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February 15, 2000

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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VIA HAND DELIVERY

Ms. Magalie R. Salas
Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, DC 20554

Re: **Notice of Proposed Rule Making
In the Matter of Amendment of Section 73.202(b), Table of Allotments,
FM Broadcast Stations (Exmore and Cheriton, Virginia,
and Fruitland, Maryland)
MM Docket No. 99-347, RM-9751, RM-9761**

Dear Ms. Salas:

On behalf of Great Scott Broadcasting, I am transmitting herewith an original and four copies of its Reply Comments in the above-referenced matter.

Should there be any questions concerning this matter, please contact the undersigned.

Very truly yours,



Ross G. Greenberg

RGG:rg
Enclosures

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BEFORE THE
Federal Communications Commission
WASHINGTON, D.C. 20554

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FEB 15 2000
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MM Docket No. 99-347
Table of Allotments,)	RM-9751
FM Broadcast Stations.)	RM-9761
(Exmore and Cheriton, Virginia, and)	
Fruitland, Maryland))	
)	

To: Chief, Allocations Branch

REPLY COMMENTS OF GREAT SCOTT BROADCASTING

Great Scott Broadcasting (“Great Scott”), licensee of Broadcast Station WKHI(FM), Exmore, Virginia, by its attorneys, hereby submits its reply comments in connection with the Commission’s Notice of Proposed Rule Making in the above-captioned proceeding, DA 99-2758 (released December 10, 1999) (the “Notice”). The Commission issued the Notice in response to: (1) Great Scott’s September 7, 1999 Petition for Rule Making (the “Great Scott Petition”), requesting that the Commission institute a rule making proceeding to amend Section 73.202(b), the FM Table of Allotments, by deleting Channel 298B at Exmore, Virginia, and assigning Channel 298B1 for use at Fruitland, Maryland; and (2) Be-More Broadcasting’s (“Be-More”) July 27, 1999 Petition to Amend the FM Table of Assignments (the “Be-More Petition”) proposing the reallocation of Channel 291B1 from Exmore to Cheriton,

Virginia.^{1/} Great Scott and Be-More both submitted comments to the Notice on January 31, 2000 (respectively, "Great Scott Comments" and "Be-More Comments"). Cumulus Licensing Corp. ("Cumulus"), Sound Enterprises, Inc. ("Sound") and Exmore-Nassawadox Radio Partners have also filed comments in this matter.

I. THE ENGINEERING ANALYSIS CONTAINED IN BE-MORE'S COMMENTS IS FLAWED

The Commission's Notice sought comment on Be-More's proposal to reallocate Channel 291B1 from Exmore to Cheriton. Great Scott's comments and accompanying analysis addressed this specific proposal, as set forth in the Be-More Petition. In its comments, however, Be-More stated that "in supplemental engineering filed on August 11, 1999, Be-More requested that Channel 291B be allocated to Cheriton, Virginia. In these Comments, Be-More reasserts its interest in and requests the allocation of Channel 291B to Cheriton." Be-More Comments at n.2 (emphasis in original). After conducting multiple searches at the Commission, Great Scott was only able to locate the supplement to the Be-More Petition today, February 15, 2000.

Assuming *arguendo* that the Commission concludes it may equitably consider a Class B proposal about which it gave no public notice, Great Scott has analyzed Be-More's proposal to allot Channel 291B to Cheriton and compared it to Be-More's proposed operations pursuant to a one-step application for Channel 291B at Exmore. As set forth in the Engineering Statement of Cohen Dippell and Everist, P.C. (the "Engineering Statement"), annexed hereto as **Attachment 1**, a class B channel at Cheriton rather than Exmore would result in a net *loss* of

^{1/} On April 24, 1998, the Commission granted a construction permit to Be-More for Channel 291B1, allotted to Exmore.

service to 19,133 persons in 615 square kilometers, with Be-More's entire proposed gain area already well-served by at least 5 reception services.

Whether the Commission treats Be-More as having proposed operations on 291B or 291B1 at Cheriton, the engineering study contained in Be-More's comments uses the wrong predicted contour as a basis for its analysis, and its population and area data cannot be used. Engineering Statement at 1-2. Furthermore, Be-More's engineering statement inaccurately states that its proposal would provide service to underserved areas. Engineering Statement at 2. Rather than compare Be-More's proposal to the facilities authorized in its construction permit, Be-More's engineering statement instead assumes that Be-More's construction permit *does not even exist* in reaching its conclusion that the proposed facilities would provide service to underserved areas. Id.^{2/}

II. BE-MORE HAS NOT PRODUCED SUFFICIENT EVIDENCE THAT CHERITON IS A COMMUNITY FOR ALLOTMENT PURPOSES

Be-More's proffered evidence that Cheriton is a community for allotment purposes is remarkably thin, improperly supported and, ultimately, inadequate. In the Notice, the Commission stated that Be-More carried the burden of presenting evidence of "customary factors associated with determining community status, such as a library, schools, shopping centers, churches, a newspaper, and social or civic organizations." Notice at ¶ 6. In response, Be-More has alleged that Cheriton has such attributes as a "mayor and city counsel [sic]," "at least two

^{2/} It should be noted that even Be-More's flawed methodology predicts that grant of Be-More's Channel 291B proposal will result in a net *loss* of service. Be-More Comments at 3. By contrast, as Great Scott has previously demonstrated, Great Scott's proposal offers substantial coverage *benefits*, justifying Great Scott's move to Fruitland.

churches” and “a local Boy Scout Troop,” but Be-More does not claim that Cheriton is home to a library, schools, shopping centers, a newspaper or other social or civic organizations. Be-More Comments at 2. Furthermore, while Be-More sets forth a list of Cheriton’s “numerous businesses,” it later qualifies this statement by way of a footnote: “*Most* of the above businesses are within the city limits of Cheriton.” Id. at 2, n.3 (emphasis added). This statement begs two obvious questions: Which of these “numerous businesses” are actually located in Cheriton? And why does Be-More list them all as Cheriton businesses if some are not located in Cheriton? Be-More supplies no answers.

