

Federal Communications Commission

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

In the Matter of)	
)	
KDES Radio Corporation)	File No. EB-FIELDWR-13-00009792
Owner of Antenna Structure No. 1041199)	NOV No. V201332940017
)	
)	
Palm Springs, California)	

NOTICE OF VIOLATION

Released: July 18, 2013

By the District Director, San Diego Office, Western Region, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission’s rules (Rules)¹ to KDES Radio Corporation (KDES) registrant of antenna structure #1041199 in Palm Springs, California. 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 violations noted herein.²

2. On June 20, 2013, an agent of the Enforcement Bureau’s San Diego Office inspected antenna structure # 1041199 located in Palm Springs, California, and observed the following violation:

- a. 47 C.F.R. § 17.50: “Antenna structures requiring painting under this part shall be cleaned or repainted as often as necessary to maintain good visibility.” The antenna structure was required to be painted and at the time of the inspection, the agent observed that the paint was partially faded for antenna structure # 1041199.

3. Pursuant to Section 403 of the Communications Act of 1934, as amended,³ and Section 1.89 of the Rules, we seek additional information concerning the violation and any remedial actions taken. Therefore, KDES, must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain the violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct the violations 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

¹ 47 C.F.R. § 1.89.

² 47 C.F.R. § 1.89(a).

³ 47 U.S.C. §403.

⁴ 47 C.F.R. § 1.89(c).

Federal Communications Commission

4. In accordance with Section 1.16 of the Rules, we direct KDES to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of KDES with personal knowledge of the representations provided in KDES's 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

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
San Diego Office
4542 Ruffner St., # 370
San Diego, CA 92111

6. This Notice shall be sent to KDES Radio Corporation, at the 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

James T. Lyon
District Director
San Diego Office
Western Region
Enforcement Bureau

⁵ 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.

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

⁷ P.L. 93-579, 5 U.S.C. § 552a(e)(3).