

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

In the Matter of)	
Amendment of Section 73.202(b))	MB Docket No. 06-72
Table of Allotments,)	RM-11245
FM Broadcast Stations.)	RM-11340
(Arlington and Boardman, Oregon; Boise,)	
Caldwell, Grangeville, Hazelton, Iona, Jerome,)	
McCall, Melba, Salmon, and Sun Valley, Idaho;)	
Elko and Owyhee, Nevada; Finley, Pasco, and)	
Walla Walla, Washington; and West)	
Yellowstone, Montana)	

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: July 23, 2008

Released: July 25, 2008

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it the *Notice of Proposed Rule Making* (“*Notice*”)¹ proposing the allotment of Channel 231C3 to Boardman, Oregon, as that community’s first local aural transmission service. SSR Communications, Inc. (“SSR Communications”) filed Comments. College Creek Media, LLC (“College Creek”)² filed a Counterproposal, Reply Comments, and a Supplement. For the reasons discussed below, we are allotting Channel 231C3 to Boardman, Oregon,³ and Channel 247C3 to Owyhee, Nevada, as first local services. We are reassigning Channel 224C0 to Iona, Idaho, as Iona’s first local service. We are taking these and other related actions in this proceeding which will result in a net gain in FM radio broadcast service to 495,894 persons.

2. **Background.** At the request of SSR Communications, the *Notice* proposed the allotment of Channel 231C3 to Boardman, Oregon, as a first local service. In response to the *Notice*, College Creek filed a Counterproposal involving sixteen communities in Oregon, Idaho, Nevada, Washington, and Montana. In the Counterproposal, College Creek proposed the allotment of Channel 247C3 to Owyhee, Nevada, as a first local service. In order to accommodate this allotment, College Creek proposed a series of fifteen interrelated proposals. Included among these proposals was the modification of the license of Station KGSG(FM), Channel 229A, Pasco, Washington, to specify operation on Channel 230A at Finley,

¹ *Boardman, Oregon*, 21 FCC Rcd 3325 (MB 2006).

² College Creek Broadcasting, Inc., the predecessor of College Creek, filed the original Counterproposal and Reply Comments.

³ To accommodate this allotment, SSR Communications requested that Station KCLK-FM, Channel 231C, Clarkston, Washington, be reclassified as a Class C0 station. Station KCLK-FM has been reclassified as a Class C0 station. See File No. BLH-19831227AC.

Washington. The proposed Channel 230A allotment at Finley was the only proposal that conflicted with the *Notice's* proposal to allot Channel 231C3 to Boardman, Oregon.

3. In its Reply Comments, College Creek revised its original Counterproposal to remove the mutual exclusivity between the Boardman, Oregon, proposal and its original Counterproposal by substituting Channel 276C3 (instead of the originally proposed Channel 224C3) for Channel 275C3 at McCall, Idaho. This revised channel change eliminates the need to substitute Channel 226C2 at Grangeville, Idaho; to relocate the Station KRKL transmitter site at Walla Walla, Washington; to modify the Station KGSG(FM) license to specify operation on Channel 230A at Finley; or to allot Channel 291A to Arlington, Oregon, to replace the first and second aural services that would have been provided by a Channel 231C3 allotment at Boardman. College Creek's amendment eliminates the need for four of the 16 interrelated proposals in its Counterproposal, including the proposed Channel 230A assignment at Finley, Washington. Accordingly, we are allotting Channel 231C3 at Boardman and granting the remaining proposals set forth in the College Creek counterproposal. We will now discuss each of these actions.

4. **Discussion.** We are allotting Channel 231C3 to Boardman, Oregon, as a first local service.⁴ Boardman is an incorporated community with a population of 2,855 persons, according to the 2000 U.S. Census. As requested in the Counterproposal, we are allotting Channel 247C3 to Owyhee, Nevada as that community's first local aural transmission service.⁵ Owyhee is listed in the 2000 U.S. Census with a population of 1,017 persons. This allotment will also provide a first aural service to 1,265 persons.

