

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

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MB Docket No. 05-184
Table of Allotments,)	
FM Broadcast Stations.)	
(Aspen and Leadville, Colorado))	

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: July 19, 2006

Released: July 21, 2006

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it the *Notice of Proposed Rule Making*¹ proposing the removal of two vacant allotments assigned to Aspen and Leadville, Colorado. Jacor Broadcasting of Colorado, Inc. (“Jacor Broadcasting”), licensee of Station KTCL(FM), Wheat Ridge, Colorado and Arkansas Valley Broadcasting, LLC (“Arkansas Valley”), licensee of Station KSBV(FM), Salida, Colorado separately filed comments. No other comments or counterproposals were received in this proceeding.

2. **Background.** The Audio Division, on its own motion, proposed the removal of vacant Channel 228A at Aspen, Colorado and Channel 228A at Leadville, Colorado because these allotments are not in compliance with the minimum distance separation requirements of Section 73.207(b) of the Commission’s Rules.²

3. In response to the *Notice*, Jacor Broadcasting filed comments expressing an interest in applying for a new construction permit for Channel 228A at Aspen, Colorado. Jacor Broadcasting states that Channel 228A at Leadville should be deleted from the FM Table of Allotments because the allotment is no longer technically feasible or viable.³

4. Arkansas Valley filed comments stating that Channel 228A at Leadville should be removed from the FM Table of Allotments. In this regard, Arkansas Valley states that Channel 228A at Leadville was deleted from the Commission’s database, which allowed the grant of subsequent actions.⁴ Arkansas Valley asserts that this deletion led to the *de facto* modification of the FM Table of Allotments by effectively removing Channel 228A at Leadville.

¹ *Aspen and Leadville, Colorado*, Notice of Proposed Rule Making, 20 FCC Rcd 8795 (MB 2005).

² The vacant allotments are separated by 71.7 kilometers, a short-spacing of 43.3 kilometers. The minimum distance spacing requirement for these allotments is 115 kilometers.

³ Vacant Channel 228A at Leadville resulted from the cancellation of the Station KRMH-FM license in 1997.

⁴ Channel 228A was allotted to Aspen, Colorado in MM Docket No. 00-215. *See Aspen, Colorado*, Report and Order, 16 FCC Rcd 3541 (MMB 2001). Channel 227C0 was reallocated to Wheat Ridge, Colorado in MB Docket No. 03-57. *See Fort Collins, Creede, Westcliffe and Wheat Ridge, Colorado*, Report and Order, 19 FCC Rcd 4821 (MB 2004), Memorandum Opinion and Order, 19 FCC Rcd 15317 (MB 2004), *app. for rev. pending on other grounds*. Additionally, Station KSBV(FM) was granted a construction permit and license on Channel 229C2 at Salida, Colorado. *See* File No. BPH-20010718AAAY and BLH-20020828AAQ, respectively.

5. **Discussion.** The *Notice* solicited comments from interest parties to prevent the removal of Channel 228A at Aspen and Channel 228A at Leadville because of existing distance spacing conflicts. Jacor Broadcasting filed comments, expressing an interest in Channel 228A at Aspen, Colorado.⁵ No comments were received expressing an interest in Channel 228A at Leadville, Colorado. It is Commission policy to refrain from maintaining an allotment in instances where there are no *bona fide* expressions of interest.⁶ Accordingly, vacant Channel 228A is deleted from Leadville, Colorado.

6. 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)(1)(A).

7. 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 September 5, 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>Communities</u>	<u>Channel No.</u>
Leadville, Colorado	-----

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

9. 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 vacant Channel 228A at Aspen are 39-11-24 NL and 106-49-06.

⁶ *See Coosada, Alabama*, Memorandum Opinion and Order, 17 FCC Rcd 21117 (MB 2002).