

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

In the Matter of)
)
Amendment of Section 73.202(b))
Table of Allotments)
FM Broadcast Stations)
(Port Norris, New Jersey, Fruitland,)
Maryland, and Chester, Lakeside, and)
Warsaw, Virginia)¹)

MB Docket No. 04-409
RM-11108
RM-11234

RECEIVED

JUN 22 2006

To: Office of the Secretary
Attn: Assistant Chief, Audio Division
Media Bureau

Federal Communications Commission
Office of Secretary

AMENDED COUNTERPROPOSAL

CXR Holdings, LLC ("CXR"), licensee of Station WDYL(FM), Chester, Virginia, by its counsel, hereby submits this Amendment to the Counterproposal that it filed on December 27, 2004. As discussed in CXR's "Motion to Accept" filed contemporaneously with this pleading, this Amendment is necessary due to a recent decision which interprets the FCC's ownership rules.² That decision impacts Station WKHI(FM), one of the Stations involved in the Counterproposal. Due to this ruling, CXR requests permission to amend its Counterproposal to allot Channel 299A at Fruitland, Maryland for use by Station WKHI(FM) (instead of Channel 298B1 at Willards, Maryland as originally proposed). In support hereof, CXR states as follows:

1. In its Counterproposal, CXR proposed to, *inter alia*, (i) delete Channel 298B1 at Fruitland, Maryland, (ii) allot Channel 299B1 at Willards, Maryland at a new site, and (iii)

¹ Princess Anne and Willards, Maryland have been deleted from the caption.

² See Letter from Peter H. Doyle, Chief, Audio Division, to Sally A. Buckman, counsel to Galaxy Communications, L.P., March 23, 2006 (DA 06-644) ("Galaxy Decision"). This decision holds that if one station in a grandfathered cluster changes its community of license, the licensee will be required to divest one or more stations in order to come into compliance with the numerical limits set forth in Section 73.3555.

modify the license of Station WKHI(FM) accordingly. CXR included the statement of Great Scott Broadcasting (“Great Scott”) consenting to this change as an exhibit to its Counterproposal. In order to avoid depriving Fruitland of its only local service, CXR also proposed to reallocate Channel 273B from Princess Anne to Fruitland, Maryland, for use by Station WOLC(FM).

2. Due to the Galaxy Decision, Great Scott is simultaneously withdrawing its prior consent to move Station WKHI(FM) to Willards and instead consents to this amended proposal.³ See Exhibit A. Therefore, CXR must amend its Counterproposal to eliminate WKHI(FM)’s change in community of license to Willards. However, Station WKHI(FM) must still make a modification in order to eliminate a short-spacing created by CXR’s proposal to change the channel of Station WNNT-FM, Warsaw, Virginia, from Channel 265A to 298A. CXR and Great Scott have amended their reimbursement agreement to provide for Station WKHI(FM) to downgrade from Channel 298B1 to Channel 299A and remain at Fruitland with a change in transmitter site. Great Scott states that it will apply for Channel 299A at Fruitland and construct the facilities if authorized. See Exhibit A. CXR reaffirms it will reimburse Great Scott for the change in channel, class of channel, and transmitter site. As a result of the elimination of the Station WKHI(FM) move from Fruitland, Maryland, the proposed move of Station WOLC(FM) from Princess Anne to Fruitland, Maryland is no longer necessary.

3. As demonstrated in the attached Engineering Exhibit, Channel 299A can be allotted to Fruitland in compliance with the Commission’s spacing rules. See Amended Exhibit 1. From the proposed site the station will continue to provide a 70 dBu signal to Fruitland. See Amended Exhibit 2. The loss area will be outweighed by the overall gains in service resulting

³ If, for any reason, the FCC does not accept this amendment, Great Scott no longer consents to the change in city of license for Station WKHI(FM) as proposed in CXR’s original December 27, 2004 Counterproposal.

from this proposal.⁴ The attached Engineering Exhibit also demonstrates that the allotment of Channel 299A at Fruitland eliminates the short-spacing to CXR's proposal to allot Channel 298A at Warsaw, Virginia. *See Amended Exhibit 1.*

4. CXR's proposal, as amended, furthers the Commission's allotment priorities because the collective changes include a first local service at Lakeside, Virginia (2000 U.S. Census pop. 11,157) and a net gain in 60 dBu service to 17,605 persons in a gain area of 244 sq. km. *See Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982). Further, when mutually exclusive proposals are evaluated under priority (3), the Commission favors the community with the largest population. *See Blanchard, Louisiana and Stephens, Arkansas*, 10 FCC Rcd 9828 (1995). In this case, Lakeside has a population of 11,157, while Port Norris has a population of 1,507. Accordingly, Lakeside is entitled to a dispositive Section 307(b) preference over Port Norris pursuant to the Commission's priorities.

