)(k) and (2)(k), George S. Flinn, Jr., licensee of Station KWCA(FM), is required to submit a rule making fee in addition to the fee required for the applications to effectuate the changes specified above.

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:

Stephen C. Simpson, Esq.
1090 Vermont Avenue, N.W.
Washington, D.C. 20005
(Counsel for George S. Flinn, Jr.)

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