5. In order to accommodate the allotment of Channel 247C3 to Owyhee, Nevada, we are substituting Channel 249C for Channel 248C at Station KPHD(FM) ("KPHD"), Elko, Nevada, reassigning Channel 249C to Melba, Idaho, and modifying the Station KPHD construction permit to specify operation on Channel 249C at Melba.⁶ College Creek is the permittee of Station KPHD. We are taking this action pursuant to *Modification of FM and TV Authorizations to Specify a new Community of License* ("Community of License"),⁷ which permits the modification of a station's authorization to specify a new community of license without affording other interested parties an opportunity to file a competing expression of interest. Any reassignment proposal must result in a preferential arrangement of channel assignments. We make this determination using the FM allotment priorities.⁸ In this instance,

⁴ The reference coordinates for the Channel 231C3 at Boardman, Oregon, are 45-53-51 NL and 119-55-21 WL.

⁵ The reference coordinates for the Channel 247C3 at Owyhee, Nevada, are 41-55-26 NL and 116-11-16 WL.

⁶ The reference coordinates for Channel 249C at Melba, Idaho, are 42-51-53 NL and 116-28-39 WL.

⁷ Report and Order, 4 FCC Rcd 4870 (1989), *recon. granted in part*, Memorandum Opinion and Order, 5 FCC Rcd 7094 (1990).

⁸ 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). See *Revision of FM Assignment Policies and Procedures*, Second Report and Order, 90 FCC 2d 88 (1982), *recon. denied*, Memorandum Opinion and Order, 56 RR 2d 448 (1983).

this reassignment of Channel 249C to Melba will provide a second aural transmission service to Melba, which has a population of 439 persons according to the 2000 U.S. Census.⁹ In addition, this reassignment will provide a net gain in service to 384,833 persons. Elko will continue to receive local service from six stations. Thus, reassigning Channel 249C to Melba, Idaho, results in a preferential arrangement of channel assignments. In order to eliminate any potential loss area created by the reassignment of Station KPHD to Melba, College Creek proposed to upgrade Channel 237C1, Station KRJC(FM) (“KRJC”), Elko, Nevada, to Channel 237C. Holiday Broadcasting of Elko (“Holiday”), the licensee of Station KRJC, has consented to this channel change and College Creek has agreed to reimburse Holiday for its expenses in making this modification. Therefore, we are modifying the license of Station KRJC to specify operation on Channel 237C.¹⁰

6. To accommodate the allotment of Channel 249C to Melba, Idaho, we are modifying the license of Station KQFC(FM), Channel 250C, Boise, Idaho, to specify operation on Channel 274C.¹¹ The substitution at Boise requires three other channel substitutions. First, to accommodate the allotment of Channel 274C to Boise, Idaho, we hereby substitute Channel 276C3 for vacant channel 275C3 at McCall, Idaho, at the channel’s current assignment site.¹² Second, we are substituting Channel 276C1 for Channel 275C1 at Jerome, Idaho, and are modifying the Station KMVX(FM) license to specify operation on Channel 276C1.¹³ Third, we are substituting Channel 278C for Channel 277C at Caldwell, Idaho, and are modifying the Station KSAS-FM license to specify operation on Channel 278C.¹⁴ To modify the

⁹ The first local aural transmission service to Melba, Idaho, will be provided by Kermit T. Stop Partnership (“Kermit”), an AM applicant in MX Group 84-166 in AM Broadcast Auction 84. Kermit received a dispositive preference for providing first local service to Melba, Idaho, over a Boise, Idaho applicant, pursuant to Section 307(b) of the Communications Act of 1934, as amended. See *Letter to Kermit T. Stop Partnership, et al.*, Ref 1800B3-LAS/JP (Chief, Audio Division, Media Bureau, October 22, 2007). Kermit has filed its long form application in a timely fashion and that application will be processed in the relatively near future.

¹⁰ The reference coordinates for the Channel 237C assignment at Elko, Nevada, are 40-54-35 and 115-49-05 WL.

¹¹ In order to modify the Station KQFC(FM) license, we issued an *Order to Show Cause*, 21 FCC Rcd 11456 (MB 2006), directed to Citadel Broadcasting Corp. (“Citadel”), the licensee of Station KQFC(FM). Citadel subsequently agreed to change the Station KQFC(FM) channel and College Creek has agreed to reimburse Citadel for the expenses incurred to change the channel. The reference coordinates for the Channel 274C reassignment at Boise, Idaho, are 43-45-21 NL and 116-05-54 WL.

¹² The reference coordinates for the Channel 276C1 assignment at McCall, Idaho, are 44-54-30 NL and 116-06-00 WL.