That same footnote states that “information was provided by the Cheriton Crestar Bank and *a chamber of commerce.*” Id. at n.3 (emphasis added). Unfortunately, Be-More does not further detail *which* information was provided by *which* source, nor does it associate individuals’ names with its sources. More unsettling is that fact that Be-More received some of this information from “a” chamber of commerce. Be-More does not state that the source in question is the *Cheriton* chamber of commerce, which may not exist at all. In the absence of proper documentation for its claims, Be-More’s showing is inadequate.

Apart from these questions concerning Be-More’s sources, the fact remains that Be-More has not indicated that Cheriton has any elementary, middle or high schools, adult, career or continuing education schools, police or sheriff’s department, correctional institutions, courts, hospitals, libraries, newspapers, internet home pages, shopping centers, hotels or motels, public transportation system, chamber of commerce or independent municipal services. Cheriton therefore appears to lack many of the hallmarks associated with a “community” for allotment

purposes. Given Be-More's inability to identify these fundamental services and resources in its comments, Cheriton cannot be deemed a community for allotment purposes and the Be-More Petition should be denied.

III. FRUITLAND IS A COMMUNITY FOR ALLOTMENT PURPOSES

In its comments, Be-More attempts to subject Salisbury and Fruitland to an analysis under Faye & Richard Tuck, Inc., 3 FCC Rcd 5374 (1988), and claims that Fruitland should not be granted a first local service preference since Fruitland is "interdependent" with Salisbury. Be-More Comments at 4-5. Be-More simply misapplies the Tuck doctrine in this context. Salisbury and Fruitland are not subject to a Tuck analysis, because Salisbury *is not an Urbanized Area as recognized by the U.S. Census*. Telephone Interview by Ross G. Greenberg, Esq. and Andrea C. Biby of Tom Weiss, Regional Planner, Lower Eastern Shore Regional Office, Maryland Office of Planning (Feb. 14, 2000); U.S. Census Bureau Web Site, <http://www.census.gov/ftp/pub/geo/www/GARM/Ch12GARM.pdf> and http://factfinder.census.gov/java_prod/dads.ui.fac (as of Feb. 14, 2000). A threshold requirement for undertaking a Tuck analysis is that the urban center subject to analysis must be an Urbanized Area. Tuck, 3 FCC Rcd at ¶¶ 41-46; Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Rose Hill, Trenton, Aurora, and Ocracoke, North Carolina), 11 FCC Rcd 21223 (1996) at ¶ 21 ("[T]he Census Bureau defines an Urbanized Area as consisting of central places and adjacent densely settled areas that together have a minimum of 50,000 persons. . . . [S]ince the Commission established the change of community procedures, Huntington and Tuck issues have only been raised with respect to Urbanized Areas. We see no reason to expand this policy here.");

North Texas Radio, Inc., 11 FCC Rcd 8531, (1996) at ¶ 14 (“In Tuck, the Commission adopted the Census Bureau's Urbanized Area to define a metropolitan area "community" for purposes of applying the Huntington doctrine.”); see also, e.g., Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Bay Springs and Ellisville, Mississippi),. 1999 FCC LEXIS 1017 (1999) at ¶7; Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Malvern and Bryant, Arkansas), 13 FCC Rcd 8426 (1998) at ¶ 4; Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Headland, Alabama and Chattahoochee, Florida), 10 FCC Rcd 10352 (1995) ¶ 16. In the absence of a party carrying its burden under Tuck, the Commission falls back on “a community’s presumptive need for local transmission service under section 307(b)” Tuck, 3 FCC Rcd at ¶ 24.

Although a Tuck analysis is clearly inapposite and the Commission’s Notice quite properly did not request such an evaluation, Great Scott nevertheless emphasizes that Fruitland is, in fact, independent of Salisbury and clearly deserves a first local service. As set forth in a letter from Richard M. Pollitt, Jr., City Manager of Fruitland (the “Pollitt Letter”), annexed hereto as **Attachment 2**, Fruitland is a “full-service municipality distinct and independent of any reliance on the City of Salisbury.” Pollitt Letter at 1. Fruitland is the fastest growing community on the Eastern Shore according to Mr. Pollitt (citing the U.S. Census Bureau) and has established its own Fruitland Chamber of Commerce (which recognizes approximately one hundred businesses in town) and the Fruitland Economic Development Commission, both designed to promote new and expanding business and industry in Fruitland. Id. Furthermore, Fruitland is expanding its water and sewer systems and planning for increased corporate and housing

