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April 5, 2004

**By Hand Delivery**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
c/o 236 Massachusetts Avenue, N.E.  
Suite 110  
Washington, D.C. 20002

**RECEIVED**

APR - 5 2004

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: Amendment of Section 73.202(b),  
Table of Allotments, FM Broadcast Stations  
(Cambridge and St. Michaels, Maryland)  
MB Docket No. 04-20; RM-10842

Dear Ms. Dortch:

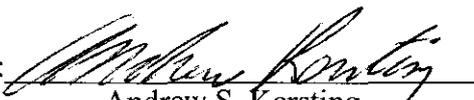
Transmitted herewith on behalf of MTS Broadcasting, L.C., are an original and four copies of its "Comments and Counterproposal," filed in the above-referenced proceeding.

Should any questions arise concerning this matter, please communicate directly with the undersigned.

Very truly yours,

DICKSTEIN SHAPIRO MORIN  
& OSHINSKY LLP

Attorneys for  
MTS Broadcasting, L.C.

By:   
Andrew S. Kersting

Enclosure

cc: Certificate of Service (w/ encl.) (by hand & first-class mail)

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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APR - 5 2004

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
)  
Amendment of Section 73.202(b), )  
Table of Allotments, )  
FM Broadcast Stations )  
(Cambridge and St. Michaels, Maryland) )

MB Docket No. 04-20  
RM-10842

To: Assistant Chief, Audio Division  
Media Bureau

**COMMENTS AND COUNTERPROPOSAL**

MTS BROADCASTING, L.C.

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April 5, 2004

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**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
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FM Broadcast Stations	)	
(Cambridge and St. Michaels, Maryland)	)	
To: Assistant Chief, Audio Division		
Media Bureau		

**COMMENTS AND COUNTERPROPOSAL**

MTS Broadcasting, L.C. (“MTS”), licensee of radio station WCEM-FM, Cambridge, Maryland, acting pursuant to Section 1.415 of the Commission’s rules, 47 C.F.R. §1.415, hereby submits its comments and counterproposal in response to the Commission’s *Notice of Proposed Rule Making*, DA 04-231 (February 13, 2004) (“*NPRM*”), in the above-captioned proceeding.

**I. Introduction and Summary.**

CWA Broadcasting, Inc. (“CWA”), licensee of radio station WINX-FM, Channel 232A, St. Michaels, Maryland, has proposed to substitute Channel 232B1 for Channel 232A at St. Michaels and reallocate Channel 232B1 to Cambridge, which would provide the community of Cambridge with its third local transmission service. MTS proposes that the following alternative change be made to Section 73.202(b) of the Commission’s rules in lieu of the change proposed in the *NPRM*:

<u>City</u>	<u>Present</u>	<u>Channel No.</u>	<u>Proposed</u>
Newark, Maryland	----		233A

The allotment of Channel 233A to Newark would provide that community with its first local transmission service and would result in a preferential arrangement of allotments.

Although the *NPRM* suggests that the reallocation of Channel 232B1 to Cambridge would result in service to a gray area, that is not likely to be the case from any practical perspective. The extensive record in the prior allotment proceeding involving Cambridge and St. Michaels, together with CWA's rulemaking petition in the instant matter, establish that CWA's ability to implement its allotment proposal is dependent upon its ability to use the transmitter site specified in its pending one-step application to upgrade WINX-FM to a Class B1 facility. The technical proposal contained in that application will not provide service to any gray area. Therefore, because CWA cannot implement its allotment proposal from the proposed reference coordinates, the potential service to a gray area should not be considered in this proceeding. As a result, the proposed reallocation of Channel 232B1 to Cambridge is not entitled to a second allotment priority and would not result in a preferential arrangement of allotments.

CWA's proposal also falls short from a public interest perspective because that proposal will result in the removal of Channel 232A from St. Michaels and would thus constitute the removal of the sole existing radio service from that community. CWA's reallocation proposal should be denied on that basis alone.

Even assuming, *arguendo*, that the Commission were conclude that (1) the reallocation of Channel 232A from St. Michaels would not constitute the removal of a sole existing service, and (2) the reallocation of Channel 232B1 potentially could provide service to a gray area, the proposed allotment of Channel 233A to Newark, Maryland, together with retaining the existing Channel 232A allotment at St. Michaels, would still result in a preferential arrangement of allotments over the proposal set forth in the *NPRM*.

## II. Background.

In an earlier allotment proceeding involving the Maryland communities of Cambridge and St. Michaels, the full Commission reallocated Channel 232A from Cambridge to St. Michaels and modified the construction permit for WINX-FM (then WFBR) to specify St. Michaels as its new community of license. *Cambridge and St. Michaels, Maryland*, 12 FCC Rcd 3504 (1997) (“1997 Decision”). In so doing, the Commission found that reallocating Channel 232A to St. Michaels would result in a preferential arrangement of allotments under the third FM allotment priority because it would provide St. Michaels with a first local service while Cambridge would continue to be served by stations WCEM(AM) and WCEM-FM. 12 FCC Rcd at 3506.

Despite the issuance of the *1997 Decision*, on July 10, 2002, CWA filed a Petition to Dismiss requesting that its original Petition for Rulemaking be dismissed. CWA premised that request on its finding a transmitter site south of Trappe, Maryland, approximately halfway between Cambridge and St. Michaels, which CWA believed would enable it upgrade WINX-FM to a Class B1 facility and provide a city-grade signal to Cambridge. Thus, CWA attempted to dismiss its rulemaking proposal more than five (5) years after the *1997 Decision* had become final in an effort by CWA to permit the Commission to act favorably on a one-step upgrade application which it had filed with the Commission on July 18, 2002. *See* File No. BPH-20020718ABE (the “Application”). In dismissing CWA’s Petition to Dismiss, the Audio Division stated, “It continues to be our view that a first local service to St. Michaels results in a preferential arrangement of allotments and is in the public interest.” *Cambridge and St. Michaels, Maryland*, 17 FCC Rcd 20425, 20426 (Aud. Div. 2002).

### III. CWA's Reallocation Proposal Should Not Be Adopted.

In a further effort to extricate itself from its earlier proposal to operate a station in St. Michaels, CWA filed a Petition for Rulemaking on November 27, 2002 ("Petition") proposing to substitute Channel 232B1 for Channel 232A at St. Michaels and the reallocation of Channel 232B1 from St. Michaels to Cambridge.

#### A. No Consideration Should Be Given to Gray Area Service.

In the *NPRM*, the Commission provided a public interest analysis stating that the reallocation of Channel 232B1 to Cambridge would provide service to 1,184 persons in a gray area encompassing 10 square kilometers and several other underserved areas.<sup>1</sup> *NPRM* at ¶6. The Commission's public interest analysis is problematical for at least two reasons.

First, neither CWA's Petition nor its supporting Engineering Statement contains any allegation that the reallocation of Channel 232B1 to Cambridge would result in service to any gray area. There also is no reference in CWA's pending Application that it would provide service to a gray area. The underlying studies that the Commission's staff apparently conducted and which formed the basis for the issuance of the *NPRM* have not been made a part of the record in this proceeding. The only evidence contained in the record are the conclusory statements in the *NPRM*. Those statements do not comport with the reasoned decision-making requirements contained in the Administrative Procedure Act. *See* 5 U.S.C. §706(2)(A).

