

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

In the Matter of

Hearst Stations Inc.  
Licensee of Television Station KITV  
Facility ID# 64548  
Honolulu, Hawaii

File No. EB-11-HL-0031

NOV No. V201132860010

## NOTICE OF VIOLATION

Released: May 5, 2011

By the Resident Agent, Honolulu Office, Western Region, Enforcement Bureau:

1. This is a Notice of Violation ("Notice") issued pursuant to Section 1.89 of the Commission's Rules,<sup>1</sup> to Hearst Stations Inc., licensee of television station KITV in Honolulu, Hawaii. This Notice may be combined with a further action, if further action is warranted.<sup>2</sup>

2. On March 1, 2011 and May 2, 2011, an agent of the Enforcement Bureau's Honolulu Office monitored television station KITV virtual channel 4-I, located in Honolulu, Hawaii, and observed the following violation:

47 C.F.R. § 11.61(a)(1)(i): “Required Monthly Tests of the EAS header codes, Attention Signal, Test Script and EOM code...must be transmitted within 60 minutes of receipt by EAS Participants in an EAS Local Area or State.”

The agent found that KITV did not retransmit the required monthly tests issued by Hawaii State Civil Defense on both March 1, 2011 and May 2, 2011.

3. As the nation's emergency warning system, the Emergency Alert System is critical to public safety, and we recognize the vital role that broadcasters play in ensuring its success. The Commission takes seriously any violations of the Rules implementing the EAS and expects full compliance from its regulatees. Pursuant to Section 403 of the Communications Act of 1934, as amended,<sup>3</sup> and Section 1.89 of the Commission's Rules, we seek additional information concerning the

<sup>1</sup>47 C.F.R. § 1.89.

<sup>2</sup>47 C.F.R. § 1.89(a).

<sup>3</sup>47 U.S.C. § 403.

## Federal Communications Commission

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violation and any remedial actions the station may have taken. Therefore, Hearst Stations Inc., must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.<sup>4</sup>

4. In accordance with Section 1.16 of the Commission's Rules, we direct Hearst Stations Inc., to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Hearst Stations Inc., with personal knowledge of the representations provided in Hearst Stations Inc.'s response, verifying the truth and accuracy of the information therein,<sup>5</sup> and confirming that all of the information requested by this Notice which is in the licensee's possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.<sup>6</sup>

5. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

Federal Communications Commission  
Honolulu Office  
P.O. Box 971030  
Waipahu, Hawaii 96797-1030

6. This Notice shall be sent to Hearst Stations Inc., at its address of record.

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<sup>4</sup>47 C.F.R. § 1.89(c).

<sup>5</sup>Section 1.16 of the Commission's Rules provides that "[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person . . . Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'." 47 C.F.R. § 1.16.

<sup>6</sup>18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

**Federal Communications Commission**

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7. The Privacy Act of 1974<sup>7</sup> requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink, appearing to read 'Ryan Hagihara', with a stylized flourish extending to the right.

Ryan Hagihara  
Resident Agent  
Honolulu Office  
Western Region  
Enforcement Bureau

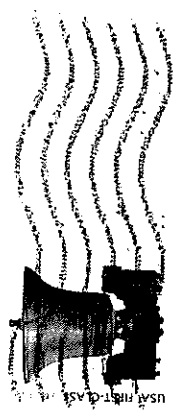
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<sup>7</sup> P.L. 93-579, 5 U.S.C. § 552a(e)(3).

Federal Communications Commission  
Enforcement Bureau  
P.O. Box 971030  
Waipahu, Hawaii 96797-1030

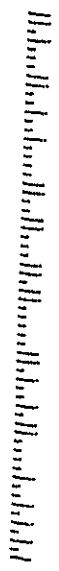
OFFICIAL BUSINESS  
Penalty For Private Use \$300

HONOLULU HI 968  
MAY 20 11 PM 51



HEARST STATIONS INC.  
KITV 4  
801 SOUTH KING ST  
HONOLULU, HI 96813

9681343038



BROOKS, PIERCE, McLENDON, HUMPHREY & LEONARD, L.L.P.

