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October 30, 2007

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TOUSSAINT S. BAILEY
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Federal Communications Commission
1270 Fairfield Road
Gettysburg, Pennsylvania 17325

Re: Blythe Municipal Airport Unicom (FCC Registration No. 0006850424; Call Sign WQDX395; File No. 0002346130)

To whom it may concern:

Our firm serves as special counsel for the City of Blythe ("City"), which operates the Blythe Municipal Airport ("Airport"). This letter is a follow-up to my recent e-mail exchange and phone conversations with FCC personnel related to the unicom at the Airport.

As a brief background, on October 19, I submitted an online help request (Case ID HD 0000000891553) to the FCC Wireless Telecommunications Bureau. That request asked for guidance on the process for a local government entity to modify or rescind its certification of support for a nongovernmental organization to operate a unicom at an uncontrolled airport. On October 23, I received the following e-mail response from Agent 3820:

"Once the license is granted to the NGO, we will not take action against that licensee unless it can be sufficiently demonstrated that the NGO is not meeting their obligations as the Unicom operator as described in 87.213. We've (sic) made no provisions for the local government to simply rescind their support."

On October 24, I called the ULS Customer Support Hotline to obtain additional information and, ultimately, was instructed to submit a written inquiry to the FCC's Gettysburg address.

This matter concerns the City's on-going efforts to have important safety information transmitted to aircraft operators. There is a power plant approximately one mile east of the Airport, and the California Energy Commission ("CEC") has mandated that arriving pilots be notified to avoid low altitude direct over-flights. However, the unicom operator at the Airport, Floyd P. Wolfe, has repeatedly refused

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Federal Communications Commission
October 30, 2007
Page 2

(and continues to refuse) to broadcast this advisory unless he receives significant compensation from the power plant operator. Consequently, in October 2006, the City purchased and installed a "Super AWOS" at the Airport to broadcast the advisory. The City ceased operating that device last March, though, in response to an FCC Enforcement Bureau warning letter stating that Mr. Wolfe has the only unicom station that can be authorized for the Airport. Since that time, the CEC has sent the City multiple letters calling for reactivation of the Super AWOS as soon as possible. Copies of the Enforcement Bureau and CEC correspondence are enclosed for your review.

By this letter, the City requests a formal FCC opinion on whether there is a process to compel Mr. Wolfe to broadcast the safety advisory without compensation as a condition of his unicom station license. Mr. Wolfe holds that license only because the City gave its authorization pursuant Section 87.215(c) of Title 47 of the Code of Federal Regulations, and he is obligated by Section 87.213(b)(1) to limit his unicom transmissions to "the necessities of safe and expeditious operation of aircraft." In my opinion, this obligation includes the duty to transmit important safety information to pilots. It is hard to imagine a more egregious breach of that duty.

Mr. Wolfe's license is scheduled to expire on December 20, 2014. The City is not seeking to have the license revoked at this time. However, the City would like the license modified to include a condition requiring Mr. Wolfe to transmit an advisory about the power plant in the Airport's vicinity. Surely the FCC will not allow the safety of pilots and the general public to be compromised while a unicom station licensee attempts to profit from his federally-created monopoly status.

If you need any additional information, please do not hesitate to contact me.

Very truly yours,



Terence Boga

Enclosures

cc: Charles Hull, Assistant City Manager, City of Blythe
Dale Edwards, Compliance Program Manager, California Energy Commission
1010164.1



FEDERAL COMMUNICATIONS COMMISSION
ENFORCEMENT BUREAU
Western Region

San Diego Office
4542 Ruffner Street, Suite 370
San Diego, CA 92111

March 9, 2007

City of Blythe
235 N. Broadway
Blythe, California 92225

Case # EB-06-SD-426

Attn: Mr. Charles Hull, Assistant City Manager

WARNING FOR UNLICENSED RADIO OPERATION

This office has information that you are operating an unlicensed Aeronautical Advisory ("Unicom") station on 122.8 MHz at the Blythe Municipal Airport near Blythe, California. Radio transmitting equipment must be licensed by the FCC. The only exception to this licensing requirement is for certain transmitters using or operating at a power level that complies with the standards established in Part 15 of the Commission's rules ("Rules").¹ Any low power transmitter operating under Part 15 of the Rules must not cause interference to any licensed radio system and must cease operation when notified by the Commission, as discussed under Section 15.5 of the Rules.²

Operation of radio transmitting equipment without a valid FCC authorization or license is a violation of Section 301 of the Communications Act of 1934, as amended,³ and may subject the responsible parties to substantial monetary forfeitures, *in rem* arrest action against the offending radio equipment, and criminal sanctions including imprisonment.⁴ Because unlicensed operation creates a danger of interference to important radio communications services and may subject the operator to severe penalties, this warning emphasizes the importance of complying strictly with these legal requirements.

Further, only one Unicom station may be authorized for an uncontrolled airfield, such as Blythe Municipal Airport, as outlined under Section 87.215(b) of the Commission's rules.⁵ According to our records, there currently exists an authorized Unicom station at the Blythe Municipal Airport, which is authorized to Mr. Floyd P. Wolfe, d/b/a Wolfe Enterprises under call sign WQDX395 on frequency 122.8 MHz. We have received correspondence from Mr. Wolfe indicating your Unicom station is causing interference to the operation of his Unicom station.

OPERATION OF THIS UNLICENSED TRANSMITTER OR ANY PART 15 TRANSMITTER MUST CEASE IMMEDIATELY.

¹ 47 C.F.R. §§ 15.1 *et seq.*

² 47 C.F.R. § 15.5

³ 47 U.S.C. § 301.

