$2,570,000
EASTERN WYOMING PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS
(WEST VIRGINIA DWTRF PROGRAM), 2006 SERIES A

Closing Date: January 12, 2006

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State of West Virginia

Certificate

I, Betty Ireland, Secretary of State of the State of West Virginia, hereby certify that

THIS IS A TRUE COPY OF CHAPTER 16, ARTICLE 13A OF THE WEST VIRGINIA CODE, AS INDICATED BY THE RECORDS OF THIS OFFICE.

Given under my hand and the Great Seal of the State of West Virginia on

January 4, 2006

Secretary of State

jurisdiction and authority provided by this section does not extend to highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia division of highways and no rates, fees or charges for stormwater services or costs of compliance may be assessed against highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia division of highways. (1955, c. 135; 1967, c. 105; 1994, c. 61; 2001, c. 212.)

Effect of amendment of 2001. — Acts 2001, c. 212, effective July 13, 2001, substituted "the" for "such" throughout, substituted "the" for "said" throughout, inserted "fees" following "rates" throughout; in the first paragraph, inserted "and/or stormwater system" following "existing sewer system", inserted "or stormwater system" following "such sewer system"; in the second paragraph, inserted "or stormwater" following "sewage", inserted "or stormwater facilities" following "sewer facilities"; in the fourth paragraph, added "or entire stormwater works" to the end; in the sixth paragraph, deleted "such" following "fixing" and "publication of"; in the eighth paragraph, deleted "such" preceding "rates" twice; and in the last paragraph, added the proviso.

Applied in City of Morgantown v. Town of Star City, 156 W. Va. 529, 195 S.E.2d 166 (1973).

§ 16-13-24. Article to be construed liberally.

This article being necessary for the public health, safety and welfare, it shall be liberally construed to effectuate the purpose thereof. (1933, Ex. Sess., c. 25, § 24.)

Quoted in West Virginia Water Serv. Co. v. Cunningham, 143 W. Va. 1, 98 S.E.2d 891 (1957).

ARTICLE 13A.

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16-13A-25. Borrowing and bond issuance; procedure.

Textbooks. — Instructions for Virginia and West Virginia, Publisher's Editorial Staff (Michie).

Constitutionality. — The act from which this article was derived, authorizing the creation of public service districts by the county courts of this State, defining the powers and duties of the governing boards of such districts in the acquisition, construction, maintenance, operation, improvement and extension of property supplying water and sewerage services, and authorizing the issuance of bonds of such districts payable solely from revenue to be derived from the operation of such properties, does not violate any provision of the Constitution of this State or the Fourteenth Amendment to the Constitution of the United States. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

Purpose. — The purpose of this article is to provide water and sewerage facilities in unincorporated districts. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

The title to Acts 1953, c. 147, is sufficient to give a fair and reasonable index to all of the purposes of the act. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

Public utilities. — Public service districts are "public utilities" because they are required to pay a special license fee pursuant to § 24-3-6 for support of the public service commission. 50 Op. Att'y Gen. 447 (1963).

Cited in Berkeley County Pub. Serv. Dist. v. Vitro Corp. of Am., 152 W. Va. 252, 162 S.E.2d 189 (1968); State v. Neary, 179 W. Va. 115, 365 S.E.2d 395 (1987); McClung Invs., Inc. v. Green Valley Community Pub. Serv. Dist, 199 W. Va. 490, 485 S.E.2d 434 (1997).

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§ 16-13A-1. Legislative findings.

The Legislature of the state of West Virginia hereby determines and finds that the present system of public service districts within the state has provided a valuable service at a reasonable cost to persons who would otherwise have been unable to obtain public utility services. To further this effort, and to ensure that all areas of the state are benefiting from the availability of public service district utility services and to further correct areas with health hazards, the Legislature concludes that it is in the best interest of the public to implement better management of public service district resources by expanding the ability and the authority of the public service commission to assist public service districts by offering advice and assistance in operational, financial and regulatory affairs.

In addition to the expanded powers which shall be given to the public service commission, the Legislature also concludes that it is in the best interest of the public for each county commission to review current technology available and consider consolidating existing public service districts where it is feasible and will not result in the interference with existing bond instruments. Further, if such consolidation is not feasible, the Legislature finds that it is in the best interest of the public for each county commission to review current technology available and consider consolidating or centralizing the management of public service districts within its county or multi-county area to achieve efficiency of operations. The Legislature also finds that additional guidelines should be imposed on the creation of new public service districts and that county commissions shall dissolve inactive public service districts as hereinafter provided. The Legislature also finds that the public service commission shall promulgate rules and regulations to effectuate the expanded powers given to the commission relating to public service districts. (1953, c. 147; 1980, c. 60; 1986, c. 81.)

