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 Service Station W6WBJ	)	

To: Marlene H. Dortch, Secretary
Federal Communications Commission

Attn: Richard L. Sippel,
Administrative Law Judge

APPEAL FROM ALJ's FINAL RULING AND APPLICATION FOR REVIEW
[47 CFR §§1.302 AND 1.115]

On July 9, 2018, eighteen years after the commencement of enforcement proceedings against me, and ten years after the issuance of the Hearing Designation Order herein, the ALJ dismissed without a hearing my application for the renewal of my amateur radio license (18M-05). Said dismissal was arbitrary, capricious and illegal in many ways, and completely violated my administrative due process rights. Indeed, rather than protecting the Commission's amateur service licensees from the endemic and continuing illegal enforcement actions and depredations against their legal rights by the Enforcement Bureau, the ALJ has instead become the Bureau's handmaiden in violating amateur radio licensees' rights under the Act.

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

The Enforcement Bureau does not have a substantial "interference" or "character" case

against me, so after an illegal administrative delay it instead resorts to procedural trickery by attempting to avoid renewing my license without a hearing.

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, and I don't wish to submit to it.

The ALJ claims he offered me a hearing, but it was an illusory offer, and his ruling is based on the premise that he is not required to follow the Administrative Procedure Act ("APA")[1]. The Communications Act and The Commission's Rules require APA compliance, so the ALJ's ruling is obviously wrong on that score. Offering a "hearing" in Washington, D.C. for a license in a non-remunerative radio service clearly violates the APA because as a practical matter the licensee won't be able to attend, and the statute greatly disfavors such default proceedings:

> "A party is entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts."[2]

In 1998 the Bureau appointed one Riley Hollingsworth (hereinafter "Riley") as "SCARE": Special Counsel for Amateur Radio Enforcement. He 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 his attempts to play "catch-up" on amateur enforcement were overzealous, illegal, unconstitutional and were done only to save money on amateur enforcement. In the name of "enforcement", Riley decided that the Bureau would not allow its amateur licensees to utilize their free-speech rights on the air, and that it would be too expensive for the Bureau to follow the APA in amateur service cases, as it is legally required to do, so he decided to simply illegally run off the air any amateur operators that he did not happen to like, and to require them to travel to Washington, D.C. for a hearing if they opposed him. There was neither legal rhyme nor reason to Riley's abuses of discretion; in the name of "enforcement", he simply rewarded his friends and punished those he did not like. Part and parcel of that overzealous "catch-up" enforcement activity was that Riley obtained the instant "informal interpretation" of 47 CFR §1.253[3], allowing venue in an amateur non-renewal

1 5 USC §§500-559.
2 5 USC §556(d).
3 47 CFR Chapter I, Subchapter A, Part 1, subpart B, §1.253; hereinafter "Rule 1.253".

case to be set in Washington, D.C., without considering the convenience or necessities of the amateur licensee. Even though I objected to this illegal procedure, the ALJ refused to apply the APA's venue requirements and ordered me to attend a hearing in Washington, D.C., thereby defeating my legal and Constitutional rights.

Questions Presented for Decision by the Commission [47 CFR §1.115(b)(2)

The following factors warrant Commission consideration of the questions presented herein because they all: (1) conflict with statute, regulation, case precedent and established Commission policy; (2) involve a question of law or policy which has not been previously resolved by the Commission; (3) involve application of a precedent or policy which should be overturned or revised; (4) involve an erroneous finding as to an important or material question of fact; and (5) because the ALJ committed grievous and prejudicial procedural error.

The Commission needs to understand that it will be impossible for me to cite the record concerning many of the ALJ's rulings herein because he simply refused to place these issues in the record. He repeatedly, duplicitously and disingenuously omitted my arguments from his Orders; claimed I never raised them; threatened me with abuse of process if I continued to make them; and stated that he would dismiss my renewal application on "abuse of process" grounds if I didn't shut up. He also threatened to put me on a list of convicted felons such as Mitnick, Titus and Schoenbohm, who had lost their amateur licenses on character grounds, and to make it appear that I was a convicted felon even though I have never even been charged, let alone convicted, of any crime whatsoever, whether felony or misdemeanor. Because ALJ practiced deception in making it appear that I never raised said issues, I should therefore be excused from the requirement of citing the record herein.

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1. The Commission has breached my license agreement. The evidence clearly establishes that this case represents merely the culmination of a vendetta harbored by Riley Hollingsworth against me, and the Commisson should therefore summarily renew my license.

It was difficult for me to acquire the knowledge and skills necessary to pass my Ad-

vanced class theory and Extra class code exams, but I was willing to do it in order to obtain an amateur radio license from the Commission. But then in 2000, after I had fully performed my side of my license agreement with the U.S. Government, the Commission breached our agreement by notifying me that they were not only licensing my amateur radio station, but that they were also licensing and regulating my speech, and that if I said anything on the air or on the internet that it didn't like, it would claim I had bad character and would refuse to renew my license. Of course I never agreed to this, and the license agreement said nothing of the kind.

