

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

In the Matter of)	
)	
Amendment of Section 73.202(b))	MB Docket No. 10-63
Table of Allotments,)	RM-11597
FM Broadcast Stations.)	
(Amboy, California))	

REPORT AND ORDER
(Proceeding Terminated)

Adopted: June 25, 2010

Released: June 28, 2010

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it a *Notice of Proposed Rule Making* (the “Notice”)¹ issued at the request of Sunnylands Broadcasting, LLC (“Petitioner”), auction winner of Permit MM-FM633-A for Channel 237A, Amboy, California. The Notice proposes the allotment of Channel 284A at Amboy, California. The purpose of the requested allotment is to maintain a potential first local service at Amboy while allowing Petitioner to substitute Channel 238A for Channel 237A and to change the community of license from Amboy to Twentynine Palms, California. Petitioner has filed a Form 301 Application (with the requisite fee) for a construction permit, seeking a minor change in its winning bid by modifying the allotment from Channel 237A, Amboy, California, to Channel 238A, Twentynine Palms, California.² Petitioner also submitted a Form 301 with the requisite fee seeking authority to construct FM Channel 284A at Amboy.³

2. Petitioner’s application for a construction permit at Twentynine Palms is still pending, and we will not address that issue in this proceeding. We are, nonetheless, prepared to act upon Petitioner’s proposal to allot FM Channel 284A at Amboy. Regardless of whether the Commission approves Petitioner’s construction permit for Channel 238A at Twentynine Palms, we find that the allotment of Channel 284A at Amboy will promote the public interest. Should the construction permit at Twentynine Palms be approved, the allotment of Channel 284A at Amboy will preserve a first local service at that community. If the construction permit at Twentynine Palms is disapproved, the allotment of Channel 284A at Amboy will provide a second local service to Amboy. We therefore shall grant the proposal to allot Channel 284A at Amboy, California.

3. 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 August

¹ *Amboy, California*, Notice of Proposed Rule Making (MB 2010), 75 Fed.Reg. 19339 (April 14, 2010).

² File No. BNPH-20091016ADU.

³ File No. BNPH-20091016ADV.

12, 2010, the FM Table of Allotments, 47 C.F.R. Section 73.202(b), IS AMENDED, with respect to the community listed below, to read as follows:

<u>Community</u>	<u>Channel</u>
Amboy, California	284A

4. Channel 284A can be allotted at Amboy, consistent with the minimum distance separation requirements of the Commission's rules, at coordinates 34-36-00 NL and 115-40-52 WL, with a site restriction of 7.5 km (4.6 miles) northeast of the community. Concurrence in the allotment by the Government of Mexico is required because the proposed allotment is located within 320 kilometers (199 miles) of the U.S.-Mexican border. Although Mexican concurrence has been requested, notification has not been received. If a construction permit for Channel 284A at Amboy, California, is granted prior to receipt of formal concurrence by the Mexican government, the authorization will include the following condition: "Operation with the facilities specified herein for Amboy, California, is subject to modification, suspension, or termination without right to hearing, if found by the Commission to be necessary in order to conform to the Mexico-United States FM Broadcast Agreement, or if specifically objected to by the Government of Mexico."

5. 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 counsel of record for Petitioner:

Peter Gutmann, Esq.
Womble Carlyle Sandridge & Rice, PLLC
1401 I Street, N.W. – 7th Floor
Washington, D.C. 20005
(Counsel for Sunnylands Broadcasting, LLC)

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

7. 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).

8. A filing window period for Channel 284A for Amboy, California, 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. For further information concerning this proceeding, contact Deborah A. Dupont, Media Bureau (202) 418-7072.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief
Audio Division
Media Bureau