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

In the Matter of	)	WT Docket No. 08-20
	)	
WILLIAM F. CROWELL	)	FCC File No. 0002928684
	)	
Application to Renew License for Amateur Radio Service Station W6WBJ	)	

To: Marlene H. Dortch, Secretary
Federal Communications Commission

Attn: Richard L. Sippel,
Administrative Law Judge

APPLICANT'S OPPOSITION TO ENFORCEMENT BUREAU'S MOTION TO DISMISS RENEWAL APPLICATION

Pursuant to 47 CFR §1.45(b), Applicant WILLIAM F. CROWELL hereby submits his Opposition to the Enforcement Bureau's June 12, 2018 Motion to Dismiss my amateur radio service license renewal application herein.

Summary of the Filing [47 CFR §1.49(c)]

I have been an amateur radio operator since 1960, when I was 13 years old. When I first obtained my license the Commission told me they were licensing *only* my amateur radio station, but years later they informed me that they *also* intended to license my speech. I never agreed to that.

The Enforcement Bureau does not have a substantial "interference" or "character" case against me, so it instead resorts to procedural trickery, such as the instant motion to dismiss, in order to avoid renewing my license. The ALJ's order setting the venue for the hearing in Washington, D.C. violates

my Constitutional and legal rights because: (1) it represents an indirect regulation of my speech in an entirely non-remunerative radio service; (2) it violates the the Communications Act (hereinafter "the Act") and (3) it violates the Administrative Procedure Act (APA"). On judical review, the Commissison's attempt to interpret its own venue rule will not receive judicial deference under Auer, nor will its interpretations of the Act and the APA receive Chevron or Meade deference.

Riley Hollingsworth of the Enforcement Bureau set out to intentionally and illegally restrict amateurs' free-speech rights after the former Private Radio Bureau had been missing in action on the amateur enforcement front for 15 years, and Hollingsworth's attempts to play "catch-up" on amateur enforcement were overzealous, illegal and unconstitutional. Part and parcel of that overzealous "catch-up" enforcement activity was that Hollingsworth obtained the instant "informal interpretation" of 47 CFR §1.253[1], allowing venue in an amateur non-renewal case to be set in Washington, D.C., without considering the convenience or necessities of the amateur licensee.

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1 47 CFR Chapter I, Subchapter A, Part 1, subpart B, §1.253; hereinafter "Rule 1.253".

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1. Illegal indirect attempt to regulate my free speech. By requiring me, as a licensee in a non-remunerative radio service[2] in which two-way speech is the *only* permissible type of transmission[3], to incur substantial expense in order to defend my free-speech rights as against the Commission represents an illegal, indirect attempt to regulate my speech which is barred by the First Amendment and by Section 326 of the Act.

2. I never agreed to appear in Washington, D.C., and have objected to venue there at every

2 The word "amateur" has its usual meaning in Part 97: a nonremunerative, avocational-type activity. 47 CFR Part 97, §97.113(a)(2) & (3).

3 47 CFR Part 97, §97.113(b).

opportunity herein. I so advised Riley Hollingsworth in both of my letters in response to his warning notices, and my Notice of Appearance herein was carefully worded in agreeing to appear only at the date and time of the hearing herein, but not at Washington, D.C. because I have *always* argued that I am entitled to a field hearing.

Hollingsworth sent me a letter dated May 15, 2006[4] in which he formally announced that my renewal hearing would be in Washington, D.C., but long before that I knew he would try to set venue there because he had been going all around the country ever since 1998, giving speeches to ham radio organizations in which he said that from then on, venue in non-renewal cases would be in Washington, D.C., and taking credit for the idea.

Now Ms. Kane, who is a relative newcomer to the case, suggests that I waived the venue argument by not "appealing" from Judge Steinberg's interlocutory order back in 2008. But what appeal from said order could I have filed? Because it did not involve one of the subjects listed in 47 CFR §1.301(a)[5] (from which a party has the *right* of appeal), there was *no right of appeal* from that interlocutory order. My only so-called "appeal" would have been to have *requested permission* to appeal from Judge Steinberg under Commission Rule of Practice and Procedure §1.301(b)[6], which is no appeal at all. Requesting permission to have appealed from Judge Steinberg's original venue order would likely have been an exercise in futility; it would have been excessively burdensome on me; and I should therefore be excused from any such requirement[7]. Enough is enough. I promptly excepted from Judge Sippel's 2017 Order setting the venue in Washington, D.C. I have been required to file enough papers already merely to keep my amateur radio license. I do not believe I am required to request permission from the ALJ to appeal from every interlocutory ruling in order to keep the contested issues alive on appeal.

3. <u>There has been no change in circumstances since both ALJs Steinberg and Sippel found good cause to exist for allowing me to appear at all hearings by speakerphone</u>. The only so-called "change in circumstances" was that ALJ Sippel got mad at me for filing my petition to disqualify him, and the timing of the issuance of ALJ's Order for venue in Washington, D. C. (<u>i.e.</u>, at the same time he denied my petition to disqualify him) clearly demonstrates that said Order represented improper retaliation for

4 SRPD, Exhibit A-14.

5 47 CFR Chapter I, Subchapter A, Part 1, Subpart B, §1.301(a).

6 47 CFR Chapter I, Subchapter A, Part 1, Subpart B, §1.301(b).

7 See, for example, <u>Williams v. Richardson</u>, 347 F.Supp. 544 (W.D.N.Y., 1972): "Where administrative review is certain to be fruitless, and is calculated neither to afford relief nor either to afford a review of the one point at issue...failure to pursue administrative remedies should not be a bar." <u>Id</u> at p. 548; and <u>Randolph v.Missoury-Kansas-Texas Railroad</u>, W.D. of Missouri, 1949; affirmed 182 F.2d 996 (8th Circuit, 1950): "Exhaustion does not require parties to be buffeted from pillar to post in a vain search for a tribunal that can vouchsafe to them their rights." Id. at p. 548.

my having filed said petition. The courts will never permit judicial retaliation like that.

4. The Commission's *In Forma Pauperis* rule clearly does not apply to the amateur radio service. Contrary to the ALJ's ruling herein, Commission Rule of Practice and Procedure §1.224[8], providing a procedure for licensing *broadcast* applicants to qualify for *In Forma Pauperis* ("IFP") status, clearly does not apply to a non-remunerative radio service such as the amateur service. Instead, §1.224(a)(1) provides that the IFP procedure applies only to broadcast licensees who cannot "carry on [their] livelihood without the radio license at stake in the proceeding." It is impossible for the Commission's IFP rationale to apply to the amateur radio service because amateurs are prohibited from making *any money whatsoever*, let alone their entire livelihoods, from their amateur license. Therefore denial of an amateur's license application cannot possibly affect his livelihood, as contemplated by §1.224(a)(1). Since the Commission's IFP rule simply doesn't apply to amateur radio licensing hearings, I am not required to qualify for IFP status before I can challenge the ALJ's venue order.