¹³ The reference coordinates for the Channel 276C1 assignment at Jerome, Idaho, are 42-43-54 NL and 114-25-04 WL. Kart Broadcasting Co., Inc., the licensee of Station KMVX(FM) has consented to this channel change and College Creek has promised to reimburse that licensee for its expenses in making that change

¹⁴ The reference coordinates for the Channel 278C assignment at Caldwell, Idaho, are 43-45-18 NL and 116-05-52 WL.

Station KSAS-FM license, it was necessary to issue an *Order to Show Cause*¹⁵ directed to Citicasters Licenses, L.P. (“Citicasters”), which was then the licensee of Station KSAS-FM. Citicasters did not respond to the *Order to Show Cause* and is deemed to have consented to the modification of the Station KSAS-FM license.¹⁶ Subsequently, the Station KSAS-FM license was assigned to Peak Broadcasting of Boise Licenses, LLC (“Peak”). College Creek has agreed to reimburse Peak for the reasonable expenses in changing the Station KSAS-FM channel.¹⁷

7. In order to accommodate the assignment of Channel 278C to Caldwell, Idaho, we are substituting Channel 233C0 for Channel 279C at Sun Valley, Idaho, and are modifying the Station KSKI-FM license to specify operation on Channel 233C0.¹⁸ Chaparral Broadcasting, Inc. (“Chaparral”), the licensee of Station KSKI-FM, has agreed to the channel change and new transmitter site. College Creek has agreed to reimburse Chaparral for the expenses in making these changes. The modification of the Station KSKI-FM license requires two other channel substitutions. First, we are substituting Channel 224C3 for Channel 232C3 at Hazelton, Idaho, and are modifying the Station KTPZ(FM) (formerly KTPD(FM)) license to specify operation on Channel 224C3.¹⁹ Although College Creek was the permittee of Channel 232C3 at the time it filed its Counterproposal, Locally Owned Radio, Inc. (“LOR”) is the current licensee of Channel 232C3, Station KTPZ (FM). LOR has agreed to the channel change at Station KTPZ(FM) and College Creek has agreed to reimburse LOR for its expenses in making those changes. Second, we are substituting Channel 260C1 for Channel 260A at Salmon, Idaho, and are modifying the Station KXML(FM) construction permit to specify operation on Channel 260C1.²⁰ The modification of the Station KXML(FM) construction permit would result in the loss of a potential first aural service to 1,975 persons, when compared to the permittee’s prior operation on Channel 233C0. To serve this population, we are substituting Channel 225C0 for Channel 224A, Station KSRA-FM, at

¹⁵ *Order to Show Cause*, 21 FCC Rcd 11453 (MB 2006).

¹⁶ *See* 47 C.F.R. § 1.87(h).

¹⁷ *See Circleville, Ohio*, Second Report and Order, 8 FCC 2d 159 (1967).

¹⁸ The reference coordinates for the Channel 233C0 assignment at Sun Valley, Idaho, are 43-41-06 NL and 114-22-57 WL.

¹⁹ The reference coordinates for the Channel 224C3 assignment at Hazelton, Idaho, are 42-43-54 NL and 114-25-04 WL.

²⁰ The reference coordinates for the Channel 260C1 assignment at Salmon, Idaho, are 45-10-02 NL and 113-52-14 WL. At the time College Creek filed its Counterproposal, the Station KXML(FM) construction permit specified operation on Channel 233C0 and the licensee had agreed to change to Channel 260C1. On April 10, 2008, we granted an application (File No. BMPH-20060522AAQ) modifying this construction permit to specify operation on Channel 260A. This construction permit was conditioned on the final outcome of this proceeding.

Salmon, Idaho, and are modifying the Station KSRA-FM license to specify operation on Channel 225C0 at a new transmitter site.²¹