The Bureau's professions of "public interest" in refusing to renew my amateur license fly in the face of Konigsberg v. State Bar[4], in which the Supreme Court held that *no* state interest can justify the limitation of first amendment freedoms. Of course the Commission did not come right out and admit they were restricting my speech, but that is the only fair reading of their attempts to call my speech "interference" or "jamming". I am sure the Commission realizes that amateur radio is all about speech, and nothing but speech, because speech is the only kind of transmission permitted by Part 97. And I wish to argue that the Commission does, after all, have quite a history of deliberately misinterpreting the term "interference" in order to evade its responsibilities under the Act. For example, when the Commission first allocated channels on the VHF television band in the late '40s and early '50s[5], it allocated only one station in each geographic market and awarded all the licenses to friends of the politicians. Then, in order to further ingratiate itself with the political establishment, for several years the Commission illegally protected[6] each such licensee's geographic market by refusing to issue any further VHF TV licenses in each market, under the pretext that to issue any more licenses would cause "interference". Of course years ago such a decision could not be questioned by the courts under the doctrine of judicial deference to administrative discretion, but that is no longer the case.

When Riley couldn't run me off the air illegally by sending me warning letters, he began instructing other hams not to talk to me, so that *even when I was merely identifying my transmissions as required by Sec. 97.119(a) of Part 97*, Riley would be able to claim I was making one-way transmissions in violation of Sec. 97.113(b) of Part 97! In another email, Riley complained

4 366 U.S. 36 (1961), at pp. 56-80.

5 The so-called "whorehouse days" at the Commission. Ray, William B.: "FCC: The Ups and Downs of Radio-TV Regulation", Iowa State University Press, 1990. Mr. Ray was the former Chief of the Broadcast Bureau, so if anyone ever had an incentive to defend the Commission, Mr. Ray did; however, he tells the truth. Such declarations against interest lend great credibility to his narrative.

6 At the time, the Act was interpreted as requiring these licenses to be awarded based on the competitive merit of the license application.

to a ham that he wasn't making any progress in his attempts to run me off the air illegally by claiming I was making one-way transmissions because other hams wanted to talk to me, so would the ham please tell everyone in the roundtable conversation not to talk to me? In yet another email, Riley bragged that he was denying me administrative due process by refusing to read anything I said in my own defense, and by setting his email server to "auto-delete" anything I sent him. When I pointed this out to the ALJ and provided the actual emails from Riley which so stated, the ALJ threatened to make "abuse of process" findings against me and to deny my renewal on the basis that I was making unwarranted personal attacks on a Commission employee.

2. The Commission must follow the Administrative Procedure Act in all of its proceedings, both rulemaking and adjudicatory in nature Under Sec. 551 of the APA[7] the issuance or modification of a license by a federal agency is an "adjudication" requiring full due process, and under APA Sec. 551(13) a license is specifically included as an "agency action" which invokes the adjudicative hearing requirements of APA Sec. 554.

In Sec. 556(c)(11), the APA provides that the Commisson or its delegated authority 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 necessities of the parties or their representatives." But the ALJ specifically held in 18M-05, the Order being appealed from herein, that in choosing a venue for the hearing, he is required to give *no consideration whatsoever* to my convenience and necessities. That is the same as ruling that the APA doesn't apply to this case. The ALJ's interpretation of Rule 1.253 therefore impermissibly conflicts, or derogates from, the APA, so will not be entitled to judicial deference under Chevron nor Meade because it permits 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. 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, so it is just too easy for a petty dictator and demagogue like Riley to victimize amateur licensees by requiring them to travel to Washington, D.C. for a hearing if they say or do anything he doesn't like. And the ALJ demonstrated that he did not correctly understand the venue issue by considering it

7 5 USC §551.

to be one of *in forma pauperis* status, which means he was incorrectly applying remunerative broadcast radio law to the amateur radio service. In deciding the venue issue, the ALJ ruled that the Commission's case law concerning the "rebuttable presumption of licensee solvency" apply to the amateur service, but those cases clearly apply only to broadcast licensees because the only purpose of establishing the rebuttable presumption in the first place is to see if a broadcast licensee derives enough profit from his remunerative-type license to be able to afford a trip to Washington, D.C. Therefore the rebuttable presumption is entirely inapplicable to a non-remunerative radio service such as the amateur service because the licensee can't derive any profit from it. And therefore the Commission has no choice but to hold a field hearing.

In all of the five leading amateur service cases on the subject of venue [WA6JIY (Kerr)[8], N6BHU (Hildebrand)[9], WA6CGI (Armstrong[10]; (back on the air immediately after revocation as KI6JL), WB6MMJ (Ballinger)[11] and N6OZ (Gilbeau)[12] (call sign reassigned to another amateur) 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)[13] and KB7ILD (Titus)[14]] 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.

3. I never agreed to appear in Washington, D.C. because Rule 1.221(c)[15] does not require me to do so. The ALJ is applying the wrong section of Rule 1.221 to this case. Paragraph (c) of the Rule, not paragraph (e) thereof, applies to *parties* like me, and paragraph (c) requires only that I "file with the Commission, in triplicate, a written appearance stating that *he will appear of the date fixed for hearing* and present evidence on the issues specified in the order"; i.e., a *party* is not required to agree to the place of hearing originally designated, but instead only to the *date* of hearing. The ALJ incorrectly applied paragraph (e) to this case because that paragraph provides the only basis for requiring a written appearance to contain an agreement to the chosen venue,