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PARTNER AND SPECIAL COUNSEL

FOUNDED 1897

AUBREY L. BROOKS (1872-1958)  
W.H. HOLDERNESS (1904-1965)  
L.P. McLENDON (1890-1968)  
KENNETH M. BRIM (1898-1974)  
C.T. LEONARD, JR. (1929-1983)  
CLAUDE C. PIERCE (1913-1988)  
THORNTON H. BROOKS (1912-1988)  
G. NEIL DANIELS (1911-1997)  
HUBERT HUMPHREY (1928-2003)  
L.P. McLENDON, JR. (1921-2010)

GREENSBORO OFFICE  
2000 RENAISSANCE PLAZA  
230 NORTH ELM STREET  
GREENSBORO, N.C. 27401

WRITER'S DIRECT DIAL

June 1, 2011

Mr. Ryan Hagihara  
Resident Agent, Honolulu Office  
Western Region Enforcement Bureau  
Federal Communications Commission  
P.O. Box 971030  
Waipahu, Hawaii 96797-1030

Via USPS Express Mail

Re: Notice of Violation, File No. EB-11-HL-0031; NOV No. V201132860010

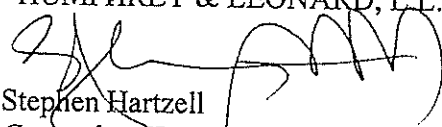
Dear Mr. Hagihara:

This firm is counsel to Hearst Stations Inc., licensee of KITV, Honolulu, Hawaii ("Hearst"). On behalf of Hearst, enclosed please find an original and one copy of Hearst's response to the above-referenced Notice of Violation, issued May 5, 2011. By email correspondence dated May 21, 2011, you kindly granted Hearst a brief extension of time in which to submit its response, through and including June 3, 2011. Please stamp one copy as "filed" and return it in the enclosed postage pre-paid envelope.

Should any questions arise in considering this matter, it is respectfully requested that you communicate with this office.

Sincerely,

BROOKS, PIERCE, McLENDON,  
HUMPHREY & LEONARD, L.L.P.

  
Stephen Hartzell  
Counsel to Hearst Stations Inc.

Enclosures

cc: Ryan Hagihara, FCC (via email)

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of	)	
	)	
Hearst Stations Inc.	)	File No. EB-11-HL-0031
Licensee of Television Station KITV	)	
Facility ID No. 64548	)	NOV No. V201132860010
Honolulu, Hawaii	)	

**Response to Notice of Violation  
Released May 5, 2011**

Hearst Stations Inc. ("Hearst"), licensee of KITV(TV), Honolulu, Hawaii, by its undersigned counsel, hereby responds to the Federal Communications Commission's Notice of Violation, in File No. EB-11-HL-0031, dated May 5, 2011 ("NOV") (copy attached as Exhibit 1).<sup>1</sup> For the reasons stated below, Hearst respectfully denies that its EAS performance on March 1, 2011, or May 2, 2011, constitute violations. In response to the NOV, Hearst shows the following:

1. The NOV alleges a violation of Commission Rule Section 11.61(a)(1)(i) for Hearst's alleged failure to retransmit the March 1, 2011, and May 2, 2011, Required Monthly Tests ("RMTs") on KITV:

On March 1, 2011 and May 2, 2011, an agent of the Enforcement Bureau's Honolulu Office monitored television station KITV virtual channel 4-1, located in Honolulu, Hawaii, and observed the following violation:

47 C.F.R. § 11.61(a)(1)(i): "Required Monthly Tests of the EAS header codes, Attention Signal, Test Script and EOM code . . . must be transmitted within 60 minutes of receipt by EAS Participants in an EAS Local Area or State."

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<sup>1</sup> By email dated May 21, 2011, from Ryan Hagihara to Hearst's legal counsel Stephen Hartzell, the deadline for responding to the NOV was graciously extended to June 3, 2011.

The agent found that KITV did not retransmit the required monthly tests issued by Hawaii State Civil Defense on both March 1, 2011 and May 2, 2011.

