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**Federal Communications Commission**

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

In the Matter of	)	
	)	
Alaska Educational Radio System, Inc.	)	File No.: EB-FIELDWR-12-00005274
Licensee of KHOH(FM)	)	
	)	NOV No.: V201332780018
Seldovia, Alaska	)	
	)	Facility ID: 176163
	)	

**NOTICE OF VIOLATION**

**Released: May 16, 2013**

By the Anchorage Resident Agent Office, Anchorage, Alaska, Western Region, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission's rules (Rules)<sup>1</sup> to Alaska Educational Radio System, Inc., (AERS) licensee of radio station KHOH(FM) in Seldovia, Alaska. Pursuant to Section 1.89(a) of the Rules, issuance of this Notice does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violation(s) noted herein.<sup>2</sup>

2. In May 2012 and September 2012, agents from the Enforcement Bureau's Anchorage Office, while in Homer, Alaska, determined that an unmodulated signal was present on 88.1 MHz and appeared to be originating in Seldovia, Alaska, across the bay from Homer, Alaska. Research by the Anchorage agents revealed that AERS is the licensee of Station KHOH(FM) operating on 88.1 MHz with a community of license in Seldovia, Alaska. Further research showed no local or toll-free telephone number for Station KHOH(FM) and no listing of a main studio for the station. On November 9, 2012, the Anchorage Office issued a Letter of Inquiry (LOI) to AERS to gather information regarding the Station KHOH(FM) facilities in Seldovia and related matters. The LOI was sent Certified Mail, Return Receipt Requested, and First Class Mail to AERS at its address of record and was returned unopened. On December 21, 2012, AERS was sent a Warning Letter for failing to respond to the LOI, also sent Certified Mail, Return Receipt Requested, and First Class Mail to AERS at its address of record and was returned unopened. Subsequent efforts to contact AERS and its board members also failed. The Anchorage Office has observed the following violations:

- a. 47 C.F.R. § 73.1015: "The Commission or its representatives may, in writing, require from any applicant, permittee, or licensee written statements of fact relevant to a determination whether an application should be granted or denied, or to a determination whether a license should be revoked, or to any other matter within the jurisdiction of the Commission, or, in the case of a proceeding to amend the FM or Television Table of Allotments, require from any person filing an expression of interest, written statements of fact relevant to that allotment proceeding. Any such statements of fact are subject to the provisions of § 1.17 of

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<sup>1</sup> 47 C.F.R. § 1.89.

<sup>2</sup> 47 C.F.R. § 1.89(a).

this chapter.” AERS failed to respond to a LOI and subsequent warning letters from the Anchorage Office.

- b. 47 C.F.R. § 1.5(a): “Each licensee shall furnish the Commission with an address to be used by the Commission in serving documents or directing correspondence to that licensee. Unless any licensee advises the Commission to the contrary, the address contained in the licensee's most recent application will be used by the Commission for this purpose. (b) The licensee is responsible for making any arrangements which may be necessary in his particular circumstances to assure that Commission documents or correspondence delivered to this address will promptly reach him or some person authorized by him to act in his behalf.” AERS failed to furnish to the Commission a reliable address to ensure that Commission documents would promptly reach AERS.

3. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,<sup>3</sup> and Section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, Alaska Educational Radio System, Inc., 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). AERS must also fully respond to the attached LOI. The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.<sup>4</sup>

4. In accordance with Section 1.16 of the Rules, we direct Alaska Educational Radio System, Inc., to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Alaska Educational Radio System, Inc., with personal knowledge of the representations provided in Alaska Educational Radio System, Inc., response, verifying the truth and accuracy of the information therein,<sup>5</sup> 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.<sup>6</sup>

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:

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<sup>3</sup> 47 U.S.C. § 308(b).

<sup>4</sup> 47 C.F.R. § 1.89(c).

<sup>5</sup> Section 1.16 of the 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.

<sup>6</sup> 18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

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Anchorage Resident Agent Office  
PO Box 231949  
Anchorage, AK 99523-1949

6. This Notice shall be sent to Alaska Educational Radio System, Inc., at its address of record.

7. The Privacy Act of 1974<sup>7</sup> 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

David J. Charlton  
Resident Agent  
Anchorage Resident Agent Office  
Western Region  
Enforcement Bureau

Attachment

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<sup>7</sup> P.L. 93-579, 5 U.S.C. § 552a(e)(3).