Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of

MARITIME COMMUNICATIONS/LAND MOBILE, LLC Participant in Auction No. 61 and Licensee of Various Authorizations in the Wireless Radio Services	EB Docket No. 11-71 File No. EB-09-IH-1751 FRN: 0013587779
Applicant for Modification of Various Authorizations in the Wireless Radio Services Applicant with ENCANA OIL AND GAS (USA), INC.; DUQUESNE LIGHT COMPANY; DCP MIDSTREAM, LP; JACKSON COUNTY RURAL MEMBERSHIP ELECTRIC COOPERATIVE; PUGET SOUND ENERGY, INC.; ENBRIDGE ENERGY COMPANY, INC.; etc.	Application File Nos. 0004030479, 0004144435, 0004193028, 0004193328, 0004354053, 0004309872, 0004310060, 0004314903, 0004315013, 0004430505, 0004417199, 0004419431, 0004422320, 0004422329, 0004507921, 0004153701, 0004526264, 0004636537, and 0004604962.

To: Marlene H. Dortch, Secretary
Attention: Chief Administrative Law Judge Richard L. Sippel ("CALJ")

WARREN HAVENS SUPPLEMENT
TO MOTION FOR RECONSIDERATION OF EVH

I, Warren Havens, joined in the Motion for Reconsideration filed by James Stenger for Environmentel LLC, Verde Systems LLC on November 27, 2014 (the "Motion"), as explained in that Motion. This supplements the Motion (the "Supplement") for myself as a party *pro se.*

Introduction

Even taken as true—(i) all of the facts alleged in the pretrial briefs of the Enforcement Bureau and Maritime, *combined with (ii) all other alleged facts* by Maritime and other parties that are used by Maritime ("M") and the Enforcement Bureau ("EB") to continue to assert that the 16 Stations are not subject to permanent discontinuance and automatic termination ('(i) and '(ii)' together, the "M-EB Allegations")-- *clearly require finding of permanent discontinuance*

and termination under applicable FCC rules, and thus the EVH Motion for Summary Decision ("MSD") (with subsequent pleadings by EVH and myself in support, including but not limited to the Motion and this Supplement) (the "MSD Materials)"—should be granted.

The "Auto-Termination" and "Auto-Reversion rules (paired "anti-warehousing" rules), and when ruling on the Motion, the CALJ's Discretion must consider both, and thus the interests of the co-channel geographic licenses (among the Skytel entities)

The M-EB Materials avoid the fundamental simple law involved that is at heart of FCC radio spectrum licensing: to require actual "substantial service" to end users and prevent warehousing.[1] Applying this law (cited in the MSD Materials including this Supplement) to the M-EB Materials, calls for grant of the MSD.

The corollary of anti-warehousing "automatic termination" is "automatic reversion" of the terminated licensed spectrum to the geographic licensee. This hearing commenced due to the latter, as the full Commission indicated in FCC 11-64 citing to my petitions. It did not arise from any action by the "Enforcement" Bureau ("EB") or Wireless Bureau. EVH is acting as the real FCC-rules enforcement operation.

While the CALJ has discretion in acting on a motion for summary decision, that is bounded by the standards of abuse of discretion and I submit that such discretion must consider not only Maritime, but also my companies and myself, since we have critical "auto reversion" (see above) interests at stake. The geographic AMTS licensees I manage are entitled to FCC *efficient and effective* action for purposes of §80.385(c)—the "auto reversion rule"-- established as a keystone rule to implement the Congressional mandate to the FCC to stop freely given site-

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[1] And the FCC "honor system" whereby licensees must be truthful and candid as among *their first and foremost* licensee qualification, and keep and produce Station logs and files immediately on demand by the FCC which involve third-parties including site owners and managers, equipment providers, and customers, electric utility bills, insurance policies, tax reports to show revenues of the customers, etc.

based licenses of commercial spectrum and to auction off that spectrum in geographic licenses. §80.385(c) provides:

> Any recovered frequency blocks will revert automatically to the holder of the geographic area license within which such frequencies are included. Any frequency blocks recovered where there is no geographic area licensee will be retained by the Commission for future licensing. [Emphasis added]

This hearing started only due to the petitioning by my companies demonstrating that the site-based licenses how held by Maritime were not constructed and permanently discontinued, commencing about 14 (FOURTEEN) years ago. This hearing has proceeded as if all of the evidence and law in the petitions I submitted that were the cause of FCC 11-64 (the "HDO") including issue (g) did not exist.[2] That is improper.

