

### **307(B) ANALYSIS**

Berthoud, Colorado, is a community for allocation purposes. It is incorporated and was listed in the 2000 U.S. Census as having a population of 4,839 people. It is, therefore, considered a community for allotment purposes. *See Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982). Berthoud has its own post office and zip code, town government, police department, and fire department as well as over forty restaurants, stores, and businesses and over eighteen churches.

#### **Public Interest**

The 307(b) showing favors grant of the requested change in city of license to Berthoud.<sup>1</sup> According to the Commission's assignment priorities, the reallocation of the new FM CP (facility I.D. 165959, BNPH-20060310ADJ) from Walden, Colorado, to Berthoud, Colorado, satisfies both priority three as it would provide Berthoud with its first local transmission service, and priority four as it would serve other public interest matters.

According to the Commission, provision of first local transmission service is the third highest allotment priority. *See M&O 5 FCC 7094 (1990); Hart, Pentwater and Coopersville, Michigan*, 19 FCC Rcd 1886 (2004); *Columbus and Monona, Wisconsin*, 21 FCC Rcd 10012 (2006), *Eatonton and Lexington, Georgia*, 21 FCC Rcd 10032 (2006); *Southwest City, Missouri, and Gravette, Arkansas*, 21 FCC Rcd 6279 (2006). As Berthoud is an independent community,

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<sup>1</sup> This application is filed pursuant to Rule 73.203(b) adopted in MB Docket No. 05-210, R&O Released on 11/29/06. The application proposes a minor modification of facilities and specifies a change in authorized community of license and complies with the requirements of Section 73.3573(g) as follows:

- 1) Legal and technical exhibits are provided demonstrating the preferential arrangement of allotments or assignments under section 307(b) of the Rules.
- 2) The current license and proposed modified facilities are mutually exclusive as defined under section 73.207.
- 3) Applicant certifies that it will comply with the local public notice provisions of Section 73.3580 and applicable subsections with respect to notification of the proposed community of license change to both the presently authorized and proposed communities of license.
- 4) The proposed site complies fully with Sections 73.207 and 73.315 of the Rules.

it is deserving of its own local service. *See Memphis and Arlington, Tennessee*, 21 FCC Rcd 1144 (2006); *LaGrange, Greenville and Waverly Hall, Georgia*, 20 FCC Rcd 20007 (2006); *Athens and Doraville, Georgia*, 19 FCC Rcd 18746 (2004); *Franklin, Addis and Eunice, Louisiana*, 21 FCC Rcd 2933 (2006). There are no radio or television stations licensed to Berthoud.

The change of community of license from Walden to Berthoud would not deprive Walden of a radio station upon which it had come to rely. *See Kingsley, Michigan*, 21 FCC Rcd 2953 (2006). On the contrary, the station at Walden has not been built, and has never been operational. According to the Commission, removal of an unbuilt new station does not raise the same concerns as would the removal of a fully operational station. *See Vernon Center and Eagle Lake, Minnesota*, 2006 FCC Lexis 6633 (2006) (removal of license for first local service permitted when station not built); *Loretto, Tennessee and Killen, Alabama*, 21 FCC Rcd 5834 (2006) (removal of license for first local service permitted when station not built). Since the new FM construction permit has never been operational, the public has no expectation of its continued operation. As such, the removal to Berthoud would not undermine public interest in retaining the station at Walden.

Reallotment of the new FM CP to Berthoud also serves the Commission's allotment priority four, other public interest matters. In the proposed 60 dBu contour for KEZZ at Berthoud, a population of 459,801 persons would be served over 3,524 square kilometers versus the current 60 dBu contour in Walden which encompasses 14,634 persons over an area of 7,873 square kilometers.

In conclusion, the overall public interest would be served by granting Berthoud its first local transmission service. The population gain is significantly increased by over 280,000 within

the 60 dBu contours if the station is reallocated to Berthoud. This is an over eighteen fold increase in service. The analysis of priorities three and four favors the grant of a change of community of license from Walden to Berthoud.