5. To summarize, in order to resolve the ownership issue, CXR hereby amends its proposal to modify the proposed changes to Station WKHI(FM) and eliminate the proposed changes to Station WOLC(FM). CXR urges the Commission to adopt the following changes to the FM Table of Allotments:

CXR'S PROPOSAL

Community	Channel	
	Existing	Proposed
Fruitland, Maryland	298B1	299A
Chester, Virginia	266A	-- ⁵
Lakeside, Virginia	--	265B1
Warsaw, Virginia	265A	298A

⁴ The loss area, which remains well served, created as a result of the changes to Station WKHI(FM) is a priority (4) consideration and is outweighed by the provision of a first local service to Lakeside under priority (3). *See Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982).

⁵ Chester will continue to receive local service from Station WGGM(AM).

Respectfully Submitted,

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Of Counsel

June 22, 2006

EXHIBIT A

**Engineering Statement
In Support of an
Amended Counterproposal**

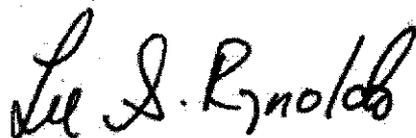
In MB Docket 04-409 CXR Holdings, Inc. ("CXR") filed a counterproposal to the allocation of channel 299A at Port Norris, New Jersey. In the instant amendment, WKHI remains at Fruitland, Maryland rather than change its city of license to Willards, MD and downgrade its class of channel to 299A. Since WKHI will remain licensed to Fruitland, WOLC will not need to change its community of license from Princess Anne, Maryland. As such, it is no longer a part of the instant proposal as amended. Because WKHI remains licensed to Fruitland, no remaining services study is necessary, however, no white or gray area is created as a result of this change.

The Table of Allotments is to be changed as follows (listed alphabetically):

Community	Channel	
	Existing	Proposed
Fruitland, MD	298B1	299A
Chester, VA	266A	-----
Lakeside, VA	-----	265B1
Warsaw, VA	265A	298A

Only two stations will actually make physical moves as a result of the instant supplement: WKHI and WDYL. WNNT changes from channel 265A to channel 298A at the current site and remain licensed to Warsaw, Virginia. Chester, Virginia will continue to be served by WGGM(AM), 820 kHz. The instant supplement changes the cumulative population gain to 17,605 persons with a cumulative gain area of 244 square kilometers.

For Reynolds Technical Associates:



Lee S. Reynolds

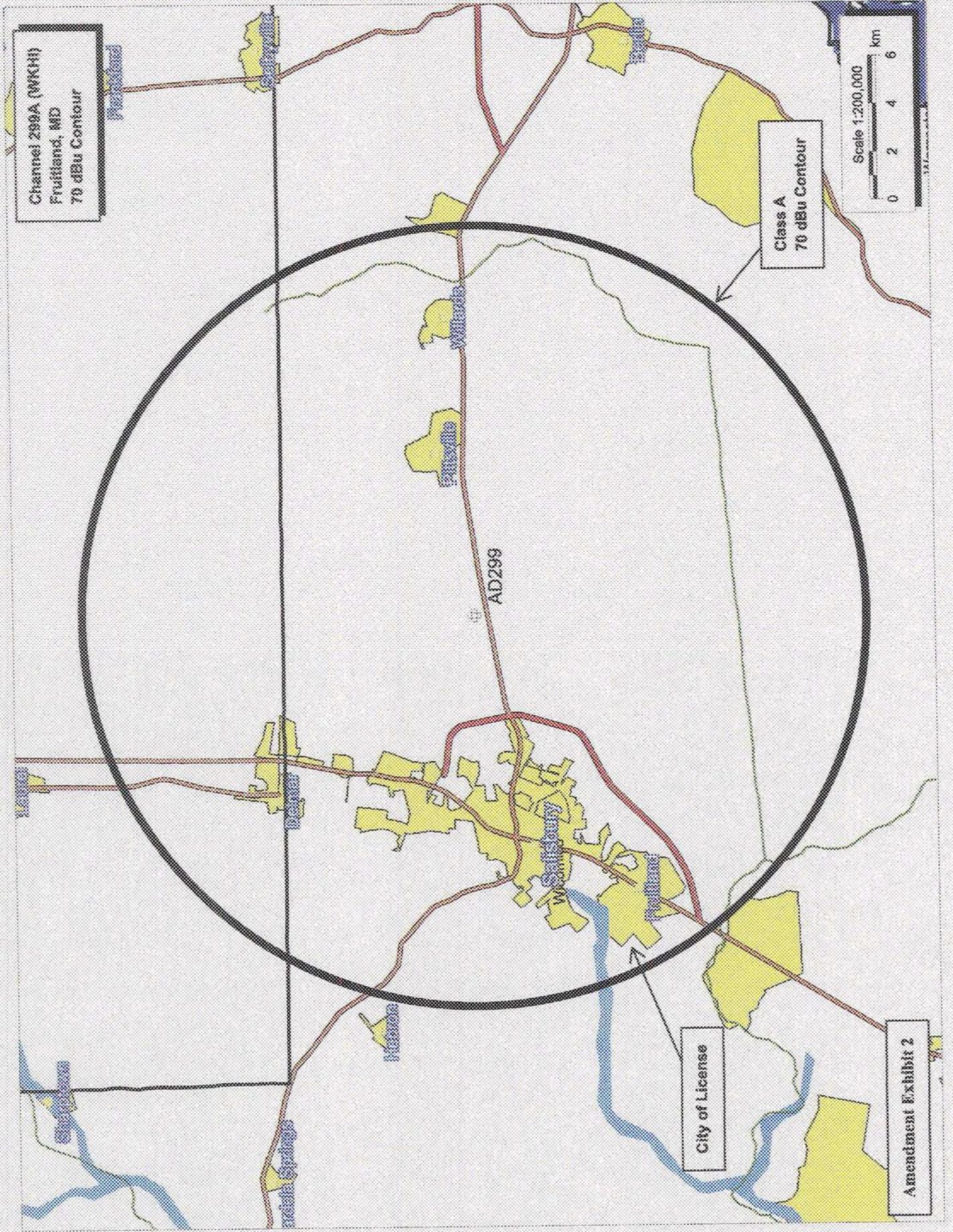
June 22nd, 2006

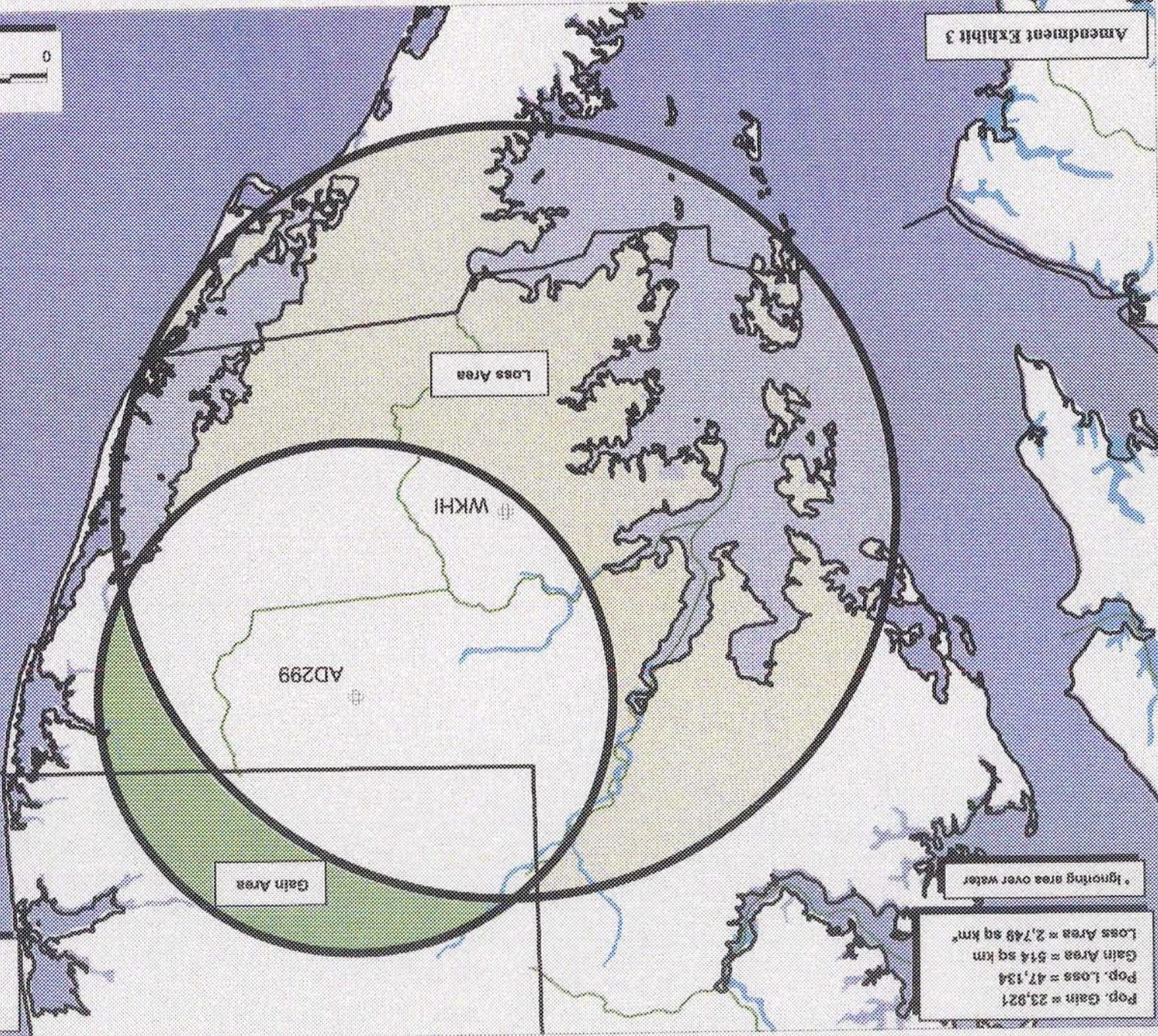
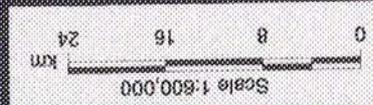
6930 Cahaba Valley Road, Suite 202
Birmingham, Alabama 35242
(205) 618-2020

