

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

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MB Docket No. 05-245
Table of Allotments,)	RM-11264
FM Broadcast Stations.)	RM-11357
(Corona de Tucson, Sierra Vista, Tanque Verde,)	
and Vail, Arizona; Animas, Lordsburg, and)	
Virden, New Mexico))	
)	

MEMORANDUM OPINION AND ORDER

Adopted: October 14, 2014

Released: October 15, 2014

By the Commission:

1. The Commission has before it an Application for Review filed April 21, 2008, by CCR-Sierra Vista IV, LLC (“CCR-Sierra”), licensee of Station KZMK(FM), Sierra Vista, Arizona, operating on Channel 265A (100.9 MHz). In this proceeding, the Media Bureau (“Bureau”) rejected CCR-Sierra’s proposal to reallocate Channel 265A from Sierra Vista to Tanque Verde, Arizona, and to modify Station KZMK(FM)’s license to specify operation on Channel 265A pursuant to Section 1.420(i),¹ and granted a conflicting Counterproposal jointly filed by Cochise Broadcasting, LLC and Desert West Air Ranchers Corporation (“Joint Parties”) for a “daisy chain” of FM allotments.² CCR-Sierra seeks review of the Bureau’s March 21, 2008, decision (“*Reconsideration Decision*”) denying CCR-Sierra’s Petition for Reconsideration.³ In its Application for Review, CCR-Sierra reiterates five arguments previously made on reconsideration.⁴ CCR-Sierra also raises a new argument which it did not previously present to the Bureau.

¹ See 47 C.F.R. § 1.420(i) (permitting, in the course of a rule making proceeding, the modification of the license or permit of an FM station to specify a different community of license).

² See *Corona de Tucson, Arizona, et al.*, Report and Order, 22 FCC Rcd 13933 (MB 2007) (“*R&O*”). In the *R&O*, the Bureau: (1) reallocated Channel 267C3 (103.1 MHz) from Corona de Tucson, Arizona, to Tanque Verde and modified the license of Cochise Broadcasting’s Station KKYZ(FM) to specify operation on the channel; (2) reallocated Channel 253A (98.5 MHz) from Vail, Arizona, to Corona de Tucson as a “backfill” and modified the license of Desert West Air Ranchers’ Station KRDX(FM) to specify operation on the channel; (3) reallocated and downgraded Channel 279C1 (103.7 MHz) from Lordsburg, New Mexico, to Channel 279A at Vail, Arizona, as a “backfill” and modified the license of Cochise Broadcasting’s construction permit to specify operation on the channel; and (4) added new FM allotments on Channel 279C1 at Animas, New Mexico, and Channel 228C1 (93.5 MHz) at Virden, New Mexico.

³ See *Corona de Tucson, Arizona, et al.*, Memorandum Opinion and Order, 23 FCC Rcd 4792 (MB 2008) (“*Reconsideration Decision*”). The Joint Parties filed an Opposition to Application for Review on May 6, 2008. CCR-Sierra filed a Reply to Opposition to Application for Review on May 21, 2008.

⁴ Specifically, CCR-Sierra contends that the Bureau erred in finding that: (1) Joint Parties’ proposal would provide 70 dBu coverage to Tanque Verde and Corona de Tucson; (2) the fact that the antenna structure for the Tanque

(continued....)

2. Upon review of the Application for Review and the entire record, we find that the *Reconsideration Decision* fully considered the first five arguments raised by CCR-Sierra listed in footnote 4. We conclude that the *Reconsideration Decision* properly decided these issues, and we uphold the Bureau's decision for the stated reasons.⁵ We also conclude that the final argument described in the footnote is procedurally defective and will be dismissed.⁶

3. Accordingly, IT IS ORDERED that, pursuant to Section 5(c)(5) of the Communications Act of 1934, as amended,⁷ and Sections 1.115(c) and (g) of the Commission's Rules,⁸ the Application for Review filed by CCR Sierra Vista IV, LLC, IS DISMISSED IN PART for the reasons stated herein and IS otherwise DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

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Verde allotment, near an airport, may require Federal Aviation Administration ("FAA") approval is not a sufficient basis for presuming that it would be an air hazard absent any additional evidence; (3) Animas, New Mexico, is a community for allotment purposes; (4) the Joint Parties' proposed allotment at Tanque Verde is mutually exclusive with CCR-Sierra's proposal at Tanque Verde; and (5) the proposed allotment at Vail, Arizona, could be granted subject to Mexican concurrence. Additionally, CCR-Sierra argues that the Commission has not previously explained how Section 73.313(e) defines terrain that "departs widely" to allow for a supplemental showing for determining city-grade coverage and should do so in this proceeding.

⁵ We note that, after the Bureau allotted Channel 267C3 to Tanque Verde, Station KKYZ(FM) filed a "one-step" application to implement this allotment on Channel 266C3 at Tanque Verde at a different site. See File No. BPH-20051003CCZ, granted March 5, 2010; *Broadcast Actions*, Report No. 47189 (March 10, 2010). Because the licensee specified an existing tower that had been registered with the FCC and cleared by the FAA, no additional FAA approval was required. See *id.* at Section III-B, Tech-Box, Question 5.

⁶ Specifically, CCR-Sierra's argument that the Commission should define terrain that "departs widely" to determine when a supplemental propagation showing is appropriate for determining city-grade coverage is raised for the first time on review, so the Bureau had no opportunity to pass on it, in violation of Section 1.115(c). See 47 C.F.R. § 1.115(c).

⁷ 47 U.S.C. § 155(c)(5).

⁸ 47 C.F.R. §§ 1.115(c),(g).