The government has a duty to protect the rights of its citizens. This hearing was not commenced by action of the FCC but by my action, noted above, for proper protection of the rights of my companies including under §80. 385(c) discussed above. This is further presented in the attachment hereto.

Attachment, and referenced materials

I attach here an email to Maritime's counsel and the CALJ submitted early today in response to Mr. Keller's email to the CALJ also involving email from James Stenger counsel to EVL-VSL. I request that the Judge consider in this Supplement the facts and law I present therein to the extent it present facts not in dispute and those that cannot be disputed since they are in past FCC Orders that Maritime has not disputed. I put red margin bars on those parts.

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[2] The HDO explained the need for issue (g) in par. 61 citing the challenge I submitted with sound evidence under 47 USC §309(d). One case was cited of many then pending that I had submitted, all on the subject Maritime site-based licenses including the remaining 16 Station licenses.

Conclusion

A hearing would set a very dangerous precedent and make a mockery of the anti-warehousing and other relevant rules cited in part above, and of geographic licensing Congress mandated -- especially where it is only the geographic licensee pursuing this case for the Commission under its rules.

For the above reasons, the Motion should be promptly granted.

Respectfully submitted,

/s/

Warren Havens
2509 Stuart St, Berkeley CA 94705
510 841 2220

December 2, 2014

ATTACHMENT

Subject:	Re: Dkt 11-71 - Joint Stipulation
From:	eitt líf koma nú griðastaðir (warren.havens@sbcglobal.net)
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Cc:	Austin.Randazzo@fcc.gov; Mary.Gosse@fcc.gov; JStenger@chadbourne.com; cole@fhhlaw.com; czdebski@eckertseamans.com; feldman@fhhlaw.com; mjp@catalanoplache.com; richards@khlaw.com; jsheldon@lb3law.com; rkirk@wbklaw.com; wright@khlaw.com; jstobaugh@telesaurus.com; catalano@khlaw.com; Pamela.Kane@fcc.gov; Michael.Engel@fcc.gov;
Date:	Monday, December 1, 2014 9:40 PM

Mr. Keller,

Below, before the Judge, you baldly allege I make up facts, and make other assertions. I have a right to respond and so below. Since all others use email for these matters, and I did not see objections, I follow suit. But I may also place a copy in 11-71.

Below, by "you" and "your" I mean Robert Keller and also include Maritime, the Depriest, John Reardon, and Choctaw and others responsible for Maritime's actions.

1. Re your assertion that I make up facts: To the contrary, the facts I allege with sound evidence led to FCC 11-64 (as it states), which Maritime did not appeal, and then to Maritime giving up most all of its licenses -- but as Mr. Stenger notes below, Maritime has not canceled the dead licenses, in violation of rules 1.955(a), 80.49, 80.385(c), 47 USC 312, 18 USC 1001, etc. Thus, your accusation is frivolous and violates rule 1.52.

2. Re your alleged inability for up to 2.5+ years to cancel dead licenses. You allege for a long time that you are not able thus far to cancel the dead licenses, and still are not sure how to do it, but you have not demonstrated that. It would means the FCC has abandoned the above-cited rules, but it has not.

> *It has been over 2.5 years as to most of these stations, and a year for the rest, from the date you allege that they were terminated by the "intent" of Maritime-- and still no required cancellations.*

You keep these dead license to, ***in fact***, further block my companies rights under 80.385(c), and for what can only be other highly improper purposes in 11-71. It is a flagrant licensee-disqualifying violation of the rules, the Communications Act and Congressional policy against unlawful warehousing, actionable in court and not only the FCC. You are in large part responsible and liable, and I allege that it is far outside legitimate practice of law under bar rules and case precedents.