Second, the extensive record in the earlier Cambridge/St. Michaels allotment proceeding, together with CWA's Petition, make abundantly clear that CWA's ability to implement its allotment proposal is entirely dependent upon its pending Application. Indeed, the

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<sup>1</sup> Specifically, the Commission found that the proposed reallocation would provide service to (i) 2,808 persons within 70 square kilometers currently receiving only two full-time services; (ii) 11,382 persons within 181 square kilometers currently receiving only three full-time services, and (iii) 13,056 persons within 224 square kilometers who currently receive only four full-time services. *NPRM* at ¶6.

record in the prior allotment proceeding establishes that, due to local zoning restrictions, it was extremely difficult for CWA to find a suitable and available transmitter site that would enable WINX-FM to provide a city-grade signal to Cambridge. It was not until CWA found its current transmitter site near Trappe, Maryland that it was able to present a proposal that would provide a city-grade signal to Cambridge. *See* Petition at 1-2 and Exhibit B, Figure 1.

As demonstrated in the Engineering Statement of Bernard R. Segal, P.E. annexed hereto as Exhibit A, CWA's Application – the only means by which CWA can implement its allotment proposal – will not provide service to *any* gray area. *See* Exhibit A at 4. Mr. Segal's Engineering Statement is substantiated by the fact that neither CWA's Petition nor its Application make any reference to providing service to a gray area. Therefore, the theoretical gray area that the Commission's staff identified, *sua sponte*, in the *NPRM* should not be considered in this proceeding because CWA is not capable of providing service to that area due to technical proposal with which it must implement its allotment proposal if it were to be adopted. The alleged value of the service to the other underserved areas referenced in the *NPRM* also will be substantially diminished due to the location of WINX-FM's transmitter site and technical facilities proposed in CWA's pending Application. *See* Exhibit A at 4.

**B. Proposed Reallotment of Channel 232A From St. Michaels Constitutes Removal of a Sole Existing Service.**

It would not matter even if the Commission were inclined to assume that the reallotment of Channel 232B1 to Cambridge potentially could result in service to a gray area. The public interest benefit of that service would be more than offset by the removal of Channel 232A from St. Michaels because that action would constitute the removal of that community's only authorized broadcast service.

Section 1.420(i) of the Commission's rules permits the modification of a station's license to specify a new community of license without affording other interested parties an

opportunity to file competing expressions of interest. *See Modification of FM and TV Authorizations to Specify a New Community of License ("Change of Community R&O")*, 4 FCC Rcd 4870 (1989), *recon. granted in part ("Change of Community MO&O")*, 5 FCC Rcd 7094 (1990). In *Change of Community R&O*, the Commission stated, however, that it would "not allow any broadcaster to take advantage of this new procedure if the effect would be to deprive a community of an existing service representing its only local transmission service." 4 FCC Rcd at 4874. The Commission amplified the reasons for that position in its reconsideration order:

The public has a legitimate expectation that existing service will continue, and this expectation is a factor we must weigh independently against the service benefits that may result from reallocating of a channel from one community to another, regardless of whether the service removed constitutes a transmission service, a reception service, or both.

*Change of Community MO&O*, 5 FCC Rcd 7097 (1990).

The strong presumption against the removal of a sole existing service should apply in this proceeding even though CWA refused to comply with the Commission's *1997 Decision* and chose not to construct the Channel 232A facility at St. Michaels. CWA should not be allowed to benefit from its unilateral decision to construct and operate WINX-FM on an interim basis or pursuant to an implied special temporary authorization at Cambridge. *See Dos Palos, Chualar, Big Sur, California*, 2004 FCC Lexis, ¶19 (Aud. Div., Feb. 6, 2004). It matters not that CWA has always operated WINX-FM as a Cambridge station. *See Petition* at 3-5. The only reason WINX-FM is not an operating station at St. Michaels is because CWA deliberately chose to flout the *1997 Decision* and elected to construct and operate WINX-FM as if it were still authorized to operate at Cambridge.

CWA's flagrant disregard for the Commission's administrative processes has deprived the citizens of St. Michaels of a local radio service for nearly the past seven (7) years and should not be countenanced by rewarding CWA and moving the allocation for WINX-FM

back to Cambridge. To tolerate that kind of abuse of the Commission's processes would be tantamount to sending an unintended and ill-advised message to other potential rulemaking petitioners that the Commission does not expect petitioners and counterproponents to fulfill their allotment commitments so that they can simply disregard a prior commitment to the Commission if they change their plans. This type of message would lead only to further abuse of the Commission's administrative processes.

Since WINX-FM is not an operating station at St. Michaels only because CWA failed to comply with the *1997 Decision*, the Commission should treat WINX-FM as an existing service at St. Michaels for purposes of evaluating its reallocation proposal. The Commission should thereby conclude that the proposed substitution of Channel 232B1 and reallocation of that channel to Cambridge would constitute the removal of St. Michaels' sole existing service. Therefore, pursuant to *Change in Community R&O* and *MO&O*, the Commission should find that CWA's reallocation proposal would not result in a preferential arrangement of allotments.

#### **IV. The Commission Should Allot Channel 233A to Newark.**

The city of Newark is a Census Designated Place located in Worcester County, Maryland which has a 2000 census population of 339. The community has its own post office, zip code, fire department, bank, grocery store, two churches, child-care center, assisted care facility, career & tech center, museum, and solid waste site. *See Exhibit B* annexed hereto. The Commission has previously found this type of indicia sufficient to establish community status for allotment purposes. *See, e.g. Encino, Texas*, 18 FCC Rcd 23984 (Aud. Div. 2003) (finding *Encino* to be a community for allotment purposes where it was a Census Designated Place with a population of 110 persons and having comparable community indicia); *Marathon and Mertzon, Texas*, 18 FCC Rcd 23986 (Aud. Div. 2003) (finding *Marathon* to be a community for allotment

purposes where it was a Census Designated Place with a population of 455 persons and having comparable community indicia).

As demonstrated in the attached Engineering Statement, the proposed allotment reference coordinates for Channel 233A at Newark satisfy the minimum distance separation requirements with respect to all known licenses, construction permits, and pending applications, including the existing Channel 232A allotment at St. Michaels.<sup>2</sup> The allotment reference point is located approximately nine (9) kilometers south-southwest of Newark, which would enable the station to operate from a site with an unobstructed view of the community and provide a 70 dBu contour over the entire community of license. *Id.* at 2. The proposed Class A facility at Newark would provide service to 83,600 persons within its 60 dBu service contour. *Id.* at 2-3.