NOV, ¶ 2 (ellipses in original).

2. As discussed in the attached Declarations of Rodney Shimabukuro, Director of Engineering for KITV, and Chris Kam, Technical Director, (respectively, “Shimabukuro Declaration” and “Kam Declaration” and collectively, the “Declarations”), the Station (i) did air the March 1, 2011, RMT in conformity with Rule Section 11.61 and (ii) experienced a technical defect with its EAS receiver on May 2, 2011, for a brief period that coincided with the time that the RMT aired on that date and properly accounted for the malfunction in the Station’s log.

3. The Declarations are further supported by documentary evidence submitted herewith. Exhibit 2 contains copies of excerpts from the Station’s logs showing the receipt and retransmission of the March 1, 2011, RMT. *See* Shimabukuro Declaration, ¶ 5. Exhibit 3 contains copies of excerpts from the Station’s logs showing that KITV’s EAS receiver was temporarily out of service on May 2, 2011. *See* Shimabukuro Declaration, ¶ 6; *see also* 47 C.F.R. § 11.35(b). Together, these supporting materials demonstrate that KITV was using best practices and was in compliance at all relevant times with the Commission’s EAS rules.

4. The circumstances surrounding the May 2 RMT warrant further explanation. On or around April 26-27, 2011, the Station took its old TFT EAS-911 receiver out of service and replaced it with a new DASDEC II EAS receiver, which is a CAP (Common Alerting Protocol)-capable unit. *See* Shimabukuro Declaration, ¶ 4. The Commission’s requirement that stations install CAP-compatible EAS equipment does not take effect until September 30, 2011, so KITV’s installation represents early compliance. Following installation, Hearst successfully tested the new unit off-line and then put the new unit on-line on April 28, 2011. *See*

Shimabukuro Declaration, ¶ 4. On May 2, at approximately 11:10 a.m. local time, KITV's Director of Engineering, Rodney Shimabukuro, entered Master Control to review with the on-duty Technical Director, Chris Kam, the EAS protocol for the new DASDEC II EAS receiver. Both Mr. Shimabukuro and Mr. Kam were aware that a RMT was scheduled for May 2, and since this was to be the first RMT using the new DASDEC II receiver, they wanted to be sure they discussed the new equipment and protocol prior to the execution of the RMT. *See* Shimabukuro Declaration, ¶ 6; Kam Declaration, ¶ 4.

5. While discussing the DASDEC II receiver with Mr. Kam, Mr. Shimabukuro observed that the date on the DASDEC II receiver screen was wrong and he also noticed nonsensical characters on the screen. Recognizing that the unit was malfunctioning, Mr. Shimabukuro re-set the DASDEC II receiver, and, following the incident, a notation was made in the logs that the unit had malfunctioned, which was essentially equivalent to logging it out of service for a brief period of time. *See* Shimabukuro Declaration, ¶ 6. By the time the unit finished cycling through the re-set, the RMT had already been issued. *See* Shimabukuro Declaration, ¶ 6. Mr. Shimabukuro and Mr. Kam ultimately ran through the RMT protocol on the DASDEC II for purposes of training Mr. Kam. *See* Shimabukuro Declaration, ¶ 6; Kam Declaration, ¶ 4; *see also* 47 C.F.R. § 11.35(b). The unit was successfully returned to service the same day (within a matter of minutes), and KITV broadcast an actual EAS alert that evening, which made it abundantly clear to KITV that the DASDEC II unit's malfunction was temporary and had been successfully resolved. *See* Shimabukuro Declaration, ¶ 6. A CD containing a video file showing the May 2 EAS alert is enclosed with this Response.

