

CONSENT DECREE

I. Introduction

1. This Consent Decree is entered into by and between the Media Bureau of the Federal Communications Commission and William Penn University, by their respective authorized representatives, for the purpose of resolving a certain issue that has arisen in the Media Bureau's review of the pending application for the renewal of the license for noncommercial educational radio station KIGC(FM), Oskaloosa, Iowa.

II. Definitions

2. For purposes of this Consent Decree, the following definitions shall apply:
- (a) "Act" means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.*;
 - (b) "Bureau" means the Media Bureau of the Federal Communications Commission;
 - (c) "Commission" or "FCC" means the Federal Communications Commission;
 - (d) "Compliance Plan" means the processes and procedures developed by the University to ensure compliance with the Act and the Rules at the Station, as summarized in the Appendix hereto;
 - (e) "Effective Date" means the date on which the Bureau releases the Order;
 - (f) "Execution Date" means the date on which this Consent Decree is executed by the last of the Parties to do so;
 - (g) "Order" means the order of the Bureau adopting this Consent Decree;
 - (h) "Ownership Report Rule" means Section 73.3615 of the Rules, 47 C.F.R. § 73.3615;
 - (i) "Ownership Reports" means reports on FCC Form 323-E that the University is required to file pursuant to the Ownership Report Rule;
 - (j) "Parties" means the Bureau and the University;
 - (k) "Public File Rule" means Section 73.3527 of the Rules, 47 C.F.R. § 73.3527;
 - (l) "Renewal Application" means the pending license renewal application for the Station (File No. BRED-20121001AUZ);
 - (m) "Rules" means the Commission's rules, found in Title 47 of the Code of Federal Regulations;

- (n) “Station” means noncommercial educational radio station KIGC(FM), Oskaloosa, Iowa;
- (o) “University” means William Penn University; and
- (p) “Violations” means the violations of the Ownership Report Rule and the Public File Rule disclosed by the University.

III. Background

3. On October 1, 2012, the University timely filed its application to renew its license for the Station. In that application, the University disclosed Violations of the Ownership Report Rule and the Public File Rule. Specifically, the University disclosed that it had filed all Ownership Reports for the license term, but a number of reports were filed after the due date for such reports pursuant to the Ownership Report Rule. The University also disclosed that it had been able to compile quarterly issues/programs lists for the fourth quarter of 2011 and the first three quarters of 2012 and place those reports in the Station’s public inspection file after the due date for such lists pursuant to the Public File Rule, but the Station has no quarterly issues/programs lists for the balance of the license term in its public inspection file, as required by the Public File Rule.

4. Because of the compliance issues raised by those disclosures, the Parties have agreed to enter into this Consent Decree to which both the University and the Bureau intend to be legally bound.

IV. Agreement

5. The Parties acknowledge that any proceeding that might result from the Violations referred to in Paragraph 3 above would be time-consuming and require substantial expenditure of public and private resources. In order to conserve such resources, to resolve the matter, and to promote the University’s compliance with the Rules, the Parties are entering into this Consent Decree, in consideration of the mutual commitments made herein.

6. The University and the Bureau agree to be legally bound by the terms and conditions of this Consent Decree. Both the University and the Bureau each represent and warrant that its signatory is duly authorized to enter into this Consent Decree on its behalf. The University agrees that the Bureau has jurisdiction over the matters contained in this Consent Decree.

7. The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the University and the Bureau concerning the University’s Violations at the Station, as discussed herein.

8. In express reliance on the covenants and representations in this Consent Decree, the Bureau agrees that it will not use the Violations in any action against the University, provided that the University satisfies all of its obligations under this Consent Decree. In the event that the University fails to satisfy any of its obligations under this Consent Decree, the Bureau may take any enforcement action available pursuant to the Act and the Rules with respect to each Violation, and/or the violation of this Consent Decree.

9. The University hereby stipulates that it violated the Ownership Report Rule and the Public File Rule to the extent described in Paragraph 3 above.

10. The University agrees to make a voluntary contribution to the United States Treasury in the amount of Two Thousand Five Hundred Dollars (\$2,500). Such contribution will be made, without further protest or recourse to a trial *de novo*, by a check or similar instrument, wire transfer or money order payable to the order of the Federal Communications Commission. Payment by check or money order maybe mailed to Federal Communications Commission, at P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank-Government Lockbox #979088, SLMO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank: TREAS NYC, BNF: FCC/ACV--27000001 and account number as expressed on the remittance instrument. If completing the FCC Form 159, enter the NAL/Account number (MB-201341410005) in block number 23A (call sign/other ID), and enter the letters "FORE" in block number 24A (payment type code).

11. The Bureau agrees to grant the Renewal Application after the Effective Date, provided that the following conditions have been met: (a) the University has fully and timely satisfied its obligation to make the voluntary contribution referenced in Paragraph 10 of this Consent Decree; and (b) there are no issues other than the Violations that would preclude grant of the Renewal Application.

12. The University represents that, in addition to its existing policies and procedures, it has adopted, is currently in the process of implementing, and agrees to abide by the Compliance Plan summarized in the Appendix for the purpose of ensuring compliance with the Rules. The University agrees, to the extent that it has not already done so, to implement this Compliance Plan at the Station no later than thirty (30) days after the Effective Date and to keep such Compliance Plan in effect for the period specified in the Compliance Plan.