development. Id. at 2. In addition to its City Manager, Fruitland has a five-member City Council, elected directly by its citizens, a police department, its own sanitation system, a street system maintained by the city, two schools, a volunteer fire department, its own internet home page, service clubs, churches, a Little League and a recreation program located in the Fruitland's recreational park, also currently undergoing an expansion. Id. The City of Fruitland itself employs 33 people. Id. A new Wal-Mart Super Center is under construction, as well as a new industrial park. Id. As stated in the Great Scott Petition and recognized in the Commission's Notice, Fruitland, incorporated in 1947 and listed in the 1990 census with a population of 3,511, also has its own post office and zip code. Telephone Interview by Ross G. Greenberg, Esq. of Peter Roskovich, President of Fruitland Chamber of Commerce (Aug. 31, 1999); Fruitland Home Page Web Site, <http://ci.fruitland.md.us> (as of Aug. 30, 1999). Finally, Be-More claims, without adequate citation or support, that "Fruitland is adjacent to Salisbury and in spots shares boundaries with Salisbury." Be-More Comments at 4. However, according to Mr. Pollitt and as shown in the Engineering Statement, the two communities do not share any borders, but rather are merely at one point connected by a small body of water. Pollitt Letter at 2. Engineering Statement at 2. Fruitland is, in fact, *precisely* the type of thriving, growing community entitled to its own broadcast allotment. As Mr. Pollitt states, "anyone who dares hint that Fruitland is dependent upon or in any way subservient to Salisbury knows neither the past, present nor future of [the] city." Pollitt Letter at 3.

IV. **AWARDING AN ALLOTMENT PREFERENCE TO BE-MORE FOR ITS LACK OF DILIGENCE WOULD UNDERMINE THE COMMISSION'S RULE MAKING PROCESSES**

In its comments, Be-More claims that its proposal should be given preference over that of Great Scott because a reallocation of Be-More's construction permit will not result in the loss of an operating station on which the public has come to rely.^{3/} Be-More Comments at 3. But awarding an allotment preference to Be-More solely because of its status as a permittee would perversely *reward* its lack of diligence in building its station. Be-More, quite amazingly, states, that "the station has not been built and *will not be built for quite some time.*" Be-More Comments at 3 (emphasis added). This bold statement, proffered without any explanation as to why Exmore will have to wait "quite some time" before Be-More commences service, appears to confirm Great Scott's concerns -- that Be-More is deliberately depriving Exmore of an operating station in order to maximize its tactical advantage.

Be-More appears to have realized that the *sole* argument favoring its proposal over Great Scott's would vanish if Be-More was to finally *build its station and commence operations*. A party should not be allowed to "warehouse" construction permits in order to gain tactical advantages. Historically, the Commission has stated that, within allotted construction periods, permittees should "be advised that we expect station construction to commence and be brought to fruition expeditiously." Report and Order, Amendment of Section 73.3598 and Associated Rules Concerning the Construction of Broadcast Stations, 102 FCC 2d 1054 (1985) at ¶ 4. More recently, the Commission, in adopting a hard and fast three-year construction

^{3/} Similar arguments have been advanced by Cumulus and Sound.

period, did not signal a retreat from its requirement that permittees diligently construct their broadcast facilities, but rather adopted an administrative solution that balanced its “*fundamental* interests in *expediting* new service to the public and *preventing* the *warehousing* of scarce spectrum, and [the Commission’s] recognition that there are legitimate obstacles that may prevent the *rapid* construction of broadcast facilities.” 1998 Biennial Regulatory Review -- Streamlining of Mass Media Applications, Rules, and Processes; Policies and Rules Regarding Minority and Female Ownership of Mass Media Facilities, 13 FCC Rcd 23056 at ¶ 90 (1998) (emphasis added).^{4/} Finally, Be-More’s stance dramatically undermines its credibility regarding its pledge to promptly build a station to serve Cheriton. The Commission can rightly expect Be-More to *build a station pursuant to the construction permit it has been granted*, not to casually

^{4/} Elsewhere in that same order, the Commission confirms its emphasis on expeditious construction by requiring that “[a] permittee must notify the Commission *as promptly as possible and, in any event, within 30 days*, of [any] act of God that has blocked construction, or [an] initiation of a relevant administrative or judicial review. . . . [T]he construction period will be tolled for the length of time that a *diligent permittee* will need to recover from the effects of the event.” 1998 Biennial Regulatory Review, 13 FCC Rcd at ¶ 86 (1998) (emphasis added). The Commission’s three-year construction period rule evolved from, and in practice remains ideologically similar to, earlier standards by which it would authorize a permittee additional time to complete construction if it could “demonstrate one of the following three conditions: (1) construction is complete and testing is underway looking toward the *prompt* filing of a license application; (2) substantial progress has been made, i.e., demonstration that equipment is on order or on hand, site acquired, site cleared and construction *proceeding toward completion*; or (3) no progress has been made for reasons clearly beyond the control of the permittee (such as delays caused by governmental budgetary processes and zoning problems), but the permittee has taken all possible steps to *expeditiously* resolve the problem and proceed with construction.” Id. at ¶ 77. Clearly, the Commission still expects a permittee to construct its facilities expeditiously in good faith.

remark that its Exmore station will not be on the air anytime soon, while simultaneously seeking a benefit from the Commission.

