

Federal Communications Commission

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

In the Matter of)	
)	
Town of Elk Mountain)	File No.: EB-FIELDWR-15-00020160
Licensee of Station WQPB711)	
)	NOV No.: V201632800001
Town of Elk Mountain, WY)	
)	

NOTICE OF VIOLATION

Released: January 13, 2016

By the District Director, Denver 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 Town of Elk Mountain (Elk Mountain), licensee of radio station WQPB711 in Elk Mountain, WY. 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 noted herein.²

2. On October 21, 2015, in response to a complaint of interference from the National Oceanic and Atmospheric Administration (NOAA), that was impacting the Search and Rescue Satellite Aided Tracking (SARSAT) system, an agent of the Enforcement Bureau’s Denver Office monitored 406 MHz in Elk Mountain, WY. The agent located the source of the transmissions and observed the following violations:

- a. 47 C.F.R. § 1.903(a): “*General rule.* Stations in the Wireless Radio Services must be used and operated only in accordance with the rules applicable to their particular service as set forth in this title and with a valid authorization granted by the Commission under the provisions of this part, except as specified in paragraph (b) of this section.” The agent observed that Elk Mountain used two devices to transmit on 406 MHz. Elk Mountain’s authorization, licensed under call sign WQPB711, does not allow for operation on 406 MHz. The interference on 406 MHz ceased when Elk Mountain ceased transmissions on 406 MHz.

¹ 47 C.F.R. § 1.89.

² 47 C.F.R. § 1.89(a).

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- b. 47 C.F.R. § 90.425(a): “*Identification procedure.* Except as provided for in paragraphs (d) and (e) of this section, each station or system shall be identified by the transmission of the assigned call sign during each transmission or exchange of transmissions, or once each 15 minutes (30 minutes in the Public Safety Pool) during periods of continuous operation. The call sign shall be transmitted by voice in the English language or by International Morse Code in accordance with paragraph (b) of this section. If the station is employing either analog or digital voice scrambling, or non-voice emission, transmission of the required identification shall be in the unscrambled mode using A3E, F3E or G3E emission, or International Morse, with all encoding disabled.” At the time of the investigation, the agent observed that Elk Mountain did not transmit its call sign.

3. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,³ and Section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, Elk Mountain 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 Rules, we direct Elk Mountain to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Elk Mountain with personal knowledge of the representations provided in Elk Mountain’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

³ 47 U.S.C. § 308(b).

⁴ 47 C.F.R. § 1.89(c).

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.

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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
Denver Office
P.O. Box 25446
One Denver Federal Center – Building 1A
Lakewood, CO 80225-0446

6. This Notice shall be sent to the Town of Elk Mountain 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

Nikki P. Shears
District Director
Denver Office
Western Region
Enforcement Bureau

⁷ P.L. 93-579, 5 U.S.C. § 552a(e)(3).