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Special Advisory to Broadcasters  
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## Communications Broadcast Advisory

### FCC Enforcement Monitor

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#### **FCC Fines Puerto Rico Radio Station \$15,000 for Violating Antenna Structure and Public Inspection File Rules, and Failing to Operate Within the Terms of Its License**

The FCC recently fined a Puerto Rican radio station \$15,000 for violating the Commission's antenna structure and public inspection file rules and failing to operate within the terms of its license. In August 2005, an Enforcement Bureau agent inspected the station and was unable to locate any quarterly issues/program lists in the station's public inspection file. The agent also observed a sizable hole in the perimeter fence of the station's tower, and found evidence that the station was operating at night using a two-tower directional array, instead of the three-tower directional array specified in the station's license.

In response, the licensee admitted that it had not maintained a traditional fence around its tower, but argued that the swamp surrounding its antenna structure effectively served as a fence. The Bureau rejected this argument, finding that the mere fact that the swamp might deter intruders did not make it an "effective locked fence" as required by the FCC's Rules. The licensee also argued that even though the station's night-time operations were at variance with its authorization, a fine would be inappropriate since the licensee had inherited the station in a state of disrepair and had not received the reports of the station's consulting engineer in that regard. The Bureau rejected this argument as well, noting that "licensees and other Commission regulates are responsible for the acts and omissions of their employees and independent contractors" and that the licensee "should have researched the station's condition prior to purchasing it and could have insisted the previous owner correct any violations prior to consummation of the sale."

#### **FCC Admonishes Florida Radio Station for Public Inspection File Violation**

The FCC recently admonished a Florida radio station for violating the Commission's public inspection file rule. In April 2006, Enforcement Bureau agents inspected the station and were unable to find any quarterly issues/programs lists in the station's public inspection file. The agents were also unable to find copies of the local public notices that the agents believed should have been aired in connection with the station's most recent license renewal application. The Bureau proposed to fine the station \$4,000 for these violations.

The station responded by noting that since the station had only been on the air since August 2005, it had never been a license renewal applicant and therefore had no obligation to air local public notices regarding such an application. The Bureau agreed, and cancelled the proposed fine based on this “new information.” However, the Bureau admonished the station for its failure to properly maintain its quarterly issues/programs lists.

### FCC Takes Action to Enforce Environmental and Historic Preservation Rules

The FCC recently proposed to fine two licensees for violating the Commission’s Rules requiring licensees to complete environmental and historic preservation reviews prior to constructing new facilities or making major changes in existing facilities. Under the Commission’s Rules, applicants are required to assess proposed facilities to determine whether the facilities may significantly affect the environment. If the proposed construction could have a significant adverse impact on the environment, the applicant must prepare and submit an Environmental Assessment to the FCC with the application for review by the FCC. The Commission’s Rules also require licensees to conduct a similar review of whether the proposed construction could adversely impact historic sites, such as those listed or eligible for listing in the National Register of Historic Places, and to solicit comment from local Indian tribes and the State Historic Preservation Officer.

Both proposed fines involved wireless licensees that failed to properly conduct these reviews. The first case involved a licensee that initiated an environmental review only after completing the construction of a new antenna structure. Despite the licensee’s attempts to correct what it claimed was an “inadvertent oversight,” the Bureau proposed a forfeiture of \$5,600. The second case involved a licensee that properly initiated the required reviews, but prematurely began construction before receiving comment from local Indian tribes and the State Historic Preservation Officer. After completing construction, the licensee notified the Commission that the construction had been premature. The Bureau imposed a fine of \$11,000, although it acknowledged the licensee’s voluntary disclosure of its violation to the Commission.

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