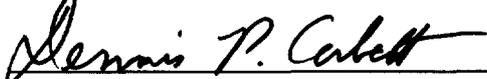
It is clear from Be-More's comments that its station will in any event be on the air by April 24, 2001, a date that is likely to be less than a year from the decision in this proceeding. Accordingly, the community of Exmore will not be deprived of local transmission service indefinitely and can reasonably expect a new service within this time. The Commission should not reward Be-More's gamesmanship. It should reject Be-More's argument, deny the Be-More Petition, and effectively enforce Be-More's commitment to build a station in Exmore.

V. **CONCLUSION**

Great Scott respectfully submits that the allotments proposed in its petition as set forth the Notice and counterproposed in the Great Scott Comments would serve the public interest and should be implemented. For the reasons set forth above, the Commission should grant the Great Scott Petition and deny the Be-More Petition.

Respectfully submitted,

GREAT SCOTT BROADCASTING

By: 
Dennis P. Corbett
Ross G. Greenberg

Leventhal, Senter & Lerman P.L.L.C.
2000 K Street, N.W.
Suite 600
Washington, DC 20006-1809
202-429-8970

February 15, 2000

Its Attorneys

ATTACHMENT 1

ENGINEERING STATEMENT
RE REPLY COMMENTS OF GREAT SCOTT BROADCASTING
AMENDMENT OF SECTION 73.202(b)
MM DOCKET 99-347, RM-9761, TO CHANGE CLASSIFICATION
OF FM CHANNEL AND COMMUNITY OF LICENSE FOR
WKHI, EXMORE, VIRGINIA

FEBRUARY 2000

COHEN, DIPPELL AND EVERIST, P.C.
CONSULTING ENGINEERS
RADIO AND TELEVISION
WASHINGTON, D.C.

This engineering statement has been prepared on behalf of Great Scott Broadcasting (Great Scott), licensee of FM station WKHI, Exmore, Virginia, and in support of its reply comments relating to the proposed rule making (RM-9761) in MM Docket 99-347. In the aforementioned proceeding, Great Scott has proposed the reallocation of Channel 298B1 from Exmore, Virginia, to Fruitland, Maryland. In a separate but related rule making (RM-9751) Be-More Broadcasting (Be-More) proposes the reallocation of Channel 291B1 from Exmore to Cheriton, Virginia.

On January 31, 2000, Be-More filed comments in which it claimed that Salisbury and Fruitland City boundaries are common. The attached map (Exhibit E-1), based on the 1990 census, clearly shows the two cities do not share a common border.

In RM-9751, the Commission requested Be-More to provide data concerning the population and area to be served by its proposed Channel 291B1 allotment at Cheriton, Virginia. In addition, Be-More was asked to provide population and area data for the gain and loss areas which would be created by the re-allotment of Channel 291B1 from Exmore to Cheriton, Virginia. A review of Be-More's comments indicates it has used the 0.71 mV/m (57dBu) contour as the basis for its proposed Channel 291B1 allotment at Cheriton. The same contour has been also used to analyze the gain and loss areas. The use of a 0.71 mV/m (57 dBu) contour for the Channel 291B1 allotment is inappropriate. According to the Commission's policy governing allotment proceedings, a value of 1.0 mV/m (60 dBu) must be used for coverage and gain and loss analysis for all classes of FM stations (see Greenup, Kentucky and Athens, Ohio, 6 FCC Rcd 1493 (1991)). Therefore, the population data provided by Be-More for its proposed

Channel 291B1 allotment at Cheriton, Virginia is not valid and cannot be used for comparison with the proposed allotment of Channel 298B1 to Fruitland, Maryland.

In its comments, Be-More has also indicated that it submitted a supplemental engineering statement in August 1999, requesting the allotment of Channel 291B to Cheriton in lieu of Channel 291B1. Great Scott was only able to obtain a copy of the Channel 291B proposal from the Commission's files today, February 15, 2000. Be-More indicates it used the 0.5 mV/m (54 dBu) contour as the basis for the proposed Channel 291B allotment at Cheriton, Virginia. Again, the use of the 0.5 mV/m (54 dBu) contour for Channel 291B is inappropriate. According to the Commission's policy, Be-More must provide population and area data for its proposed Channel 291B allotment based on the 1.0 mV/m (60 dBu) contour.

Therefore, the gain and loss studies provided by Be-More for Class B and B1 allotment are invalid.

In addition, Be-More claims its proposed allotment of Channel 291B1 at Cheriton, Virginia would be providing service to underserved areas. This claim has not been substantiated. Furthermore, the claim refers to service that would be provided by Channel 291B1 or Channel 291B if either is allotted at Cheriton, Virginia without considering the current allotment of Channel 291B1 at Exmore, Virginia. As a matter of fact, any allotment of Channel 291B1 or Channel 291B at Cheriton, Virginia, would reduce the service which would otherwise be provided to alleged underserved areas if Channel 291B1 stays at Exmore, Virginia. Therefore, Be-More's claim of service to be provided to underserved areas is misleading.

It should also be pointed out that Be-More has previously proposed the allotment of Channel 291B at Exmore, Virginia by filing a one-step upgrade application (BMPH-980630IC).

Great Scott has made its own analysis of coverage and gain and loss areas that would result when the correct contour level is used for Be-More's Channel 291B1 and Channel 298B proposals (see Exhibit E-2 and E-3).

