

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 88-561

In the Matter of

JACK E. ONDRACEK
Myrtle Creek, Oregon

License of Radio Station
KRGL(AM), Myrtle Creek, Oregon

Order to Show Cause Why the
License of Station KRGL(AM),
Myrtle Creek, Oregon, Should
Not Be Revoked

**ORDER TO SHOW CAUSE AND
NOTICE OF APPARENT LIABILITY**

Adopted: December 2, 1988; Released: January 25, 1989

By the Commission:

1. The Commission has before it for consideration: (a) the license of Jack E. Ondracek, for Radio Station KRGL(AM), Myrtle Creek, Oregon; and, (b) the results of its investigation into KRGL's unauthorized silent status.

2. In September 1986, the Commission received information indicating that the captioned licensee had ceased operation of KRGL in mid-March 1986. Commission personnel visited the site on November 17, 1986, and found it abandoned. The Commission sent a letter of inquiry to the licensee at the address that appeared in Commission records. The letter, postmarked July 15, 1987, was returned stamped: "Return to Sender-Box Closed."¹ Commission personnel revisited the site on March 10, 1988, and again found it abandoned. Thus, it appears that the station has not resumed operation since it left the air in March 1986. Furthermore, the licensee has neither requested Commission permission to remain off the air nor turned in its license, in apparent violation of Sections 73.1740(a)(4) and 73.1750 of the Commission's Rules.²

3. Accordingly, IT IS ORDERED, That pursuant to Section 312(a)(3) and (4) of the Communications Act of 1934, as amended, Jack E. Ondracek is DIRECTED TO SHOW CAUSE why the license for Radio Station KRGL(AM), Myrtle Creek, OR, should not be REVOKED, at a hearing to be held at a time and location specified in a subsequent Order, upon the following issue:

(a) To determine whether Jack E. Ondracek violated Sections 73.1740(a)(4) and/or 73.1750 of the Commission's Rules.

(b) To determine, in light of the evidence adduced under the foregoing issue, whether Jack E. Ondracek possesses the requisite qualifications to be or remain licensee of the captioned radio station.

4. IT IS FURTHER ORDERED, That the Chief, Mass Media Bureau, is directed to serve upon Jack E. Ondracek, within thirty (30) days of the release of this Order, a Bill of Particulars with respect to Issues (a) and (b) above.

5. 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 evidence and the burden of proof shall be upon the Mass Media Bureau as to both issues.

6. 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, in person or by attorney, shall file with the Commission within thirty (30) days of the receipt of the Order to Show Cause 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 an appearance within the time specified, the right to a hearing shall be deemed to have been waived. Where a hearing is waived, a written statement in mitigation or justification may be submitted within thirty (30) days of the receipt of the Order to Show Cause. See Section 1.92(a) of the Commission's Rules. In the event the right to a hearing is waived, the presiding officer, or the Chief Administrative Law Judge if no presiding officer has been designated, will terminate the hearing proceeding and certify the case to the Commission in the regular course of business and an appropriate Order will be entered. See Section 1.92(c) and (d) of the Commission's Rules.

7. IT IS FURTHER ORDERED, That if it is determined that the hearing record does not warrant an Order revoking the license for Station KRGL(AM), Myrtle Creek, OR, it shall be determined, pursuant to Section 503(b) of the Communications Act of 1934, as amended, whether an ORDER FOR FORFEITURE shall be issued against Jack E. Ondracek in an amount not exceeding twenty thousand dollars (\$20,000.00) for the willful and repeated violation of Sections 73.1740 and/or 73.1750 of the Commission's Rules.

8. IT IS FURTHER ORDERED, That this document constitutes a NOTICE OF APPARENT LIABILITY for willful or repeated violation of Sections 73.1740 and/or 73.1750 of the Commission's Rules. The Commission has determined that in every case designated for hearing involving the potential revocation of a station license, it shall, as a matter of course, include a forfeiture notice so as to maintain the fullest possible flexibility of action. Since the practice of including such forfeiture notice is a routine procedure, such inclusion herein should not be viewed in any manner as suggesting or otherwise indicating what the initial or final disposition of this proceeding should be.

9. IT IS FURTHER ORDERED, That the Secretary, send a copy of this Order by *Certified Mail - Return Receipt Requested*, to:

Jack E. Ondracek
Radio Station KRGL(AM)
P.O. Box 6001
Myrtle Creek, OR 97457

FEDERAL COMMUNICATIONS COMMISSION

Donna A. Searcy
Secretary

FOOTNOTES

¹ Section 1.5 of the Commission's Rules requires that the licensee keep the Commission informed of any change in its mailing address.

² Section 73.1740(a)(4) provides:

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.

Section 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.