

**EXHIBIT 19**  
**REQUEST FOR CONTINUED SATELLITE AUTHORITY**

This application seeks Commission consent to the transfer of control of NVT Hawaii Licensee, LLC, the licensee of commercial television stations KHON-TV, Honolulu, Hawaii; KHAW-TV, Hilo, Hawaii; and KAIL-TV, Wailuku, Hawaii, from HBK NV LLC to C. Thomas McMillen (“McMillen”). KHAW-TV and KAIL-TV are currently operated as satellite stations of KHON-TV.<sup>1</sup> McMillen hereby respectfully requests that the Commission grant continued authority pursuant to Section 73.3555, Note 5 of the Commission’s rules, to operate KHAW-TV and KAIL-TV as satellite stations of KHON-TV.

KHON-TV, KHAW-TV and KAIL-TV are located in the Honolulu, Hawaii Designated Market Area (“DMA”). All three stations are Fox affiliates. The Honolulu DMA encompasses all the islands which make up the state of Hawaii. The unique geographic features of this DMA, including its rugged terrain and the distance between the islands where the largest population centers are located, make it almost impossible for stations licensed to Honolulu, which is located on the island of Oahu, to reach the entire DMA. Therefore, all four major network affiliates in this DMA also operate satellite stations. The system of parent and satellite stations has served the viewers of this DMA well, and grant of the instant request will ensure continuity in the provision of Fox network programming throughout this DMA. Conversely, a denial of this request will likely result in the proposed satellite stations being unable to continue operations, thus depriving viewers of the service upon which they rely. *See* Letter of Brian E. Cobb, President of CobbCorp, LLC, a nationally-recognized media brokerage firm, attached as Attachment 2 (the “Cobb Letter”).

The Commission in *Television Satellite Stations*, 6 FCC Rcd 4212 (1991) (“Satellite Order”), established a three-part test to determine if the operation of a satellite station is presumptively in the public interest. The three-part test considers whether:

- (1) there is no city-grade contour overlap between the parent and the satellite;
- (2) the satellite provides service to an underserved area; and
- (3) no alternative operator is ready and able to purchase and operate the satellite as a full-service station.

The Satellite Order pre-dates the DTV transition and therefore does not specify the digital service contours relevant to the first part of the Commission’s test: whether there is “city-grade contour overlap” between the parent and satellite. As demonstrated in Attachment 1, Exhibits E-1 and E-2, KAIL-TV and KHAW-TV continue to satisfy the first criterion of the Satellite Order’s test for a favorable presumption, regardless of

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<sup>1</sup> Authority to operate KHAW-TV and KAIL-TV as satellite stations of KHON-TV was reaffirmed in DA 05-3219 (rel. Dec. 20, 2005), and in DA 07-4468 (rel. Oct. 30, 2007).

whether the Commission analyzes McMillen's request using analog or digital service contours. There is no overlap among the stations' prior analog City Grade service contours. Likewise there is no overlap of the stations' principal community contours.

The second prong of the Commission's presumptive test, which requires that the satellite station provide service to an "underserved area," can be satisfied by the "reception test". The reception test requires a showing that 25% or more of the area within the satellite's Grade B contour, but outside the parent's Grade B contour (the "Analog Difference Area"), receives four or fewer television services, not counting the proposed satellite station. Because the Satellite Order pre-dates the DTV transition, it is unclear which digital contour should be used in place of the analog Grade B contour for purposes of the "reception test," and so, absent specific guidance from the Commission, the digital noise-limited contour is used in Attachment 1 to establish a "Digital Difference Area" (together with the Analog Difference Area, the "Difference Areas").

**KHAW-TV** – As demonstrated in Attachment 1, 75.3% of the Analog Difference Area and 47.3% of the Digital Difference Area is served by four or fewer television services. Accordingly, KHAW-TV satisfies the reception test.