⁴ See 47 U.S.C. §§ 401, 501, 503, 510.

⁵ 47 C.F.R. § 87.215(b).

FILE COPY


You have ten (10) days from the date of this warning to respond with proof of your license or authority to operate granted by the FCC. Your response should be sent to the address in the letterhead and reference the listed case number. Under the Privacy Act of 1974, we are informing you that the Commission's staff will use all relevant material information before it to determine what, if any, enforcement action is required to ensure your compliance with FCC Rules.⁶ This will include any information that you disclose in your reply.



William R. Zears, Jr.
District Director - San Diego Office

⁶ 5 U.S.C. § 552a(e)(3).

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512cc: LES NELSON
: PAT WOLFE (pdf) 

DOCKET	
99-AFC-3C	
DATE	SEP 06 2007
RECD.	SEP 06 2007

September 6, 2007

Mr. Charles Hull
Assistant Manager
City of Blythe
235 North Broadway
Blythe, California 92225

Dear Mr. Hull,

NOTICE TO REINSTATE OPERATION OF SUPER AWOS – BLYTHE ENERGY PROJECT (99-AFC-3C)

This is in response to your e-mail of August 14, 2007. In your e-mail, you include copies of correspondence relating to your efforts to reinstate operation of the Super AWOS that was installed at the Energy Commission's direction at the Blythe Airport. Although the Super AWOS was installed and began operation on October 24, 2006, it was shut down on March 16, 2007, because the Blythe Airport Fixed Base Operator (FBO) filed a complaint with the Federal Communications Commission that the Super AWOS transmitter was interfering with his licensed Unicom frequency. We also understand that, in direct contravention of your instructions as the Airport Manager, the FBO refuses to provide information to pilots to avoid overflight of the power plant that would otherwise be transmitted by the Super AWOS transmitter. The FBO's actions to prevent the dissemination of important safety information to pilots using the Blythe airport appear to be incompatible with his responsibilities for pilot safety as the airport FBO.

In a letter to you dated March 19, 2007, we advised you to take the necessary actions to resume operation of the Super AWOS transmitter. As evidenced by your e-mail, your efforts to resolve the situation with the FBO have not been productive. Since the FBO's authority to hold the license for the Unicom frequency is at the discretion of the City of Blythe, it is imperative that the City take action to ensure the FBO does not continue to block the Super AWOS transmission.

Although we appreciate your efforts to achieve an amicable resolution of the impasse with the FBO, it is essential to resume 24 hours/day Super AWOS operation as soon as administratively possible.

Mr. Charles Hull
September 6, 2007
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Please provide written notice to Stephen Munro, Compliance Project Manager, when Super AWOS operation commences. You may contact Steve at (916) 654-3936 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Terrence O'Brien". The signature is fluid and cursive, with a long horizontal stroke at the beginning.

TERRENCE O'BRIEN
Deputy Director
Energy Facilities Siting Division

CALIFORNIA ENERGY COMMISSION1516 NINTH STREET
SACRAMENTO, CA 95814-5512

March 19, 2007

Mr. Charles Hull, Assistant City Manager
City of Blythe
235 N. Broadway
Blythe, California 92225

Dear Mr. Hull:

SUPER AWOS AT BLYTHE AIRPORT

Energy Commission staff has reviewed the letter you received from Mr. William R. Zears, San Diego District Manager for the Federal Communications Commission (FCC) regarding the operation of an unlicensed Aeronautical Advisory station at the Blythe Airport. It appears that the FCC was unaware that a Super AWOS was installed at the airport. Mr. Zears noted that he received correspondence from Mr. Floyd Wolfe (Blythe Airport Fixed Base Operator) indicating that the Super AWOS transmitter was interfering with his licensed Unicom frequency of 122.8 Mhz. On March 16, 2007, you advised me and Mr. Zears that the Super AWOS was turned off at 10:50 a.m. that same day.

It is unclear to Energy Commission staff how that interference occurs because, based upon our understanding, a pilot transmission on this Unicom frequency is only answered if Mr. Wolfe or an assistant is monitoring the radio. It is also our understanding that the Super AWOS is available 24 hours a day and is only activated when a pilot clicks his/her microphone three times. The Super AWOS checks the frequency to see if any transmission is occurring. If so, the transmitter will not operate until the frequency is clear. Therefore, pilot transmissions and a Super AWOS transmission could not occur simultaneously. In addition, any pilot on the frequency would hear the Super AWOS transmission and would wait until it ends (two to twenty seconds) before attempting a new transmission.

Staff has discussed this situation with David Wartofsky and Gary Loff, of Potomac Aviation Technology, Inc, who are familiar with the installation and activation of the Super AWOS at Blythe Airport. They recommend that you advise Mr. Wolfe in writing that you, as the Blythe Airport Manager, are taking control of the Unicom frequency. They also recommend that a letter be sent to Mr. Zears, along with a license application noting the change in control of the frequency. The application should also notify the FCC that the Super AWOS should be reactivated as soon as possible.

Energy Commission staff recommend that you resolve this matter as soon as feasible. As you know, a major reason for the purchase and installation of the Super AWOS equipment was to broadcast an advisory to arriving pilots that a power plant is located one mile east of

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March 19, 2007
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the Blythe Airport, and low altitude direct over-flight should be avoided. This advisory is an important aviation safety measure, particularly for pilots who are unfamiliar with the Blythe Airport area. We would like to receive a copy of any correspondence with the FCC regarding this matter and ask to be advised when the Super AWOS is returned to service.

Sincerely,



DALE B. EDWARDS
Compliance Program Manager
Energy Facilities Siting Division

cc: Gary Cathy, CalTrans Aeronautics