6. In light of the circumstances described above, Hearst respectfully submits that its EAS performance on neither March 1 nor May 2 constituted a violation. Hearst submits that, at



all relevant times, other than the brief period on May 2, 2011, its EAS equipment has been operational and that the temporary technical malfunction on May 2 was an event beyond the Station's control which was promptly corrected and logged. Moreover, KITV's EAS equipment has already been upgraded for CAP compatibility, many months in advance of the September 30, 2011, deadline for such upgrades. In light of the foregoing facts and circumstances and in the spirit of cooperation, Hearst respectfully offers to coordinate the execution of a Required Monthly Test with the Honolulu Field Office during a month that is convenient for the Honolulu Field Office—Mr. Shimabukuro has already discussed this possibility with Mr. Hagihara. Hearst wishes to ensure that the Field Office and KITV can both, simultaneously, review KITV's performance in real time. In addition, Mr. Shimabukuro has discussed with Mr. Hagihara that KITV will contact Mr. Hagihara in the event of any future technical difficulties with passing through an EAS test.

\* \* \*

Respectfully submitted,

**HEARST STATIONS INC.**

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Mark J. Prak  
Stephen Hartzell

BROOKS, PIERCE, McLENDON,  
HUMPHREY & LEONARD, L.L.P.  
Wachovia Capitol Center, Suite 1600  
150 Fayetteville Street (27601)  
Post Office Box 1800  
Raleigh, North Carolina 27602  
Telephone: (919) 839-0300  
Facsimile: (919) 839-0304

Its Attorneys

May 31, 2010

# **EXHIBIT 1**

(Copy of Notice of Violation, Released May 5, 2011)

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

NOV No. V201132860010

<sup>3</sup>47 U.S.C. § 403.

## Federal Communications Commission

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violation and any remedial actions the station may have taken. Therefore, Hearst Stations Inc., must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.<sup>4</sup>

4. In accordance with Section 1.16 of the Commission's Rules, we direct Hearst Stations Inc., to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Hearst Stations Inc., with personal knowledge of the representations provided in Hearst Stations Inc.'s response, verifying the truth and accuracy of the information therein,<sup>5</sup> and confirming that all of the information requested by this Notice which is in the licensee's possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.<sup>6</sup>

5. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

Federal Communications Commission  
Honolulu Office  
P.O. Box 971030  
Waipahu, Hawaii 96797-1030

6. This Notice shall be sent to Hearst Stations Inc., at its address of record.

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<sup>4</sup>47 C.F.R. § 1.89(c).

<sup>5</sup>Section 1.16 of the Commission's Rules provides that "[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person . . . . Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'." 47 C.F.R. § 1.16.

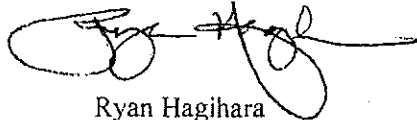
<sup>6</sup>18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

**Federal Communications Commission**

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7. The Privacy Act of 1974<sup>7</sup> requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink, appearing to read 'Ryan Hagihara', with a long horizontal stroke extending to the right.

Ryan Hagihara  
Resident Agent  
Honolulu Office  
Western Region  
Enforcement Bureau

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<sup>7</sup> P.L. 93-579, 5 U.S.C. § 552a(e)(3).

## **EXHIBIT 2**

(Copies of Excerpts from March 1, 2011, Station Logs)

DAY OF WEEK: TUE DATE: 3/1/11

KITV-DT Ch. 40 Honolulu, HI 21 17 '37" NL 157 50' 34" WL ERP 85KW TPO 7.7 KW		KMAU-DT Ch. 12 Wailuku, HI 20 39' 37" NL 156 21' 46" WL ERP 9KW TPO 1KW		KHVO-DT Ch 13 Hilo, HI 19 43' 00" NL 155 08' 13" WL ERP 2 KW TPO 500 Watts	
Carrier ON	Carrier OFF	Carrier ON	Carrier OFF	Carrier ON	Carrier OFF
<u>Cont</u>	<u>Cont</u>	<u>Cont</u>	<u>Cont</u>	<u>Cont</u>	<u>Cont</u>
Program ON	Program OFF	NOTE: All times HST 24 Hour Format. All Programming, Station IDs and EAS Activities of KITV-DT are duplicated on Stations KMAU-DT & KHVO-DT			
<u>Cont</u>	<u>Cont</u>				