8. To accommodate the allotment of Channel 225C0 to Salmon, Idaho, we are substituting Channel 224C0 for Channel 225C at West Yellowstone, Montana, reassigning Channel 224C0 to Iona, Idaho, and are modifying the Station KEZQ(FM) (“KEZQ”) license to specify operation on Channel 224C0 at Iona.²² Chaparral, the licensee of Station KEZQ, has agreed to this modification of its license and College Creek has promised to reimburse Chaparral for its expenses in making those changes. This would result in a first local aural transmission service for Iona and a preferential arrangement of allotments as required by *Community of License*. Station KWYS(AM) will continue to provide local service to West Yellowstone, Montana and this reassignment will result in a net gain in service to 112,474 persons. We recognize that Iona is located within the Idaho Falls Urbanized Area. In awarding a Priority (3) preference to Iona as a first local aural transmission service, we are concerned with the potential migration of stations from lesser served rural areas to well-served urban areas. For this reason, we will not blindly apply a first local service preference when a station seeks to change its community of license to a suburban community in or near an Urbanized Area. In such circumstances, we require a city of license proponent to submit a *Tuck* showing.²³ In evaluating these showings, we consider the extent to which the station will provide service to the entire Urbanized Area, the relative populations of the suburban and central cities, and most important, the extent to which the suburban community is independent of the Urbanized Area. In considering a change of community proposal, we take into account the well established *Huntington* case, which is a limited exception to the normal 307(b)²⁴ presumption that every separate community is entitled to at least one local transmission service.²⁵

9. Under the *Tuck* criteria, Iona is entitled to consideration as a first local service. According to the 2000 U.S. Census, the population of Iona (1,201 persons) is 2.4 percent of that of Idaho Falls (50,730 persons) and is located 11 kilometers from Idaho Falls. This percentage is consistent with previous actions in which we determined that a change of community proposal provided a first local service.²⁶ Established in 1883, Iona is also sufficiently independent of the Idaho Falls Urbanized Area to justify

²¹ The reference coordinates for the Channel 225C0 assignment at Salmon, Idaho, are 45-08-42 NL and 114-00-36 WL. College Creek has agreed to reimburse the licensee for its licenses in making these changes.

²² The reference coordinates for the Channel 224C0 allotment at Iona, Idaho, are 43-57-10 NL and 111-52-18 WL.

²³ See *Faye and Richard Tuck*, Memorandum Opinion and Order, 3 FCC Rcd 5374 (1988) (“*Tuck*”); see also *Huntington Broadcasting Co. v. FCC*, 192 F.2d 33 (D.C.Cir. 1951) (“*Huntington*”).

²⁴ 47 U.S.C. § 307(b).

²⁵ See *Tuck* at 5376.

²⁶ See, e.g., *Park City, Montana*, Report and Order, 19 FCC Rcd 2092, 2095 (MB 2004) (Park City had a population of less than one percent of Billings and was located 21 miles from Billings); and *Ada, Newcastle and Watonga, Oklahoma*, Report and Order, 11 FCC Rcd 16896, 16899 (MMB 1996) (Newcastle had a population of less than one percent of Oklahoma City and was located 15 miles from Oklahoma City).

consideration as a first local service. Iona does not appear to be overly dependent upon the Urbanized Area for employment. According to the 2000 U.S. Census, 49 of the 490 employed residents of Iona, or 10 percent of the work force, work in Iona. This percentage is consistent with other actions in which we have determined that a community is independent of the Urbanized Area.²⁷ College Creek has identified local businesses that could provide additional employment opportunities. Iona has its own local government and elected officials, including a mayor and a five-member city council, and Iona has its own police department. In addition, Iona has its own zip code, post office, and public library. Iona's schools are provided by Bonneville County, not by Idaho Falls. Finally, College Creek has identified a number of local Iona businesses and community organizations. In view of the above, Iona is entitled to consideration as a first local service.

10. 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).

11. Accordingly, pursuant to the authority contained 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 8, 2008, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules IS AMENDED for the communities listed below, as follows:

<u>Community</u>	<u>Channel Number</u>
Boardman, Oregon	231C3
Owyhee, Nevada	247C3

12. Filings windows for Channel 231C3, Boardman, Oregon and Channel 247C3, Owyhee, Nevada; will not be opened at this time. Instead, the issue of opening these allotments for auction will be addressed by the Commission in a subsequent order.

13. IT IS FURTHER ORDERED, That pursuant to the authority contained in 47 U.S.C. Sections 4(i), 5(c)(1), 303(g) and (r) , and 307(b), and 47 Sections 0.61, 0.204(b), and 0.283, IT IS ORDERED, that effective September 8, 2008, the Media Bureau's Consolidated Data Base System will reflect the following FM Channels as the reserved assignments for the listed stations, respectively: Channel 249C at Melba, Idaho, in lieu of Channel 248C at Elko, Nevada, for Station KPHD(FM); Channel 237C in lieu of Channel 237C1 at Elko, Nevada, for Station KRJC(FM); Channel 274C in lieu of Channel 250C at Boise, Idaho, for Station KQFC(FM); Channel 278C in lieu of Channel 277C at Caldwell, Idaho, for Station KSAS(FM); Channel 233C0 in lieu of Channel 279C at Sun Valley, Idaho, for Station KSKI(FM); Channel 260C1 in lieu of Channel 260A at Salmon, Idaho, for Station KXML(FM); Channel 225C0 in lieu of Channel at 224A, at Salmon, Idaho, for Station KSRA-FM; Channel 224C0 at Iona, Idaho, in lieu of Channel 225C at West Yellowstone, Montana, for Station KEZQ(FM); Channel 224C3 in lieu of Channel 232C3 at

