

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

In the Matter of	)	
	)	
LUCAS COUNTY SKYWARN	)	File Nos. 0003365644, 0003718933
	)	
Licensee of Amateur Station W8WX	)	

**ORDER ON RECONSIDERATION**

**Adopted: April 15, 2009**

**Released: April 16, 2009**

By the Deputy Chief, Mobility Division, Wireless Telecommunications Bureau:

1. *Introduction.* This matter involves an application to change the trustee and mailing address for the license of Lucas County Skywarn for Amateur Radio Service Station W8WX. For the reasons set forth below, we conclude that the individual who submitted the application was not authorized to do so. Consequently, we will correct the Commission's licensing records to reflect the prior trustee and mailing address. We also will grant the pending application to renew the license.

2. *Background.* On January 28, 1999, the Commission granted an amateur service club station license under call sign W8WX to Lucas County Skywarn<sup>1</sup> in Temperance, Lucas County, Michigan. Hermon R. Kibler (Kibler) was identified as the club station license trustee. On March 19, 2008, Becky Eby (Eby) filed an application requesting that the license be changed to show her as the trustee and that the mailing address of the club be changed to Toledo, Lucas County, Ohio.<sup>2</sup> This application was granted March 19, 2008. On June 2 and 3, 2008, Kibler filed objections to the grant of the modification application, asserting that he was still the trustee for Station W8WX and requesting that the license be restored to his name and address.<sup>3</sup>

3. On June 30, 2008, the Wireless Telecommunications Bureau, Mobility Division, asked Eby to demonstrate that she had been designated trustee of Station W8WX.<sup>4</sup> On July 12, 2008, Eby responded that she had been duly designated the trustee of Station W8WX by an officer of the club "on January 29, 2008 at our Lucas County Skywarn meeting," and provided the meeting minutes and other documentation.<sup>5</sup> Eby stated that she had been a member of Lucas County Skywarn since 2005,<sup>6</sup> but the documents submitted with her response indicate that the Lucas County (Ohio) Skywarn was established

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<sup>1</sup> Skywarn is the National Weather Service's volunteer weather spotting program. Amendment of Part 11 of the Commission's Rules Regarding the Emergency Alert System, *Report and Order*, EB Docket No. 01-66, 17 FCC Rcd 4055, 4067 ¶ 27 (2002).

<sup>2</sup> See File No. 0003365644.

<sup>3</sup> See Letter from Hermon R. Kibler to Bill Cross, Federal Communications Commission (received June 2, 2008); Letter from Hermon R. Kibler to Federal Communications Commission (received June 3, 2008).

<sup>4</sup> See Letter dated June 30, 2008 from Scot Stone, Deputy Chief, Mobility Division, Wireless Telecommunications Bureau, Federal Communications Commission to Becky Eby.

<sup>5</sup> See Letter dated July 12, 2008 from Becky Eby to Mr. Cross, Mobility Division, Wireless Telecommunications Bureau, Federal Communications Commission

<sup>6</sup> See Electronic mail dated July 12, 2008 from Becky Eby to William Cross.

on January 29, 2008, and that it acted to obtain formal recognition from the National Weather Service<sup>7</sup> “due to some issues with ‘Lucas County Skywarn’ and ‘Skywarn’ being registered in the State of Ohio as a trade name, as well as Herm Kibler revoking permission to use the call sign ‘W8WX’. He did so in a letter dated 9-28-07.”<sup>8</sup> On August 4, 2008, Kibler replied that the Lucas County (Ohio) Skywarn “did not and ha[s] not ever had anything to do with” the Lucas County Skywarn that received the call sign W8WX in 1999 and for which he is the trustee.<sup>9</sup>

4. On January 28, 2009, Kibler filed an application to renew the license for Amateur Radio Service Station W8WX, and restore the license to his name and address.<sup>10</sup> On March 6, 2009, Eby amended the application to show her name and address. Kibler objected to the amendment on March 18, 2009.<sup>11</sup>