**TRANSMITTER READINGS**

TIME 24 Hour format	KITV-DT Dig Pwr %	KMAU-DT Dig Pwr %	KHVO-DT Dig Pwr %
05:17	97	100	99
0755	80	101	99
1050	82	99	101
1345	82	100	100
1645	80	99	98
1945	60	102	99
2230	60	101	101
0116	74	99	100
0358	74	97	99

KITV-TV TOWER LIGHTS CHECKED @: 1945 BY: Sam Keen

**EAS ACTIVITY**

TYPE	ORIGIN	TIME	SIGNATURE	KITV-DT	KITV-WX
Monthly Test	HSCD	1115	cc		
Monthly Test	KPTV/FM	1115	cc		
Monthly Test	KITV	1116	cc	cc	cc
Reg Weekly Test	KITV	1846	TR	✓	✓

EAS Receiver Checked @: 05:18 BY: Sam Keen

**OPERATORS**

TIME ON 24 hr fmt	Operator Signature	TIME OFF 24 hr fmt	Operator Signature
0500	<u>Sam Keen</u>	0645	<u>Sam Keen</u>
0645	<u>Sam Keen</u>	1445	<u>Sam Keen</u>
1445	<u>Sam Keen</u>	2245	<u>Sam Keen</u>
2245	<u>Sam Keen</u>	<del>0500</del>	<u>Sam Keen</u>

**COMMENTS**

Power Supply Module failed, running at approx 80% power. In 3/1/11  
lost power from 16:47 to 17:01 TR 3/1/11

Chief Operator Check Date: 3/3/11 By: Sam Keen

Use reverse side for additional entries if necessary

File: KITV TRANSMITTER LOG revised 01/30/09

**KITV-TV: Discrepancy Report(s): 03/01/2011**


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Date	Time	Status	Station	Author
03-01-2011	5:00:00 AM	Open	KITV-TV	Higa, Brandi

Program	Subject	Brief
KITV4 NEWS HEADLINES	NEWS DISCREPS	Report Details

**Explanation**

Producer: Brandi  
 Director: Jay  
 TD: Braden  
 Audio: Les  
 (note: Be as detailed as possible about what happened and action taken.)

**FIRST HOUR:**

A2 superopen puppy no SOT FULL off top, editor did not include SOT, Les says audio was all the way up  
 A9 new animal bills no SOT FULL off top, editor did not include SOT, Les says audio was all the way up  
 F7 DWTS contestants, freeze ran out of vid

**SECOND HOUR:**

A10 school lunch price hike, Maheas mic dropped in  
 B5 incorrect info on gfx ( said ".com" instead of ".org"), producer error, Jay took the first deco pushing our morning section mini site, Mahea tossed i  
 the gfx with the information for National Pancake Day first  
 C block social wire, Split graphic inverted for live skype interview

**Action****FIRST HOUR:**

A2 re-edited with sound for second hour.  
 A9 SOT taken out of script for second hour.  
 F7 re-edited with more video for second hour.

**SECOND HOUR:**

B5 incorrect info on gfx, Mahea corrected, Jay switched back to the gfx for National Pancake Day information  
 C block social wire, Braden was able to switch the

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Date	Time	Status	Station	Author
03-01-2011	11:16:00 AM	Open	KITV-TV	Kam, Chris

Program	Subject	Brief
SYND NATE	EAS EVENT	EAS Test Xmit (Monthly)

**Explanation**

Station aired the required FCC monthly EAS Test on KITV-DT and KITV-WX. Audible and vision confirmation was observed.

**Action**

Station aired the required FCC monthly EAS Test on KITV-DT and KITV-WX. Audible and vision confirmation was observed.