Authority of county commissions. — The county courts (now county commissions) may not supersede the authority delegated by them to public service districts created in accordance with the provisions of this article. Op. Att'y Gen., June 27, 1973.

Public service district — Authority. — A public service district, which was created only for the purposes of furnishing water services, has no power to condemn real estate for sewerage facilities. Canyon Pub. Serv. Dist. v. Tasa Coal Co., 156 W. Va. 606, 195 S.E.2d 647 (1973).

Public service district — Purpose. — The purpose for the creation of a public service district may be ascertained by a review of the order establishing the district and the history behind the creation of the district (the notice of hearing and hearings held prior to the creation of the district). Op. Att'y Gen., July 8, 1976.

Cited in State ex rel. APCO v. Gainer, 149 W. Va. 740, 143 S.E.2d 351 (1965); Shobe v. Latimer, 162 W. Va. 779, 253 S.E.2d 54 (1979).

§ 16-13A-1a. Jurisdiction of the public service commission.

The jurisdiction of the public service commission relating to public service districts shall be expanded to include the following powers, and such powers shall be in addition to all other powers of the public service commission set forth in this code:

(a) To study, modify, approve, deny or amend the plans created under section one-b [§ 16-13A-1b] of this article for consolidation or merger of public service districts and their facilities, personnel or administration;

(b) To petition the appropriate circuit court for the removal of a public service district board member or members; and

(c) To create by general order a separate division within the public service commission to provide assistance to public service districts in technological, operational, financial and regulatory matters. (1986, c. 81.)

Cited in State ex rel. Water Dev. Auth. v. Northern Wayne County Pub. Serv. Dist., 195 W. Va. 135, 464 S.E.2d 777 (1995).

§ 16-13A-1b. County commissions to develop plan to create, consolidate, merge, expand or dissolve public service districts.

Each county commission shall conduct a study of all public service districts which have their principal offices within its county and shall develop a plan relating to the creation, consolidation, merger, expansion or dissolution of such districts or the consolidation or merger of management and administrative services and personnel and shall present such plan to the public service commission for approval, disapproval, or modification: Provided, That within ninety days of the effective date of this section each county commission in this state shall elect either to perform its own study or request that the public service commission perform such study. Each county commission electing to perform its own study has one year from the date of election to present such plan to the public service commission. For each county wherein the county commission elects not to perform its own study, the public service commission shall conduct a study of such county. The public service commission shall establish a schedule for such studies upon a priority basis, with those counties perceived to have the greatest need of creation or consolidation of public service districts receiving the highest priority. In establishing the priority schedule, and in the performance of each study, the bureau of public health and the division of environmental protection shall offer their assistance and cooperation to the public service commission. Upon completion by the public service commission of each study, it shall be submitted to the appropriate county commission for review and comment. Each county commission has six months in which to review the study conducted by the public service commission, suggest changes or modifications thereof, and present such plan to the public service commission. All county plans, whether conducted by the county commission itself or submitted as a result of a public service commission study, shall, by order, be approved, disapproved or modified by the public service commission in accordance with rules promulgated by the public service commission and such order shall be implemented by the county commission. (1986, c. 81; 1994, c. 61.)

§ 16-13A-1c. General purpose of districts.

Any territory constituting the whole or any part of one or more counties in the state so situated that the construction or acquisition by purchase or otherwise and the maintenance, operation, improvement and extension of, properties supplying water or sewerage services or gas distribution services or all of these within such territory, will be conducive to the preservation of the public health, comfort and convenience of such area, may be constituted a public service district under and in the manner provided by this article. The words "public service properties," when used in this article, shall mean and include any facility used or to be used for or in connection with (1) the diversion, development, pumping, impounding, treatment, storage, distribution or furnishing of water to or for the public for industrial, public, private or

other uses (herein sometimes referred to as "water facilities"), (2) the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes (herein sometimes referred to as "sewer facilities" or "landfills") or (3) the distribution or the furnishing of natural gas to the public for industrial, public, private or other uses (herein sometimes referred to as "gas utilities or gas system"). (1986, c. 81.)

§ 16-13A-2. Creation of districts by county commission; enlarging, reducing, merging, or dissolving district; consolidation; agreements, etc.; infringing upon powers of county commission; filing list of members and districts with the secretary of state.