The attached Table shows the population and area comparisons for Be-More proposals with different classes of FM stations. It is estimated that the requested change by Be-More, as proposed in the Commission's NPRM, would result in a loss of 7,670 people and 130 square kilometers area and a gain of 474 people and 33 square kilometers area within the 1 mV/m (60 dBu) contour (see Exhibit E-1), as previously indicated. This represents a net loss of 7,196 people and 97 square km area. Similarly, when comparing Class B allotments, it is estimated that the Be-More proposal would result in a loss of 20,134 people and 637 square kilometers and a gain area of 1,001 people and 22 square kilometers. This represents a net loss of 19,133 people and 615 square km area. The gain areas of both Be-More proposals are well served by more than five aural services by other AM and FM stations in the Hampton, Portsmouth, Norfolk area.

A comparison of the Be-More and Great Scott proposals indicates that Be-More's proposal would result in a net loss of 7,196 people and 97 square km area of a Channel 291B1 allotment at Cheriton, Virginia, while Great Scott's proposal of a Channel 298B1 allotment at Fruitland, Maryland, would produce a net gain of 62,076 people and 1,203 square km area. A Channel 291B allotment to Cheriton would result in a net loss of 19,133 people and 615 square kilometers.

On an unrelated issue, Be-More indicated in its comments that the Great Scott exhibit showing other aural nighttime services may have omitted AM stations. The Great Scott exhibit

did include AM stations in its review and provide an exhibit in its January 2000 Engineering Statement which shows that only AM station WBAL impacts the areas of interest.

In conclusion, the proposal of Great Scott is in the public interest since it would result in (1) a first local transmission service for Fruitland, a much larger community than Cheriton; (2) a second nighttime aural service to more than 600 people; and (3) a net gain in FM service to more than 62,000 people and 1,200 square km area when compared to the Be-More's Channel 291B1 proposal which would result in a net loss of FM service of 7,196 people and 97 square km area.

TABULATION OF
BE-MORE'S PROPOSED REALLOTMENT
OF CHANNEL 291 FROM EXMORE TO CHERITON, VIRGINIA
FEBRUARY 2000

<u>Channel</u>	<u>Location</u>	<u>Population</u>	<u>Area</u> sq.km
291B1	Exmore, VA	37,524	1,195
291B	Exmore, VA	70,880	2,338
291B1	Cheriton, VA	30,328	1,098
291B	Cheriton, VA	51,747	1,723

<u>Relationship Comparison</u>	<u>Gain</u>		<u>Loss</u>	
	<u>Population</u>	<u>Area</u>	<u>Population</u>	<u>Area</u>
CheritonB1/Exmore B1	474	33	7,670	130
Cheriton B/Exmore B	1,001	22	20,134	637

