

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

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| In the Matter of |) | |
| |) | |
| Amendment of Section 73.202(b) |) | MB Docket No. 04-341 |
| Table of Allotments, |) | RM-10779 |
| FM Broadcast Stations. |) | RM-11110 |
| (New Harmony, Indiana and West Salem, Illinois) ¹ |) | |

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: February 15, 2006

Released: February 17, 2006

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division considers herein the *Notice of Proposed Rule Making* (“*Notice*”),² issued at the request of Linda A. Davidson (“*Petitioner*”), proposing the allotment of Channel 266A at New Harmony, Indiana. *Petitioner* filed comments. West Salem Broadcasting filed a counterproposal. No other comments or counterproposals were received in response to this proceeding.

2. The *Notice* set forth the allotment of Channel 266A at New Harmony, Indiana, as its first local service. As stated in the *Notice*, New Harmony is an incorporated community with a 2000 U.S. Census population of 916 persons located in southwestern Indiana in Butler County. *Petitioner* filed comments reiterating her interest in the proposed New Harmony allotment.

3. West Salem Broadcasting filed a counterproposal requesting the allotment of Channel 266A at West Salem, Illinois, as its first local service. West Salem is an incorporated village listed in the 2000 U.S. Census with a population of 1,001 persons. West Salem Broadcasting states that West Salem is governed by trustees and has a city hall, elementary school, public library, rescue squad, volunteer fire departments, police department, post office (zip code 62476), six churches, a cable television company and a number of local businesses.

4. **Discussion.** The instant counterproposal conflicts with the *Notice’s* proposal to allot Channel 266A at New Harmony. A review of the proposals indicates that both communities are deserving of a first local service. A comparison of the proposals is guided by the policy set forth in *Revision of FM Assignment Policies and Procedures*.³ There are no alternative channels available for either community that would allow the grant of both proposals. As such, the proposals are considered under priority (3), first local service, based on the community with the larger population. Accordingly, we allot Channel 266A to West Salem, Illinois, as its first local service.

¹ West Salem, Illinois has been added to the caption. See *Public Notice*, Report No. 2685, released December 9, 2004,

² See *New Harmony, Indiana*, 19 FCC Rcd 16620 (MB 2004).

³ See *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88, 91 (1988). The FM Allotment priorities are (1) First full-time aural service. (2) Second full-time aural service. (3) First local service. (4) Other public interest matters. [Co-equal weight is given to priorities (2) and (3)].

5. A staff engineering analysis has determined that Channel 266A can be allotted to West Salem in conformity with the Commission's rules, provided there is a site restriction of 9.7 kilometers (6.0 miles) south of the community at coordinates 38-25-54 NL and 88-01-17 WL.

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 April 3, 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> |
|----------------------|--------------------|
| West Salem, Illinois | 266A |

8. The window period for filing applications for Channel 266A at West Salem, Illinois 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.

9. IT IS FURTHER ORDERED, That the Petition for Rule Making filed by Linda A. Davidson IS DENIED.

10. IS FURTHER ORDERED, That the aforementioned proceeding IS TERMINATED.

11. 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