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Date	Time	Status	Station	Author
03-01-2011	5:00:00 PM	Open	KITV-TV	Young, Sheree



## **EXHIBIT 3**

(Copies of Excerpts from May 2, 2011, Station Logs)

DAY OF WEEK: mon DATE: 5-2-11

KITV-DT Ch. 40 Honolulu, HI 21 17' 37" NL 157 50' 34" WL ERP 85KW TPO 7.7 KW		KMAU-DT Ch. 12 Wailuku, HI 20 39' 37" NL 156 21' 46" WL ERP 9KW TPO 1KW		KHVO-DT Ch 13 Hilo, HI 19 43' 00" NL 155 08' 13" WL ERP 2 KW TPO 500 Watts	
Carrier ON	Carrier OFF	Carrier ON	Carrier OFF	Carrier ON	Carrier OFF
<u>Cont</u>	<u>Cont</u>	<u>Cont</u>	<u>Cont</u>	<u>Cont</u>	<u>Cont</u>
Program ON	Program OFF	NOTE: All times HST 24 Hour Format. All Programming, Station IDs and EAS Activities of KITV-DT are duplicated on Stations KMAU-DT & KHVO-DT			
<u>Cont</u>	<u>Cont</u>				

## TRANSMITTER READINGS

TIME 24 Hour format	KITV-DT Dig Pwr %	KMAU-DT Dig Pwr %	KHVO-DT Dig Pwr %
0500	58	103	99
0755	58	104	99
1000	58	104	100
1350	57	103	99
1645	57	103	101
1945	58	102	98
2230	58	102	100
0123	58	105	98
0357	58	104	100

KITV-TV TOWER LIGHTS CHECKED @: 1945 BY: Jon Reese

## EAS ACTIVITY

TYPE	ORIGIN	TIME	SIGNATURE	KITV-DT	KITV-WX
Practice Demo Warning	HSCD	0743	CK		
Practice Demo Warning	HSCD	0758	CK		
Practice Demo Warning	HSCD	0823	CK		
Practice Demo Warning	HSCD	0907	CK		
Monthly Test	HSCD	1118	CK		
Monthly Test	KRTE/AM	1118	CK	<u>Jon Reese</u>	
Flash Flood Warning RATED/ALERT	0406	CK	<u>Jon Reese</u>	<u>Jon Reese</u>	
EAS Receiver Checked @:	0500	BY:	<u>Jon Reese</u>		

## OPERATORS

TIME ON 24 hr fmt	Operator Signature	TIME OFF 24 hr fmt	Operator Signature
0500	<u>Jon Reese</u>	0645	<u>Jon Reese</u>
0645	<u>C. K.</u>	1445	<u>CK</u>
1445	<u>Jon Reese</u>	2245	<u>Jon Reese</u>
2245	<u>Jon Reese</u>	0500	<u>Jon Reese</u>

## COMMENTS

Monthly EAS TEST FROM KITV Failed. DAS Problem OK 5/2 11:45:00

Flash Flood Warning Failed on WX ch. (WX ch. (Hawaii) not

Chief Operator Check Date: 5/6/11 By: Jon Reese

Use reverse side for additional entries if necessary

File: KITV TRANSMITTER LOG revised 01/30/09

Type	Origin	Time	Signature	HD	WX
Practice Demo	PHSCD	17:16	TR		
Spec. Marine Warning	PHFO	17:46	TR		
" " "	PHFO	17:53	TR		
Flash Flood Warning	PHFO	18:09	TR	✓	✓
Special Marine Wn	PHFO	18:34	TR		
Flash Flood Warning	KITV	18:30	TR	✓	✓

### **Declaration of Rodney Shimabukuro**

I, Rodney Shimabukuro, hereby declare, under penalty of perjury, as follows:

1. I am greater than eighteen years of age and am competent to make this Declaration.

2. I am Director of Engineering of Station KITV, Honolulu, Hawaii. I have held this position at all relevant times.

3. I submit this Declaration in support of the Response of Hearst Stations Inc. to the Notice of Violation Released May 5, 2011 ("NOV"). I have personal knowledge of all information set forth in this Declaration.