²⁷ See, e.g., *Coolidge and Gilbert, Arizona*, 11 FCC Rcd 3610 (MB 1996) (13 percent of Gilbert's working population actually worked in Gilbert).

Hazelton, Idaho, for Station KTPZ(FM); Channel 276C3 in lieu of vacant Channel 275C3 at McCall, Idaho; and Channel 276C1 in lieu of Channel 275C1 at Jerome, Idaho, for Station KMVX(FM).

14. IT IS FURTHER ORDERED, That pursuant to Section 316 of the Communications Act of 1934, as amended, College Creek Media, LLC's construction permit for Channel 248C, Station KPHD(FM), Elko, Nevada, is modified to specify operation on Channel 249C at Melba, Idaho; Holiday Broadcasting of Elko's license for Station KRJC(FM) is modified to specify operation on Channel 237C instead of Channel 237C1 at Elko, Nevada; Citadel Broadcasting Corp.'s license for Station KQFC(FM) is modified to specify operation on Channel 274C instead of Channel 250C at Boise, Idaho; Peak Broadcasting of Boise Licenses, LLC's license for Station KSAS-FM, is modified to specify operation on Channel 278C instead of Channel 277C at Caldwell, Idaho; Chaparral Broadcasting, Inc.'s license for Station KSKI-FM is modified to specify operation on Channel 233C0 instead of Channel 279C at Sun Valley, Idaho; Skywest Media, LLC's construction permit for Station KXML(FM), Channel 260A, at Salmon, Idaho, is modified to specify operation on Channel 260C1; Salmon River Communications, Inc.'s license for Station KSRA-FM is modified to specify operation on Channel 225C0 instead of Channel 224A at Salmon, Idaho; Chaparral Broadcasting, Inc.'s license for Station KEZQ(FM) is modified to specify operation on Channel 224C0, Iona, Idaho, instead of Channel 225C at West Yellowstone, Montana; Locally Owned Radio, Inc.'s license for Station KTPZ(FM) is modified to specify operation on Channel 224C3 instead of Channel 232C3 at Hazelton, Idaho; vacant channel 275C3 at McCall, Idaho, is modified to specify operation on Channel 276C3; and Kart Broadcasting Co., Inc.'s license for Station KMVX(FM) is modified to specify operation on Channel 276C1 instead of Channel 275C1 at Jerome, Utah, subject to the following conditions:

- (a) Within 90 days of the effective date of this *Report and Order*, each licensee and permittee specified above shall submit to the Commission a minor change application for construction permit (Form 301).
- (b) Upon grant of each construction permit, program tests may be conducted in accordance with Section 73.1620 of the Commission's Rules; 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 Section 1.1307 of the Commission's Rules.

15. Pursuant to 47 C.F.R. Section 1.1104(3)(k) of the Commission's Rules, the following licensees are required to submit a rulemaking fee in addition to the fee required for the application to effectuate the new community of license, as follows, at the time its Form 301 is submitted: College Creek Media, L.L.C., permittee of Station KPHD(FM), for the new operation of Channel 249C at Melba, Idaho, instead of Channel 248C at Elko, Nevada; and Chaparral Broadcasting, Inc., licensee of Station KEZQ(FM), for the new operation of Channel 224C0 at Iona, Idaho instead of Channel 225C at West Yellowstone, Montana.

16. IT IS FURTHER ORDERED That the Petition for Rule Making (RM-11245) filed by SSR Communications, Inc. IS GRANTED.

17. IT IS FURTHER ORDERED That the Counterproposal (RM-11340) of College Creek Media, LLC, as amended, IS GRANTED.

18. IT IS FURTHER ORDERED That this proceeding IS TERMINATED.

19. For further information concerning this proceeding, contact R. Barthen Gorman, Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief
Audio Division
Media Bureau