5. The ALJ's decision to set venue in Washington, D.C. does not comply with the Administrative Procedure Act ("APA"). Commission Rule of Practice and Procedure §1.243(j)[9] requires the ALJ's actions and orders to comply with the APA, and Commission Rule of Practice and Procedure §1.62[10] makes it clear that the APA applies to renewal proceedings. Furthermore, the APA itself specifies that it applies to agency licensing proceedings.[11] Commission Rule of Practice and Procedure §1.253, and the ALJ's venue order under it, violate APA Sec. 554(b)(3)[12] because said Order failed to take into account my convenience and necessities, and it failed to give proper and legal effect to the fact that the amateur radio service is entirely non-remunerative in nature. Rather obviously, the ALJ and the Bureau were the only parties whose convenience or necessities were considered in making said order.

I have already informed the ALJ that it would be very inconvenient for me to attend a hearing in Washington, D.C., and that I cannot afford to do so, especially to retain a license for a completely non-remunerative radio service, but the ALJ has clearly refused to consider same in setting venue at Washington, D.C.

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8 47 CFR Chapter I, Subchapter A, Part 1, Subpart B, §1.224.
9 47 CFR Chapter I, Subchapter A, Part 1, subpart B, §1.243.
10 47 CFR Chapter I, Subchapter A, Part 1, subpart A, §1.62(a)(1): i.e., the language stating, "in accordance with the provisions of section 9(b) of the Administrative Procedure Act".
11 5 USC §558.
12 APA Sec. 554(b)(3) [5 USC §554(b)] states in pertinent part that, in fixing the time and place for hearings, due regard shall be had for the convenience and necessities of the parties or their representatives.

It is a bedrock principle of American jurisprudence that it is unfair to allow litigants to be haled into far-away tribunals when the litigants and the litigation have little to do with the location of the court, and where one or more of the litigants would face significant impediments to a fair trial.[13] As the Supreme Court stated in World-Wide Volkswagen Corp.: "The burden on the defendant [that's me] is always a primary concern in such cases."[14]

> "For there can be no equal justice where the kind of an appeal a man enjoys "depends on the amount of money he has."[15]

Venue statutes are *supposed* to function as a *shield* against the plaintiff's attempt to "forum shop", or to use an inconvenient forum to prejudice a defendant[16], but in this case Rule 1.253 is being used for precisely the opposite purpose: as a *sword*, to *prevent* me, as a practical matter, from defending myself herein.

Originally in this country there were no venue rules, but instead only the rules of personal jurisdiction. This made it easy for unscrupulous plaintiffs (especially in federal diversity cases) to obtain an unfair advantage by choosing a far-away forum that would make it difficult and expensive for the defendant to defend the suit. The concept of venue arose as a response to the injustices that resulted from the "pure" personal jurisdiction system of jurisprudence. Under the resulting court venue rules and the doctrine of *forum non conveniens*, it became possible to protect a defendant from such unfairness, despite the fact that personal jurisdiction might exist.

But Rule 1.253 is being applied in exactly the *opposite* manner herein, and for exactly the *opposite* purpose: rather than *protecting* my administrative due process rights, venue is instead being used in this case to *punish* me for exercising my free-speech rights as an amateur radio operator. Here, it is the ALJ and the Enforcement Bureau that are doing the forum shopping. This is nothing but "venue turned on its head", and will never be upheld by the D.C. Circuit Court of Appeals if an appeal must be filed herein under §402(b)(2)[17] of the Act.

In Goldberg v. Kelly[18], the Supreme Court held that the "minimum procedural safeguards" necessary for administrative due process are adequate notice of the denial of a governmental benefit and the reasons for it, as well as an effective opportunity to be heard. According to the Supreme Court in Goldberg, an effective opportunity to be heard includes (as pertinent herein; Goldberg actually lists

13 World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286, 291.
14 World-Wide Volkswagen Corp. v. Woodson, op cit, at p. 292.
15 Griffin v. Illinois, 351 U.S. 12, 19 (1956) (a criminal case) and Boddie v. Connecticut, 401 U.S. 371 (1971).
16 Olberding v. Illinois Central Railroad, 336 U.S. 348, 340 (1953).
17 47 USC §402(b)(2).
18 397 U.S. 254, 267-271 (1970).

more requirements): (1) the right to cross-examine adverse witnesses and (2) the right to have an impartial hearing examiner.

The ALJ's venue order herein, setting the hearing for Washington, D.C., denies me both of these two procedural rights guaranteed by Goldberg v. Kelly. Setting the hearing in Washington, D.C. makes it financially impossible for me to attend, so I will be unable to cross-examine the adverse witnesses. Nor can I afford to bring my own witnesses to such a hearing. Furthermore, it would be impossibld for meto obtain a fair hearing because the ALJ has clearly shown his animus against me by the statements he has made in our telephone conferences ["You're going to wind up on that list, you know." (i.e., on a list on the FCC's website, together with convicted felons Titus, Mitnick and Schoenbohm, even though I've never even been charged with, much less convicted of, any crime whatsoever, whether felony or misdemeanor); and "You really want to be on that list, don't you?"]; by threatening to find an "abuse of process" (FCC lingo for contumacious behavior) every time I try to defend myself from the Bureau's false, legally unfounded, bootstrapped and highly-defamatory charges; and by threatening to use this so-called "abuse of process" against me, as an excuse to dismiss my renewal application entirely.

The Supreme Court has also held that administrative due process includes the right to avoid being stigmatized by government activity.[19] Attempting to stigmatize me as a so-called "jammer" and thereby run me off the air illegally is the *only* thing the Bureau has ever done with this case. To continue to a hearing herein would therefore clearly violate my administrative due process rights.

6. The courts will not accord Auer deference to the ALJ's venue order. Although Auer deference normally applies only when the regulation is ambiguous (if it were clear and unambiguous, it wouldn't require any interpretation by the agency in the first place), Auer deference would be denied on appeal to the D.C. Circuit Court of Appeals herein because the *pitiful* regulation at issue (Rule 1.253) *doesn't even rise to the level of ambiguity*. It's neither clear *nor* ambiguous; it's *mush*. The Commission should be ashamed of itself for having such a rule. It provides absolutely no guidance to the ALJ, and because it provides no restrictions whatsoever on the ALJ's choice of venue, and it fails to require the ALJ to take my convenience and necessities into account in setting venue.

