

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

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MB Docket No. 16-182
Table of Allotments,)	RM-11770
FM Broadcast Stations.)	
(Eagle Butte, South Dakota))	
)	

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: September 1, 2016

Released: September 2, 2016

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it: a *Notice of Proposed Rule Making (Notice)*¹ issued in response to a Petition for Rule Making (Petition) filed by the Cheyenne River Sioux Tribe (Petitioner), proposing to amend the FM Table of Allotments, Section 73.202(b) of the Commission's rules,² by allotting FM Channel 228C1 at Eagle Butte, South Dakota, as a Tribal Allotment and a first local Tribal-owned service to the community.³ Comments were filed by Petitioner. No other comments were received. For the reasons discussed below, we grant the Petition and allot Channel 228C1 at Eagle Butte, South Dakota, to the FM Table of Allotments as a Tribal Allotment.

2. **Background.** In *Rural Radio*,⁴ the Commission concluded that the public interest would be served by establishing a Section 307(b) priority in favor of Tribes and Tribal Entities proposing the allotment of FM channels to serve Tribal Lands.⁵ Petitioner, a federally-recognized Tribe,⁶ certifies that its proposal meets the requirements established in *Rural Radio* for a Tribal Priority.⁷ Specifically,

¹ *Eagle, Butte, South Dakota*, Notice of Proposed Rule Making, 31 FCC Rcd 6992 (MB 2016).

² 47 CFR § 73.202(b).

³ Petitioner also filed an associated FCC Form 301 application. FCC File No. BNPH-20160512ABE.

⁴ *Policies to Promote Rural Radio Service and to Streamline Allotment and Assignment Procedures*, Notice of Proposed Rule Making, 24 FCC Rcd 5239 (2009) (NPRM); First Report and Order, 25 FCC Rcd 1583 (2010) (First R&O); Second Report and Order, 26 FCC Rcd 2556 (2011) (Second R&O); and Third Report and Order, 26 FCC Rcd 17642 (2011) (Third R&O) (collectively, *Rural Radio*).

⁵ *Rural Radio*, First R&O, 25 FCC Rcd at 1596-97; *Rural Radio*, NPRM, 24 FCC Rcd at 5248, n.29 (defining "Indian Tribe[s]" and "Federally-Recognized Indian Tribes"), and n.30 (defining "Tribal Lands").

⁶ The Cheyenne River Sioux Tribe is comprised of four traditional bands of the Lakota, also known as Teton Sioux: Minniconjou, Two Kettle (Oohenunpa), Sans Arc (Itazipco), and Blackfoot (Sihásapa). Petitioners state that the Cheyenne River Reservation was created in 1889 and covers 4,267 square miles, making it the fourth largest Indian Reservation in land area in the United States. Petition at 2 (filed May 16, 2016).

⁷ See *Rural Radio*, Third R&O, 26 FCC Rcd at 17646-47. See also First R&O, 25 FCC Rcd at 1596-97; and Second R&O, 26 FCC Rcd at 2585-87.

Petitioner provides evidence that: at least 50 percent of the proposed principal community contour would cover Cheyenne River Sioux Tribal Lands; Eagle Butte, the proposed community of license, is located on the Cheyenne River Reservation; and the proposed facility will be the first local Tribal-owned commercial transmission service at Eagle Butte.⁸ Eagle Butte is a census-designated place (CDP) in Dewey and Ziebach counties in South Dakota, with its own zip code,⁹ and a 2010 census population of 1,318 persons, of which over 92 percent are Native American.¹⁰ Petitioner filed comments supporting the allotment proposed in the *Notice*.

3. **Discussion.** We find that Petitioner's proposal satisfies the requirements for a Tribal Allotment and the public interest will be served by the allotment of Channel 228C1 at Eagle Butte, South Dakota, as a Tribal Allotment. This Tribal Allotment will serve the public interest by providing vital radio service to Eagle Butte and to surrounding Cheyenne River Sioux Tribal Lands and by enabling the Petitioner to set its own communications priorities and goals with respect to this new service. Moreover, the allotment will further the public interest by providing a first local Tribal-owned transmission service at Eagle Butte, South Dakota. A staff engineering analysis confirms that Channel 228C1 can be allotted to Eagle Butte consistent with the minimum distance separation requirements of the Commission's rules with no imposition of a site restriction at reference coordinates 45-01-32 NL and 101-14-22 WL.

4. **Conclusion.** Accordingly, IT IS ORDERED, That effective October 17, 2016, the FM Table of Allotments, 47 C.F.R. Section 73.202(b), IS AMENDED as follows:

<u>Community</u>	<u>Channel Number</u>
Eagle Butte, South Dakota	228C1 ¹¹

5. The Commission will send a copy of this *Report and Order* in a report to Congress and the Government Accountability Office pursuant to the Congressional Review Act.¹² The Commission will release in the near future a public notice announcing a Threshold Qualifications Window. Any qualifying applicant may file an FCC Form 301 for this channel during the window.¹³

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

⁸ Petition at 2.

⁹ The zip code is 57625.

¹⁰ Petition at 2.

¹¹ This channel is reserved as a Tribal Allotment.

¹² 5 U.S.C. § 801 (a)(1)(A).

¹³ See Third R&O, 26 FCC Rcd at 17645-46. See also Second R&O, 26 FCC Rcd at 2588-90. Should no applicant meeting threshold qualifications file an FCC Form 301 during the Threshold Qualifications Window (and should the proponent request that its already-filed Form 301 application not be immediately processed), the Tribal Allotment will be included in the inventory for a broadcast auction at a later date. In that event, only threshold qualified applicants, including the original proponent, would be permitted to participate in the auction. Third R&O, 26 FCC Rcd at 17649.

7. For further information concerning this proceeding, contact Adrienne Y. Denysyk, Media Bureau, (202) 418-2700.

FEDERAL COMMUNICATIONS COMMISSION

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