The proposed allotment of Channel 233A at Newark – while maintaining the existing Channel 232A allotment at St. Michaels – would result in a preferential arrangement of allotments over the allotment proposal set forth in the *NPRM*. The allotment of Channel 233A to Newark would provide that community with its first local transmission service, which would promote the objectives of Section 307(b) of the Communications Act of 1934, as amended, of providing a fair, efficient and equitable distribution of broadcast stations among the various states and communities,<sup>3</sup> and promote the third allotment priority established in *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88, 91 (1982).<sup>4</sup> The Commission has

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<sup>2</sup> The reference coordinates for the proposed allotment are North Latitude: 38° 11' 40"; West Longitude: 75° 22' 04". The reference coordinates do not protect the proposed allotment of Channel 232B1 at Cambridge.

<sup>3</sup> 47 U.S.C. §307(b). *See National Broadcasting Co. v. U.S.*, 319 U.S. 190, 217 (1943) (describing a goal of the Communications Act to “secure the maximum benefits of radio to all the people of the United States”); *FCC v. Allentown Broadcasting Co.*, 349 U.S. 358, 359-62 (1955) (describing a goal of Section 307(b) to “secure local means of expression”).

<sup>4</sup> The criteria for determining the comparative preferability of a proposed FM allotment are (1) first full-time aural service; (2) second full-time aural service; (3) first local service; and (4) other public interest matters. Co-equal weight is given to priorities (2) and (3). 90 FCC 2d at 91.

repeatedly noted that the provision of a first local service generally is the highest of the allotment priorities which remains unsatisfied to any significant degree. *See, e.g., Wallace, Idaho and Bigfork, Montana*, 13 FCC Rcd 16278, 16279 (Alloc. Br. 1998) (subsequent history omitted).

For the reasons stated above, in light of the Commission's *1997 Decision* reallocoting Channel 232A to St. Michaels and CWA's failure to construct WINX-FM in accordance with that *Decision*, the Commission should conclude that, for purposes of this proceeding, the proposed reallocation of Channel 232A from St. Michaels would constitute the removal of the community's sole existing service. Therefore, the reallocation proposal set forth in the *NPRM* should be denied for this reason alone.

As also demonstrated above, CWA's allotment proposal also should be denied because, despite the public interest analysis contained in the *NPRM*, if Channel 232B1 were to be reallocated to Cambridge, the implementation of that allotment would not result in service to a gray area. CWA's ability to implement its allotment proposal is entirely dependent upon a grant of its pending one-step Application and, specifically, the technical proposal contained in that Application which specifies the use of a transmitter site near Trappe, Maryland. WINX-FM will not provide service to *any* gray area from that location and its service to underserved areas will be greatly reduced. Therefore, the proposed substitution of Channel 232B1 for Channel 232A at St. Michaels and the reallocation of Channel 232B1 to Cambridge should not be adopted because not only would it constitute the removal of a sole existing service at St. Michaels, but it would serve only the fourth allotment priority by providing a third local transmission service to Cambridge.

Nevertheless, the proposal to allot Channel 233A to Newark would still result in a preferential arrangement of allotments even assuming, *arguendo*, that the Commission were to determine that (1) the reallocation of Channel 232B1 to Cambridge would not result in the

removal of the sole existing service at St. Michaels, and (2) the proposed reallocation potentially could result in service to a gray area including 1,184 persons. Retaining the existing allotment of Channel 232A at St. Michaels should be preferred over reallocating Channel 232B1 to Cambridge because it would promote the objectives of Section 307(b) by preserving a first local service to 1,193 persons at St. Michaels. Conversely, the reallocation of Channel 232B1 to Cambridge would not promote the objectives of §307(b) because it would not result in a first local service. In addition to WCEM(AM) and WCEM-FM, which are licensed to Cambridge, the community receives 60 dBu or better service from stations WAAI(FM), Hurlock, Maryland and WCEI-FM, Easton, Maryland. *See Exhibit A at 3.*

Although the reallocation of Channel 232B1 to Cambridge theoretically would result in service to a gray area which would serve the second allotment priority and thereby be entitled to co-equal weight as a first local service, CWA's reallocation proposal would provide service to fewer people within the gray area than the first local service at St. Michaels (1,184 persons versus 1,193 persons). Therefore, retaining the existing Channel 232A allotment at St. Michaels would still result in a preferred arrangement of allotments. *See Freer, Hebbroville, and Orange Grove, Texas*, 2004 FCC Lexis 1355 (Aud. Div., March 19, 2004) (reallocation that would bring a first local service to a population of 1,288 preferred over a proposal that would result in service to 178 persons in a gray area).

The reallocation of Channel 232B1 to Cambridge would provide service to underserved areas which would be entitled to additional consideration under the Commission's fourth allotment priority. However, those public interest benefits are substantially outweighed by the allotment of Channel 233A to Newark which would provide that community with its first local service. *See Upper Sandusky and Caledonia, Ohio*, 2004 FCC Lexis 947 (Aud. Div., Feb. 27, 2004) (provision of a first local service under priority three favored over retention of a first

competitive service warranting only a fourth allotment priority); *Earle, Pocahontas, and Wilson, Arkansas; and Como and New Albany, Mississippi*, 10 FCC Red 8270, 8271 (Alloc. Br. 1995) (allotting first local service to community of 1,378 people preferred over retaining a third local service at a community of 6,775 people). Therefore, the counterproposal set forth herein would result in a preferential arrangement of allotments under the Commission's allotment priorities and should be adopted in lieu of the proposal set forth in the *NPRM*.

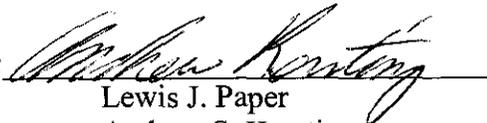
If the instant counterproposal requesting the allotment of Channel 233A to Newark is granted, MTS will file an application for a construction permit for the new facility, and, if its application is granted, will promptly construct and operate the new Class A facility at Newark.

WHEREFORE, in light of the foregoing, MTS respectfully requests that (1) the proposal set forth in the *NPRM* to substitute Channel 232B1 for Channel 232A at St. Michaels and reallocate Channel 232B1 to Cambridge be DENIED, and (2) the counterproposal set forth herein to allot Channel 233A to Newark, Maryland as that community's first local transmission service be ADOPTED.

Respectfully submitted,

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Attorneys for  
MTS BROADCASTING, L.C.

By:   
Lewis J. Paper  
Andrew S. Kersting

## CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of April, 2004, a copy of the foregoing "Comments and Counterproposal" was hand-delivered or sent by first-class mail, postage prepaid, to the following:

John A. Karousos, Assistant Chief\*  
Audio Division  
Media Bureau  
Federal Communications Commission  
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445 Twelfth Street, S.W.  
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Washington, DC 20554

R. Barthen Gorman\*  
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Barry A. Freidman, Esq.  
Thompson Hine LLP  
1920 N. Street, N.W., Suite 800  
Washington, DC 20036  
(Counsel for CWA Broadcasting, Inc.)