Section 1.253 doesn't specify whether any party's convenience or necessities must be considered in choosing venue, so it lends itself to harassment and abuse of licensees, such as that which is occurring herein. It also fails to mention whether or not the venue is the same (Washington, D.C.) for *all* types of licensees, i.e., remunerative vs. non-remunerative ones. Since it provides no limits on the

19 Vitek v. Jones, 445 U.S. 480, 491-493 (1980).

ALJ's discretion in setting venue, presumably he could set venue in Timbuktoo under Rule 1.253 if he wanted to harass a licensee. Section 1.253 is unconstitutional as applied because it permits the ALJ to set venue in Washington, D.C. for the renewal hearing for a non-remunerative license in order to shut the station up and run him off the air, as they are trying to do in this case. Do we really want an FCC that has the power to silence amateur radio operators this way?[20]

Rule 1.253 demonstrates the pitfalls inherent when a federal agency interprets its own rules: the agency has an incentive to promulgate extremely vague rules ["mush", like Rule 1.253)] in order to effectively avoid the notice and comment rulemaking requirements of the APA, so any interpretation of the resulting "mush" is necessarily arbitrary and capricious, resulting in what Justice Jackson memorably described as "administrative authoritarianism - the power to decide without law".[21]

> "A substantive regulation must have sufficient content and definitiveness as to be a meaningful exercise in agency lawmaking. It is certainly not open to an agency to promulgate mush and then give it concrete form only through subsequent less formal "interpretations".[22]

7. The venue order violates the Communications Act. This case is based on my alleged interference, but Section 303(f) of the Communications Act provides that in preventing interference the Commission has only the power to make regulations that are not inconsistent with law. The problem is that Rule 1.253 and its interpretation by the ALJ *violate* the law; namely, APA §554(b)(3); my First Amendment rights; and my right to be free from censorship under Sec. 326 of the Act. It represents an illegal indirect attempt to limit my speech, as well as a violation of the doctrine of unconstitutional conditions.

> "If the state may compel the surrender of one constitutional right as a condition of its favor, it may, in like manner, compel a surrender of all. It is inconceivable that the guaranties embedded in the Constitution of the United States may thus be manipulated out of existence."[23]

Denial or revocation of a government benefit such as an amateur radio license if certain conditions are not met (agreeing not to exercise my free-speech rights) is recognized as regulatory activity by government, which must find compelling justification if constitutional rights are thereby restricted.[24]

As Justice Potter Stewart stated in U.S. v. Jackson[25]:

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20 If the American Radio Relay League *really* represented the interests of radio amateurs (as it falsely claims to do), it would oppose illegal, unconstitutional E.B. activity like the kind appearing in this case. However, the ARRL is in bed with the Commission and either goes along with or instigates all of the Bureau's illegal enforcement activities.

21 Securities and Exchange Commission v. Chenery Corp., 332 U.S. 194, 216 (1947).

22 Paralyzed Veterans of America v. D.C. Arena Limited Partnership, 117 F.3d 579, 580 (D.C. Circuit, 1997).

23 Frost & Frost Trucking Co. v. Railroad Commission, 271 U.S. 583, 594 (1926).

24 Jamison v. Texas, 318 U.S. 413, 415-16 (1942); Schneider v. New Jersey, 308 U.S. 147, 162 (1939); Hague v. CIO, 307 U.S. 497, 514-516 (1939); and Marsh v. Alabama, 326 U.S. 501, 501 (1946).

25 390 U.S. 570, at 581-82 (1968); See also Speiser v. Randall, infra; Sherbert v. Verner, infra; Pickering v. Board of

> "If the provision had no other purpose than to chill the assertion of constitutional rights by penalizing those who choose to exercise them, then it would be patently unconstitional."

And as the Supreme Court stated in Rust v. Sullivan[26]:

> "But freedom to differ is not limited to things that do not matter much. That would be a mere shadow of freedom. The test of its substance is the right to differ as to things that touch the heart of the existing order."

Nor may the receipt of a public benefit, such as the issuance of an amateur radio license, be conditioned upon the relinquishment of procedural due process in its administration.[27]

Also, Section 307(a)[28] of the Communications Act says the only reason the Commission can deny my application would be if doing so would not benefit the "public interest, convenience and necessity", but the Commission's unconstitutional and illegal denial of my free-speech rights renders it legally impossible for it to make an adverse finding on said issue.

And of course Sec. 326[29] of the Act provides as follows:

> SEC. 326. [47 U.S.C. 326] CENSORSHIP; INDECENT LANGUAGE.
> Nothing in this Act shall be understood or construed to give the Commission the power of censorship over the radio communications or signals transmitted by any radio station, and no regulation or condition shall be promulgated or fixed by the Commission which shall interfere with the right of free speech by means of radio communication.

8. The venue order represents an unconstitutional condition placed upon my free-speech rights. The Commission has already demonstrated an intention to suppress my First Amendment rights. It knows that it cannot *directly* limit the free-speech rights of its amateur licensees under Red Lion Broadcasting v. FCC[30] and Sable Communications v. California[31], despite its feeble attempts to rely on the irrelevant Gross v. FCC[32] and Lafayette Radio Electronics Corp. v. United States[33] cases. Limitation of

Education of Township High School District, 391 U.S. 563, 568 (1968); Shapiro v. Thompson, 394 U.S. 618, 631 (1969); Perry v. Sindermann, 408 U.S. 593, 597-598 (1972); Elrod v. Burns, 427 U.S. 347, 357-361 (1976); Abood v. Detroit Board of Education, 431 U.S. 209, 233-234 (1977); Dolan v. City of Tigard, 512 U.S. 374, 385-386 (1994) and 44 Liquormart, Inc. v. Rhode Island, 517 U.S. 484, 513 (1996).

26 500 U.S. 173, 212-215 (1991), citing West Virginia Bd. of Education v. Barnette, 319 U.S. 624, 642 (1943).

27 Dixon v. Alabama State Board of Education, 294 F.2d 150, 156 (5th Circuit, 1961); *cert denied* 368 U.S. 930 (1961).

28 5 USC §307(a).

29 5 USC §326.

30 395 US 367 (1969).

31 492 US 115 (1989).

32 480 F.2d 1288, (2nd Circuit 1973): distinguishable as irrelevant to free-speech issues because the holding was based on the Commission's statutory authority to classify radio services for license purposes; i.e., the Commission's right and duty under the Act, the Code of Federal Regulations and the International Amateur Radio Union treaty to create and administer a non-remunerative radio service.

