

FCC MAIL SECTION

SEP 3 11 33 AM '96
Before the
Federal Communications Commission DA 96-184
Washington, D.C. 20554

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In the Matter of)	MM Docket No. 96-184
Concord Area Broadcasting)	
Order to Show Cause Why the)	
License for Station KRHT(AM))	
Concord, California Should)	
Not be Revoked)	

ORDER TO SHOW CAUSE
AND
HEARING DESIGNATION ORDER

Adopted: August 26, 1996 Released: August 30, 1996

By the Assistant Chief, Audio Services Division:

1. The Assistant Chief, Audio Services Division, Mass Media Bureau, has before him for consideration: (a) a license held by Concord Area Broadcasting ("Concord") for Concord, California¹; and (b) the results of an investigation into the station's silent status.²

2. Concord suspended broadcast operations on January 31, 1993, due to stated financial difficulties and the loss of the lease for its transmitter site. The licensee indicated that it required special temporary authority to remain silent while it reorganized the licensed entity and found a new transmitter site. On June 1, 1993, the staff granted Concord special temporary authority to resolve its problems.

3. On May 20, 1996, Concord requested an eighth extension of this temporary authorization, reporting that discussions were continuing with city officials regarding the utilization of city property for KRHT's proposed 5-tower array. On July 19, 1996, Concord's request was approved for a thirty-day period. The authorization indicated that no further extensions were contemplated absent documentation regarding the licensee's lengthy attempts to secure a suitable transmitter site.

4. On August 15, 1996, Concord requested a ninth extension of its silent authority.

¹Concord's license (BR-900815UC, granted July 3, 1991) to operate KRHT(AM) expires December 1, 1997.

²The Mass Media Bureau has been delegated authority to issue and release Show Cause Orders in cases involving silent broadcast stations. See Debrine Communications, Inc., 7 FCC Rcd 2118 (1992).

This new request establishes that both the city and the owner of a site in Canyon Creek rejected Concord's proposals to relocate KRHT's facilities on their properties. Concord contends, however, that the city administration provided it with two unspecified leads for other sites. However, a letter dated August 14, 1996 from Peter Dragovich, City of Concord Senior Administrative Analyst, does not appear to support this claim. Moreover, KRHT(AM) has been off-air for over three years, is not presently authorized to remain silent, has not shown the likelihood of securing a transmitter site in the near future, and has not demonstrated that broadcast operations can be resumed expeditiously. Consequently, Concord is in apparent violation of Sections 73.1740(a)(4)³ and 73.1750⁴ of the Commission's Rules.

5. Accordingly, IT IS ORDERED, That pursuant to Sections 312(a) (3) and (4) of the Communications Act of 1934, as amended, Concord Area Broadcasting IS DIRECTED TO SHOW CAUSE why the license for KRHT(AM) should not be REVOKED, at a hearing to be held at a time and location specified in a subsequent Order, upon the following issues:

- (1) To determine whether Concord Area Broadcasting has the

³Section 73.1740(a)(4) provides that:

"In the event that causes beyond the control of a licensee make it impossible to adhere to the operating schedule of this section or to continue operating, the station may limit or discontinue operation for a period of not more than 30 days without further authority from the FCC. Notification must be sent to the FCC in Washington, D.C. not later than the 10th day of limited or discontinued operation. During such period, the licensee shall continue to adhere to the requirements in the station license pertaining to the lighting of antenna structures. In the event normal operation is restored prior to the expiration of the 30-day period, the licensee will so notify the FCC of this date. If the causes beyond the control of the licensee make it impossible to comply within the allowed period, informal written request shall be made to the FCC no later than the 30th day for such additional time as may be deemed necessary."

⁴Section 73.1750 provides:

"The licensee of each station shall notify the FCC in Washington, D.C. of permanent discontinuance of operation at least two days before operation is discontinued. Immediately after discontinuance of operation, the licensee shall forward the station license and other instruments of authorization to the FCC, Washington, D.C. for cancellation."

capability and intent to expeditiously resume the broadcast operations of KRHT(AM), consistent with the Commission's Rules.

- (2) To determine whether Concord Area Broadcasting has violated Sections 73.1740 and/or 73.1750 of the Commission's Rules.
- (3) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether Concord Area Broadcasting is qualified to be and remain the licensee of KRHT(AM).

6. IT IS FURTHER ORDERED, That, pursuant to Section 312(d) of the Communications Act of 1934, as amended, both the BURDEN OF PROCEEDING with the introduction of evidence and the BURDEN OF PROOF with respect to the issues specified above shall be upon the MASS MEDIA BUREAU.

7. IT IS FURTHER ORDERED, That to inform Concord Area Broadcasting of the issues specified against it, copies of this Order will be mailed by certified mail/return receipt requested to:

Concord Area Broadcasting
5552 Pamplona Court
Concord, California 94521

8. IT IS FURTHER ORDERED, That, to avail itself of the opportunity to be heard, the licensee, pursuant to Section 1.91(c) of the Commission's Rules, SHALL FILE with the Commission within thirty (30) days of the receipt of this Order a WRITTEN APPEARANCE stating that it will appear at the hearing and present evidence on the matters specified in the Order. If the licensee fails to file a written appearance within the time specified, or within thirty (30) days of receipt of this Order the licensee files a written statement expressly waiving its right to a hearing, the licensee's right to a hearing SHALL BE DEEMED TO BE

WAIVED. In the event the right to a hearing is waived, the Presiding Judge, or the Chief, Administrative Law Judge if no Presiding Judge has been designated, SHALL TERMINATE the hearing proceeding and CERTIFY this case to the Commission in the regular course of business, and an appropriate Order shall be entered.⁵

FEDERAL COMMUNICATIONS COMMISSION

Stuart B. Bedell
Assistant Chief, Audio Services Division
Mass Media Bureau

⁵The Mass Media Bureau has been delegated authority to issue Revocation Orders in cases involving silent broadcast stations. See Radio Northwest Broadcasting Company, 4 FCC Rcd 596 n.3 (1989).