  
Candace Harris

\* Hand Delivered

# **EXHIBIT A**

## **Engineering Statement**

BERNARD R. SEGAL, P. E.  
CONSULTING ENGINEER  
KENSINGTON, MARYLAND

---

ENGINEERING STATEMENT  
IN SUPPORT OF COMMENTS  
BY MTS BROADCASTING, L. C.  
MB DOCKET NO. 04-20, RM-10842  
CAMBRIDGE AND ST. MICHAELS, MARYLAND

The instant Engineering Statement has been prepared on behalf of MTS Broadcasting, L. C. (hereafter, MTS), and is in support of Comments in the FM Rule Making proceeding in MB Docket No. 04-20, RM-10842 which proposes the allotment of Channel 232B1 to Cambridge, Maryland, and the deletion of Channel 232A from St. Michaels, Maryland. In an earlier proceeding, the FCC at the request of the licensee of Station WINX-FM, deleted Channel 232A from Cambridge, and added Channel 232A to St. Michaels. St. Michaels is a community with a U. S. Census 2000 population of 1193 persons. The allotment of Channel 232A provided that community with its first aural transmission service.

The licensee of Station WINX-FM, the proponent for the allotment of Channel 232B1 to Cambridge in the instant proceeding, has never implemented operation in conformance with the St. Michaels, Channel 232A, allotment, and continues to operate Station WINX-FM as it did when the allotment was for Cambridge, Channel 232A. In effect, Station WINX-FM, currently, is operating in a manner that is inconsistent with the FCC's Rules since Station WINX-FM is not operating pursuant to an allotment in the FM Table of Allotments.

MTS supports the allotment of Channel 233A to Newark, Maryland, with a site restriction, as a counterproposal to the Cambridge, Channel 232B1, proposed allotment. Figure 1 is an allocation study that demonstrates that the Newark, Channel 233A, allotment, at the specified reference coordinates, 38° 11' 40" N. Lat.; 75° 22' 04" W. Long., satisfies FCC spacing criteria with respect to all known existing stations, outstanding construction permits, and pending applications, including the existing

BERNARD R. SEGAL, P. E.  
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Cambridge and St. Michaels, Maryland

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Channel 232A allotment at St. Michaels, but not the proposed Channel 232B1 allotment at Cambridge. The proposed reference site provides an unobstructed path toward Newark, and is located close enough to the community to permit 70 dBu contour encompassment of the entire community as required by the Rules.

For the reasons given in later paragraphs, MTS believes that the preservation of the Channel 232A allotment at St. Michaels, and the allotment of Channel 233A at Newark will result in a preferential arrangement of allotments when compared to the proposal set forth in the NPRM.

Newark is a Census Designated Place with a population of 332 persons according to the U.S. Census 2000. Newark has no FM or AM local broadcast facility. Adoption of the Channel 233A allotment will afford an opportunity for MTS to provide a first local service to the community. Figure 2 demonstrates that the requisite 70 dBu contour encompassment of the community is achieved by a maximum Class A facility from the site located at the reference coordinates that are specified for allotment purposes.

The permissible site location zone is sufficiently large that no question arises as to site availability and compliance with the principal community coverage requirement for an actual operation that might be specified in an application for construction permit. The need to maintain the required minimum separation of 113 kilometers with respect to Station WRDX, Dover, Delaware, Channel 234B, dictates use of a reference site for allocation purposes that is approximately 9 kilometers south-southwest of the community of Newark.

For the assumed maximum facility operation at the reference site, as depicted in

Figure 2, the population that is encompassed by the 60 dBu contour is 83,600 persons. The population enumeration was determined using a computer algorithm that includes the geographic coordinates for the centroid of population for each census division. If the centroid is included within the contour, then the entire population of the census division is included in the enumeration.

Cambridge is the community of license for Station WCEM (AM), 1240 kHz, operating fulltime with power of 1 kW, and Station WCEM-FM, Channel 292A, operating with an effective radiated power of 6 kW (H&V), and an antenna radiation center height of 99 meters above average terrain. The allotment of Channel 232B1 to Cambridge would constitute a third fulltime aural transmission service to the community. Also, Cambridge receives 60 dBu, or better, service from FM Stations WAAI, Hurlock, Channel 265A, and WCEI, Easton, Channel 244B1. The proposed substitution of Channel 232B1 at Cambridge for Channel 232A at St Michaels would deprive the latter community of its only aural transmission service and would provide Cambridge with its third aural transmission service and, a fifth fulltime service.

In the NPRM, the FCC provided a public interest benefit analysis which suggested that the proposed re-allotment of Channel 232B1 to Cambridge would provide service to a gray area encompassing 10 square kilometers, as well as additional service to several underserved areas. The licensee of Station WINX-FM (the Petitioner), in the Petition, indicates that the proposal to re-allot Channel 232B1 to Cambridge is based on its ability to secure a transmitter site at Trappe, Maryland. In turn, this resulted in the filing of the one-step upgrade application for WINX-FM on July 18, 2002 (File No. BPH-20020718ABE).

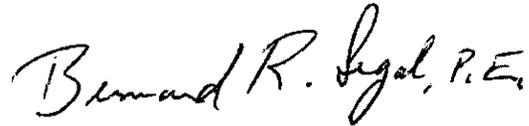
BERNARD R. SEGAL, P. E.  
CONSULTING ENGINEER  
KENSINGTON, MARYLAND

Engineering Statement  
In Support of Comments  
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Cambridge and St. Michaels, Maryland

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In the event that the Petitioner's allotment proposal were to be granted, and the new allotment were to be implemented, as proposed in the pending application, the re-allotment proposal would not result in service to any gray area. This is due to the location of the transmitter site that is specified for implementation of the Class B1 allotment. The provision of service to other underserved areas would be greatly diminished, also.

I declare under penalty of perjury that the foregoing is true and correct. Executed on April 1, 2004.



Bernard R. Segal, P. E.