13. The University represents that, as of the date of its execution of this Consent Decree, the Station's public inspection file fully comports with the Public File Rule except as described in Paragraph 3 above.

14. The University agrees that it is required to comply with each individual condition of this Consent Decree. Each specific condition is a separate condition of the Consent Decree as approved. To the extent that the University fails to satisfy any condition or Rule, in the absence of Commission alteration of the condition or Rule, it will be deemed noncompliant and may be subject to possible enforcement action, including, but not limited to, revocation of the relief, designation of the matter for hearing, letters of admonishment and/or forfeitures.

15. The Consent Decree will be binding on the University's successors-in-interest and assigns, if any. The University agrees that any future application filed within three (3) years of the Effective Date to assign or transfer control of the Station will include a statement executed by an authorized representative of the proposed assignee or transferee consenting to assumption of the responsibilities and duties set forth in this Consent Decree with regard to the Station.

16. The University waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal, or stay, or to otherwise challenge the validity of this Consent Decree and the Order, provided the Order adopts the Consent Decree without change, addition or modification.

17. The University agrees to waive any claims it may otherwise have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq.*, relating to the matters discussed in this Consent Decree.

18. The University and the Bureau agree that the effectiveness of this Consent Decree is expressly contingent upon issuance of the Order, provided that the Order adopts the Consent Decree without change, addition or modification.

19. The University and the Bureau agree that, if the University, the Commission or the United States on behalf of the Commission, brings a judicial action to enforce the terms of the Order adopting this Consent Decree, neither the University nor the Commission will contest the validity of the Consent Decree or Order, and the University and the Commission will waive any statutory right to a trial *de novo* with respect to any matter upon which the Order is based (provided in each case that the Order adopts the Consent Decree without change, addition, or modification), and will consent to a judgment incorporating the terms of this Consent Decree.

20. The University and the Bureau agree that, in the event that this Consent Decree is rendered invalid by any court of competent jurisdiction, it will become null and void and may not be used in any manner in any legal proceeding.

21. This Consent Decree may be signed in counterparts and/or by telecopy and, when so executed, the counterparts, taken together, will constitute a legally binding and enforceable instrument whether executed by telecopy or by original signatures.

**MEDIA BUREAU
FEDERAL COMMUNICATIONS COMMISSION**

By: _____
William T. Lake, Chief

Date: _____

WILLIAM PENN UNIVERSITY

By: _____

Date: _____

APPENDIX**COMPLIANCE PLAN OF WILLIAM PENN UNIVERSITY**

For the duration of the license term ending February 1, 2021, unless a different time period is specified below, William Penn University or its successors-in-interest, as appropriate, will institute and maintain the following procedures to ensure compliance with the Commission's Rules. Unless otherwise provided, all terms defined in the Consent Decree apply to this Compliance Plan.

- I.
 - A. The program hosts and other appropriate staff of the Station will log all broadcasts of public affairs programming. These logs will be compiled into quarterly issues/programs lists and will be timely placed in the public file of the Station in accordance with the Public File Rule.
 - B. All such quarterly issues/programs lists will be signed and dated by their preparer before they are placed in the public file.
 - C. Late-filed lists will be reviewed and signed by Matthew Wagner, faculty advisor to the Station (or such other non-student employee of the University who may be the successor supervisor of the volunteer student staff of the Station, hereinafter the "Faculty Advisor") and accompanied with a statement indicating the nature of the document, the date placed in the public file, and the reason for the late filing.
 - D. On or before September 1 of each year in which the University must file a biennial Ownership Report, the Faculty Advisor and/or the University's legal counsel will consult with appropriate University officials to ensure the timely and accurate filing of the required Ownership Report.
 - E. The Faculty Advisor will explain and emphasize to the volunteer student staff of the Station the absolute requirement to follow all Commission Rules, regulations, and policies and will fully explain the obligations imposed by the Public File Rule to the student staff member or members charged with maintenance of the Station's public files. Should the University or Faculty Advisor learn that the Public File Rule has been violated, the student responsible will be subject to appropriate disciplinary action, including being removed from any duties relating to the Public File.
 - F. The University will train each member of the Station's staff not less than annually concerning the Rules as they apply to the Station.
 - G. The University will engage a consulting engineer to conduct a semi-annual audit of the Station's technical operations.
- II. For a period of three years from the date of the Effective Date, the University, or successor licensee, as appropriate, will conduct semi-annual in-house reviews of the Station's public inspection file. Such reviews will be undertaken by the Faculty Advisor or by a successor non-student official designated by the University or by a successor licensee's chief executive officer.

- III. On or before October 1 of 2013, 2014 and 2015, the University will submit a sworn certification to the Commission, signed by an officer of the University, affirming that the Station is in compliance with the Rules. If the University cannot truthfully make this certification, it shall set forth in detail any Violations or deficiencies and describe any corrective measures taken. A copy will be served on Peter H. Doyle, Chief Audio Division, Media Bureau, Federal Communications Commission and e-mailed to him at peter.doyle@fcc.gov.
- IV. The Compliance Plan, set forth above, will be under the direct supervision of the Faculty Advisor or a successor non-student official designated by the University or by a successor licensee's general manager or other comparable official who actively oversees the Station's broadcast operations.