**KAIH-TV** - As demonstrated in Attachment 1, 10.4% of the Analog Difference Area and 14.4% of the Digital Difference Area is served by four or fewer television services. Although KAIH-TV does not meet the presumption of the reception test, the Commission may grant KAIH-TV continued authority to operate as a satellite station upon a consideration of other compelling reasons.<sup>2</sup>

While several other stations serve the Difference Areas, most are satellite or translator stations that rebroadcast the signal of a main station located on Oahu. Specifically, the ABC, NBC and CBS affiliated stations licensed to Honolulu all have satellite stations located on Maui that serve the Difference Areas. As discussed above, the unique geographic features of the Hawaiian Islands make it difficult if not impossible for a station located on Oahu to adequately serve viewers located on Maui, unless a satellite station is employed. Further, the limited population located on Maui<sup>3</sup> makes it infeasible from an economic standpoint to operate a stand-alone station on Maui. Without a grant of the continued satellite status of KAIH-TV, it is unlikely that Maui will continue to receive Fox programming.<sup>4</sup>

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<sup>2</sup> See Satellite Order, 6 FCC Rcd at 4214.

<sup>3</sup> 2000 Census, Maui County has a population of 128,094 (including the islands of Aui, Molokai, Lanai, Kaho'olawe).

<sup>4</sup> See Satellite Order, 6 FCC Rcd at 4214 (providing that if a station cannot meet the presumptive test, satellite status for that station may still be approved if it brings a full complement of network signals to a service area.)

Finally, in satisfaction of the third criterion of the Satellite Order, no alternative operator is ready to purchase and operate either KHAW-TV or KAIH-TV as a full-service, stand-alone station. The Commission has reviewed and approved two prior sales of these stations as a group with KHON-TV as the parent station and KHAW-TV and KAIH-TV as satellite stations. Further, as indicated in the Cobb Letter, KHAW-TV and KAIH-TV are simply not viable as stand-alone stations. The stations are not located in a sufficiently large community to be economically successful on their own, and furthermore, would be unlikely to retain any network affiliation. Indeed, Mr. Cobb adds that were he asked to list these station for sale as stand-alone facilities, he would be hesitant to accept the listing.

Accordingly, McMillen respectfully requests that the Commission grant continued authority to allow NVT Hawaii Licensee, LLC to operate KAIH-TV and KHAW-TV as satellites of KHON-TV.

## **ATTACHMENT 1**

ENGINEERING STATEMENT  
ON BEHALF OF  
NVT HAWAII LICENSEE, LLC  
RE SECTION 73.3555 NOTE 5 OF THE FCC RULES  
WITH REFERENCE TO STATIONS  
KHON-TV, HONOLULU, HAWAII AND SATELLITE STATIONS  
KHAW-TV, HILO, HAWAII AND KAI-TV, WAILUKU, HAWAII  
NOVEMBER 2009

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

COHEN, DIPPELL AND EVERIST, P. C.

City of Washington            )  
  ) ss  
District of Columbia         )

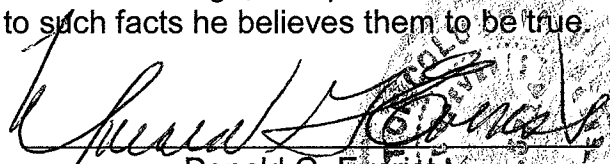
Donald G. Everist, being duly sworn upon his oath, deposes and states that:

He is a graduate electrical engineer, a Registered Professional Engineer in the District of Columbia, and is President, Secretary and Treasurer of Cohen, Dippell and Everist, P.C., Consulting Engineers, Radio - Television, with offices at 1300 L Street, N.W., Suite 1100, Washington, D.C. 20005;

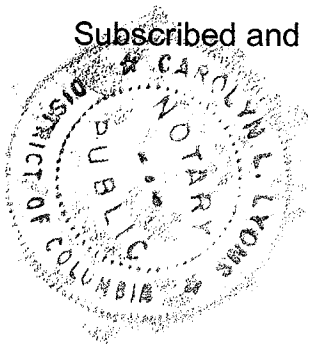
That his qualifications are a matter of record in the Federal Communications Commission;

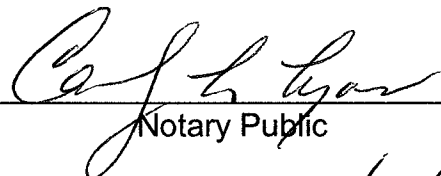
That the attached engineering report was prepared by him or under his supervision and direction and

That the facts stated herein are true of his own knowledge, except such facts as are stated to be on information and belief, and as to such facts he believes them to be true.