33 345 F.2d 278 (2nd Circuit, 1965): distinguishable as irrelevant to free-speech because "many intended users" were being denied the use of the frequency due to interference, unlike this case, where I was simply trying to participate in a roundtable conversation, just like every other station in the conversation was doing, and I did not prevent anyone else from participating.

amateur operators' speech by the Commisson is entirely legally impossible under F.C.C. v. League of Women Voters of California[34], wherein the U.S. Supreme Court invalidated a federal statute that provided funding to public television (broadcast) stations only if those stations did *not* engage in "editorializing". The Supreme Court held that the broadcast stations' right to air editorials was protected speech under the First Amendment, and that the U.S. Government could not require public television (broadcast) stations to relinquish their First Amendment rights as a condition for financial support.

A fortiori F.C.C. v. League of Women Voters of California applies to the strictly two-way amateur radio service because its two-way nature forces the conclusion that there is no "public" to protect. In addition, in the amateur service there is a complete absence of the other factors required by Red Lion which make it possible for the Commission to regulate the speech of broadcasters, and only the speech of broadcasters, in the first place. In contrast to the broadcast radio services, in amateur radio the only kind of transmission permitted is speech (even digital transmissions in the amateur service are composed of speech). One may not broadcast (only two-way transmissions are permissible); there is no specific frequency assignment; the allocated frequencies must be shared; the license may not be used for remunerative purposes; and amateur transmissions are not easily accessible to the public, so there is no substantial possibility of unwelcome verbal intrusion into the homes of the general public.

If, as the Supreme Court held in FCC v. League of Women Voters, the Commission doesn't even have the power to make its *broadcast* licensees give up their free-speech rights as a condition of keeping their licenses, a fortiori the Commission can't do it to amateur radio operators because none of the Red Lion factors appear in the amateur service.

Nor, even if it *did* have a legal basis for regulating amateur radio operators' speech, could the Commisison ever possibly formulate any rational basis[35] for distinguishing between so-called "interference", "jamming" and protected speech. Since the Commission can't satisfy the first requirement of the free-speech test ("rational basis"), the inquiry proceeds no further. However, even assuming, *arguendo*, that the Commisison *could* show a rational basis for restricting amateurs' speech, it still couldn't satisfy the other two prongs of the free-speech test by demonstrating that (1) such restrictions would be narrowly tailored and (2) that they serve a compelling governmental interest[36]. The courts will give even the most indirect invasions of first amendment rights careful attention ("strict scrutiny"):

> "It is basic that no showing merely of a rational relationship to some colorable state interest would suffice; in this highly-sensitive constitutional area,...[o]nly the gravest abuses,

34 468 U.S. 364 (1984).
35 Lamont v. Postmaster General, 381 U.S. 301 (1965).
36 Sherbert v. Verner, 374 U.S. 398 (1963).

endangering paramount interests, give occasion for permissible limitation..."[37]

Konigsberg v. State Bar[38], in which the Supreme Court held that *no* state interest can justify the limitation of first amendment freedoms, was really the "end of the ball game" for the Enforcement Bureau when it came to regulating the free-speech rights of radio amateurs (the Bureau just doesn't want to admit it is "dead in the water" under Konigsberg yet, but they will be *forced* to admit it if the D.C. Circuit Court of Appeals rules herein).

So because it couldn't do so *directly*, the Commission, through Hollingsworth, tried to regulate amateurs' free-speech rights *indirectly*, by abusing their discretion and by manipulating the Commission's rules so that if the Commission didn't happen to like what an amateur licensee said, they could issue warning letters threatening to make him travel to Washington, D. C. for a hearing in order to shut him up, and if he wouldn't shut up then issue an HDO against him, and then make it impossible for him to realistically defend himself in the resulting non-renewal proceedings because the procedure is too complicated (you need to hire an attorney who specializes in FCC law, but even if you could find such an attorney it would be one who knows broadcast radio law, which would be of little help because amateur radio law is totally different from broadcast radio law), too expensive (nobody is willing to spend that kind of money on a non-remunerative avocation) and would require going to Washington, D.C. for a hearing to renew a license that is non-remunerative in nature.

By making that expensive threat, and by then vaguely threatening and questioning the amateur's free-speech rights in speeches and writings, Hollingsworth tried to scare amateurs into not exercising those rights (while hypocritically attempting to maintain "deniability" by using a phony, disingenuous disclaimer).

In American Communications Association v. Douds[39] the Supreme Court stated:

> "The fact that no *direct* restraint or punishment is imposed upon speech or assembly does not determine the free-speech question. Under some circumstances, *indirect* 'discouragements' undoubtedly have the same coercive effect upon the exercise of constitutional rights as imprisonment, fines, injunctions or taxes." [emphasis supplied.]

In 1999 Hollingsworth gave an interview to CQ Magazine[40] in which he acknowledged that, due to severe budget and personnel cutbacks, and due to the explosion of commercial services such as cell phones, the former Private Radio Bureau had backed away from amateur radio enforcement for the

37 Sherbert v. Verner, op cit., at p. 406, quoting Thomas v. Collins, 323 U.S. 516, 530 (1945).
38 366 U.S. 36 (1961), at pp. 56-80.
39 338 U.S. 382, at p. 402 (1950); see also NAACP v. Alabama, 357 U.S. 449, 461 (1958).
40 SRPD Exhibit B-16. Hollingsworth said the same thing many times when making speeches to amateur radio organizations and groups.

previous 15 years. "It was nobody's intention to let amateur radio go[41]; we were overtaken by events and by budget cutbacks. But now there's a renewed interest in enforcement," Hollingsworth told CQ. The problem was that this "renewed interest" in amateur enforcement was highly-overzealous and unfair.

First of all, Hollingsworth wrote letters[42] to me and to many other amateurs in which he threatened, without any legal basis therefor, to limit our free-speech rights under Sec. 97.1[43] of Part 97 (which says nothing about amateurs' free-speech rights) if he didn't happen to like what we said, and then added a disclaimer paragraph so he could maintain "deniability" about restricting our free-speech. Said letters were intended to create fear, uncertainty and doubt concerning the extent of our free-speech rights in the amateur service, and to chill the exercise of said rights by making us reluctant to exercise them.

