

Federal Communications Commission

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

In the Matter of)	
)	
Opus Broadcasting Systems, Inc.)	File No. EB-11-PO-0053
Licensee of Radio Station KCNA)	
Facility ID # 10528)	
)	
Cave Junction, Oregon)	NOV No. V201132920015

NOTICE OF VIOLATION

Released: July 13, 2011

By the Resident Agent, Portland Resident Agent Office, Western Region, Enforcement Bureau:

1. This is a Notice of Violation ("Notice") issued pursuant to Section 1.89 of the Commission's Rules,¹ to the Opus Broadcasting Systems, Inc. ("Opus"), licensee of radio station KCNA in Cave Junction, Oregon. This Notice may be combined with a further action, if further action is warranted.²

2. On June 15, 2011, an agent of the Enforcement Bureau's Portland Office inspected radio station KCNA located at 511 Rossanley, Medford, Oregon, and observed the following violation(s):

- a. 47 C.F.R. § 11.15: "EAS Operating Handbook - The EAS Operating Handbook states in summary form the stations to be taken by personnel at EAS Participant facilities upon receipt of an EAN, an EAT, tests, or State and Local Area alerts, It is issued by the FCC and contains instructions for the above situations. A copy of the Handbook must be located at normal duty positions or EAS equipment locations when an operator is required to be on duty and be immediately available to staff responsible for authenticating messages and initiating actions." During the inspection on June 15, 2011, KCNA could not produce the EAS Operating Handbook.
- b. 47 C.F.R. § 73.3526(e)(1): "Authorization - A copy of the current FCC authorization to construct or operate the station, as well as any other documents necessary to reflect any modifications thereto or any conditions that the FCC has placed on the authorization. These materials shall be retained until replaced by a new authorization, at which time a copy of the

¹ 47 C.F.R. § 1.89.

² 47 C.F.R. § 1.89(a).

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new authorization and any related materials shall be placed in the file.” KCNA did not have a copy of the current Station Authorization in the Public Inspection File.

- c. 47 C.F.R. § 73.3526(e)(4): “ Contour Maps - A copy of any service contour maps, submitted with any application tendered for filing with the FCC, together with any other information in the application showing service contours and/or main studio and transmitter location (State, county, city, street address, or other identifying information). These documents shall be retained for as long as they reflect current, accurate information regarding the station.” KCNA did not have the Contour Maps in the Public Inspection File.

3. As the nation’s emergency warning system, the Emergency Alert System is critical to public safety, and we recognize the vital role that broadcasters play in ensuring its success. The Commission takes seriously any violations of the Rules implementing the EAS and expects full compliance from its regulatees. In addition, the Station Authorization and the Contour Maps, among others, are required to be maintained in the Stations’ Public Inspection File. Pursuant to Section 403 of the Communications Act of 1934, as amended,³ and Section 1.89 of the Commission's Rules, we seek additional information concerning the violations and any remedial actions the station may have taken. Therefore, the Opus, must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.⁴

4. In accordance with Section 1.16 of the Commission’s Rules, we direct the Opus to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of the Opus with personal knowledge of the representations provided in the Opus’ response, verifying the truth and accuracy of the information therein,⁵ and confirming that all of the information requested by this Notice which is in the licensee’s possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.⁶

³47 U.S.C. § 403.

⁴47 C.F.R. § 1.89(c).

⁵Section 1.16 of the Commission’s Rules provides that “[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : ‘I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)’.” 47 C.F.R. § 1.16.

⁶18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

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5. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

Federal Communications Commission
Portland Resident Agent Office
PO Box 61469
Vancouver, WA 98666-1469

6. This Notice shall be sent to the Opus Broadcasting Systems, Inc. at its address of record.

7. The Privacy Act of 1974⁷ requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

FEDERAL COMMUNICATIONS COMMISSION

Binh Nguyen
Resident Agent
Portland Resident Agent Office
Western Region
Enforcement Bureau

⁷ P.L. 93-579, 5 U.S.C. § 552a(e)(3).