8 PR Docket No. 81-66; 91 FCC2d 110 (1982).
9 PR Docket No. 81-302; 2 FCC Rcd. Vol 9, p. 2708; FCC 87-142; 92 FCC 2d 1241.
10 PR Docket No. 81-826; 92 FCC2d 491 (1982).
11 PR Docket No. 84-291; FCC 84D-28 (1984).
12 91 FCC 2d 98 (1982).
13 WT Docket No. 01-344, FCC 02D-02; decision of ALJ Sippel, 2002.
14 E.B. Docket No. 07-13; FCC No. 10D-01; decision of ALJ Sippel, 2010.
15 47 CFR Chapter I, Subchapter A, Part 1, Subpart B, §1.221(c).

and paragraph (e) applies *only* to persons subsequently designated by the presiding officer as real parties in interest pursuant to paragraph (d) thereof; i.e., intervenors. Paragraph (e) provides that it is *only* such after-designated real parties (intervenors) who must actually agree to appear at the venue then designated for hearing because if an intervenor could object to a previously-established venue it would completely disrupt the proceedings. Paragraph (c), which applies to parties like me, clearly leaves open my right to challenge the venue originally designated.

I have objected to venue in Washington, D.C. at every opportunity. I knew as early as 2000 that Riley would try to set the venue for my hearing in Washington, D.C. because he had been going all around the country ever since 1998, giving speeches to ham radio organizations in which he said so, and taking credit for the idea. So I advised Riley in both of my letters in response to his warning notices that I objected to such a venue, and my Notice of Appearance herein was carefully worded in agreeing to appear *only* at the date and time designated for the hearing, but not at Washington, D.C. because I have *always* argued that I am entitled to a field hearing herein.

4. 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)[16] requires the ALJ's actions and orders to comply with the APA, and Commission Rule of Practice and Procedure §1.62[17] makes it clear that the APA applies to renewal proceedings. Furthermore, the APA itself specifies that it applies to agency licensing proceedings.[18] Commission Rule of Practice and Procedure §1.253, and the ALJ's venue order applying it, violate APA Sec. 554(b)(3)[19] because said Order failed to take into account my convenience and necessities, and it failed to give proper 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, and under Konigsberg v. State Bar, supra, the Commission must turn a deaf ear to the Bureau's protestations of "public interest" for setting the hearing in Washington, D.C. 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

16 47 CFR Chapter I, Subchapter A, Part 1, subpart B, §1.243.

17 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".

18 5 USC §558.

19 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.

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.

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.[20] 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."[21]

> "For there can be no equal justice where the kind of an appeal a man enjoys "depends on the amount of money he has."[22]

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[23], 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. 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". The ALJ's venue order herein denies me the procedural rights guaranteed by the Supreme Court in Goldberg v. Kelly[24] 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. The Supreme Court has also held that administrative due process includes the right to avoid being stigmatized by government activity[25], which is the only thing the Bureau has ever done in this case. To continue to a hearing in Washington, D.C. would therefore clearly violate my administrative due process rights. The Commission had maintained an 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).

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20 World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286, 291.
21 World-Wide Volkswagen Corp. v. Woodson, op cit, at p. 292.
22 Griffin v. Illinois, 351 U.S. 12, 19 (1956) (a criminal case) and Boddie v. Connecticut, 401 U.S. 371 (1971).
23 Olberding v. Illinois Central Railroad, 336 U.S. 348, 340 (1953).
24 397 U.S. 254, 267-271 (1970).
25 Vitek v. Jones, 445 U.S. 480, 491-493 (1980).

5. 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. However, the ALJ's interpretation of Rule 1.253 *violates* 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."[26]

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.[27]

As Justice Potter Stewart stated in U.S. v. Jackson[28]:

> "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[29]:

> "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.[30]

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

27 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).

28 390 U.S. 570, at 581-82 (1968); See also Speiser v. Randall, infra; Sherbert v. Verner, infra; Pickering v. Board 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).

29 500 U.S. 173, 212-215 (1991), citing West Virginia Bd. of Education v. Barnette, 319 U.S. 624, 642 (1943).

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

6. The Commission's *In Forma Pauperis* rule clearly does not apply to the amateur radio service. As stated supra at pp. 6-7, and contrary to the ALJ's ruling herein, Commission Rule of Practice and Procedure §1.224[31], providing a procedure for licensing *broadcast* applicants to qualify for *In Forma Pauperis* ("IFP") status, clearly does not apply to the non-remunerative amateur radio service, so I am not required to qualify for IFP status before I can challenge the ALJ's venue order.

7. 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[32] and Sable Communications v. California[33], despite its feeble attempts to rely on the irrelevant Gross v. FCC[34] and Lafayette Radio Electronics Corp. v. United States[35] cases. Limitation of amateur operators' speech by the Commisson is entirely legally impossible under F.C.C. v. League of Women Voters of California[36], wherein the U.S. Supreme Court held that a broadcast stations' right to air editorials is 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 applies to the strictly two-way amateur radio service because 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; 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 in FCC v. League of Women Voters, the Commission doesn't even have the power

31 47 CFR Chapter I, Subchapter A, Part 1, Subpart B, §1.224.
32 395 US 367 (1969).
33 492 US 115 (1989).
34 480 F.2d 1288, (2nd Circuit 1973). discussed infra at p. 17.
35 345 F.2d 278 (2nd Circuit, 1965), discussed infra at pp. 17-18.
36 468 U.S. 364 (1984).