In an interview in CQ Magazine, Hollingsworth was quoted as saying, essentially, that under Sec. 97.1 of Part 97, the Liberty Net was "jamming" merely because they discussed politics on the ham radio, and that 14.313 and 3.950 Mhz. were "trouble frequencies" where free-speech needed to be curtailed:

> "There's an old expression in the South, that you can lose the whole farm fighting for the outhouse. I'm trying to tell these people, let's forget about the First Amendment stuff on 3.950...let's save this whole spectrum first and make sure we don't shoot ourselves in the foot, because if everybody starts fighting we're going to lose the whole thing. We can't forget 97.1, the basis and purpose of amateur radio."

In an interview with the ARRL, Hollingsworth said he had the right to determine whether the Liberty Net's discussion of politics was permitted in the amateur service, using Sec. 97.1, the "Basis and Purpose" section of Part 97 as his supposed justification.[44]

The statements of public servants may be used against them in litigation. See, for example, Regents of the University of California and Janet Napolitano v. U.S. Department of Homeland Security[45], an immigration case in which U.S. District Court Judge William Alsup (who happens to be a

41 That is untrue; it was an *intentional* failure. The real reason for the 15-year hiatus in amateur enforcement was because, after several years of litigation in the 1980s, I convinced Carole Fox Foelak of the former Private Radio Bureau that amateur enforcement was ultimateley counterproductive. Then Ms. Foelak left the Commission's employment and a new, dumb and stupid generation of PRB and E.B. employees came along who had not learned that lesson.

42 My Response to the Bureau's Request for Production of Documents, Exhibit A-8.

43 47 CFR Part 97, §97.1

44 Amateur Radio Relay League Newsletter, Vol 18, No. 22, May 28, 1999: "I don't get the connection yet between Liberty Net conversations and the basis and purpose of amateur radio...[.] We are so far unable to determine how the transmissions of this group meet the standards of, or contribute to the purposes of, the allocation of frequencies for the amateur radio service."

45 U.S. District Court for the Northern District of California, Case No. C 17-05211A (2018), at page 44.

distinguished amateur radio operator, N6XMW[46]) enjoined the Trump administration's rescission of the DACA (Deferred Action for Childhood Arrivals) program based largely upon "tweets" from President Trump.

Therefore Hollingsworth's public statements, such as those contained in the CQ Magazine interview, must be considered by the ALJ to show his true intent in issuing his informal interpretation of the former, long-standing venue rule interpretation that had required field hearings in amateur cases. It was merely part and parcel of Hollingsworth's overzealous, and often illegal, re-start of amateur radio enforcement in 1998. The entire purpose of changing the former venue interpretation was so that Hollingsworth could silence any amateur who said anything he didn't happen to like, by forcing him to travel to Washington, D.C. in order to defend his license from non-renewal. This represented a documented, prohibited agency intent to penalize my First Amendment rights based upon my beliefs, within the meaning of Speiser v. Randall, 357 U.S. 513, 518 (1957).

At the time he issued my warning notices herein, Hollingsworth clearly but mistakenly believed that the Commission had the right to regulate the speech of radio amateurs, and that if the Enforcement Bureau were to allow ham radio operators to enjoy their full and unrestricted free-speech rights, we would somehow "lose" the amateur radio service. He equated the exercise of free speech in the amateur service with "fighting". He clearly believed that amateur radio would be "shooting itself in the foot" if hams were permitted to fully exercise their free-speech rights, and that it was therefore necessary to illegally restrict their speech in order to save the amateur service from some unspecified horrible fate.

Hollingsworth told Jerry Rogich, AA2T, in a CQ Magazine interview[47] that his guidelines for proper on-the-air language "are simply stated as anything that hams with kids could listen to without embarrassment, at any time of the day or night." But such a policy directly contravenes the leading Supreme Court decisions on the issue, which hold that adults' free-speech rights cannot be limited to language that is safe for children.[48] In this same interview, Hollingsworth said that hams shouldn't say

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46 Two of Judge Alsup's published technical articles concerning amateur radio are: "The Effect of Slope on Vertical Radiation Patterns of a Horizontal Antenna", ARRL Antenna Compendium Vol. 5, p. 72 and "The XMW Propagation-Prediction Program", ARRL Antenna Compendium Vol. 6, p. 77. See also:
https://en.wikipedia.org/wiki/William_Haskell_Alsup
https://www.theverge.com/2017/10/19/16503076/oracle-vs-google-judge-william-alsup-interview-waymo-uber
https://forums.qrz.com/index.php?threads/meet-the-judge-who-codes-%E2%80%94-and-decides-tech%E2%80%99s-biggest-cases.585316/
https://www.eff.org/files/alsup_api_ruling.pdf

47 See my SRPD, Exhibit B-13.

48 Butler v. Michigan, 352 U.S. 380, 383 (1957); Sable Communications v. FCC, 492 U.S. 115, 127 (1989); and Reno v.

anything of which he disapproved because he can't obtain more amateur operating privileges and expanded amateur high frequency band allocations if there is any bad language on the air. He didn't deign to tell us, however, how we were supposed to devine his approval of our language. Mental telepathy, perhaps? He also incorrectly maintained that the Enforcement Bureau could enforce a daily "safe harbor" time period for the use of indecent language in the amateur service.

In one of my warning emails from Hollingsworth[49], after I informed him I was simply participating, just like everybody else, in the on-the-air conversations in question, he fatuously replied:

> "Well, I hardly think that's "participating": making unsolicited and unacknowledged comments when it's clear no one wants to talk to you or have you in the conversation. I'm sure you wouldn't do that at the courthouse, on the street corner or in a restaurant. It's [sic] appears pretty transparent why you are doing it on Amateur radio."

On November 8, 2000, Hollingsworth sent me a letter[50] claiming I was making "imaginary, make-believe or fictitious conversation" (i.e., that merely because one of the other stations taking part in the conversation wanted me to leave, that I therefore had to leave, and since I refused to leave, then I was talking to nobody). In this email, and in a similar letter, Hollingsworth told me that I had to obtain the permission of every other station in the conversation before I could enter same. None of this is required by anything in Part 97; on the contrary, §97.101(b)[51] requires all amateurs to *share* their assigned frequencies, but Hollingsworth didn't think the other stations were required to share them with me merely because he didn't happen to like me. This was a clear abuse of discretion, since it was contrary to §97.101(b) and really represented an attempt by Hollingsworth to subdelegate, to the complaining amateur, the Commission's responsibility for enforcing Part 97.

Since both I and the complaining station obtain our operating privileges from exactly the same section of Part 97, how logically could the other station obtain a greater operating privilege than I have? How could that complaining station have the right to deny me the right to use the frequency, when I am specifically auhorized to use it under my license, and when (by their argument) obviously I *don't* have the *same* right to deny its use to *them*? How does the other station obtain a right under Part 97 that I don't have, when we both have exactly the same kind of license? [Only by the Bureau's hypocrisy and its complete failure and refusal to apply and enforce §97.101(b), that's how.]