  
Donald G. Everist  
District of Columbia  
Professional Engineer  
Registration No. 5714

Subscribed and sworn to before me this 17<sup>th</sup> day of November, 2009.



  
Notary Public

My Commission Expires: 2/28/2013

This engineering statement has been prepared on behalf of NVT Hawaii Licensee, LLC and provides the information prescribed by Note 5 of Section 73.3555 of the FCC Rules and described in the Report and Order in MM Docket No. 87-8<sup>1</sup> adopted June 13, 1991.

Provided herein are the following:

- Exhibit E-1** The predicted City Grade and Grade B contours of the now terminated KHON-TV, KHAW-TV and KAIH NTSC stations.
- Exhibit E-2** The predicted principal community and 36 dBu contours of the current DT operations of KHON-TV, KHAW-TV and KAIH stations
- Exhibit E-3** Provides other predicted NTSC Grade B services in the vicinity of the predicted Grade B contour of KHAW-TV and area shaded where four or less other predicted Grade B services are found within the predicted KHAW-TV Grade B contour.
- Exhibit E-4** Provides other predicted NTSC Grade B services in the vicinity of the predicted Grade B contour of KAIH-TV and area shaded where four or less other predicted Grade B services are found within the predicted KAIH-TV Grade B contour.
- Exhibit E-5** Provides other predicted DTV noise-limited contours in the vicinity of the predicted 36 dBu DT contour of KHAW-TV and the area shaded where four or less noise-limited contours are found within the predicted KHAW-TV 36 dBu contour.
- Exhibit E-6** Provides other predicted DTV noise-limited contours in the vicinity of the predicted 36 dBu DT contour of KAIH-TV and the area shaded where four or less noise-limited contours are found within the predicted KAIH-TV 36 dBu contour.

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<sup>1</sup>*In the Matter of Television Satellite Stations Review and Policy and Rules, MB Docket No. 87-8, adopted June 13, 1991 and released July 8, 1991*

The contours are based on the contour methodology for NTSC and DTV stations contained in Part 73 of the FCC Rules. The 30-second NGDC global data has been utilized to determine terrain. The information for technical information for each station was extracted from the Consolidated Data Base System ("CDBS") on November 13, 2009.

The calculated percentages for each station for analog NTSC and DTV are as follows.

Four or Fewer Services–Reception Test per Paragraph 19  
Report and Order MM Docket 87-8

