

**Public Interest Statement
FCC Form 301 Question 18 Exhibit 35**

Alex Media, Inc, (“Alex”), Auction winner for allotment MM-FM904C3 at Franklin, Louisiana, hereby submits a Public Interest Statement in support of its application for a new construction permit at Belle Rose, Louisiana.

In this application, Alex is requesting: 1) a class downgrade from the allotted Channel 295C3 to 295A; 2) a change in the community of license from Franklin, Louisiana to Belle Rose, Louisiana; 3) a change of the allotment reference site from one in Franklin to one in Belle Rose; and 4) facilities consistent with such changes.

I. Alex’s Relocation Proposal Complies with Current FCC Policies

Alex’s relocation of its proposed facility from Franklin to Belle Rose is consistent with current Commission Policy. First, such relocation will not strip Franklin of a first local service station, since KFRA(AM) is already allotted to Franklin and is presently on the air and providing service to that community.

Second, because the proposed change would relocate the allotment from a second local service at Franklin (a community of 7,577 persons) to Belle Rose (a community of 1,904 persons) as that community’s first local service, it would represent a favorable arrangement of the allotments.

Third, Alex’s proposed community change would not violate the Commission’s concern with the relocation of stations from small communities to larger well served Urbanized Areas. While Belle Rose is located about 29.6 miles South Baton Rouge, Louisiana (2000 Census population 227,818), a US Census Bureau “Urbanized Area”, Belle Rose is itself an unincorporated community and a Census Designated Place with its

own post office and distinct identity.¹ Additionally, because Belle Rose is not located within the defined boundaries of Baton Rouge Urbanized Area and the proposed station will not place a 70 dBu contour over 50% or more of any “Urbanized Area” including that of Baton Rouge, Louisiana,² a “Tuck” showing is not required as part of this Public Interest Statement.³ Further, in accordance with recent policy clarification, and the attached engineering exhibit, Alex Media certifies that as of the time of filing there are no existing towers in the area to which the proposed station might subsequently be relocated by minor modification from which the proposed Belle Rose facility could place a 70 dBu signal over 50% of the Baton Rouge Urbanized Area.⁴ Accordingly, under current Commission policy, no additional policy concerns are raised by the proposed relocation and no “Tuck” showing is required in this instance.⁵

Fourth, the proposed change of community of an unbuilt allotment would not invoke the absolute bar on community changes for stations that would create a white or

¹ The US Census Bureau classifies an Urbanized Area as consisting of a densely settled territory that contains 50,000 or more people.

² See discussion at Exhibit E35 and Map E35-1. Belle Rose is a CDP within Assumption Parish. Belle Rose is linked to the Pierre Part Micropolitan Area and lies to the South of Baton Rouge’s defined Urbanized Area.

³ *Faye and Richard Tuck*, 3 FCC Rcd 5374 (1988) (setting forth an eight-factor analysis for determining a proposed allotment community’s independence from a nearby Urbanized Area)

⁴ See *Policies to Promote Rural Radio Service and to Streamline Allotment and Assignment Procedures*, MB Docket 09-52 Second Report and Order, First Order on Reconsideration and Second Further Notice of Proposed Rulemaking, Released March 3, 2011, at ¶ 38 (*Rural Radio 2nd R&O*).

⁵ See *Faye and Richard Tuck*, 3 FCC Rcd 5374 at ¶ 36 (1988) (setting forth the required analysis for determining a proposed allotment community’s independence from a nearby Urbanized Area); See also *Exmore and Cheriton, Virginia, and Fruitland, Maryland*, Report and Order in MM Docket 99-347, DA 01-1242, released May 18, 2001, at ¶ 7 (the Tuck policy is only applicable in cases of overlap with an Urbanized Area as defined by the U.S. Census Bureau). Because Alex’s proposed Class A FM facility at Belle Rose, Louisiana would not be located within the defined boundaries of an Urbanized Area, nor would it place a 70 dBu contour over 50% or more of such an “Urbanized Area,” the eight-factor “Tuck” analysis of the proposed community is not required. However, as seen from the Community description below, Belle Rose would likely satisfy a majority of the criteria if such a showing had been required.

grey area, which was recently adopted by the Commission.⁶ As discussed above, unbuilt stations are not considered to be “existing services” under Section 307(b) and their relocation does not create white or grey areas but merely perpetuates the existence of such areas.⁷ That having been said, the proposed relocation of the allotment from Franklin to Belle Rose would not have created new white or grey areas even if the station had already been constructed at Franklin.

II. Compliance with Technical requirements for Relocation

An Applicant wishing to change a station’s community of license, must: 1) specify a channel and community that would be mutually exclusive with the existing allotment; 2) specify a locale that satisfies the requirements of a “Community” for allotment purposes; and 3) specify a community that will constitute a preferred allotment in accordance with specific FM allotment priorities enunciated by the Commission.⁸ Alex’s proposal to relocate its proposed facility from Franklin to Belle Rose satisfies all of these criteria.