The plain fact of the matter is that Hollingsworth just didn't understand the implications that this

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American Civil Liberties Union, 521 U.S. 844, 857 (1997).

49 SRPD, Exhibit B-4.

50 RPD, Exhibit A-11.

51 47 CFR, Part 97, §97.101(b).

policy would logically have on the Commission's claim to *preempt* the regulation of radio under the federal supremacy clause[52] of the Constitution: how can the Commission claim to be pre-empting the regulation of radio when Hollingsworth is subdelegating, to a licensee, the Commission's responsibility to enforce the rules? The whole policy is a complete affront to the Commission's claims of radio regulation preemption. It is even more egregious than what the courts refer to as disfavored "dog-in-the-manger-preemption"; i.e., where the U.S. Government claims preemption over a subject matter but then fails to regulate it. In this case, not only did Hollingsworth claim preemption and then fail to regulate the subject matter, but he actually *subdelegated to private citizens the Commission's responsibility to regulate it*. He *gave away* the Commission's power, but he didn't even realize it!

In that same email Hollingsworth also assumes the right to second-guess every transmission I made by judging it to be "unsolicited" and "unwarranted" if he doesn't happen to approve of it [he called it a violation of §97.113(b)[53] as a one-way transmission because he claimed nobody else wanted to talk to me, at the same time he was sending the other stations emails telling them not to talk to me[54]], and to judge whether or not the other stations wanted me in the conversation. Then he set about dissuading them from talking to me[55]. He is deliberately unclear and threatening when he says "It's [*sic*] appears pretty transparent why you are doing it on Amateur radio." Doing *what*? (Exercising my free-speech rights.) And *what* is transparent? (That I am ruining ham radio by exercising my free-speech rights.) The entire email represents an attempt to scare me, and to dissuade me from exercising my First Amendment rights in the amateur radio service.

Then in August of 2000 Hollingsworth wrote me a warning notice[56] in which he accused me of interference because I made so-called "unsolicited and unwanted comments and responses" during a roundtable conversation, and that my transmissions were not "acknowledged"; in other words, again, one of the other stations in the conversation complained to Hollingsworth that I wouldn't go away when he ordered me to. No such prohibition or requirement is contained in Part 97; in another complete abuse of his discretion, Hollingsworth gave the complaining station special dispensation to order me

52 Article VI, clause 2.

53 47 CFR, Part 97, §97.113(b).

54 Applicant's Response to Request for Production of Documents, Exhibit B-3: Hollingsworth says, "Ben, the guy [me] is a dickhead. You have to stop talking to him." Exhibit B-2: "Ben, I never read email from Crowell anyway. It is auto-deleted from my computer, and I don't even know that it comes in." Exhibit B-1: the late Orv Dalton, K6UEY, says Hollingsworth told him to tell everyone in the 3830 group that nobody should talk to me, and then when I identify my station as required by 47 CFR, Part 97, §97.119(a), Hollingsworth would claim that I was making one-way transmissions in violation of 47 CFR Part 97, §97.113(b).

55 SRPD, Exhibits B-1 through B-3.

56 RPD, Exhibit A-8.

off the frequency (in effect an exclusive frequency assignment in violation of the "frequency sharing" requirement[57]) because he happened to like the complaining station but he didn't like me.

Between 2000 and 2008, when the HDO issued, Hollingsworth tried to run me completely off the air by announcing on the FCC's website, in public forums and in speeches to amateur radio organizations that I was a so-called "jammer" and by telling other stations not to talk to me, without actually taking any formal action against my license. But that didn't work.

Hollingsworth further demonstrated his willingness to violate the Act and Part 97 by illegally calling amateurs in for re-testing[58], and by illegally issuing summary "modifications" of amateur licenses that in no way complied with the APA or the due-process requirements of Part 97, Sec. 97.27.[59] Hollingsworth and his boss, Richard Lee, Chief of the Compliance and Information Bureau, both spoke at a reception held during the April 21, 1999 meeting of the National Association of Broadcasters in Las Vegas, Nevada, where they joked around about how Hollingsworth was as tough as Batman, and how they might re-test "everybody":

> "As Hollingsworth prepared to leave the podium, Lee got the last laugh by quipping, "So, are we going to take this opportunity to retest everybody?"[60]

Hollingsworth also apparently mistakenly believed that Section 316 of the Act[61] could be used to sanction a licensee's misconduct, when it was really addressed only to modifying a station license to a different frequency in rulemaking and similar concerns[62]. He instead incorrectly believed that no hearing was necessary under Section 303(m)[63] of the Act prior to making such a modification.

Apparently Hollingsworth was unaware of the case of Western Broadcasting Co. v. FCC[64], which held that Section 316 could not be used as a sanction, and that licensees are entitled to a hearing under Sections 303(m) and 316 of the Act before such a modification can be imposed. A court may

57 As is required by 47 CFR, Part 97, §97.101(b).

58 47 CFR, Part 97, §97.519(d)(2) only allows the Commission to re-administer an amateur exam if the original exam was taken before a Volunteer Examiner, but no re-administer is permitted if the licensee was originally examined by an Engineer-In-Charge. Hollingsworth, however, illegally called in many amateurs for re-exam who had taken their original exams before an EIC. Among them were Timmy Sheen, N6MZA (A *blind man*! Can you believe that creep Hollingsworth would treat a *blind man* illegally?) But Sheen surprised Hollingsworth by passing his re-exam. In the same way, Hollingsworth also illegally called in for re-exam Michael Delich, WA6PYN, who became so apoplectic when he received his notice, and after he couldn't change Hollingsworth's mind, that he suffered a fatal heart attack.

59 47 CFR, Part 97, §97.27.

60 Amateur RadioNewsline, via ARRL Letter Online, April 23, 1999.

61 5 USC §316.

62 Modification of FM or Television Licenses Pursuant to Section 316 of the Communications Act, 2 FCC Rcd 3327 (1987).

63 5 USC §303(m).

