

Federal Communications Commission

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

In the Matter of)	
)	
)	
Ether Mining Corporation)	File No. EB-FIELDWR-16-0021937
Licensee of Station KVSM)	
Santa Maria, CA)	NOV No. V2016323900010

NOTICE OF VIOLATION

Released: August 29, 2016

By the Acting District Director, Los Angeles Office, Region 3, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission's rules (Rules),¹ to Ether Mining Corporation, licensee of station KVSM, Santa Maria, 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 July 26 and 27, 2016, in response to a complaint, an agent from the Enforcement Bureau's Los Angeles Office conducted on scene monitoring and field strength measurements of station KVSM. The monitoring revealed that station KVSM was operating under a construction permit, but with expired program test authority³ and transmitting spurious emissions in excess of allowable limits. The following violations were observed:

- a. 47 C.F.R. § 73.1620(c): "(c) Unless sooner suspended or revoked, the program test authority continues valid during FCC consideration of the application for license, and during this period further extension of the construction permit is not required." At the time of monitoring, KVSM's authority to operate under program test authority had been suspended by the Media Bureau effective February 28, 2015.

¹ 47 C.F.R. § 1.89.

² 47 C.F.R. § 1.89(a).

³ On December 26, 2014 the Commission's Media Bureau sent a letter to KVSM advising them that their Program Test Authority would expire on February 28, 2015.

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- b. 47 C.F.R. § 73.44(a): “The emissions of stations in the AM service shall be attenuated in accordance with the requirements specified in paragraph (b) of this section... (b): Emissions removed by more than 75 kHz must be attenuated at least 43 + 10 Log (Power in watts) or 80 dB below the unmodulated carrier level, whichever is the lesser attenuation, except for transmitters having power less than 158 watts, where the attenuation must be at least 65 dB below carrier level.” At the time of the monitoring, the agent measured spurious emissions at 1760 KHz and 1820 KHz from multiple locations in the community of license. On average, measured from multiple locations, these spurious were attenuated only 41 dB and 51 dB respectively below the carrier at 1380 KHz.

3. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,⁴ and Section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, Ether Mining Corporation, 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.⁵ Information required by Section 73.44(e) of the Commission’s Rules shall also be provided⁶.

4. In accordance with Section 1.16 of the Rules, we direct Ether Mining Corporation, to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Ether Mining Corporation, with personal knowledge of the representations provided in Ether Mining Corporation’s response, verifying the truth and accuracy of the information therein,⁷ 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

⁴ 47 U.S.C. § 308(b).

⁵ 47 C.F.R. § 1.89(c).

⁶ 47 C.F.R. § 73.44(e). Section 73.44(e) of the Rules requires that licensees must make measurements to determine compliance with paragraphs (a) and (b) of this section upon receipt of an Official Notice of Violation or a Notice of Apparent Liability alleging noncompliance with those provisions, or upon specific request by the Commission.

⁷ 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.

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imprisonment under Title 18 of the U.S. Code.⁸

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
Los Angeles Office
18000 Studebaker Rd., Rm. 660
Cerritos, California 90703

6. This Notice shall be sent to Ether Mining Corporation, at its address of record.

7. The Privacy Act of 1974⁹ 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
Acting District Director
Los Angeles Office
Enforcement Bureau

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

⁹ P.L. 93-579, 5 U.S.C. § 552a(e)(3).