3. The Judge did not accept your "stipulated" termination dates for these dead licenses since I and ENL-VSL did not accept those dates, or other facts in the Stipulation. (We gave evidence for that position for years before FCC 11-64 and for years in 11-71.) The Judge accepted that the stations were permanently discontinued and auto terminated only for purposes of issue (g)- whether the stations were auto terminated or not, and for that, no determination of the dates of

termination were made. (To believe the Judge would accept termination in fact, under law, based just on licensee alleged intent, is absurd. I properly rejected it as did EVL-VSL.) See FCC 14M-31, p. 4.

4. Further re the terminated station licenses and dates: Maritime has no service contours for any of the stations from the time it got them from Mobex, thus the stations terminated fom that time in 2005. All site-based station licensees had to have lawfully constructed and kept in lawful operations its licensed stations at the FCC "freeze" of site-based licensing 14 years ago (PR Docket 92-257, 4th R&O and 3rd FNPRM, Rel. November 16, 2000, FCC 00-370, ¶¶ 76-77) and could not expand or move the contour after that. Maritime failed to provide any evidence of that. Without said proven-up service contours, the stations simply cannot and could never be lawfully operated or leased. Since Maritime kept no records of any alleged valid service contour, the stations terminated when Maritime obtained them since they could not be lawfully operated.

Here is what Maritime wrote of these records, as you know: In the Maritime Opposition to Skytel entities' petition to deny renewal of WRV374, Aug 8, 2011 (copy on ULS of course):

> Satisfied with the Mobex transaction, MCLM had no need for detailed construction records of facilities first authorized a decade earlier and did not demand them from Mobex. As demonstrated by the declaration of David Predmore attached hereto as Exhibit 1, Mobex wound up its affairs and ceased paying National Capital storage company the rent on stored records, including copies of [alleged operating station] **site leases**, **equipment** inventory, and **other** old **information**, **which was all destroyed** years ago by the storage company.

5. Further re the terminated station licenses and dates: There are no FCC accepted or approved leases shown in ULS, thus Mr. Stenger's dates are liberal (my still-earlier dates under 4 above are also liberal). Also, Maritime has no authority shown in ULS authority for the outlaw lessees to use the spectrum for PMRS since no rule 20.9(b) applications were filed and granted. Thus, no alleged fill-in station actions under alleged leases count.

6. Contrary to your allegation, there are no "subsumed" licenses in FCC rules or Orders and Maritime contradicts itself. Site-based licenses are distinct in origin, and permitted areas (and not one of the Maritime site based licenses has any service contour: see 2 below). In addition, Maritime itself argued the following in its Opposition to Skytel entities' petition to deny renewal of WRV374, Aug 8, 2011:

> **"MCLM has not filed an application to delete those sites within its auction contour, primarily because of the ongoing challenge to MCLM's status as the auction winner for the area."**

The "challenge" was by the full Commission laid down in FCC 11-64 four months earlier. In Maritime's own words, that is why it held on to the site-based licenses and did not turn them in as worthless and "subsumed" where Maritime also held the same-channel geographic license. That is plain as day. You should stop now pretending otherwise in further violation of rules 1.52 and 1.17.

7. You allege that the dead, unlawfully warehoused, speciously alleged "subsumed" licenses, under FCC orders, do not affect the adjacent-channel geographic licensee, my companies. That is also clearly false:

(a) First, you should not assert any technical radio systems matter you do not know about, and should not avoid relevant FCC rules and orders, including those directed to Maritime's precessor and affiliate, Mobex (run by CEO John Reardon, who also CEO of Maritime, and then Managing Director of Choctaw-- all regarding the site-based station licenses at issue here), including: In the Matter of… MOBEX… Rule Making to Amend the Commission's Rules to Provide Additional Flexibility for AMTS and VHF Public Coast Station Licensees, Report and Order, FCC 07-87, Rel. May 9, 2007:

> n 127…. AAR argues that, if the Commission authorizes simplex communications in the maritime VHF band, it should also adopt a safeguard **to protect** co-channel and **adjacent channel** railroad **communications** near ports.
> n. 110…. Havens' petition for forbearance contained "no engineering information establishing that [the Commission] could forbear from applying the power limitation in section 80.215(h)(5) without it **resulting in interference to** other **AMTS** stations, or to other co- or **adjacent channel services**."

