

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

In the matter of	)	
	)	
Amendment of Section 73.202(b),	)	MB Docket No. 04-215
FM Table of Allotments,	)	RM-10993
FM Broadcast Stations.	)	
(Matagorda, Texas)	)	
	)	
	)	

**REPORT AND ORDER  
(Proceeding Terminated)**

**Adopted: February 22, 2006**

**Released: February 24, 2006**

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it a *Notice of Proposed Rule Making*<sup>1</sup> issued at the request of Joseph L. Sandlin (“Petitioner”) requesting the allotment of Channel 252A at Matagorda, Texas, as the community’s first local aural transmission service. Petitioner filed comments in support of his proposal. Fort Bend Broadcasting Company (“Fort Bend”), licensee of Station KULF(FM), Brenham, Texas, filed a counterproposal.<sup>2</sup>

2. In response to the *Notice*, Petitioner states that the allotment of Channel 252A at Matagorda would serve the public interest as that community’s first local aural transmission service, thereby serving Priority 3 of the allotment priorities.<sup>3</sup> In response to the *Notice*, Petitioner supplements its showing that Matagorda is a community for allotment purposes by stating that Matagorda is a community of over 650 residents with its own post office and zip code. According to Petitioner, Matagorda has its own library, volunteer fire department, school district and provides water and sewer services. It also has a Justice of the Peace and numerous businesses, churches and social organizations. There is also a sizeable seasonal population who come there to visit the beach, bird watch and fish.

3. We will allot Channel 252A at Matagorda. Because it is not incorporated or in the U.S. Census, it is not presumptively a community. However, because Matagorda has its own post office and a zip code, as well as other indicia of community status, we find that it is a community for allotment purposes.<sup>4</sup> It is an identifiable population grouping separate and apart from all others, and the geographic

<sup>1</sup> *Matagorda, Texas*, 19 FCC Rcd 10095 (MB 2004).

<sup>2</sup> Fort Bend’s counterproposal requesting the substitution of Channel 231C1 for Channel 231C2 at Brenham and reallocation of Channel 231C1 from Brenham to Bellville, Texas is defective and was not placed on public notice. This counterproposal requires channel and site changes for stations at Ganado, Edna, Point Comfort, Palacios, and Columbus, Texas, channel changes at Cameron, Beaumont, and Orange, Texas, and a site change at Hallettsville, Texas. The proposal to reallocate Channel 231C1 to Bellville, Texas, is short-spaced to Station KNVR(FM), Channel 232A, Victoria, Texas, and the channel substitution at Ganado, Texas, is short-spaced to a reserved allotment at Goliad, Texas.

<sup>3</sup> See *Revision of FM Assignment Policies and Procedures*, 90 FCC2d 88, 91 (1982). 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 given to priorities (2) and (3)].

<sup>4</sup> *Id.* at 90 FCC 2d 88, 101 (1982).

boundaries of the location do not enclose or contain areas or populations more logically identified as or associated with some other location.<sup>5</sup> Matagorda has a well-known history. It also has an independent school district, businesses, churches and civic organizations such as the Masonic Lodge and Chamber of Commerce. All of these factors satisfy the criteria that the town of Matagorda is a community for allotment purposes.

4. Channel 252A at Matagorda can be allotted consistent with the minimum distance separation requirements of the Commission's Rules without a site restriction.<sup>6</sup>

5. 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).

6. Accordingly, pursuant to the authority contained in 47 U.S.C. §§ 4(i), 5(c)(1), 303(g), and (r), and 307(b), and 47 C.F.R. §§0.61, 0.204(b) and 0.283, IT IS ORDERED That effective, April 10, 2006, the FM Table of Allotments, 47 C.F.R. § 73.202(b) IS AMENDED, with respect to the community listed below, as follows:

<u>City</u>	<u>Channel No.</u>
Matagorda, Texas	252A

7. A window period for filing applications for Channel 252A at Matagorda 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.

8. IT IS FURTHER ORDERED, That the counterproposal filed by Fort Bend IS DISMISSED.

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

10. For further information concerning this proceeding, contact Victoria M. McCauley, Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Assistant Chief  
Audio Division  
Media Bureau

<sup>5</sup> See *Beacon Broadcasting and New South Broadcasting Corporation* 104 FCC 2d 808 (R.B.1986) 2 FCC Rcd 3469 (1987) *app. for review*, 2 FCC Rcd 3469 (1987), *appeal affirmed*, *New South Broadcasting Corp. FCC*, 879 F.2d 867 (D.C. Cir 1989).

<sup>6</sup> The coordinates for Channel 252A at Matagorda are 28-41-25 NL and 95-58-02 WL.