Analog NTSC

KHAW-TV	75.3%
KAIL-TV	10.4%

DTV

KHAW-TV	47.3%
KAIL-TV	14.4%

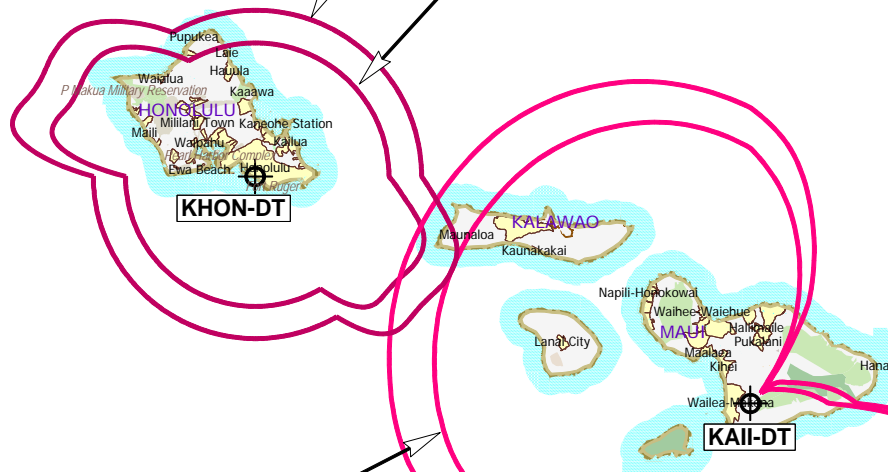






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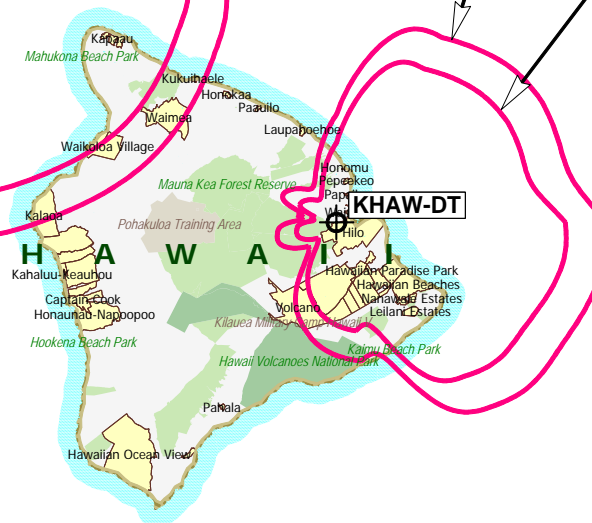
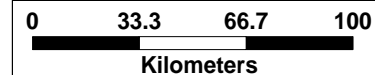
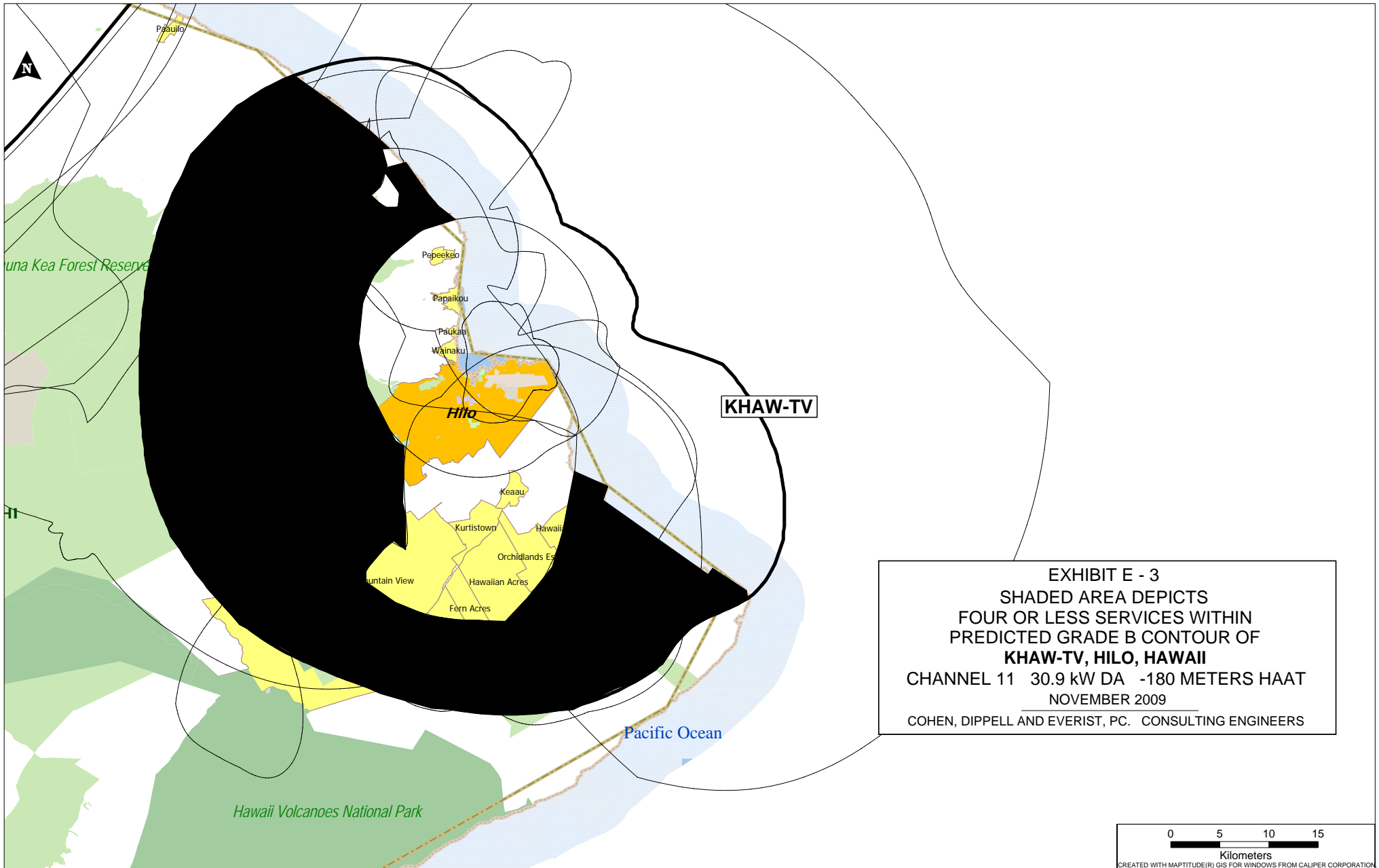