We submitted several Declarations from a leading, nationally know radio engineer, Dr. Douglas Reudink as to the critical problems **adjacent**-channel systems interference can cause to modern digital multi-site radio systems using spectrum efficient modest-to-higher orders of modulation in this matter that Maritime was involved in as a party: Skytel entities' pleading in the matter of Maritime Call Sign WQGF316, in part being assigned to Big Rivers, File No. 0003767487 and 0003772497, Dec. 5, 2009. We provided further on this topic later from Dr. Reudink.

The huge Nextel / Public Safety reorganization in 800 MHz was due to extensive **adjacent-channel interference.** (By your assertion, there could have been no problem.)

Skytel entities, as the holders of valid geographic adjacent-channel licenses, have a right to get rid of bogus adjacent channel stations and licenses, especially where the licensee, Maritime, alleges to have no records of what is its lawful station contours and parameters (transmitter power, antenna systems and gain, ERB, and directionality etc.) and that it can, however and whenever it wants, pop on that air with any service contour it chooses to assert-- since any elementary-level person in radio systems tech know that adjacent channel interference is a major issue.

Maritime cannot credibly suggest that these dead licenses are not a problem since they are "subsumed" in the geographic licenses, including since the latter cannot be sustained under law, as they were obtained in flagrant violation of auction rules and 18 USC 1001, and then in violation of orders of the FCC to disclose all relevant information, and in violation of section 1.65. Given he record, we believe there is no way the FCC and courts will allow Maritime to

keep these geographic licenses, and Maritime itself has put up no defense and only attempted and failed at "Second Thrusday" relief.

(b) Maritime, Choctaw and other affiliates artificially depress and pervert the legitimate markets for AMTS spectrum services by it illegal warehousing of the dead licenses, including those in the same markets as the Skytel entities' geographic licenses. That is also against FCC rules, as well as US antitrust law. And violation of Antitrust law is also violation of the Communications Act, if by a licensee. 47 USC 313. Under 47 USC 313 the court can revoke all of the subject licenses independent of the FCC.

Also in this regard, Maritime (including John Reardon and Sandra Depriest) gave false testimony-- and you Mr. Keller were there for some of the trial -- before the US District Court NJ judge in *Havens (and Skytel entities) v... Maritime,* that these dead licenses were not dead at all, but were the basis of Maritime asseting it could block my companies nationwide and did not have to give us the station technical parameters for service contours. We have this matter now before the Third Circuit Court of Appeals, and will demonstrate this fraud.

Submitted,
Warren Havens

From: Robert J. Keller <rjk@telcomlaw.com>
To: 'Richard Sippel' <Richard.Sippel@fcc.gov>
Cc: 'Austin Randazzo' <Austin.Randazzo@fcc.gov>; 'Mary Gosse' <Mary.Gosse@fcc.gov>; '"Stenger, James"' <JStenger@chadbourne.com>; 'Mary Gosse' <Mary.Gosse@fcc.gov>; cole@fhhlaw.com; czdebski@eckertseamans.com; feldman@fhhlaw.com; mjp@catalanoplache.com; richards@khlaw.com; '"Sheldon, Jeffrey"' <jsheldon@lb3law.com>; 'Austin Randazzo' <Austin.Randazzo@fcc.gov>; rkirk@wbklaw.com; wright@khlaw.com; 'Warren Havens' <warren.havens@sbcglobal.net>; 'Jimmy Stobaugh' <jstobaugh@telesaurus.com>; '"Catalano, Albert J."' <catalano@khlaw.com>; 'Pamela Kane' <Pamela.Kane@fcc.gov>; 'Michael Engel' <Michael.Engel@fcc.gov>
Sent: Monday, December 1, 2014 9:17 AM
Subject: RE: Dkt 11-71 - Joint Stipulation

Corrections:

There were a couple of inadvertent typographical errors in my earlier email. The date for the non-subsumed licenses should be December 3, 2013 (not 2014), and Maritime has NOT admitted to the assertions of Havens regarding the five-to-seven years. These items are corrected (and highlighted) in the version set forth below. I apologize for any inconvenience or confusion. Thanks.