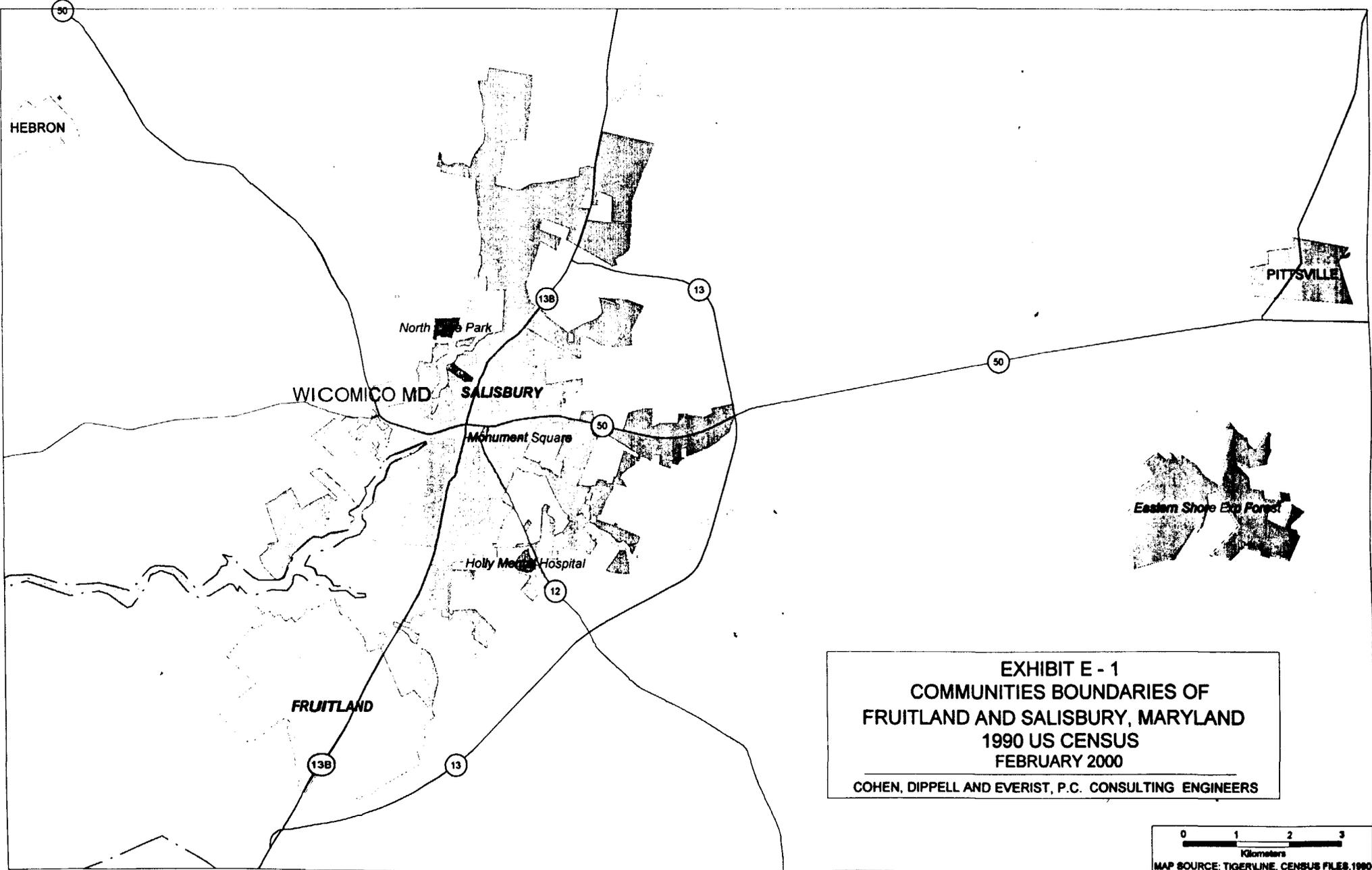
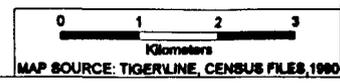
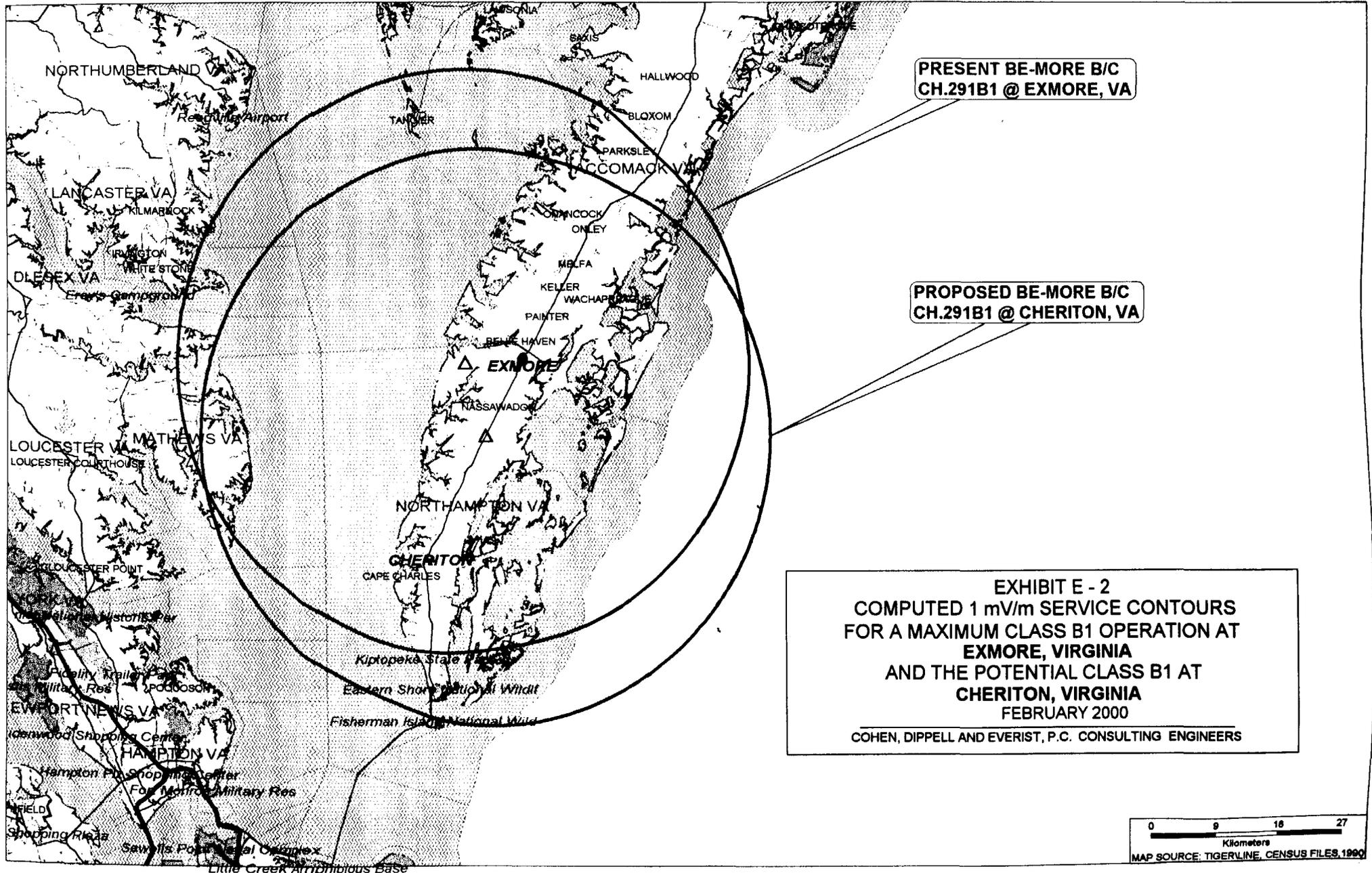