BERNARD R. SEGAL, P. E.  
CONSULTING ENGINEER  
KENSINGTON, MARYLAND

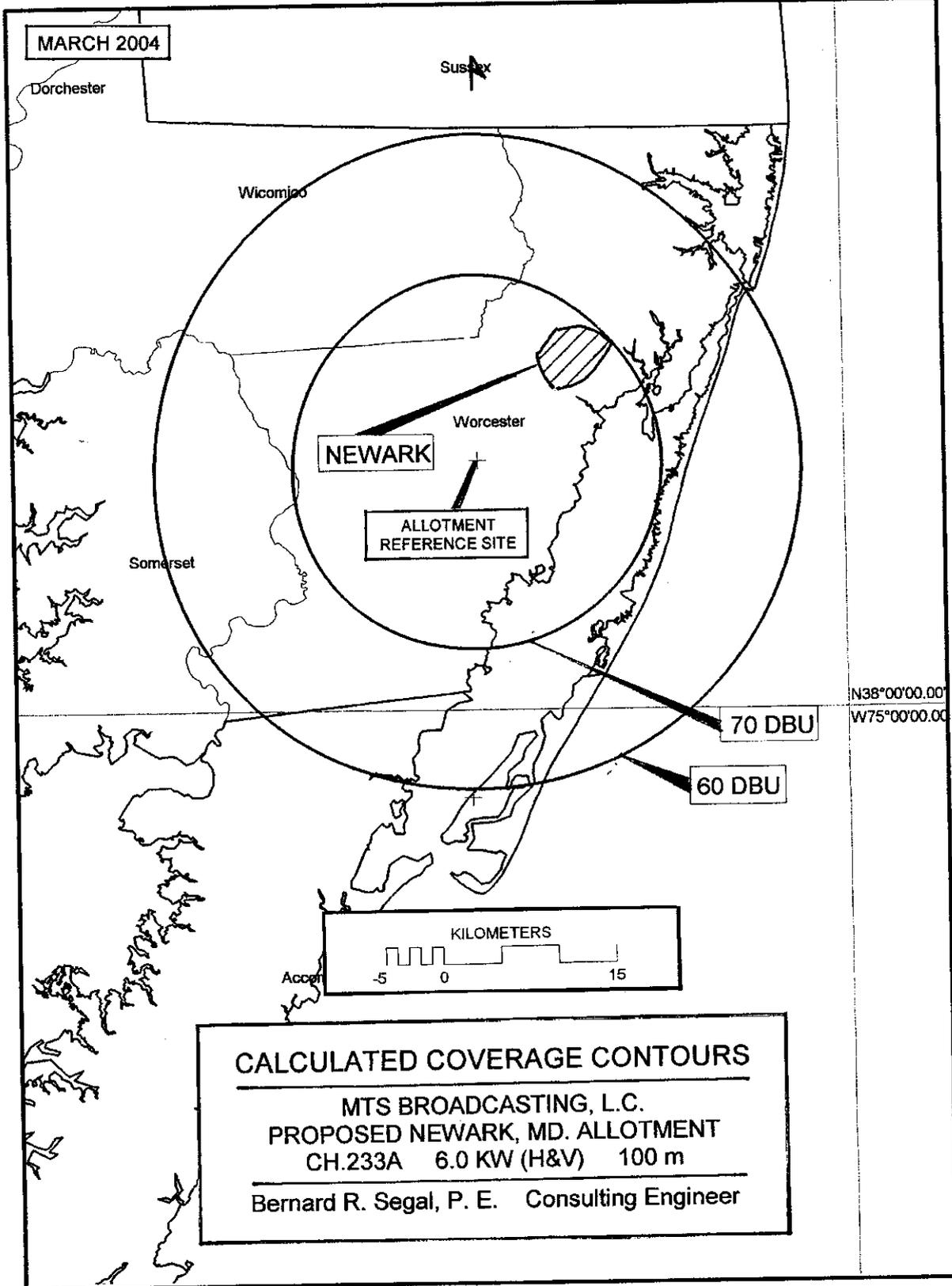
FIGURE 1

ALLOCATION STUDY  
PROPOSED NEWARK, MARYLAND  
CHANNEL 233A ALLOTMENT

Reference coordinates: 38° 11' 40" N. Lat.  
75° 22' 04" W. Long.

Channel	Closest Station or Allotment	Geographic Coordinates (N. Lat./ W. Long.)	Class Relationship	Distance	
				Actual (km)	Required Minimum (km)
230	None sufficiently close for concern.				
231	None sufficiently close for concern.				
232	St. Michaels, MD, allotment	38° 49' 17" 76° 17' 27"	A-A	106.4	72.0
232	Proposed Cambridge, MD, allotment	38° 29' 39" 76° 13' 21"	A-B1	81.8	96.0
232	WINX-FM, Cambridge, MD	38° 37' 49" 76° 03' 24"	A-A	77.2	72.0
233	WRVQ, Richmond, VA	37° 24' 13" 77° 18' 59"	A-B	192.8	178.0
234	WRDX, Dover, DE	39° 12' 03" 75° 33' 55"	A-B	113.0	113.0
235	None sufficiently close for concern.				
236	None sufficiently close for concern.				
286	None sufficiently close for concern.				
287	None sufficiently close for concern.				

FIGURE 2



## **EXHIBIT B**

### **Indicia of Community Status**

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## Yahoo! Yellow Pages

**Your Search:**

Search by Category or Business Name (e.g. Hotel or Holiday Inn)

**Location:** ★ Newark, MD

[Top](#) > [Community](#) > [Post Offices](#)

### US Post Office

Address: PO Box 9998, Newark, MD 21841

Phone: (800) 275-8777

[Email this Business Listing](#)

[Save to Yahoo! Address Book](#)

### Related Categories

This listing appears in:

- [Freight > Courier Services](#)
- [Community > Post Offices](#)

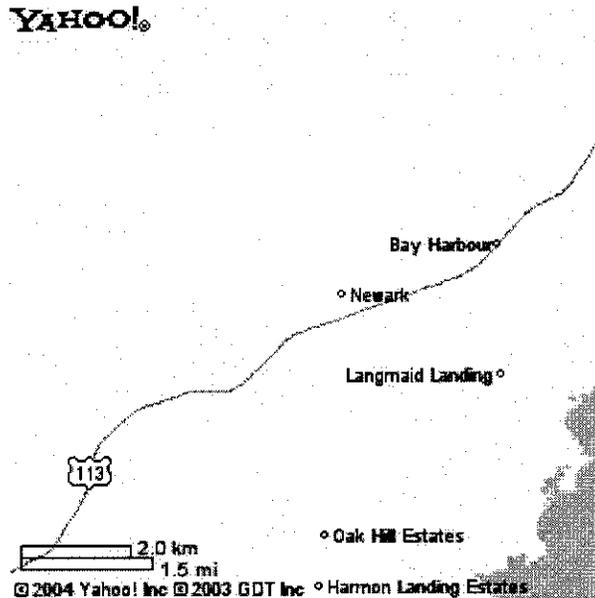
### Related Searches

- [Post Offices](#)

### Maps and Directions

This exact address cannot be found, but here is the area.

[Interactive Map](#) | [Driving Directions](#) Not Available



### More Search Options

Search the Web for:

[US Post Office in Newark, MD](#)