EXHIBIT E - 2  
COMPUTED COVERAGE CONTOURS FOR  
THE DTV OPERATIONS OF  
KHON-DT, KAI-DT AND KHAW-DT  
NOVEMBER 2009

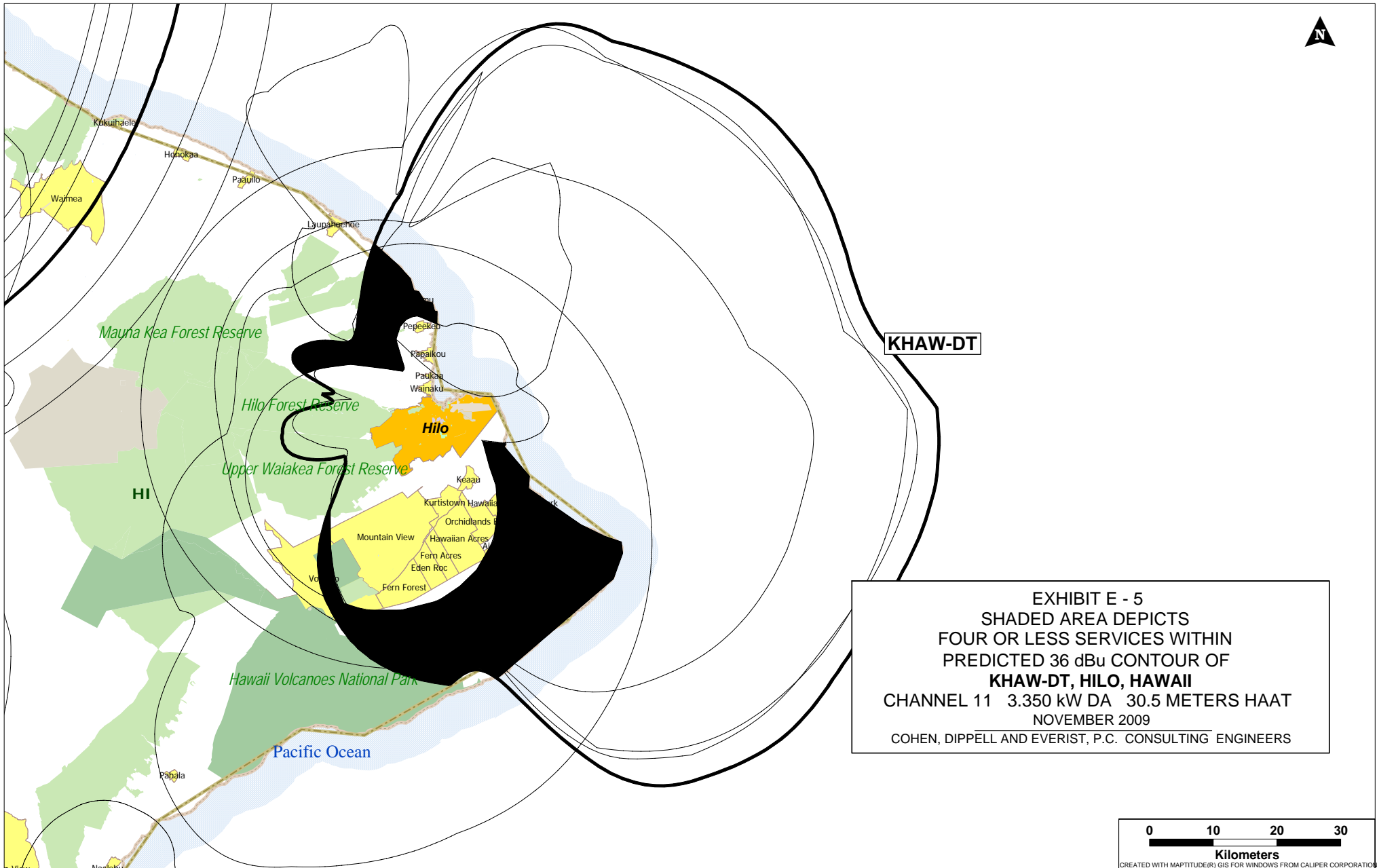
COHEN, DIPPELL AND EVERIST, P.C. CONSULTING ENGINEERS



CREATED WITH MAPTITUDE(R) GIS FOR WINDOWS FROM CALIPER CORPORATION.









## **ATTACHMENT 2**

November 12, 2009

Mr. William Lake  
Chief-Media Bureau  
Federal Communications Commission  
445 12<sup>th</sup> St. S.W.  
Room 3- C740  
Washington, D. C. 20554

Re: KHON-TV, Honolulu, Hawaii  
KHAU-TV, Hilo, Hawaii  
KAI-TV, Wailuku, Hawaii

Dear Mr. Lake:

In regard to the transfer application concerning the above properties, I have been requested to render an opinion on the continued operation of KHAU-TV and KAI-TV as satellites of KHON-TV. This letter addresses the feasibility of viably operating and marketing the stations as full service stand alone operations as opposed to their continued operation as satellites.

By way of background, I have over forty years of experience in the broadcast industry as an owner, manager and broker of broadcast properties. I am President of CobbCorp, a media brokerage and investment and merchant banking firm specializing in television station transactions. I was a founding member of Media Venture Partners, a nationally recognized media brokerage firm, and I was responsible for the appraisal and brokerage of television stations for that company. Over the past twenty-seven years, I have been involved in the brokerage of more television stations than any other broker. I am a past president of the National Association of Media Brokers and regularly speak on industry panels.

Having acted as broker in a sales transaction and opined at a different time on the satellite status of a different station in the market, I am familiar with the market and the television stations' signals, the level of competition among the stations, the current economic environment and other relevant market data. I believe I am qualified to reach conclusions concerning the subject stations' positions in the market regarding their ability to compete and whether continued satellite status is warranted.

There are eight owners with full power commercial television outlets on the air and licensed to the city of Honolulu. All four of the major network affiliates are licensed to Honolulu but have satellites to cover the DMA. The Honolulu market is ranked as the 72<sup>nd</sup> largest DMA according to Nielsen. However, the DMA is comprised of several islands in addition to Oahu