1. Alex’s Franklin and Belle Rose Proposals are Mutually Exclusive.

As discussed in the attached engineering exhibit, The proposed assignment of Channel 295A to Belle Rose, Louisiana, would be mutually exclusive with the existing

⁶ See Rural Radio 2nd R&O, at ¶ 39.

⁷ See Farmington and Gallup, New Mexico, 11 FCC Rcd 2357, 2360 (1996) (removal of unbuilt station will not create white area, but rather will perpetuate a preexisting white area), *recon denied*, 14 FCC Rcd 18983 (1999). See also cases cited at footnote 1 *supra*. The present Franklin allotment is merely an unbuilt allotment without even a construction permit, much less a licensed operating station. Therefore it would not be considered an “existing” station for the purposes of calculating white or grey area loss.

⁸ See Amendment of the Commission’s Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License, 4 FCC Rcd 4870 (1989), *recon. granted in part*, 5 FCC Rcd 7094 (1990).

assignment of Channel 295C3 to Franklin, Louisiana.⁹ Additionally, as further discussed in that engineering exhibit, the proposed assignment of Channel 295A to Belle Rose, Louisiana at the specified reference site satisfies the Commission's minimum distance separation requirements contained in 47 CFR § 73.207 and will provide the requisite community coverage set forth in 47 CFR § 73.315.¹⁰

2. Belle Rose Qualifies as a Community for Allotment Purposes.

Belle Rose, Louisiana constitutes a "Community" for allotment purposes in accordance with Commission precedent. The Commission has stated that, in order to qualify as a Community for allotment purposes, a locality must have "social, economic, cultural or governmental indicia" that identify that locality as a Community.¹¹ An applicant may satisfy the showing of community status, by demonstrating that the locality "is commonly regarded as a distinct group," which can be shown "by objective indications of the existence of a common perception that a locality's populace constitutes a distinct geographical population."¹² The Commission has held that objective indications of Community status include the existence of political, commercial, social and religious organizations and services in the community where the residents function and conceive of themselves as residents of a community. The Community of Belle Rose, Louisiana has sufficient objective indicia to qualify for "Community" status.

⁹ See Exhibit 29 and Table 1 thereof.

¹⁰ See Engineering Maps at Exhibits E26 & E27.

¹¹ See *Avon, North Carolina*, 14 FCC Rcd 3939, 3940 (1990).

¹² See *Implementation of BC Docket No. 80-90 to Increase the Availability of FM Broadcast Assignments*, 5 FCC Rcd 934 (1990).

- a. Belle Rose, Louisiana is a Geographically Distinct Place and is Recognized by the Census Bureau and the US Postal Service.

Belle Rose, Louisiana is an unincorporated town of 1,904 persons (2010 census), is geographically separated from other area communities, lying 29.5 miles South of Baton Rouge. Belle Rose is listed as a Census designated Place within Assumption Parish, Louisiana (Census Code U5) by the US Census Bureau. Belle Rose has its own zip code (70341) and has a local post office located at 7101 Highway 1. The Belle Rose Post Office serves and delivers mail to an estimated 2,589 persons living in and around Belle Rose.

- b. Belle Rose has Ample Political, Social and Religious Indicia to be Considered a Community Under the FCC Standard

While Belle Rose does not have a mayor or city council, the community has local trash pickup provided by Triche Hauling (310 Highway 70 S). Belle Rose also has a number of local schools, including: Belle Rose Primary (7100 Highway 308), Belle Rose Middle (7177 Highway 1) and Community Christian Academy (6688 Highway 70 N). Belle Rose also has no fewer than seven churches located within the community.¹³

- c. Belle Rose has sufficient Business and Local Commercial Indicia to be Considered a Community Under the FCC's Standard.

The yellow pages for Belle Rose lists well over fifty businesses with addresses in town, including several gas stations, a market, several restaurants, a few specialty food

¹³ Rose Hill Baptist Church (228 Highway 998), Greater Israel Baptist Church (7076 Highway 308), Cannon Baptist Church (5788 Highway 308), Virginia Baptist Church (145 Virginia St), St Jules Catholic Church (7161 Highway 1), St. James United Methodist Church (140 Highway 998), and Kingdom Hall (6279 Highway 70 N).

businesses, a dance studio, several salons, a number of shops and a number of gas pipeline concerns.¹⁴

Accordingly it is evident that Belle Rose, Louisiana possesses sufficient social, economic, cultural or governmental indicia to be deemed a Community for the purpose of qualifying for an FM allotment.