EXHIBIT E - 1
COMMUNITIES BOUNDARIES OF
FRUITLAND AND SALISBURY, MARYLAND
1990 US CENSUS
FEBRUARY 2000

COHEN, DIPPELL AND EVERIST, P.C. CONSULTING ENGINEERS

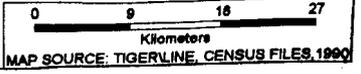


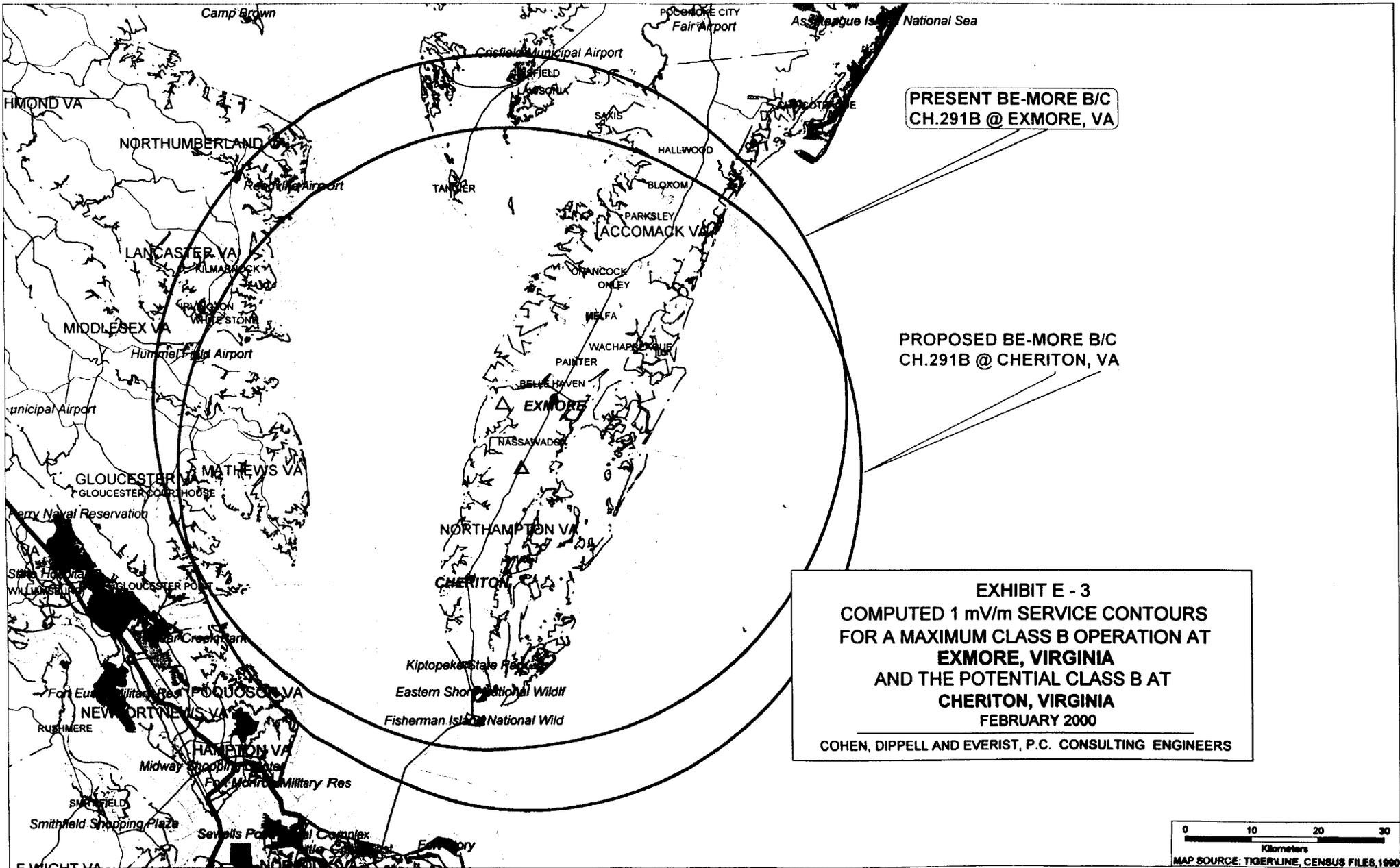


**PRESENT BE-MORE B/C
CH.291B1 @ EXMORE, VA**

**PROPOSED BE-MORE B/C
CH.291B1 @ CHERITON, VA**

**EXHIBIT E - 2
COMPUTED 1 mV/m SERVICE CONTOURS
FOR A MAXIMUM CLASS B1 OPERATION AT
EXMORE, VIRGINIA
AND THE POTENTIAL CLASS B1 AT
CHERITON, VIRGINIA
FEBRUARY 2000
COHEN, DIPPPELL AND EVERIST, P.C. CONSULTING ENGINEERS**

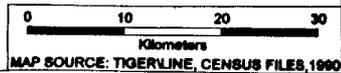




PRESENT BE-MORE B/C
CH.291B @ EXMORE, VA

PROPOSED BE-MORE B/C
CH.291B @ CHERITON, VA

EXHIBIT E - 3
COMPUTED 1 mV/m SERVICE CONTOURS
FOR A MAXIMUM CLASS B OPERATION AT
EXMORE, VIRGINIA
AND THE POTENTIAL CLASS B AT
CHERITON, VIRGINIA
FEBRUARY 2000
 COHEN, DIPPELL AND EVERIST, P.C. CONSULTING ENGINEERS



ATTACHMENT 2



CITY OF FRUITLAND

401 EAST MAIN STREET
P.O. DRAWER F
FRUITLAND, MARYLAND 21826-0120

TELEPHONE: 410-548-2800
FAX: 410-548-2808



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GLORIA J. ORTIZ, Treasurer
LESLIE M. WILLIAMS, Councilman
J.R.RAINS, Councilman
JOHN D. CLOHESSY, Councilman
RICHARD M. POLLITT, JR., City Mgr/Clerk
AMY B. CATON, Deputy Treasurer
PAUL R. JACKSON, Chief of Police
JOSEPH P. DERBYSHIRE, Utilities Director
P. COOPER TOWNSEND, Public Wrks. Dir.
ANDREW C. MITCHELL, JR., City Solicitor.