**Proposed Allocation Study
Channel 299A, Fruitland, MD (WKHI)**

REFERENCE		DISPLAY DATES
38 22 55 N.	CLASS = A	DATA 05-31-06
75 29 25 W.	Current Spacings	SEARCH 06-15-06
----- Channel 299 - 107.7 MHz -----		

Call	Channel	Location	Azi	Dist	FCC	Margin	
RADD	ADD 299B1	Willards	MD	122.9	24.58	143.0	-118.42
Of no concern: Previous coordinates used by WKHI.							
WKHI	LIC-N 298B1	Fruitland	MD	219.2	26.31	96.0	-69.69
Of no concern: Licensed coordinates of WKHI.							
RADD	ADD 299A	Port Norris	NJ	22.2	103.80	115.0	-11.20
Of concern: MX point with the PRM filed at Port Norris, NJ.							
WFSI	LIC-D 300B	Annapolis	MD	304.4	122.29	113.0	9.29
WQJZ.C	CP -N 246A	Ocean Pines	MD	92.6	20.26	10.0	10.26
WQJZ.C	CP -N 246A	Ocean Pines	MD	92.6	20.26	10.0	10.26
WTDK	LIC 296A	Federalburg	MD	332.6	48.23	31.0	17.23
WQJZ	LIC-Z 246A	Ocean Pines	MD	90.1	27.50	10.0	17.50
WGTY	LIC-D 299B	Gettysburg	PA	322.9	206.66	178.0	28.66
WTWPFM	LIC 299B	Warrenton	VA	281.8	208.26	178.0	30.26
RDEL	DEL 245A	Crisfield	MD	213.4	54.04	10.0	44.04
RADD	ADD 298A	Warsaw	VA	246.6	120.73	72.0	48.73
Of note: Proposed substitute channel for WNNT at Warsaw, VA.							





* Ignoring area over water

Pop. Gain = 23,921
Pop. Loss = 47,134
Gain Area = 514 sq km
Loss Area = 2,749 sq km

Channel 299A (WKHI)
Fruiland, MD
Gain/Loss Study

CERTIFICATE OF SERVICE

I, Diana Gonzales, in the law firm of Vinson & Elkins, do hereby certify that I have on this 22nd day of June, 2006, unless otherwise noted, caused to be mailed by first class mail, postage prepaid, copies of the foregoing “**Amended Counterproposal**” to the following:

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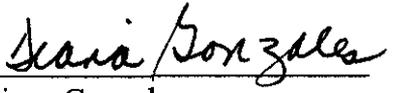
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