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 so in the amateur radio service because *none* of the Red Lion factors appear therein. And 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, endangering paramount interests, give occasion for permissible limitation..."[37]

8. The Commission has no right to regulate speech in the amateur service. The Commission has no rationale for distinguishing between speech and so-called "interference" or "jamming" in the amateur service. On the contrary, the Bureau's approach is deliberately and completely arbitrary and capricious: Anything the Commission doesn't happen to like becomes "interference" or "jamming", and it tries to keep hams guessing about the extent of their free-speech rights so they won't exercise them. As a result, amateur operators are denied due process because they receive no advance notice of what speech is prohibited.

In the year 2000 I got into a spirited discussion with another ham during the course of a roundtable conversation on the 75-meter band, as the result of which he got angry and tried to order me off the frequency. Of course he had no right to do that, so I refused to go. A couple of months later I received a letter from Riley, claiming that I had been "interfering" with the other station, and purporting to therefore summarily modify my Advanced class license by banning me from four frequencies on the 75-meter band (which I later learned Riley considered to be "trouble frequencies"), three of which I had never even used. That letter clearly violated both the APA[38], which requires an ALJ hearing over such a license modification, and Sec. 97.27 of Part 97[39], which establishes a due process procedure for modifying license grants in the amateur service. Moreover, I had done nothing to "jam" the other station; I had simply refused to leave the frequency at his request.

Riley traveled all around the country on an apology tour in 2000 at taxpayer expense, in which he informed amateur radio organizations he was sorry the Bureau had been inactive in its

37 Sherbert v. Verner, op cit., at p. 406, quoting Thomas v. Collins, 323 U.S. 516, 530 (1945).

38 Under Sec. 551 of the APA (5 USC Secs. 551) the issuance or modification of a license by a federal agency is an "adjudication" requiring full due process (notice and a hearing), and under APA Sec. 551(13) a license is specifically included as an "agency action" which invokes the adjudicative hearing requirements of APA Sec. 554.

39 47 CFR Sec. 97.27.

enforcement duties for the previous 15 years, but that he had been instructed by his boss, Richard Lee, to compensate for that absence by ignoring the "legal niceities" and by running the so-called "jammers" off the air by hook or crook; by legal or illegal means. These statements were reported by various amateur radio publications.

I told Riley that his said letter was ridiculous, and then he got mad at me. He then proceeded to write me another letter in which he claimed he had the right to restrict my speech. Again, he didn't come right out and say that's what he was doing; instead, he pursued the "FUD factor": he tried to instill fear, uncertainty and doubt in my mind about my free speech rights, in order to chill my exercise of those rights, but that didn't work. This first paragraph of this highly-disingenuous and improvident letter, of the same type and language that he sent to many other amateur licensees, said, essentially, "your transmissions may not meet the 'basis and purpose' requirements set forth in Sec. 97.1[40] of Part 97". But Sec. 97.1 says nothing about amateur free-speech rights. It is instead a very vague and general statement of the purposes of amateur radio, and cannot possibly serve as any legal notification to anyone about the restriction of his free-speech rights by the Commission. However, Riley seemed to suggest in no uncertain terms in this first paragraph of that letter that Sec. 97.1 gave him some legal right to restrict amateurs' speech, although he did not specify the exact extent of that right. The second paragraph of the letter was basically a disclaimer, wherein Riley stated he couldn't censor our speech under Sec. 326 of the Act. So if he can't restrict our speech under Sec. 326, what was the point of the first paragraph? Merely to instill the "FUD factor" of course; in other words, to chill our free-speech rights by making us reluctant to exercise them.

So because he couldn't do so *directly*, Riley tried to regulate amateurs' free-speech rights *indirectly*. By making the expensive threat of a trip to Washington, D.C. if you opposed him, and by then vaguely threatening and questioning the amateur's free-speech rights in his speeches and writings, Riley tried to scare amateurs into not exercising those rights (while hypocritically attempting to maintain "deniability" by using that phony, disingenuous Sec. 326 disclaimer).

In American Communications Association v. Douds[41] 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

40 47 CFR Sec. 97.1

41 338 U.S. 382, at p. 402 (1950); see also NAACP v. Alabama, 357 U.S. 449, 461 (1958).

> effect upon the exercise of constitutional rights as imprisonment, fines, injunctions or taxes." [emphasis supplied.]

In an interview in CQ Magazine, Riley 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, Riley 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.[42] The Commission should consider Riley's public statements, such as those contained in the CQ Magazine interview, in determining his true intent when he issued or obtained 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 Riley's overzealous, and often illegal, re-start of amateur radio enforcement in 1998, and it was done largely as a cost-cutting measure. The entire purpose of changing the former venue interpretation, besides saving money on amateur enforcement, was so that Riley 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, Riley 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"; believed that amateur radio would be "shoot-

42 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."

ing 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. Riley told Jerry Rogich, AA2T, in yet another CQ Magazine interview[43] 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.[44] In this same interview, Riley said that hams shouldn't say 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 Riley[45], when 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."