February 14, 2000

Federal Communications Commission
The Portals
445 12th Street, SW
Washington DC 20554

RE: PROPOSED RELOCATION OF WKHI (FM)
FROM EXMORE, VIRGINIA TO FRUITLAND, MARYLAND

To Whom It May Concern:

I am writing in my capacity as the city manager of Fruitland, Maryland. It is my understanding that Great Scott Broadcasting, licensee of FM radio station WKHI (FM), is in the process of trying to relocate the station from Exmore, Virginia to Fruitland, Maryland. Great Scott Broadcasting has requested that I respond to questions that have been raised as to whether Fruitland is an autonomous community that operates independently from Salisbury, Maryland.

We, in Fruitland, are proud to assert our position as a full-service municipality distinct and independent of any reliance on the City of Salisbury. Though smaller in size than the county seat, our history, culture and quality of life represents our own unique story as an Eastern Shore community.

Fruitland has developed over the years, starting as an agricultural center dealing in the growing and exporting of a wide variety of fruits and vegetables, hence, our name. Until the early seventies, Fruitland was known as the Holly Capital of the World from the annual holly auction which brought hundreds to town at Christmastime.

Since 1970, we have been the fastest growing community on the Eastern Shore, according to the U.S. Census Bureau. To take advantage of that growth we have established our own Fruitland Chamber of Commerce and the Fruitland Economic Development Commission, Inc. These organizations are designed to support existing businesses and to promote new and expanding business and industry. The Chamber recognizes approximately one hundred businesses in town, three quarters of which are

or have been Chamber members. We maintain a comprehensive web site and recently published a marketing brochure detailing the many facets of life in Fruitland.

Currently, we are expanding our water and sewer systems, doubling our treatment capacity and opening up roughly a third of our corporate limits for new development. Already, plats for new subdivisions providing hundreds of new living units are in the planning stages.

Fruitland operates under a Council-Manager form of government whereby a five-member City Council is elected directly by the citizens. The Council, in turn, employs professionals in their fields to handle the day to day administration of the town. In addition to my position, we also have a former State Police barracks commander as our Chief of Police, a fully certified Director of Public Utilities, Director of Public Works and a highly trained professional as our Deputy Treasurer and head of finance. We operate our own sanitation system, providing once a week garbage collection throughout Fruitland. We also maintain our own street system of approximately twenty-six miles of roadways. We are proud of our ability to accomplish all of this with a work force of thirty-three dedicated individuals.

Fruitland also is the home of two elementary schools, a volunteer fire department, multiple service clubs and churches and a dynamic Little League and recreation program, the latter located in the City's recreational park currently undergoing a quarter million dollar expansion to accommodate a burgeoning demand for baseball, softball and soccer facilities.

Our police force provides twenty-four hour a day coverage of the City and has handled all of the types of cases experienced by larger jurisdictions. Our police chief presently serves as chairman of the Wicomico County Narcotics Task Force, an organization that is the model of its kind in our state.

Finally, the City is on the verge of its most dramatic leap forward in economic development. A new Wal★Mart Super Center is under construction and has already had an impact on attracting new business to town. We have a new industrial park underway in town as well, offering State Enterprise Zone benefits, low-interest loans to developers and other incentives. When the new water and sewer system come on line next year, Fruitland will be poised to take full advantage of the growing demand for residential, commercial and industrial opportunities before us. The hundreds and thousands of new homes and jobs this will generate should make it abundantly clear that Fruitland is the place to be.

It has been asserted that not only is Fruitland overly dependent upon Salisbury but that the cities are actually contiguous in several places. To my knowledge there is no point of land where the two jurisdictions abut. There is one small area where the cities are separated by Tony Tank Branch, a small creek which flows between us. One

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cannot drive from Fruitland to Salisbury without first passing through an unincorporated section of Wicomico County.

Bottom line--anyone who dares hint that Fruitland is dependent upon or in any way subservient to Salisbury knows neither the past, present nor the future of our city.

The City of Fruitland would welcome the addition of WKHI (FM) to its growing, independent, self-governed community of services and businesses. As our slogan says, Fruitland is a Shore Pick!

Very truly yours,

A handwritten signature in black ink that reads "Richard M. Pollitt, Jr." with a stylized, cursive script.

Richard M. Pollitt, Jr.
City Manager/Clerk

RMP/jec

CERTIFICATE OF SERVICE

I, Yaiza E. Garabito, do hereby certify that copies of the foregoing *Reply Comments of Great Scott Broadcasting* have been mailed by first-class mail, postage prepaid, this 15th day of February, 2000 to the following:

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