64 674 F.2d 44 (D.C. Circuit, 1982).

refuse to defer to an agency's interpretation of a statute that raises serious constitutional concerns.[65]

The Bureau is not going to get anywhere by arguing that Auer v. Robbins[66] deference applies in such a setting. In the venue Order at issue herein, the Commission is interepreting its own rule, Sec. 1.253[67]. This means that on appeal hereof, the reviewing Court would accord neither the ALJ's venue order, nor the ALJ's interpretation of Rule 1.253, judicial deference under Auer because the case falls under several of Auer's well-recognized "carve-outs". Instead, such a decision by the Commission would receive only Skidmore[68] deference: it would represent only a *recommendation* that would not be binding in any way upon the reviewing court[69]":

> "A court may certainly be asked by parties in respondents' position to disregard an agency regulation that is contrary to the substantive requirements of the law, or one that appears on the public record to have been issued in violation of procedural prerequisites, such as the "notice and comment" requirements of the AP A, 5 U. S. C. § 553."

9. The ALJ's venue order is "clearly erroneous" under Auer. The main Auer carve-out in this case is that the venue order and the ALJ's interpretation of Rule 1.253 are "clearly erroneous" for all of the legal reasons discussed herein.

10. The Auer carve-out for "unfair surprise"[70] also applies. The Commission had a long-standing, legally-established policy of holding field hearings in amateur licensing cases in the city nearest the licensee's residence, and it has not complied with the APA's requirements prior to changing said policy; namely, it has not examined the relevant data and articulated a satisfactory explanation for its action of changing said long-standing policy, as required by 5 USC Sec. 706(2)(A).

In all of the five leading amateur service cases on the subject of venue [WA6JIY (Kerr)[71], N6BHU (Hildebrand)[72], WA6CGI (Armstrong[73]; (back on the air immediately after revocation as KI6JL), WB6MMJ (Ballinger)[74] and N6OZ (Gilbeau)[75] (Gilbeau subsequently allowed his license to

65 Diouf v. Napolitano, 634 F.3d 1081, 1090 (9th Cir. 2011) (court will not defer to agency interpretation if it raises "grave constitutional doubts"); Ma v. Ashcroft, 57 F.3d 1095,1105 n.15 (9th Cir. 2001) (Chevron deference not owed where a substantial constitutional question is raised by an agency's interpretation of a statute it is authorized to construe); Williams v. Babbitt, 115 F.3d 657, 661-662 (9th Circuit, 1997).

66 519 U.S. 452 (1997).

67 Known alternately as "Auer deference" or "Seminole Rock" deference, it gives an agency's interpretation of its rule "controlling weight unless is it plainly erroneous or inconsistent with the regulation"; as opposed to Chevron and Meade deference, which apply when the agency interprets a statute.

68 Skidmore v. Swift & Co., 323 U.S. 134, 140 (1940).

69 See Auer, op cit, at p. 459.

70 Long Island Care At Home, Ltd. v. Coke, 551 US 158, 170-171 (2007)

71 PR Docket No. 81-66; 91 FCC2d 110 (1982).

72 PR Docket No. 81-302; 2 FCC Rcd. Vol 9, p. 2708; FCC 87-142; 92 FCC 2d 1241.

73 PR Docket No. 81-826; 92 FCC2d 491 (1982).

74 PR Docket No. 84-291; FCC 84D-28 (1984).

75 91 FCC 2d 98 (1982).

lapse and his former call sign was reassigned to another amateur operator)] the former Private Radio Bureau realized that because the amateur radio service is non-remunerative in nature, it was required to hold field hearings in amateur cases in the city nearest to the licensee's residence. The only two other reported amateur cases that were heard in Washington, D.C. [N6NHG (Mitnick)[76] and KB7ILD (Titus)[77]] are irrelevant because both applicants were represented by an attorney who has his principal office in Washington, D.C.; said attorney therefore wanted the hearing to be held there; and therefore he did not raise the venue issue in those two cases.

11. Further, the Christopher[78] carve-out from Auer applies because I was not given fair notice of the Commission's change from its former venue rule. The new venue rule is in direct conflict with the Commission's long-standing former rule which required field hearings in amateur renewal cases, and I received no advance notice that Hollingsworth was going to change the venue rule.

12. The Chase Bank carve-out might apply because the agency is a party. In Chase Bank USA, N.A. v. McVoy[79] the Supreme Court stated that Auer deference is only warranted when the agency is not a party to the case[80]. Since the Commission *is* a party to this case, Auer deference might not apply under Chase Bank.

13. Prohibited "Seminole Rock squared" deference might be required in order to uphold the ALJ's venue order. This appears to be a case of prohibited "Seminole Rock squared" deference. Auer deals with an agency's direct interpretation of its published regulations, but this case asks a court to go one step further: deference to the agency's interpretation of its interpretive regulation.[81] Were the reviewing court to find Hollingsworth's informal interpretation of the former venue rule to require "Seminole Rock squared" deference, then it would not defer to the ALJ's or the Commission's findings herein under Auer.

14. No Auer deference is due when there is an unexplained conflict between the old and the new rules interpretations. The Court of Appeals for the Federal Circuit[82] and the Eighth[83] and Ninth[84] Circuits have declined to grant Auer deference to new agency interpretations that raise an otherwise

76 WT Docket No. 01-344, FCC 02D-02; decision of ALJ Sippel, 2002.
77 E.B. Docket No. 07-13; FCC No. 10D-01; decision of ALJ Sippel, 2010.
78 Christopher v. SmithKline Beecham Corp., 567 U.S. 142 (2011).
79 562 U.S. 195 (2011)
80 Chase Bank, op cit, at p. 209.
81 Elgin Nursing and Rehabilitation Center v. U.S. Department of Health & Human Services, 718 F.3d 488, 490 (5th Circuit, 2013).
82 Cameron v. U.S., 550 App'x 867, 874 (Fed. Cir. 2013).
83 Perez v. Loren Cook & Co., 750 F.3d 1006, 1017 (8th Circuit, 2014).
84 Independent Training and Apprenticeship Program v. California Department of Industrial Relations, 730 F.3d 1024, 1035 (9th Circuit, 2013).

unexplained conflict with previous or longstanding ones, such as the former but abandoned "field hearing" venue rule.

15. Auer deference is on its way out, anyway. In any event, the U.S. Supreme Court seems to be signaling that it wants to end, or at least greatly reduce, Auer deference because Auer has encouraged the federal agencies to pursue bad policy. By giving administrators a broad mandate to interpret their own regulations, and by combining the legislative and the interpretive powers in a single body, Auer gives the agency a motive to produce vague regulations. (Why struggle for precision in the present when future interpretations will still receive Auer deference anyway?) In effect, the Auer doctrine has encouraged the federal agencies to promulgate extremely vague rules so that no interested parties will object to them when they are proposed, and then the agencies proceed to "interpret" the rules to mean anything they want, so the public has no idea of what to expect from the agency.