(a) The county commission of any county may propose the creation, enlargement, reduction, merger, dissolution, or consolidation of a public service district by any of the following methods: (1) on its own motion by order duly adopted, (2) upon the recommendation of the public service commission, or (3) by petition of twenty-five percent of the registered voters who reside within the limits of the proposed public service district within one or more counties. The petition shall contain a description, including metes and bounds, sufficient to identify the territory to be embraced therein and the name of such proposed district: Provided, That after the effective date of this section, no new public service district shall be created, enlarged, reduced, merged, dissolved or consolidated under this section without the written consent and approval of the public service commission, which approval and consent shall be in accordance with rules promulgated by the public service commission and may only be requested after consent is given by the appropriate county commission or commissions pursuant to this section. Any territory may be included regardless of whether or not the territory includes one or more cities, incorporated towns or other municipal corporations which own and operate any public service properties and regardless of whether or not it includes one or more cities, incorporated towns or other municipal corporations being served by privately owned public service properties: Provided, however, That the same territory shall not be included within the boundaries of more than one public service district except where the territory or part thereof is included within the boundaries of a separate public service district organized to supply water, sewerage services or gas facilities not being furnished within such territory or part thereof: Provided further, That no city, incorporated town or other municipal corporation shall be included within the boundaries of the proposed district except upon the adoption of a resolution of the governing body of the city, incorporated town or other municipal corporation consenting.

(b) The petition shall be filed in the office of the clerk of the county commission of the county in which the territory to constitute the proposed district is situated, and if the territory is situated in more than one county, then the petition shall be filed in the office of the clerk of the county

commission of the county in which the major portion of the territory extends, and a copy thereof (omitting signatures) shall be filed with each of the clerks of the county commission of the other county or counties into which the territory extends. The clerk of the county commission receiving such petition shall present it to the county commission of the county at the first regular meeting after the filing or at a special meeting called for the consideration thereof.

(c) When the county commission of any county enters an order on its own motion proposing the creation, enlargement, reduction, merger, dissolution or consolidation of a public service district, as aforesaid, or when a petition for the creation is presented, as aforesaid, the county commission shall at the same session fix a date of hearing in the county on the creation, enlargement, reduction, merger, dissolution or consolidation of the proposed public service district, which date so fixed shall be not more than forty days nor less than twenty days from the date of the action. If the territory proposed to be included is situated in more than one county, the county commission, when fixing a date of hearing, shall provide for notifying the county commission and clerk thereof of each of the other counties into which the territory extends of the date so fixed. The clerk of the county commission of each county in which any territory in the proposed public service district is located shall cause notice of the hearing and the time and place thereof, and setting forth a description of all of the territory proposed to be included therein to be given by publication as a Class I legal advertisement in compliance with the provisions of article three [§§ 59-3-1 et seq.], chapter fifty-nine of this code, and the publication area for the publication shall be by publication in each city, incorporated town or municipal corporation if available in each county in which any territory in the proposed public service district is located. The publication shall be at least ten days prior to the hearing.

(d) In all cases where proceedings for the creation, enlargement, reduction, merger, dissolution or consolidation of the public service districts are initiated by petition as aforesaid, the person filing the petition shall advance or satisfactorily indemnify the payment of the cost and expenses of publishing the hearing notice, and otherwise the costs and expenses of the notice shall be paid in the first instance by the county commission out of contingent funds or any other funds available or made available for that purpose. In addition to the notice required herein to be published, there shall also be posted in at least five conspicuous places in the proposed public service district, a notice containing the same information as is contained in the published notice. The posted notices shall be posted not less than ten days before the hearing.

(e) All persons residing in or owning or having any interest in property in the proposed public service district shall have an opportunity to be heard for and against its creation, enlargement, reduction, merger, dissolution or consolidation. At the hearing the county commission before which the hearing is conducted shall consider and determine the feasibility of the creation, enlargement, reduction, merger, dissolution or consolidation of the proposed district. If the county commission determines that the construction or acquisition by purchase or otherwise and maintenance, operation, improvement and

extension of public service properties by the public service district will be conducive to the preservation of public health, comfort and convenience of such area, the county commission shall by order create, enlarge, reduce, merge, dissolve or consolidate such public service district. If the county commission, after due consideration, determines that the proposed district will not be conducive to the preservation of public health, comfort or convenience of the area or that the creation, enlargement, reduction, merger, dissolution or consolidation of the proposed district as set forth and described in the petition or order is not feasible, it may refuse to enter an order creating the district or it may enter an order amending the description of the proposed district and create, enlarge, reduce, merge, dissolve or consolidate the district as amended.

(f) If the county commission determines that any other public service district or districts can adequately serve the area of the proposed public service district, whether by enlargement, reduction, merger, dissolution or consolidation, it shall refuse to enter the order, but shall enter an order creating, enlarging, reducing, merging, dissolving or consolidating the area with an existing public service district, in accordance with rules adopted by the public service commission for such purpose: Provided, That no enlargement of a public service district may occur if the present or proposed physical facilities of the public service district are determined by the appropriate county commission or the public service commission to be inadequate to provide such enlarged service. The clerk of the county commission of each county into which any part of such district extends shall retain in his office an authentic copy of the order creating, enlarging, reducing, merging, dissolving or consolidating the district: Provided, however, That within ten days after the entry of an order creating, enlarging, reducing, merging, dissolving or consolidating a district, such order must be filed for review and approval by the public service commission. The public service commission shall provide a hearing in the affected county on the matter and may approve, reject or modify the order of the county commission if it finds it is in the best interests of the public to do so. The public service commission shall adopt rules relating to such filings and the approval, disapproval or modification of county commission orders for creating, enlarging, merging, dissolving or consolidating districts. The provisions of this section shall not apply to the implementation by a county commission of an order issued by the public service commission pursuant to this section and section one-b [§ 16-13A-1b] of this article.