### Businesses Close To:

PO Box 9998,  
Newark, MD 21841

- [Restaurants](#)
- [Golf Courses](#)
- [Department Stores](#)
- [Entertainment & Arts](#)
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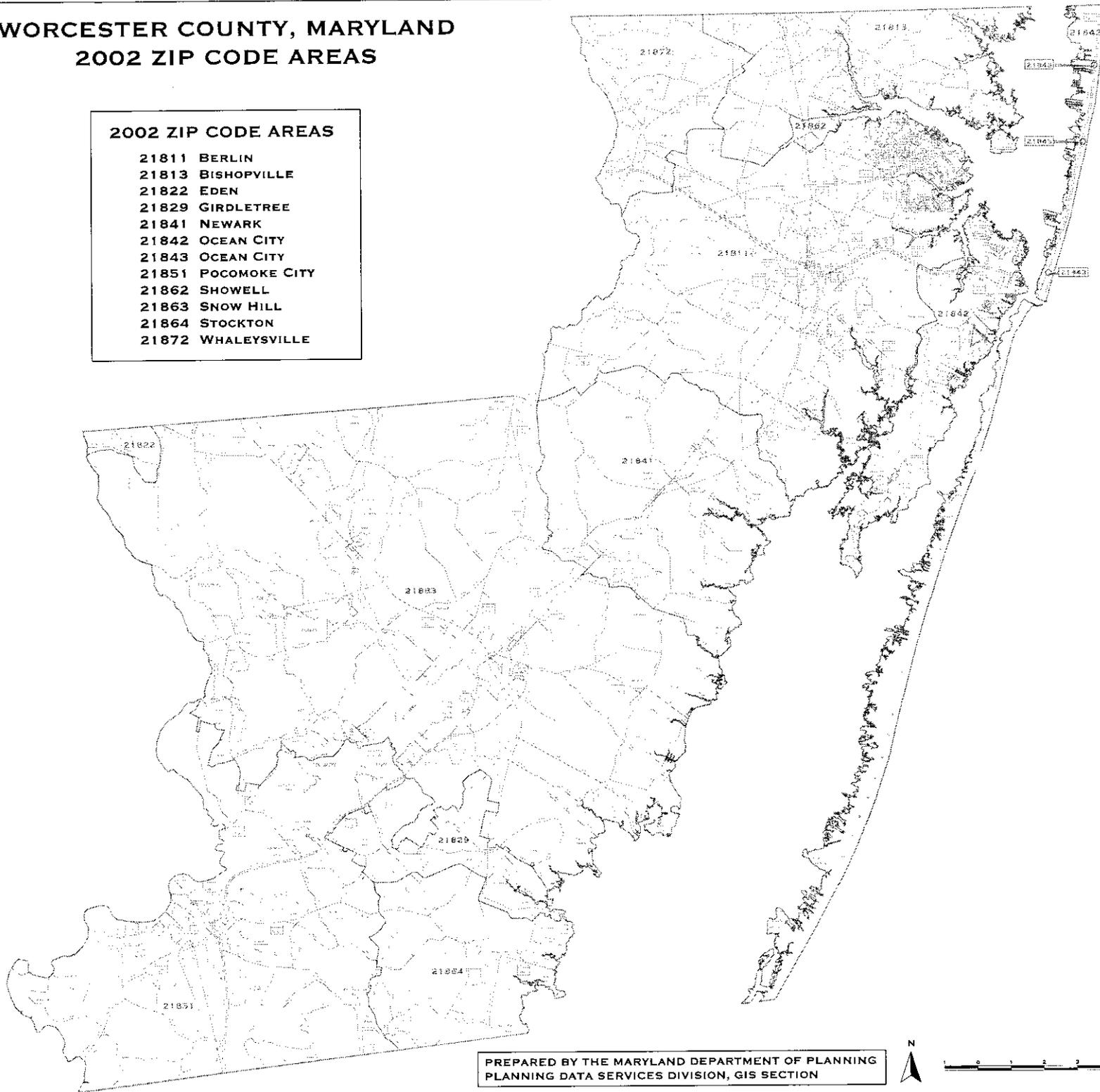
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ID#: 2388265

# WORCESTER COUNTY, MARYLAND 2002 ZIP CODE AREAS

## 2002 ZIP CODE AREAS

- 21811 BERLIN
- 21813 BISHOPVILLE
- 21822 EDEN
- 21829 GIRDLETREE
- 21841 NEWARK
- 21842 OCEAN CITY
- 21843 OCEAN CITY
- 21851 POCOMOKE CITY
- 21862 SHOWELL
- 21863 SNOW HILL
- 21864 STOCKTON
- 21872 WHALEYSVILLE



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PLANNING DATA SERVICES DIVISION, GIS SECTION



1 0 1 2 3 4 MILES

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### Yahoo! Yellow Pages

Your Search:  Search

Location: ★ Newark, MD

Search by Category or Business Name (e.g. Hotel or Holiday Inn)

Top > Community > Government > Fire Protection

### Newark Volunteer Fire Co

Address: 8338 Newark Rd, Newark, MD 21841  
Phone: (410) 632-3980

Email this Business Listing

Save to Yahoo! Address Book

#### Related Categories

This listing appears in:

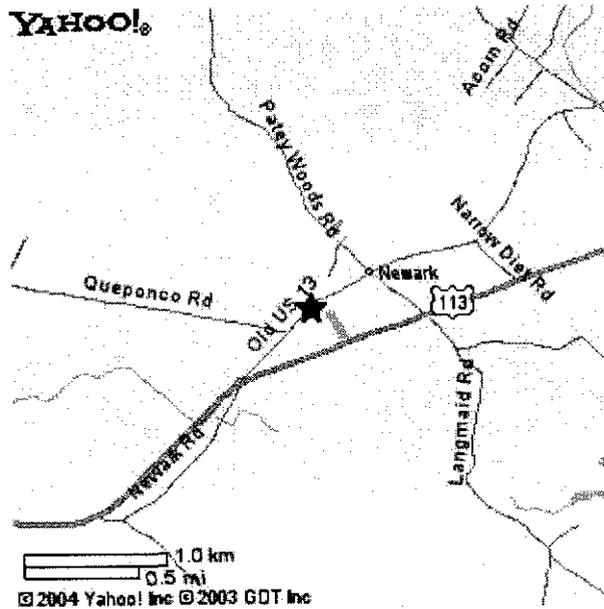
- Government > Fire Protection

#### Related Searches

- Fire Departments

#### Maps and Directions

Interactive Map | Driving Directions



#### More Search Options

Search the Web for:

Newark Volunteer Fire Co in Newark, MD

#### Businesses Close To:

8338 Newark Rd, Newark, MD 21841

- Restaurants
- Golf Courses
- Department Stores
- Entertainment & Arts
- Hotels
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# Newark Fire Co



Action canceled

Internet Explorer was unable to link to the Web page you requested.

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## Newark Volunteer Fire Company

8334 Newark Road  
P.O. Box 82  
Newark, Md 21841  
USA



Scanner: 46.380 Mhz  
Phone: 410-632-3980 fax 410-632-3980  
For emergencies: Dial 911  
Email: [nvfd@shore.intercom.net](mailto:nvfd@shore.intercom.net)

Submitted By: James W. Henman <[jhenman@shore.intercom.net](mailto:jhenman@shore.intercom.net)>  
Last Updated: Sat Sep 25 20:53:31 1999

Official Homepage: <http://www.intercom.net/user/nvfd/nvfd.htm>

Home
Main Menu
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Site Map
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Suppliers
Communications
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## About the Newark Volunteer Fire Company

Newark Volunteer Fire Company proudly protects 3000 people living in an area of 50 square miles. We operate out of 1 station that protects a primarily rural area. Our department is a public department whose members are on a volunteer status.

### Our Services:

- Fire
- EMS
- Search and Rescue
- Extrication

### Our Dispatched Methods:

- Dialing 911
- County

### We Belong to These Organizations:

- Md. State Firemans's Assoc. Delmarva Fireman's Assoc. Eastern Shore Fireman's Assoc.
- Worcester Country Fireman's Assoc.