- rjk

Judge Sippel, et al.,

In light of the short time to commencement of the hearing, I am responding immediately and via email to the below message from Mr. Stenger.

1. Mr. Stenger (and Mr. Havens) once again assert that Maritime has admitted that the incumbent stations subject to the joint stipulation were permanently abandoned five to seven years ago. This is a patently untrue statement, and to repeatedly assert it as undisputed fact is highly improper conduct unbecoming for any litigant, and most certainly for a member of the bar.

The plain language of the stipulation is that Maritime decided to permanently abandon the "subsumed" incumbent licenses on or shortly before May 31, 2012 [Joint Stipulation ¶¶ 40, 58, 71]. These stations did not encumber or otherwise adversely affect the license of any Havens entity insofar as their authorized coverage areas were totally subsumed within a co-channel geographic licenses held by Maritime. Maritime stipulated that it decided to permanently abandon the remainder of the incumbent licenses on or shortly before December 3, ***2013*** [Joint Stipulation ¶¶ 41, 59, 72, 83, 93, 103], i.e., only one year ago—NOT the five to seven years falsely stated by Messrs. Stenger & Havens.

To be sure, the Havens interests claim that permanent discontinuance occurred much earlier, but that is merely their assertion, not a fact. It is an assertion that is disputed by Maritime, and it is certainly is ***NOT*** something that Maritime has admitted. Mr. Havens has, over the years, demonstrated an apparent constitutional inability to distinguish between allegations and proven facts, but one would expect his educated and licensed counsel to have no difficulty with the distinction.

2. Maritime is working to file the necessary items prior to commencement of the hearing. If Wireless Bureau staff can arrange for the ULS to accept electronic submissions notwithstanding the pending renewal applications, electronic submissions will be made. Otherwise, subject to the direction of WTB staff, paper filings will be made.

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From: Stenger, James [mailto:JStenger@chadbourne.com]
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Cc: 'Austin Randazzo'; 'Mary Gosse'
Subject: Dkt 11-71 - Joint Stipulation

Dear Judge Sippel,

We are writing on behalf of our clients Environmental LLC and Verde Systems LLC with regard to the Joint Stipulation entered into between Maritime and the Enforcement Bureau and approved by your Honor. Mr. Havens joins in this request. We respectfully direct your Honor's attention to paragraphs 53, 67, 79, 89, 99 and 109 of the Joint Stipulation. Each of these paragraphs recites that Maritime agrees to file the required Form 601 in ULS to cancel the listed authorizations "prior to commencement of the hearing in this matter."

The hearing is only one week away but no report has been filed by Maritime or the Enforcement Bureau to reflect compliance with the Joint Stipulation. As your Honor is aware, the Joint Stipulation was entered into five to seven years after Maritime now admits the stations were abandoned which caused EVH time and expense. It was entered into at the 11th hour before the trial exhibits were due to be filed which caused EVH further time and expense because the EVH exhibits had to include materials related to stations then covered in the stipulation.

Now Maritime is causing further delay, uncertainty and expense by failing to report on its compliance with the stipulation with only a few business days left before the hearing. We respectfully request that your Honor take appropriate steps to require compliance with the Joint Stipulation in a timely manner.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned, hereby certifies that he has caused on this 2nd day of December, 2014 to be mailed by first class United States mail a true and correct copy of the foregoing *Trial Brief on Issue (g)* to:

The Honorable Richard L. Sippel
Chief Administrative Law Judge
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