

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

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MB Docket No. 05-117
Table of Allotments,)	
FM Broadcast Stations.)	
(Bairoil and Sinclair, Wyoming))	

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: March 1, 2006

Released: March 3, 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 channel substitutions of vacant allotment Channel 265A at Bairoil, Wyoming and vacant allotment Channel 262C at Sinclair, Wyoming. Michael Radio Group, permittee of Station KGRK(FM), Channel 252A, Glenrock, Wyoming and White Park Broadcasting, Inc., permittee of Station KTED(FM), Channel 265C2, Douglas, Wyoming (collectively “Joint Parties”) filed a joint counterproposal. No other comments or counterproposals were received in this proceeding.

2. **Background.** The Audio Division, on its own motion, proposed the substitution of Channel 235A for vacant Channel 265A at Bairoil and the substitution of Channel 267C for vacant Channel 262C at Sinclair to resolve existing distance spacing conflicts.²

3. In response to the *Notice*, the Joint Parties filed a counterproposal requesting the substitution of Channel 251C for Channel 265C2 at Douglas, Wyoming, reallocation of Channel 251C from Douglas to Bar Nunn, Wyoming, as its first local service aural transmission and modification of the Station KTED(FM) license accordingly. To accommodate this upgrade and reallocation, the Joint Parties proposed the substitution of Channel 265C1 for Channel 252A at Glenrock, Wyoming and modification of the Station KGRK(FM) license accordingly; and the substitution of Channel 253C2 for vacant Channel 265A at Bairoil, Wyoming.

4. **Discussion.** The Joint Parties filed the change of community license request pursuant to Section 1.420(i) of the Commission’s rules, which permits the modification of a station’s license to specify a new community of license where the amended allotment would be mutually exclusive with the licensee’s or permittee’s present assignment.³ The reallocation of Station KTED(FM), Channel 251C at Bar Nunn, Wyoming is not mutually exclusive with the current use of Channel 265C2 at Douglas, Wyoming. As such, the counterproposal is defective because it violates Section 1.420(i) of the

¹ *Bairoil and Sinclair, Wyoming*, 20 FCC Rcd 8232 (MB 2005).

² Vacant Channel 265A at Bairoil and vacant Channel 262C at Sinclair are short-spaced to each other by 57.2 kilometers. The minimum distance spacing requirement for these allotments is 95 kilometers. Additionally, Channel 262C at Sinclair is short-spacing to the license of FM Station KYOD, Channel 261C1, Glendo, Wyoming by 186.4 kilometers. The minimum distance separation requirement is 209 kilometers.

³ See *Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989), recon. granted in part 5 FCC Rcd 7394 (1990)

Commission's rules. We also note that the proposed Channel 265C1 upgrade at Glenrock is not mutually exclusive with the Station KGRK license.⁴ We are dismissing the counterproposal.

5. Accordingly, we substitute Channel 235A for vacant Channel 265A at Bairoil and Channel 267C for vacant Channel 262C at Sinclair. Channel 235A can be allotted to Bairoil, Wyoming in conformity with the Commission's rules without a site restriction at coordinates 42-14-40 NL and 107-33-32 WL. Moreover, Channel 267C can be allotted to Sinclair, Wyoming consistent with the minimum distance separation requirements of Section 73.207(b) of the Commission's rules, provided there is a site restriction of 9.6 kilometers (6 miles) west of the community at coordinates 41-46-19 NL and 107-13-40 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 17, 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>
Bairoil, Wyoming	235A
Sinclair, Wyoming	267C

8. IT IS FURTHER ORDERED, That the counterproposal filed by the Joint Parties IS DISMISSED.

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

10. 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

⁴ *See* 47 C.F.R. 1.420(g).