Then in August of 2000 Riley wrote me a warning notice[46] 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 Riley that I wouldn't go away when he ordered me to, after Riley had advised him to order me off the frequency. But no such "acknowledgment" requirement appears in Part 97. In effect, and in another complete abuse of his discretion, Riley gave the complaining station special dispensation to order me off the frequency (in effect an exclusive frequency assignment in violation of the "frequency

43 See my SRPD, Exhibit B-13.
44 Butler v. Michigan, 352 U.S. 380, 383 (1957); Sable Communications v. FCC, 492 U.S. 115, 127 (1989); and Reno v. American Civil Liberties Union, 521 U.S. 844, 857 (1997).
45 SRPD, Exhibit B-4.
46 RPD, Exhibit A-8.

sharing" requirement[47]) because he happened to like the complaining station but he didn't like me. Then on November 8, 2000 Riley sent me another letter[48] 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, Riley 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)[49] requires all amateurs to *share* their assigned frequencies, but Riley didn't think the other stations were required to share them with me merely because he didn't happen to like me.

In that same email Riley 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)[50] 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[51]], and to judge whether or not the other stations wanted me in the conversation. Then he set about dissuading them from talking to me[52]. 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.

Riley also bragged about violating the "conditions of disclosure" section of the Privacy Act[53], and made jokes about calling licensees' spouses while the licensee was at work, threatening the spouse with a large forfeiture, in order to illegally run the licensee off the air. The Commissioners and Chairman can view Riley bragging about doing so in this video of his FCC Forum at the 2009 Dayton Hamvention, at 42:13[54]:

47 As is required by 47 CFR, Part 97, §97.101(b).
48 RPD, Exhibit A-11.
49 47 CFR, Part 97, §97.101(b).
50 47 CFR, Part 97, §97.113(b).
51 Applicant's Response to Request for Production of Documents, Exhibit B-3: Riley 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 Riley 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), Riley would claim that I was making one-way transmissions in violation of 47 CFR Part 97, §97.113(b).
52 SRPD, Exhibits B-1 through B-3.
53 5 USC §552a, paragraph (b).
54 Riley discontinued such practices only when a licensee threatened suit under the Privacy Act.

https://www.youtube.com/watch?v=ZXNLQceH-h8

Between 2000 and 2008, when the HDO issued, Riley also tried to run me off the air illegally 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.

The Bureau really *does* believe that it has the power to regulate its licensees' free-speech rights, and that it is not subject to the Constitution or to the First Amendment's prohibition thereof. That is what David Hartshorn, Senior Agent for the Western Region of the E.B., told me when he inspected my station on August 28, 2015; that is what the Bureau tells its licensees, and that is the agency culture and group psychology within the Bureau. It would be greatly appreciated by its licensees if the Commission would please put an end to this practice.

In furtherance of that incorrect group psychology, the Commission argues that the case of Gross v. FCC[55] stands for the proposition that it may regulate its licensees' speech, but that is a completely incorrect reading of the case. Gross was an amateur licensee who wanted to use the amateur radio service for commercial purposes; namely, to communicate with his business vehicles. He could have done this perfectly legally on the citizen's band, or he could have obtained a commercial radio license if he didn't want to use the CB frequencies, but he wanted to use the amateur bands instead. Gross claimed he had a "free-speech right" to use the amateur bands for remunerative purposes, but the Court of Appeal disagreed, ruling in the Commission's favor that the word "amateur" in Section 3(2) of the Act[56] means just that: it defines the amateur service as one wherein a radio station is operated by a duly authorized person interested in radio technique solely with a personal aim and without pecuniary interest. Then the Court of Appeals held that Sections 303(a) and (b) of the Act[57] authorize the FCC to "[c]lassify radio stations" and to "[p]rescribe the nature of the service to be rendered by each class of licensed stations and each station within any class". Obviously Gross was a "statutory authorization" and "classification of radio services" case, not a free-speech case as both Gross and the Commission incorrectly claim.

The Commission also argues, pursuant to the decision in Lafayette Radio Electronics Corp. v. United States[58], that it can limit amateurs' speech on the basis that "the FCC can prohibit

55 480 F.2d 1288, U.S. Court of Appeals for the Second Circuit (1973).
56 47 USC Sec. 153(2).
57 47 U.S.C. Secs. 303(a) and (b).
58 345 F.2d 278 (2nd Circuit, 1965).

a certain type of conversation over a particular frequency where the alternative would be to deny to many intended users any access to the frequency". However, Lafayette Radio is a logical non-starter herein because there were not "many intended users" being denied access to the frequency in question. I was simply participating in the roundtable conversation, just like everyone else, and everything I said was speech, not "jamming". Nobody was being prevented from using the frequency due to my presence. In order for Lafayette Radio to apply, there would have to be long-term, deliberate jamming, as appeared in the WA6JIY (Kerr)[59] and WA6CGI (Armstrong)[60] cases, which prevent a large number of amateurs from using the frequency during an extended period of time. These features are completely absent from the instant case.

By analogy, Red Lion Broadcasting v. FCC[61] in effect establishes that the Commission cannot regulate speech in the amateur service. Admittedly Red Lion was a broadcast licensee case involving the fairness doctrine, and therefore not factually analogous to the instant case, but it is submitted that Red Lion's rationale for the Commission's limited legal authority to regulate its licensees' free-speech nevertheless applies herein. When drawing the proper analogy to Red Lion, we find that it clearly leads to an a fortiori conclusion concerning the amateur service: applying Red Lion's logic to the amateur radio service forces the conclusion that the Commission has no power whatsoever to regulate the speech of amateur radio operators.