4. After receipt of the NOV, I immediately launched an investigation into the alleged failure of the Station to properly air two required monthly tests ("RMTs"). On April 27, 2011, KITV installed a new EAS receiver, a DASDEC II, which is a CAP-capable unit. On April 26 and 27, 2011, we tested the new unit off-line, and we put it on-line on April 28, 2011. At the time of the March 1 RMT, we were still using our TFT EAS-911 receiver, and for the May 2, 2011, RMT, the DASDEC II receiver was the relevant unit, and May 2 was to be the first live test using the DASDEC II unit. The tests on both dates are discussed below. Following the NOV, as part of my investigation, I examined the Station's logs from March 1, 2011, and May 2, 2011. Relevant log pages from both days are attached to the Response as Exhibits 2 and 3. It is part of my regular routine to personally monitor all RMTs on KITV in Master Control. (When I am out, I assign the duty to my Chief Engineer.)

5. *The March 1, 2011, RMT.* On Tuesday, March 1, 2011, I observed the execution of the RMT in Master Control. The Technical Director that morning was Chris Kam, and at approximately 11:15AM HST, the TFT EAS-911 system sounded the usual alarm from the Hawaii State Civil Defense bunker (as usual the alarm was preceded by a 10-second countdown). On March 1, I observed Chris Kam pressing the TFT EAS-911 Forward Alert button, then we both watched the monitors for the text crawl and listened for the tones on the monitor speakers. After I heard the tones on the KITV-DT-1 off air monitor, Chris quickly switched the monitor to the KITV-DT-2 channel off air monitor, and I heard it there as well. The crawl was then observed on both channels, and Chris waited until the crawl had passed on both channel monitors before pressing the "End of Message" button on the TFT EAS-911 box, sending the End of Message tones. He then logged the event, tore the paper tape off the TFT EAS-911 box, and at that time I left the room. A copy of the relevant portion of the Station's log is attached as Exhibit 2 to the Response.

6. *The May 2, 2011, RMT.* On Monday, May 2, 2011, I went into Master Control to observe the RMT. I deliberately went to Master Control a little early to ensure that the Technical Director on duty at the time, Chris Kam, would have appropriate support for the RMT since we had so recently installed the new DASDEC II unit and the training we provided for operation of the new unit, while important, is no substitute for actual, live testing. At approximately 11:10 AM HST, I was reviewing the new EAS procedures with Chris, and while we were discussing

the DASDEC II display window, I noticed that the wrong date and time were on the screen along with some strange characters. When I tried to login to the webGUI (a content management system) for the unit to try to reset the date, my efforts were unsuccessful and I received an error message that the web page could not be found. My next step was to re-set the unit, which I did by unplugging it, counting to ten, and re-inserting the AC cord into the power outlet. After approximately two more minutes, around 11:15 AM, the display on the DASDEC II re-appeared in a normal state, but by then the transmitted alert from the Hawaii Civil Defense had passed. (In fact, we heard it execute on the TFT EAS-911 system that we had taken partially off-line on April 28.) At that time, I instructed the Technical Director to log the RMT as a failed event, noting that the reason was due to a fault in the DASDEC II system. A copy of the relevant portion of the Station's log is attached as Exhibit 3 to the Response. For training purposes, we thereafter ran through the testing protocol but without issuing an actual RMT. Later on May 2, at approximately 6:31 PM HST, KITV successfully aired a NOAA Weather Alert for a flash flood watch, which confirmed that the DASDEC II equipment failure had been temporary and its functionality had been properly restored. A video file of the May 2 alert is enclosed on a CD with the Response.

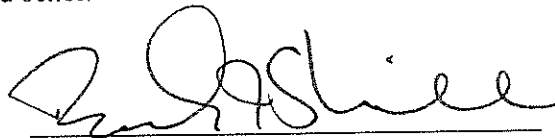
7. I have reviewed the Response of Hearst Stations Inc. to the NOV and hereby verify the truth and accuracy of the information contained therein.

**[signature appears on following page]**

I declare, under penalty of perjury, that the foregoing Declaration is true and accurate to the best of my knowledge, information, and belief.

5/24/4

Date

A handwritten signature in black ink, appearing to read 'Rodney Shimabukuro', written over a horizontal line.