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where Honolulu is located. The DMA not only includes several islands, but the various islands encompass very difficult and hilly terrain. It is impossible to fully serve the DMA without Honolulu stations having satellite facilities on other islands.

Conversely, it would be impossible for any of the satellite stations to adequately serve the DMA without covering Honolulu, the financial hub of the DMA containing the majority of the population. With so many outlets competing in this medium sized market with estimated television advertising revenue of barely over \$50,000,000, it would not be practical for any of the satellite stations to compete with full power stations that have network affiliations. The full power stations in Honolulu are having a difficult time even in the major population center and with network affiliations. A satellite station would not even have an affiliation available to enable it to compete. None of the current satellite stations provide a signal strong enough to cover the market nor do any of them reach Honolulu. Neither KHAW or KAIH have a signal that reaches Oahu even within their grade B contour.

With no network affiliations available, and over the air coverage that covers a small percentage of the population, the ability of the satellites to serve as full service facilities would be a futile economic pursuit. If any of the stations were forced to operate as stand alone operations and compete in the market, not only would they suffer financially, but the viewers in their coverage area would be denied network programming and news and weather pertinent to their lives that they now receive from KHON. The stations are primary examples why certain outlets should operate as satellites.

As a broker, I would be hesitant to offer these stations knowing that a prospective buyer would be hard pressed to find a successful format in a healthy economic environment let alone during a recession. It is highly unlikely that a financially viable operator could be found to provide a full service operation to the outlying communities.

Sincerely,

Brian E. Cobb  
President