But even if the Commission *were* prima facie entitled to regulate amateurs' free-speech rights under Red Lion, the Commission still couldn't do so legally because amateurs would be entitled to advance notice of what speech is restricted, so the Commission would first have to enunciate intelligible standards for what speech it proposes to prohibit (this would be accomplished by rulemaking or other public notice procedures, which the Commission has not done); and once the Commission had enunciated such standards, it would then have to prove: (1) that its proposed speech restrictions constitute the least onerous, least burdensome method of (2) achieving a compelling governmental interest. It has never done so, and obviously cannot do so.

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59 PR Docket No. 81-66; 91 FCC2d 110 (1982); licensee found to have transmitted a brief tape loop continously and repeatedly over a high-level VHF repeater system for a period of more than three days, preventing anyone else from using the repeater during that period.

60 PR Docket No. 81-826; 92 FCC2d 491 (1982); licensee found to have jammed a high-level VHF repeater due to a vendetta against the club owning it, which resulted in *all* of the 2-meter repeaters in the Los Angeles area switching from carrier squelch (open) mode to P/L (private line; i.e., closed) mode in order to prevent interference.

61 395 US 367 (1969); discussed supra at page 11. Some academics have claimed that Red Lion is outdated, largely due to changes in technology since it was decided, and have argued that it is likely to be overruled by the Supreme Court someday because the "scarcity rationale" no longer applies and that it is too restrictive of broadcasters' free-speech rights (citations omitted).

Therefore amateurs are entitled to the Supreme Court's most protective "strict scrutiny", "chilling effect" free-speech standard. Of course, that means that nothing amateurs say on the air can be used against them in a licensing case because any other procedure would chill their free-speech rights. I therefore object to the introduction of any evidence herein, offered to prove anything I have ever said on the air, as being irrelevant, immaterial and unduly prejudicial. I am entitled to say anything I want to on the air without having to worry about the Enforcement Bureau second-guessing it; otherwise my free-speech rights will be chilled.

9. There is no prohibition of indecency in the amateur service. The indecency prohibition appearing in Sec. 97.113(a)(4)[62] is unenforceable in the amateur service under Pacifica[63] and Sable Communications v. California.[64] The leading case on indecency in the amateur service is that of N6BHU (Hildebrand)[65], wherein the ALJ found Hildebrand's speech indecent; on appeal the former Review Board found it to be protected speech under Red Lion and Pacifica; and then the Commission reversed the Review Board and reinstated the ALJ's decision. I submit that the Review Board got Hildebrand right, and the Commission got it wrong because they were brain-washed by the Bureau's phony, self-created "administrative law", resulting from incorrect advisory opinions from the Bureau's attorneys. I believe that if the indecency issues in Hilde-brand were ever presented to the D.C. Circuit, there can be little doubt that the Court of Appeals would agree with the Review Board in Hildebrand; with Red Lion; and with Sable Communica-tions in finding the indecency prohibition of Sec. 97.113(a)(4) of Part 97 to be unconstitutional.

10. There is no "character rule" issue. The Bureau must have a factual predicate (such as con-viction of a felony, or fraud affecting the U.S. Government) in order to invoke the character rule (otherwise the situation becomes a government witch hunt), but it simply doesn't have one. I have been a good boy all my life; I've never been charged with, much less convicted of, any crime whatsoever, whether felony or misdemeanor; I've been a member of my State Bar ever since 1972 with nary a disciplinary action ever taken against me, whether public or private; and I've always paid my taxes and my bills. The Bureau first raised the character rule as a bootstrap because they couldn't prove an interference case, and then when I objected to their doing so they

62 47 CFR Sec. 97.113(a)(4)
63 438 US 726 (1978).
64 492 US 115 (1989).
65 PR Docket No. 81-302; 2 FCC Rcd. Vol 9, p. 2708; FCC 87-142; 92 FCC 2d 1241.

claimed I had bad character because I objected to the bootstrap. It's simply a complete bootstrap all the way[66], and I will never stand for it. Besides, the character rule says on its face that it applies only to broadcasters, while hams cannot broadcast[67]. Unfortunately the Bureau's attorneys appear to have convinced Bureau counsel that the character rule means the exact opposite of what it says, and that it also applies to non-broadcast stations. There is simply no reason for me to tolerate that: after all, we are living in the age of textualist jurisprudence before our Supreme Court, and I just don't think the Bureau's non-textualist interpretation of the character rule would prevail before the D.C. Circuit.

11. <u>There is no enforceable prohibition of the transmission of music in Part 97.</u>

There never was any complete prohibition of music in amateur service in the first place. The U.S. Government cannot enforce a blanket prohibition against an entire class of speech, nor can the Commission give adequate notice to amateurs about what music is and what it is not. I can't figure out what the Bureau means by the term, so my free-speech rights have been chilled.