Rodney Shimabukuro  
Director of Engineering, KITV

### **Declaration of Andrew C. Jackson**

I, Andrew C. Jackson, hereby declare, under penalty of perjury, as follows:

1. I am greater than eighteen years of age and am competent to make this Declaration.

2. I am General Manager of Station KITV, Honolulu, Hawaii, and I am President of the KITV Division of Hearst Stations Inc., licensee of KITV. I have held these positions at all times relevant to the Notice of Violation Released May 5, 2011 ("NOV").

3. I submit this Declaration in support of the Response of Hearst Stations Inc. to the NOV. In making this Declaration, to the extent that information is not known personally to me, I am relying on the Declaration of Rodney Shimabukuro, KITV's Director of Engineering, and on the Declaration of Chris Kam, a Technical Director at KITV.

4. Following the receipt of the NOV, I oversaw the investigation by KITV's Director of Engineering, Rodney Shimabukuro, into the alleged failure of the Station to properly air two required monthly tests ("RMTs"). Mr. Shimabukuro's investigation revealed that KITV did, in fact, air the March 1, 2011, RMT at issue in the NOV. In addition, I had been advised by Mr. Shimabukuro of the temporary malfunction of the new DASDEC II EAS receiver unit on May 2, 2011, which caused the Station to miss the RMT on that date. I am aware that Mr. Shimabukuro was able to promptly restore the functionality of the EAS receiver, that the malfunction was accounted for in the Station's log, and that the Station was able to air an important EAS flash flood warning alert that very same evening.

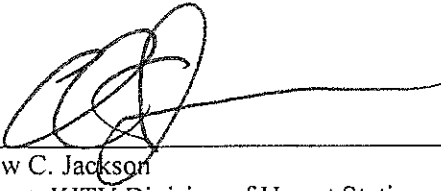
5. I have reviewed the Response of Hearst Stations Inc. to the NOV, and hereby verify the truth and accuracy of the information contained therein. All of the information requested by the NOV that is in the licensee's possession, custody, control, or knowledge is being produced herewith.

**[signature appears on following page]**

I declare, under penalty of perjury, that the foregoing Declaration is true and accurate to the best of my knowledge, information, and belief.

Date

5/26/11

  
\_\_\_\_\_  
Andrew C. Jackson

President, KITV Division of Hearst Stations Inc.  
General Manager of Station KITV



### **Declaration of Chris Kam**

I, Chris Kam, hereby declare, under penalty of perjury, as follows:

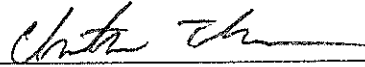
1. I am greater than eighteen years of age and am competent to make this Declaration.
2. I am a Technical Director at Station KITV, Honolulu, Hawaii, and I have held this position at all relevant times. I submit this Declaration in support of the Response of Hearst Stations Inc. to the Notice of Violation Released May 5, 2011 ("NOV").
3. On March 1, 2011, I executed the required monthly test ("RMT") issued by the Hawaii State Civil Defense. I made the entry in the Station's logs indicating that the RMT was executed properly.
4. On May 2, 2011, I was in Master Control, and KITV's Director of Engineering, Rodney Shimabukuro, came in to observe and assist with the RMT. We had installed a new DESDAC II EAS receiver unit a few days prior to the scheduled RMT, and it was an opportunity for Mr. Shimabukuro to work with me using the new unit for its first RMT and to go over the new EAS protocol. At approximately 11:10 AM HST, Rodney was reviewing the new EAS procedures with me, and we saw the data on the unit's display was incorrect. By the time Rodney was able to re-set the unit and generate a proper display, the RMT had already passed—we heard it execute on the old EAS unit that remained partially operational at that time. Following the malfunction by the DESDAC II unit, I logged the RMT as having failed due to a DASDEC II malfunction. For training purposes, we thereafter ran through the testing protocol but without issuing an actual RMT.

**[signature appears on following page]**

I declare, under penalty of perjury, that the foregoing Declaration is true and accurate to the best of my knowledge, information, and belief.

5/26/11

Date



Chris Kam

Technical Director, KITV