

In re: WP Docket # 08-63

(Waiver Request of ReconRobotics, LLC)

Subject: Reply comment on Mitchell Lazarus' most recent submission for the record...

To the Commission:

Mr. Lazarus' most recent submission in these proceedings following the ARRL's Petition for Reconsideration and Reply to ReconRobotics' Opposition thereto are mistaken, if not in law then in its spirit. Section 2.106 of the Commission's rules is premised in international agreements having the effect of treaty and treaties in their own right. The Commission may NOT merely waive the Table of Allotments inasmuch as such a waiver would be badly inconsistent with our Constitution (inasmuch as treaties made thereunder are "supreme law of the land") and our international obligations.

Moreover, waiver requests such as the one submitted by Mr. Lazarus on behalf of ReconRobotics, LLC, are in effect Petitions for Rulemaking more so than truly being waiver requests. One cannot effectuate the intent of this "waiver" request without a serious reconsideration of the underlying rules being waived. No doubt these devices are well-intentioned given their law enforcement applications; however, merely waiving a rule - and especially an internationally established frequency allocation - for the sake of convenience of industry is an exceedingly bad mistake to make with regard to other frequency users and consistency with decision-making precedents heretofore established by this Commission.

Personally, as a licensed amateur radio operator, I have no trouble whatsoever with the concept of sharing working frequencies with law enforcement, PROVIDED it is done correctly. These continual waivers are an end-run around the Administrative Procedures Act, and truth be told, patently in violation of the same. Now, law enforcement would hold my feet to the fire if I deviated from established policy or attempted to violate a law, treaty, or the Constitution, and therefore, so must I. While it vexes me to take a position which may hinder a need of the law enforcement community, a greater cause is at stake here: adherence to the proper processes, acknowledgement and adherence to law and treaty, and acquiescence to Constitutional demand that all citizens be treated equally under the law, rather than a special interest getting a waiver that the rest must simply 'deal with.' That kind of high-handed abuse of power is intolerable in our system of government and I admonish the Commission to remember that it works for the People of the United States of America and not the other way around!

Given the foregoing, I will respectfully file and continue to file either Informal Objections (per FCC Rule 1.41, 1.927, and 1.935) and/or Petitions to Deny (per FCC Rule 1.927, 1.935, and 1.939) against any and all applications seeking a radio station license in the public safety service (PW) on

any portion of the 70cm Amateur Radio Band (420-450 MHz) on the following grounds...

1. Actual or predicted interference;
2. Failure to properly coordinate frequency assignments with incumbent licensees individually and collectively;
3. Ineligibility for want of an allocation to the public safety radio service anywhere in the 420-450 MHz band; and,
4. Ineligibility for defective grant of the underlying waiver when the waiver was actually a rulemaking under color of authority in violation of the Administrative Procedures Act, international agreements and treaties, and the U.S. Constitution.

Respectfully submitted:

/s./ James Edwin Whedbee, M.Ed.

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