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## Yahoo! Yellow Pages

Your Search:

Search

Search by Category or Business Name (e.g. Hotel or Holiday Inn)

Location: ★ Newark, MD

Top > [Legal and Financial](#) > [Banks](#)

### Peninsula Bank

Address: 8305 Langmaid Rd, Newark, MD 21841

Phone: (410) 632-2151



[Email this Business Listing](#)



[Save to Yahoo! Address Book](#)

### Related Categories

This listing appears in:

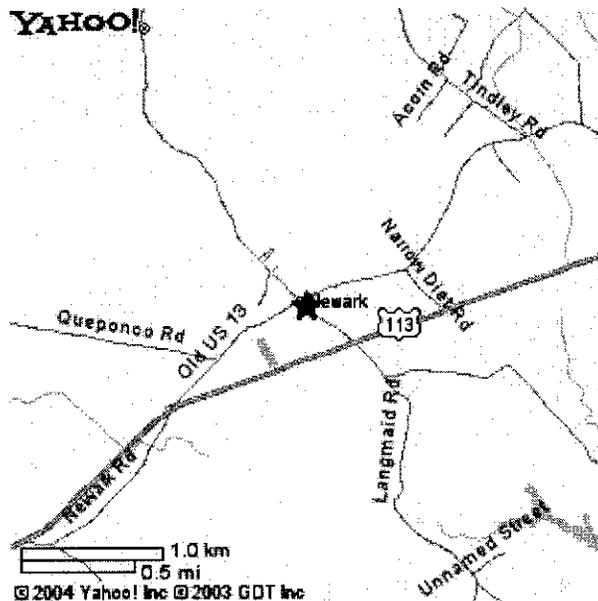
- [Banking > Banks](#)
- [Legal and Financial > Banks](#)
- [Financing > Personal](#)

### Related Searches

- [Banks](#)
- [Loans](#)
- [State Commercial Banks](#)

### Maps and Directions

[Interactive Map](#) | [Driving Directions](#)



### More Search Options

Search the Web for:

[Peninsula Bank in Newark, MD](#)

### Businesses Close To:

8305 Langmaid Rd,  
Newark, MD 21841

- [Restaurants](#)
- [Golf Courses](#)
- [Department Stores](#)
- [Entertainment & Arts](#)
- [Hotels](#)
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Location: ★ Newark, MD

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[Top](#) > [Community](#) > [Religion and Spirituality](#) > [Christianity](#) > [All Churches](#)

### All Businesses

Showing 1 to 2 of 2

Business Name:

Address:

**Bowen & Trinity United Meth**  
(410) 632-1134

8426 Newark Rd  
Newark, MD [Map](#)

**Williams Ame Church**  
(410) 641-0064

7846 Williams Church Rd  
Newark, MD [Map](#)

Showing 1-2 of 2

**Beyond Newark**

### Beyond Newark

Some links and information accompanying the All Businesses listings may be provided by Yahoo! and Yahoo!'s content providers, and are not affiliated with or endorsed by the listers or their listing agents.

## Modify your Search

**SEARCH:**

(by name or category)

**Locations:** ---none selected---

(Address, Intersection or Airport Code)

**Address:**

(Optional)

**Tip:** If you specify an address, we will search for businesses closest to that address.

**City, State or Zip:** Newark MD

**Country:** United States

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# Yahoo! Yellow Pages

Your Search:

Search

Location: ★ Newark, MD

Search by Category or Business Name (e.g. Hotel or Holiday Inn)

Top > Health and Medicine > Doctors and Clinics > All

## Mary Lou's Assisted Care

Address: 8431 Newark Rd, Newark, MD 21841  
Phone: (410) 632-3066

Email this Business Listing

Save to Yahoo! Address Book

### Related Categories

This listing appears in:

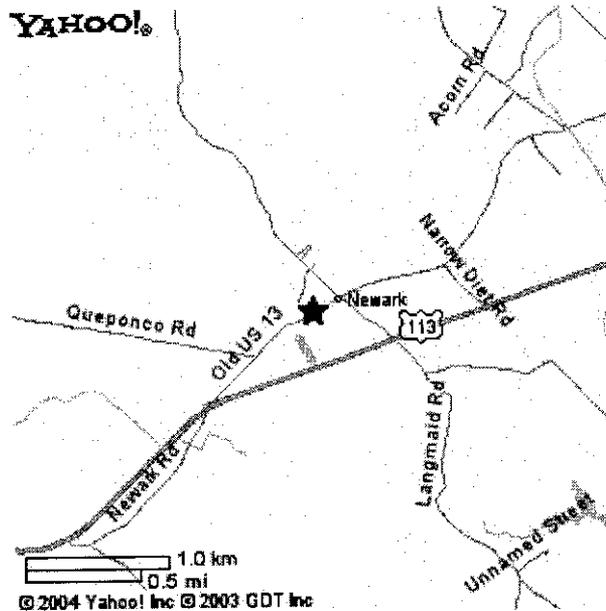
- Home Health Care > Services
- Doctors and Clinics > All

### Related Searches

- Home Health Service

### Maps and Directions

Interactive Map | Driving Directions



### More Search Options

Search the Web for:

Mary Lou's Assisted Care in Newark, MD

### Businesses Close To:

8431 Newark Rd, Newark, MD 21841

- Restaurants
- Golf Courses
- Department Stores
- Entertainment & Arts
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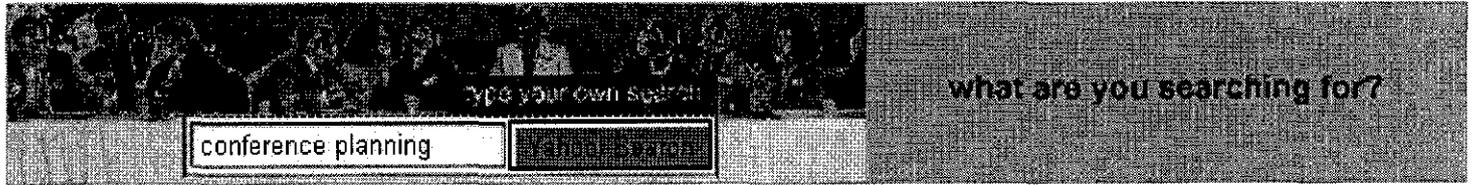
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## Yahoo! Yellow Pages

Your Search:

Search

Search by Category or Business Name (e.g. Hotel or Holiday Inn)

Location: ★ Newark, MD

Top > Community > Family Services > Children and Youth > Childcare

### Shore Up Inc Community Action

Address: 6352 Worcester Hwy, Newark, MD 21841  
Phone: (410) 632-3624



Email this Business Listing



Save to Yahoo! Address Book

#### Related Categories

This listing appears in:

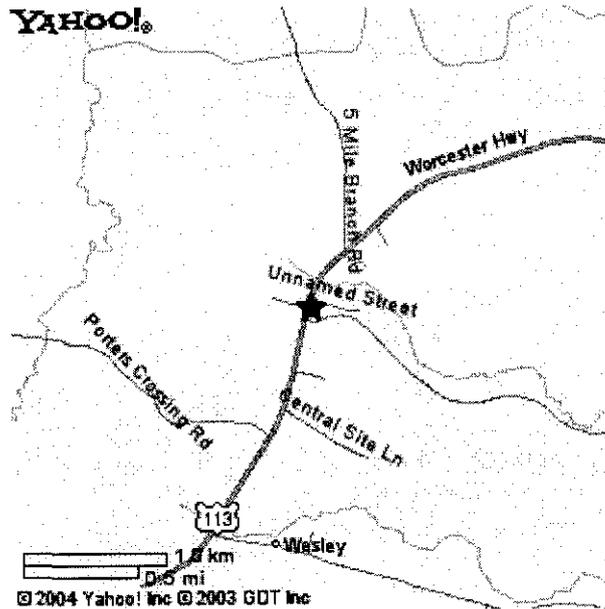
- [Children and Youth](#) > [Childcare](#)

#### Related Searches

- [Child Care Service](#)

#### Maps and Directions

[Interactive Map](#) | [Driving Directions](#)



#### More Search Options

Search the Web for:

[Shore Up Inc Community Action in Newark, MD](#)

#### Businesses Close To:

6352 Worcester Hwy,  
Newark, MD 21841

- [Restaurants](#)
- [Golf Courses](#)
- [Department Stores](#)
- [Entertainment & Arts](#)
- [Hotels](#)
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# Yahoo! Yellow Pages

Your Search:

Search

Search by Category or Business Name (e.g. Hotel or Holiday Inn)

Location: ★ Newark, MD

Top > Food and Dining > Grocery Stores

## Newark Station

Address: 7167 Worcester Hwy, Newark, MD 21841

Phone: (410) 632-3775



Email this Business Listing



Save to Yahoo! Address Book

### Related Categories

This listing appears in:

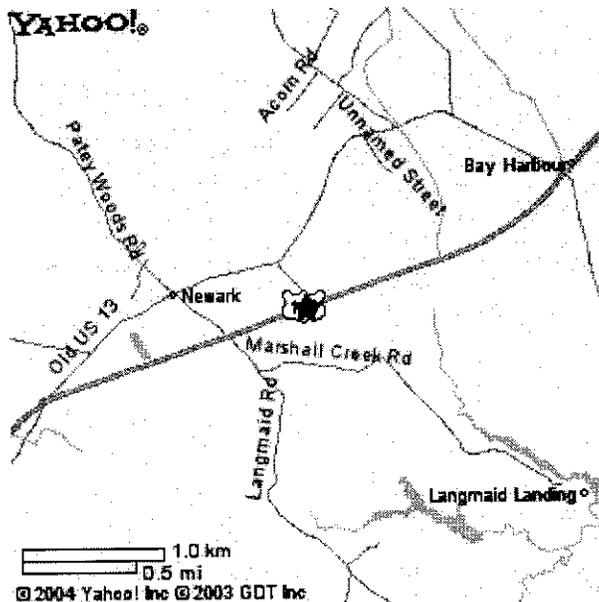
- Food and Dining > Grocery Stores

### Related Searches

- Grocers - Retail

### Maps and Directions

Interactive Map | Driving Directions



### More Search Options

Search the Web for:

Newark Station in Newark, MD

### Businesses Close To:

7167 Worcester Hwy, Newark, MD 21841

- Restaurants
- Golf Courses
- Department Stores
- Entertainment & Arts
- Hotels
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## Yahoo! Yellow Pages

Your Search:

Search

Search by Category or Business Name (e.g. Hotel or Holiday Inn)

Location: ★ Newark, MD

Top > Entertainment and Arts > Museums and Galleries

### Queponco Railway Station Inc

Address: 8378 Patey Woods Rd, Newark, MD 21841  
Phone: (410) 632-0950

Email this Business Listing

Save to Yahoo! Address Book

#### Related Categories

This listing appears in:

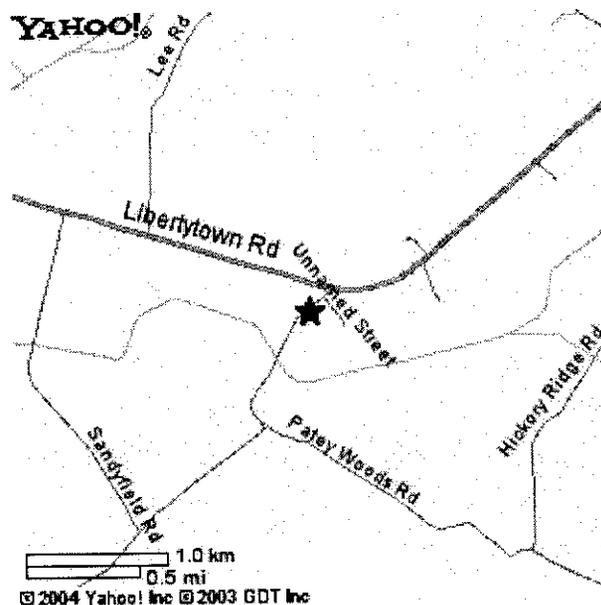
- Arts and Crafts > Galleries
- Museums and Galleries > Art Museums and Galleries

#### Related Searches

- Museums

#### Maps and Directions

Interactive Map | Driving Directions



#### More Search Options

Search the Web for:

Queponco Railway Station Inc in Newark, MD

#### Businesses Close To:

8378 Patey Woods Rd, Newark, MD 21841

- Restaurants
- Golf Courses
- Department Stores
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 State    
   
   
   

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**Worcester Career & Tech Ctr**  
6268 Worcester Hwy, Newark, MD 21841

(410) 632-2582

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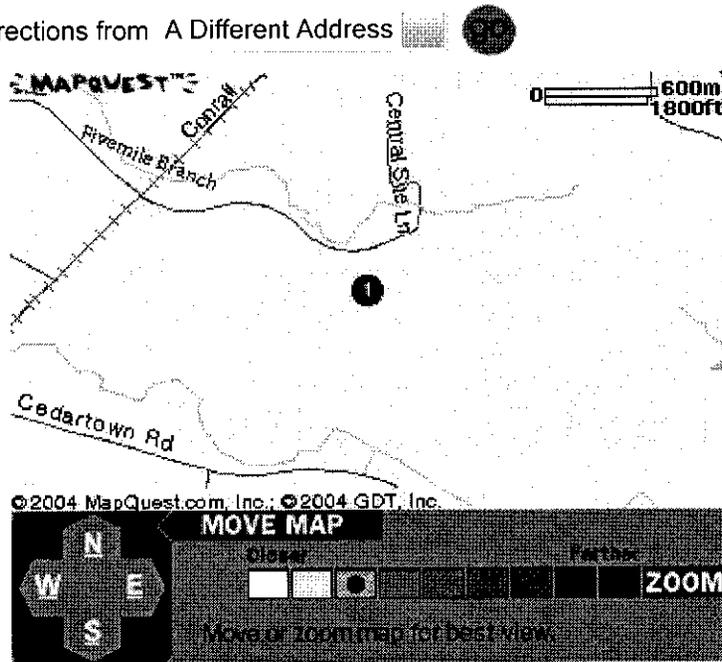
# Worcester County Solid Waste

(410) 632-3177

## LOCATION

7091 Central Site Ln  
Newark, MD 21841

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