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BEFORE THE HEARINGS OFFICER  
FOR KLAMATH COUNTY, OREGON

In the Matter of a  
REQUEST FOR CONDITIONAL  
USE PERMIT  
for  
960 RADIO, INC.

) C.U.P. 36-84  
) (Hearing on Renewal  
) Application)  
) FINDINGS OF FACT,  
) CONCLUSIONS OF LAW AND  
) DECISION  
)

THIS MATTER came before the Assistant Klamath County Hearings Officer, JAMES R. UERLINGS, on November 7, 1985, at which time testimony and evidence was received and the hearing was continued to January 16, 1986.

On January 16, 1986, additional testimony was taken and the hearing was then closed. Exhibits "A" through "X" were offered and received into evidence.

The Applicant was represented by Attorney D.L. Hoots, and several persons appeared in opposition to the renewal of the Conditional Use Permit.

Whereupon, the Assistant Hearings Officer makes the following findings of fact, conclusions of law and decision:

FINDINGS OF FACT:

1. Findings of Fact 1 through 21 from the Order of October 24, 1984, are specifically adopted and incorporated into this Decision.

22. On October 29, 1985, the Federal Communications Commission (FCC) in Washington, D.C., issued a Memorandum Opinion and Declaratory Ruling. The Ruling specifically

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1 addressed the appropriateness of the inclusion in the Order of  
2 Klamath County Hearings Officer dated October 24, 1984, of  
3 Conditions 3-b and c under the Conclusions of Law and Decision  
4 Section. The Ruling specifically stated that the FCC pre-empts  
5 all issues regarding electronic interference, including those  
6 issues addressed by Conditions 3-b and c of the Hearings  
7 Officer's prior Order.

8 KLAMATH COUNTY DEVELOPMENT CODE CRITERIA:

9 1. Klamath County Development Code Section 44.003  
10 sets for the the criteria for consideration in the application  
11 of a Conditional Use Permit:

12 A. That the use is conditionally permitted in  
13 the zone in which it is proposed.

14 B. That the location, size, design and operat-  
15 ing characteristics of the proposed uses is in conformance  
16 with the Klamath County Comprehensive Plan.

17 C. That the location, size, design and operat-  
18 ing characteristics of the proposed development will be  
19 compatible with, and will not adversely effect, the  
20 livability or appropriate development of abutting prop-  
21 erties in the surrounding neighborhood. Consideration  
22 shall be given to the harmony in scale, bulk and utili-  
23 ties; to harmful effects, if any, upon desirable neighbor-  
24 hood character; to the generation of traffic and the  
25 capacity of surrounding streets and to other relevant  
26 impact of the development.

KLAMATH COUNTY DEVELOPMENT CODE FINDINGS AND CONCLUSIONS:

1. The proposed use is conditionally permitted in the zone in which it is proposed. See Section 51.021(c)(1).

2. The location, size, design and operating characteristics of the proposed use will be compatible with, and will not adversely effect, the livability and/or appropriate development of abutting properties in the surrounding neighborhood, if the conditions imposed herein are complied with. In considering the location and operating characteristics of the proposed development, it appears that it will be compatible with, and will not have a significant adverse effect on, the appropriate development and use of abutting properties in the surrounding neighborhood, subject to the conditions imposed herein.

3. Based on the decision of the FCC in the matter of 960 RADIO, INC., Licensee of Station KJSN (FM), Klamath Falls, Oregon, dated October 29, 1985, the Hearings Officer concludes the Klamath County is without authority to regulate electronic interference issues, and those matters cannot be controlled thereby under a Conditional Use Permit. Therefore, Conditions 3-b and c, as contained in the Hearings Officer Order of October 24, 1984, are amended as set forth herein.

STATE-WIDE PLANNING GOALS AND REVIEW CRITERIA:

Klamath County Development Code and Comprehensive Plan have been approved by LCDC in relation to the subject property. Therefore the State-wide Planning Goals and review criteria have beer complied with through the Comprehensive Plan

1 of Klamath County.

2 CONCLUSIONS OF LAW AND DECISION:

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3 1. This request for a Conditional Use Permit on the  
4 subject property meets will all applicable Klamath County  
5 Development Code criteria and policies governing such, with the  
6 inclusion of the conditions added herein.

7 2. This request for a Conditional Use Permit is  
8 consistent with, and complies with, all applicable State-wide  
9 Planning Goals and review criteria, subject to the conditions  
10 as set forth herein.

11 3. The following conditions are imposed in order to  
12 protect the health, safety and welfare of the citizens of  
13 Klamath County:

14 A. That the applicant follow the terms and  
15 conditions for the operation of the radio station as set  
16 forth by the FCC and the applicant shall provide the  
17 Planning Department with a copy of KJSN's new operating  
18 license once it is issued;

19 B. Pursuant to the agreement of the applicant  
20 as given on the record of the hearings of September 20,  
21 1984, and October 4, 1984, the applicant shall assist KSYS  
22 and KSOR in retuning or recrystalling their facilities in  
23 order to alleviate any harmful interference which may be  
24 caused by the construction of the new facility;

25 C. The applicant shall follow all terms and  
26 conditions for its operation as set forth by the Federal

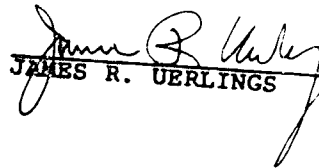
1 Aviation Administration. The applicant shall provide the  
2 Planning Department with a copy of the agreement between  
3 the F.A.A. and KJSN, if such an agreement is entered into;

4 D. The applicant shall obtain legal access to  
5 the site and provide the Planning Department with a copy  
6 of the easements and/or rights of way obtained;

7 E. This Conditional Use Permit is granted for a  
8 period of two (2) years, subject to renewal after a review  
9 of the applicant's operation at a public hearing.

10 THEREFORE, it is hereby ordered that this request for  
11 a Conditional Use Permit on the subject property herein de-  
12 scribed is granted, subject to the above conditions.

13 DATED: this 22 day of January, 1986.

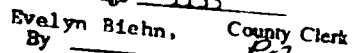
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17 JAMES R. UERLINGS  
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STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of \_\_\_\_\_  
of January A.D. 19 86 at 10:00 o'clock A M., and duly recorded in Vol 486  
of Deeds on Page 1135

FEE NONE

Return: Commissioners' Journal

Evelyn Biehn, County Clerk  
By 

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