I want to be able to use music to accompany my transmissions of core political speech, just like the U.S. Government uses music, for example, to instill patriotism in the young, impressionable children who are forced to attend public schools. Clearly, my transmissions are primarily speech, and the music is used only for the subsidiary purpose of drawing the listener's attention to the political message. The Commission has never promulgated any standards defining the exact contours of the "music prohibition", and they appear to be claiming that *every* transmission containing any music at all is "music" within the meaning of Sec. 97.113(4), even when the transmission consists primarily of speech. Broadcasters and amateurs agreed in 1919, and the Department of Commerce (which then regulated radio) therefore ordered, that in the prohibition of music in the amateur radio service the term "music" was used as a legal term of art which meant, essentially, "only music having pecuniary value; <u>i.e.</u>, such music as might reasonably be expected to compete with that transmitted by commercial broadcasters". Indeed, until 1919 hams were legally permitted to broadcast *commercial* music to the general public, thereby directly competing with licensed broadcasters for audience. In 1919 the broadcasters complained to the Commerce Department that hams represented unfair economic competition because broadcasters incurred overhead expenses while the hams did not. In the resulting

66 "It's rocks all the way down!" - William James.
67 47 CFR §97.113(b).

negotiations, the Department of Commerce gave hams the so-called "granddaughter's piano recital" exception to the music prohibition, allowing hams to transmit any "music" that has no pecuniary value. The broadcasters never insisted that hams be prohibited from transmitting any and all music; the hams never agreed to do so; nor did the Department of Commerce ever order such a prohibition, but now the Bureau wants to impose one by re-writing history and hoping nobody will notice. This is typical of the Bureau's "legal overreach" in the amateur service.

12. The ALJ violated my procedural due process rights by refusing to allow me to file documents by mail under Rule 1.7[68]. The ALJ who was first assigned to this case after the HDO issued was the honorable Arthur Steinberg. In our only telephone conference, Judge Steinberg inquired whether I intended to represent myself, and when I replied in the affirmative, he then inquired whether I intended to submit documents for filing by mail pursuant to 47 CFR §1.7, which of course requires the Commission to file such documents immediately upon receipt. When I replied that I did so intend, Judge Steinberg stated:

> "Then, Mr. Crowell, I am sorry to inform you that the Commission will not be able to afford you due process because our mail system is all screwed up, and they keep promising us that they are going to un-screw it, but they never do. Also, I am going to retire at the end of the month, so I will not be presiding over this case any longer."

Then the case was reassigned to ALJ Sippel. Upon further inquiry, I discovered that, after a supposed "anthrax scare" in 2001, the Homeland Security Department had installed itself at the Commission and proceeded to send all of its incoming mail to an outlying facility for irradiation against anthrax spores before allowing it to be opened by Commission staff.[69] This rendered it entirely impossible for the Commission to comply with Rule 1.7 because the irradiation process took longer than 10 days. For this reason, virtually none of my pleadings was filed on a timely basis, even though they had been delivered to the Commission by the USPS within Rule 1.7's time limits. When I raised this issue with Judge Sippel, he claimed I was "hallucinatory" and threatened to dismiss my application on "abuse of process" grounds if I continued to make the argument. I requested to brief the issue because I had certified mail receipts proving that my documents had been received by the Commission in a timely fashion, although the Commission did not actually file them until about 10 days later (i.e., too late). At this point the ALJ threat-

68 47 CFR Chapter I, Subchapter A, Part 1, Subpart A, §1.7.

69 For fifteen years afterward(!), the Commission's staff was thus perfectly content to trash its licensees' administrative due-process rights.

ened to put me on a public list of felons who had lost their licenses under the character rule and to dismiss my renewal application on abuse of process grounds. (Of course none of this appears in the record.) Therefore very few of my motions, oppositions and replies were actually filed with the Commission during the eight years immediately following the issuance of the HDO. It was only after the Commisison's ECFS system was inaugurated that I became able to file my pleadings properly and in a timely fashion.

13. The E.B. maintains a so-called "complaint-driven" enforcement regime which is unconstitutional as applied because it fails to protect, and in fact punishes, the minority opinion. The Bureau boasts about maintaining an unconstitutional, complaint-driven enforcement regime in the amateur service, wherein minority free-speech rights can be squelched by issuance of a Notice of Violation or a Notice of Apparent Liability when a certain number of amateurs complain about what the minority says, and under which enforcement action is based far more on the number of complaints received than on their merits. Such a policy contravenes the U.S. Supreme Court's holdings protecting minority free-speech rights vis-a-vis majority rights:

> "The idea that the government may restrict] speech expressing ideas that offend … strikes at the heart of the First Amendment. Speech that demeans on the basis of race, ethnicity, gender, religion, age, disability, or any other similar ground is hateful; but the proudest boast of our free speech jurisprudence is that we protect the freedom to express 'the thought that we hate.'" - Justice Samuel Alito, Matal v. Tam (2016) , 582 U.S. ___.

I was victimized by this unconstitutional enforcement regime twice in this case. The first time was in 2003, when Orville Dalton, K6UEY, organized a letter-writing campaign asking the Bureau to revoke my license because I insisted upon my right to participate in a roundtable conversation against his wishes, and the second time in 2006, by Art Bell, W6OBB, who did the same thing. Both of these complainants, now deceased, seemed to feel they were entitled to an exclusive frequency assignment in violation of Section 97.101(b) of Part 97. They both illegally objected to my participation in a roundtable conversation on the frequency, and enforcement action against me resulted primarily from the letter-writing campaigns they pursued. Since even the most unpopular opinions must be protected, not punished, by the U.S. Government[70], the Commission must strike down the Bureau's unconstitutional "complaint-driven" enforcement regime.

70 Snyder v. Phelps, 562 U.S. 443 (2011).

14. The more than 10-year delay in holding a hearing herein violates my administrative due process rights. Section 555(b) of the APA[71] provides as follows:

> With due regard for the convenience and necessity of the parties or their representatives and within a reasonable time, each agency shall proceed to conclude a matter presented to it.