3. Relocation of Alex's Proposed FM Facility From Franklin to Belle Rose would Constitute a Preferential Arrangement of the Allotments

Removal of an unbuilt second service from Franklin in favor of providing Belle Rose with its first local service would result in a favorable arrangement of the Allotments under the Commission's Rules and policies. As the Commission has repeatedly stated removal of unbuilt facilities do not present the same loss of service concerns for the Commission as would removal of a constructed facility, because unbuilt allotments are not considered to be "existing services" there is no expectation of continued service.¹⁵ For this same reason, removal of the unbuilt allotted channel will not result in the

¹⁴ These include: Big B's Super Market, Errol's Cajun Foods, Alacarte Foods Inc, True Cajun Seasoning Co LLC, BJ's Tavern, Sandi's Bayouside Lounge, August's Barber & Beauty Shop, Dugas Edwin & Daughters Barber & Hair Styling, Enchantment Salon, Belle Rose Shell, Chevron, Gator Super Stop Truck Stop, Exotic Sports Cars LLC, Automotive remodeling Service, Belle Rose Paint & Body Shop, SAS Auto Parts, Economical Wholesale, Tee's Silkscreening, Studio Imani Dance, Southall-Esquire Funeral Home, Triche Hauling, M & M Sewer Treatment LLC, Otis Williams & Sons Roofing, SME Contracting LLC, Res Contractors, PB Energy Storage Services, Gulf South Pipeline Compressor Station, Acadian Gas Pipeline, Action Oilfield Services Inc, Equilon Pipeline Co, Dow Grand Bayou Operations, Chevron and Burlington Northern Santa Fe Railway.

¹⁵ See *Beatty & Goldfield, Nevada*, Report and Order in MB Docket 08-68, DA 09-413, released February 20, 2009, at ¶2 & n.4, *citing* *Linden, Texas et al.*, Report and Order 16 FCC Rcd 10853 (MMB 2001); *Rio Dell, McKinleyville and Trinidad, California*, Letter Decision, DA 08-2676, released December 9, 2008, *citing* *Richard Dean Hodson and Shamrock Communications, Inc.*, Letter, 23 FCC Rcd 8767 (MB 2008) and *Vernon Center and Eagle Lake, Minnesota*, Report and Order, 21 FCC Rcd 14714, 14715 (MB 2007).

creation of any new white or grey area, since no existing radio signal is being lost by any listener.¹⁶

In considering such proposals, the Commission compares the existing with the proposed allotment to determine which would constitute a preferential arrangement of allotments in furtherance of the Commission's mandate under section 307(b) of the Communications Act to provide a "fair, efficient, and equitable" distribution of radio services across the nation. Such comparison is made using a set of FM allotment priorities applied in a specific order of significance. FM allotment priorities are as follows: (1) first fulltime aural service; (2) second fulltime aural service; (3) first local transmission service; and (4) other public interest matters. Co-equal weight is given to priorities (2) and (3).¹⁷ A review of the relocation proposal against the existing allocation clearly indicates that Alex's new proposal results in a preferential arrangement of allotments.

As demonstrated bellow, this case should be decided in favor of Alex Media's proposal based on allotment priority 3, first local service. With no new white space service at either Franklin or Belle Rose, the 307(b) analysis would not be determined under priority one.¹⁸ Similarly, under priority 2, neither an allotment at Franklin or Belle Rose would result in second aural (grey area) service to any area or population.

¹⁶ See also *Farmington and Gallup, New Mexico*, 11 FCC Rcd 2357, 2360 (1996) (removal of unbuilt station will not create white area, but rather will perpetuate a preexisting white area), *recon denied*, 14 FCC Rcd 18983 (1999).

¹⁷ See *Revision of FM Assignment Policies and Procedures*, 99 FCC 2d 88 (1988).

¹⁸ As discussed in the attached Engineering Exhibit (E35), white area covered by a 249C2 Blanca station at the reference coordinates would include 236 square kilometers but no population, and therefore is not cognizable. No White area coverage either geographic or population is predicted from the proposed Avondale 249C1 facility.

Accordingly this case should be determined under allotment priority 3. While the allotment of channel 295A to Franklin constitutes a second local aural service to a community of 7,577 persons, the allotment of Channel 295A at Belle Rose would provide a first local service to 1,944 persons. This priority clearly favors an allotment at Belle Rose, with 1,944 persons receiving a first local service.¹⁹

Accordingly, a determination under the allotment priority 3 would dictate that a relocation of the allotment from Franklin to Belle Rose, as advocated by Alex Media, would be preferred under the allotment priorities as better serving the public interest.

It should also be noted that the proposal at Belle Rose is predicted to provide service to 153,554 persons within the 60 dBu contour, whereas a facility at Franklin would only be predicted to provide 60 dBu service to 61,000 persons. Accordingly, the proposed station would be predicted to provide wide are service to 92,554 more people.

CONCLUSION

The Application proposes the following FM community changes:

Community	Channel Number	
	Current	Proposed
Franklin, LA	295C3,	- - - - ²⁰
Belle Rose, LA	- - - -	295A

This proposal will best serve the public interest under priority 3 by ensuring that Belle Rose a community of 1904 persons will receive a first local service, while 151,650 persons would receive an additional aural service. For these reasons, and those set forth

¹⁹ This Change of community would not invoke the Commission's new concern for the removal of a second local services from communities with populations exceeding 7,500 persons, as that concern pertains only to processing under priority 4. In this case, the addition of a first local service at Belle Rose results in processing under priority 3. See Rural Radio 2nd R&O, at ¶ 39.

²⁰ Channel 1390 AM, Station KFRA will remain licensed at Franklin, Louisiana

in the attached Engineering Exhibit, Alex Media respectfully requests that the Commission grant its application in furtherance of the public interest convenience and necessity.