The Supreme Court appears ready to tip the balance back toward Marbury v. Madison[85], wherein the Supreme Court said it was the *courts'* responsibility to declare what the law is. Auer deference is being abandoned because the agencies abused it, as they did in this case. In a recent Supreme Court case, Justice Alito stated[86] he would welcome a new, fully-briefed case based on Auer, and the late Justice Scalia conveyed his complete impatience with Auer deference; "Enough is enough!"[87]. And in Talk, America, Inc. v. Michigan Bell Telephone Co.[88], although the court upheld the Commission's interpretation of its rule, the late Justice Scalia said, "Auer frustrates the notice and predictability purposes of rulemaking, and promotes arbitrary government", adding that he "will be receptive" to reconsidering Auer.

16. Chevron[89] and Meade[90] deference arguably apply to Rule 1.253 as an interepretation of statutes: the Communications Act and the Administrative Procedure Act. But the Commission's interpretation of Rule 1.253 is clearly erroneous as conflicting with Section 303(f) of the Communications Act.[91] Section 303(f) provides that in preventing interference the Commission has only the power to make regulations that are not inconsistent with law, and Rule 1.253 and its interpretation by the ALJ violate the law.

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85 5 U.S. 137 (1803). "It is emphatically the province and duty of the Judicial Department to say what the law is." Id. at p. 177

86 Decker v. Northwest Environmental Defense Center, 568 U.S. 597 (2013).

87 Id. at 568 U.S. 616 (Scalia, J., concurring in part and dissenting in part).

88 564 U.S. 50 (2011).

89 Chevron, U.S.A., Inc. vs. Natural Resources Defense Council, Inc., 467 U.S. 837, 844 (1984).

90 United States v. Meade Corp., 533 U.S. 218 (2001)

91 47 USC §303(f).

The Commission's interpretation of Rule 1.253 also impermissibly derogates from the APA , so it is entitled to neither Chevron nor Meade deference because it is clearly erroneous as permitting the Commission, without considering the licensees' location, to soak the licensee for the costs of an expensive venue like Washington, D.C. for a hearing in a non-remunerative radio service. In Title 5 of the USC Sec. 556(c)(11), the APA provides that the ALJ may take only such "other action" as is "authorized by agency rule consistent with this subchapter" and 5 USC Sec. 554(b)(3) says that "In fixing the time and place for hearings, due regard shall be had for the convenience and necessity of the parties or their representatives." One of the "necessities" that the ALJ is required to consider under the APA in setting venue in an amateur licensing case is that the amateur radio service is entirely non-remunerative in nature. Evidently the ALJ did not consider same (the ALJ incorrectly tried to frame the issue as being IFP status, which means he must be incorrectly applying broadcast radio law) rather than correctly characterizing it as one of venue. Therefore the ALJ's present interpretation of Rule 1.253 would be entitled to no judicial deference under Chevron or Meade because it is clearly erroneous.

17. The more than 10-year delay in holding a hearing herein (that's only since the Hearing Designation Order issued; the pre-HDO part of the case goes back to 2000!) violates my administrative due process rights. A violation of administrative due process appears where, due to delay, a party's ability to obtain the truth has been seriously compromised.[92]

Most of the witnesses who might testify at a hearing herein have died.[93] The evidence is terribly stale. I have no idea whether the Bureau intends to use old or new evidence against me when the case proceeds to hearing. The E.B. has no excuse for not having taken this case to a hearing at a much earlier date, and at this point my ability to elucidate the truth has been fatally compromised.

18. The ALJ's rulings are illegal under Lucia v. FCC[94] because I do not believe that the ALJ was constitutionally appointed. According to Lucia, SEC ALJs are "Officers of the United States" and thus subject to the Appointments Clause of the Constitution. Under that Clause, only the President, "Courts of Law," or "Heads of Departments" can appoint such "Officers." But I do not believe that any of those

92 Fuentes v. Shevin, 407 U.S. 67, 97 (1972).

93 Such as Art Bell, formerly W6OBB, the former self-professed "radio talk show host" and probably the primary complainant against me, and who started big letter-writing campaigns to the Bureau against me on the air because I called him a hypocrite, who died recently. So, too, has Ben Gardner, formerly KD7BCW, who was one of Bell's biggest sycophants and a major complainant; and Orville Dalton, K6UEY, another primary complainant herein.

94 Case No. 17-130, decided June 21, 2018.

actors appointed the ALJ herein.

I therefore request:

1. That the Enforcement Bureau's Motion to Dismiss my amateur radio service renewal be denied and the renewal of my amateur radio license be granted forthwith for, among other reasons, the illegality of the proceedings under Lucia v. FCC, op cit; and

2. That, in the event the ALJ does not summarily order license renewal, the venue for the hearing in this case be set in either one of the two Federal buildings which have previously served as the location for field hearings involving the Enforcement Bureau and the former Private Radio Bureau in the Sacramento, California area (before Hollingsworth improperly "re-interpreted' the venue rule): the John E. Moss Federal Building at 650 Capitol Mall, Sacramento, California 95814 or the courthouse of the U.S. District Court for the Eastern District of California at 501 "I" Street, Sacramento, California 95814; and

3. That, in the event the ALJ does not summarily order license renewal, I be permitted to conduct additional discovery prior to said hearing in Sacramento, California concerning any new evidence that the Enforcement Bureau may seek to admit and concerning the method by which the old venue rule, which required field ALJ hearings in amateur cases, was changed so as to require amateur service ALJ hearings in Washington, D.C.

Dated: June 22, 2018

Respectfully submitted,

William F. Crowell

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William F. Crowell, Licensee

PROOF OF ELECTRONIC SERVICE

I am a citizen of the United States and a resident of El Dorado County, California. I am the Applicant-licensee herein. I am over the age of 18 years. My address is: 1110 Pleasant Valley Road, Diamond Springs, California 95619-9221.

On June 22, 2018 I served the foregoing Applicant's Opposition to Enforcement Bureau's Motion to Dismiss the Renewal Application on all interested parties electronically herein by attaching same to an email addressed to the correct email address for Pamela S. Kane, Esquire, who is the attorney representing the FCC's Enforcement Bureau herein.

Also on said date I filed this Opposition (etc.) electronically with the ALJ herein by attaching a copy thereof to an email sent to the correct email address for ALJ Sippel.

On said date I also filed a copy of said Opposition (etc.) on the Commission's electronic filing system ("ECFS").

I declare under penalty of perjury that the foregoing is true and correct, and that this proof of service was executed on June 22, 2018 at Diamond Springs, California.

William F. Crowell