5. *Discussion.* We will treat Kibler’s June 2 and 3, 2008 objections as a timely petition for reconsideration of the grant of the modification application,<sup>12</sup> and grant the petition for reconsideration. It is clear from the record before us that call sign W8WX was granted in 1999 to the Lucas County Skywarn amateur radio club of which Kibler is the trustee, that Eby is not associated with this Lucas County Skywarn amateur radio club, and that the Lucas County Skywarn amateur radio club formed on January 29, 2008 is not a successor to or otherwise affiliated with the Lucas County Skywarn amateur radio club to which call sign W8WX was granted in 1999. We conclude, therefore, that Eby was not authorized to request that the club trustee and mailing address associated with call sign W8WX be changed.<sup>13</sup> We also conclude that because Eby is not the trustee of the Lucas County Skywarn club granted W8WX, her March 6, 2009 amendment to the renewal application was unauthorized.<sup>14</sup>

6. ACCORDINGLY, IT IS ORDERED that, pursuant to Section 405 of the Communications Act of 1934, as amended, 47 U.S.C. § 405, and Section 1.106 of the Commission’s Rules, 47 C.F.R. § 1.106, the petition for reconsideration filed by Hermon R. Kibler on June 2 and 3,

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<sup>7</sup> See Letter dated January 29, 2008 from Gary Garnett, Warning Coordination Meteorologist, NWS Cleveland to Lucas County Skywarn, Toledo, Ohio.

<sup>8</sup> “Minutes – Lucas County Skywarn – January 29, 2008” (*Minutes*) at 1.

<sup>9</sup> See Electronic mail dated August 4, 2008 from Hermon Kibler to William Cross; see also Letter dated July 12, 2008 from Michael Wegrzyn to William T. Cross (stating that “Ms. Eby is not the trustee for W8WX. She has never been the trustee for W8WX. Also, Ms. Eby is not a member of our Club/Group. She has never been a member,” and that the September 28, 2007 letter referred to in the *Minutes* was sent to Eby because “[s]he was caught using the call sign months before”).

<sup>10</sup> See File No. 0003718933.

<sup>11</sup> Letter dated Mar. 18, 2009 from Hermon R. Kibler to Bill Cross, Federal Communications Commission.

<sup>12</sup> See, e.g., Thomas K. Kurian, *Second Order on Further Reconsideration*, 22 FCC Rcd 20970, 20970-71 ¶ 3 (WTB MD 2007) (“Although Ms. Kurian did not title her letter a petition for reconsideration, we will treat it as a petition for reconsideration because it clearly seeks further review of the action consenting to the application.”) (citing Jack Gerritsen, *Memorandum Opinion and Order*, 20 FCC Rcd 4273, 4273 n.3 (EB 2005); Redlands Municipal Airport, *Order on Reconsideration*, 20 FCC Rcd 14782, 14782 ¶ 4 (WTB PSCID 2005)).

<sup>13</sup> Section 97.5(b)(2) of the Commission’s Rules provides that a club station license grant may be held only by the person who is the license trustee designated by an officer of the club. 47 C.F.R. § 97.5(b)(2). Section 97.21(a)(1) of the Commission’s Rules provides, in part, that a person holding a valid amateur station license grant must apply to the FCC for a modification of the license grant as necessary to show the correct mailing address, licensee name, club name, license trustee name or license custodian name. 47 C.F.R. § 97.21(a)(1).

<sup>14</sup> See Paul J. Toth, *Letter*, 22 FCC Rcd 740 (WTB MD 2007).

2008 IS GRANTED, and application FCC File No. 0003365644 SHALL BE RETURNED TO PENDING STATUS and DISMISSED.

7. IT IS FURTHER ORDERED that the amendment to application FCC File No. 0003718933 filed on March 6, 2009 SHALL BE DISMISSED, and the application SHALL BE GRANTED as it was filed on January 28, 2009.

8. IT IS FURTHER ORDERED that the Commission's licensing database SHALL BE MODIFIED to afford Hermon R. Kibler electronic access to the licenses for which he is the licensee or trustee as indicated above.

9. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATION COMMISSION

Scot Stone  
Deputy Chief, Mobility Division  
Wireless Telecommunications Bureau