And APA Section 558(c)[72] states:

> When application is made for a license required by law, the agency, with due regard for the rights and privileges of all the interested parties or adversely affected persons and within a reasonable time, shall set and complete proceedings required to be conducted in accordance with sections 556 and 557 of this title or other proceedings required by law and shall make its decision.

Ten years have elapsed herein since the HDO issued. That is far too long under all the reported decisions on the subject[73]. A violation of administrative due process appears where, due to delay, a party's ability to obtain the truth has been seriously compromised[74]. My administrative due process rights have clearly been violated. All the original witnesses are dead. The Enforcement Bureau has kept me totally uninformed about whether it has any new evidence and, if so, of what it consists. As Commissioner O'Reilly pointed out in his June 28, 2018 speech to the Free State Foundation[75], this case is the most egregious example *ever* of the denial of administrative due process due to unexplained, unexcused delay by the Bureau and the ALJ, and I sincerely hope that the rest of the Commissioners and the Chairman agree with Commissioner O'Reilly on the issue. Obviously it was Commissioner O'Reilly's speech which caused the Bureau to file its motion to dismiss my application shortly afterward; had Commissioner O'Reilly not spoken out, the Bureau and the ALJ would clearly have been content to let my case moulder *forever*. Please don't forget that the case dragged on for an additional 8 years before the Hearing Designation Order issued, so the total administrative delay is really 18 years. I beg the Commission not to let the Bureau and the ALJ run me off the air this way. Due to the Bureau's

71 5 USC §555(b).

72 5 USC §558(c)

73 Nader v. FCC, 520 F.2d 182, 225 (1975) (10 years' delay too long); Public Citizen v. Heckler (1985) 602 F.Supp. 611, 613 (U.S. District Court for the D.C. Circuit, Civ. No. 84-2938; two years' delay too long where public safety issue involved, and it is submitted that first-amendment rights are entitled to no lesser protection); W. Virginia Highland Conservancy v. Norton (2001), 161 F.Supp.2d 676, 681 (footnote 3; ten years too long);.

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

75 https://docs.fcc.gov/public/attachments/DOC-352081A1.pdf (footnote 4). My case was part of Commissioner O'Reilly's argument that the FCC's ALJ Division should be abolished for, as Commissioner O'Reilly has pointed out elsewhere, the APA doesn't require the Commission to maintain an ALJ procedure in the first place, but instead requires only that if the Commission *does* choose to adopt an ALJ procedure, it must comply with the APA.

unexplained and unfair delay, I cannot defend myself herein and there is no way to give me a fair hearing at this point. Please order a summary renewal of my Advanced class amateur radio operator's and station licenses at this time.

15. The ALJ has violated my administrative rights because he is biased against me. Section 556(b)(3)[76] of the APA states that "The functions of presiding employees and of employees participating in decisions in accordance with section 557 of this title shall be conducted in an impartial manner." The ALJ was anything but impartial herein. He refused to allow me to raise pertinent issues; he refused to place my arguments in the record; he threatened to place me on a published list along with several convicted felons to make it appear that I was one, too; he repeatedly threatened to make abuse of process findings against me if I didn't keep quiet; and he became extremely angry at me after I filed a peremptory challenge against him because he seemed to think such a challenge is supposed to be an encomium.

16. The ALJ abused his case-management powers by trying to force a settlement upon me in violation of the APA. Section 556(c)(6)[77] of the APA provides that ALJ has the power hold conferences for the settlement or simplification of the issues *by consent of the parties*. In this case, however, the ALJ tried to force me to settle the case by improperly allowing the Enforcement Bureau to raise the character issue; by refusing to place my arguments in the record; by threatening to make abuse of process findings against me; and by threatening to put me on a published list of persons having bad character, along with the convicted felons already listed therein. Of course I consented to none of this, but instead resisted it at every opportunity. In bad faith, the ALJ tried to force me to settle the case under the guise of exercising his case-management powers, thereby additionally violating the APA.

I therefore request that the Commission order a summary renewal of my Advanced class operator's license and station license for amateur radio service station W6WBJ.

Dated: August 27, 2018

Respectfully submitted,

William F. Crowell

William F. Crowell, Licensee

76 5 USC §556(b)(3).
77 5 USC §556(c)(6).

PROOF OF ELECTRONIC SERVICE

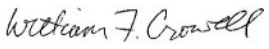
I am a citizen of the United States and a resident of El Dorado County, California. I am the Applicant-licensee herein. I am over the age of 18 years. My address is: 1110 Pleasant Valley Road, Diamond Springs, California 95619-9221.

On August 27, 2018 I served the foregoing Application to the Commission for Review of the ALJ's Final Ruling on all interested parties electronically herein by attaching same to an email addressed to the correct email addresses for Rosemary C. Harold, Chief of the FCC's Enforcement Bureau, and for Pamela S. Kane, Esquire, who is the attorney representing the Enforcement Bureau herein.

On said date I also filed said Status Report electronically with the ALJ herein by attaching a copy thereof to an email sent to the correct email address for Marlene S. Dortch, the Commission's Secretary, marked "Attention ALJ Sippel".

On said date I also filed a copy of said Status Report on the Commission's electronic filing system.

I declare under penalty of perjury that the foregoing is true and correct, and that this proof of service was executed on August 27, 2018 at Diamond Springs, California.



William F. Crowell