(g) The county commission may, if in its discretion it deems it necessary, feasible and proper, enlarge the district to include additional areas, reduce the area of the district, where facilities, equipment, service or materials have not been extended, or dissolve the district if inactive or create or consolidate two or more such districts. If consolidation of districts is not feasible, the county commission may consolidate and centralize management and administration of districts within its county or multi-county area to achieve efficiency of operations: Provided, That where the county commission determines on its own motion by order entered of record, or there is a petition to enlarge the district, merge and consolidate districts, or the management and administration thereof, reduce the area of the district or dissolve the district if inactive,

all of the applicable provisions of this article providing for hearing, notice of hearing and approval by the public service commission shall apply. The commission shall at all times attempt to bring about the enlargement or merger of existing public service districts in order to provide increased services and to eliminate the need for creation of new public service districts in those areas which are not currently serviced by a public service district: Provided, however, That where two or more public service districts are consolidated pursuant to this section, any rate differentials may continue for the period of bonded indebtedness incurred prior to consolidation. The districts may not enter into any agreement, contract or covenant that infringes upon, impairs, abridges or usurps the duties, rights or powers of the county commission, as set forth in this article, or conflicts with any provision of this article.

(h) A list of all districts and their current board members shall be filed by the county commission with the secretary of state and the public service commission by the first day of July of each year. (1953, c. 147; 1965, c. 134; 1967, c. 105; 1975, c. 140; 1980, c. 60; 1981, c. 124; 1986, c. 81; 1995, c. 125.)

Editor's notes. — Concerning the reference in (a) to "the effective date of this section," this language was added by Acts 1986, c. 81, and became effective June 6, 1986.

Textbooks. — Instructions for Virginia and West Virginia, Publisher's Editorial Staff (Michie).

Constitutionality. — There is no unlawful delegation of legislative power to the county courts (now county commissions) of this State under this section in violation of W. Va. Const., art. V, § 1, and art. VI, § 1. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

There is no unconstitutional delegation of judicial functions to the county court (now county commission) made by this section. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

Authority of commission and voters. — (1) Only the county commission has the affirmative authority to create, enlarge or reduce a public service district; (2) in the absence of any action by a county commission, the requisite number of qualified voters in the affected geographic area may petition a county commission to create, enlarge or reduce a public service district, and, that upon the filing of such petition, a hearing shall be held thereon; (3) the county commission may, in its discretion, refuse to act in an affirmative manner upon such formal petition for creation, enlargement or reduction of such public service district, which action is not subject to protest or public referendum; (4) the county commission may, on its own motion or on the basis of such proper petition, enter an order creating, enlarging or reducing a public service district, which such action and order are subject to a hearing requiring proper notice, and a formal protest and public referendum depending upon the number of qualified voters who protest such action. Op. Att'y Gen., Nov. 13, 1975.

Authority of court. — A county court (now county commission) has authority to add sewerage services to the facilities of a public service district which was created for the purpose of furnishing water services, under appropriate proceedings. Canyon Pub. Serv. Dist. v. Tasa Coal Co., 156 W. Va. 606, 195 S.E.2d 647 (1973).

Compliance. — The provisions of this section relating to the filing of the petition or motion of the county court (now county commission), the description of the territory to be embraced and like provisions are mandatory, but the use of the word "shall," in relation to the requirements for the posting and publication of notice and the time of setting the hearing are directory and require only substantial compliance. Canyon Pub. Serv. Dist. v. Tasa Coal Co., 156 W. Va. 606, 195 S.E.2d 647 (1973).

Merger or consolidation of districts. — This section authorizes either merger or consolidation of public service districts. Op. Att'y Gen., June 12, 1985, No. 9.

A merger or consolidation results in one corporation which, in the case of merger, will be the corporation designated by the commissioners as the surviving corporation, and with respect to a consolidation, will be a new corporate entity. Op. Att'y Gen., June 12, 1985, No. 9.

Overlapping districts. — Where there is no bond indebtedness outstanding to be paid by a public service district, the county commission creating a public service district may undertake to enlarge or reduce the areas of various overlapping districts or may even consolidate the overlapping districts into one district. Op. Att'y Gen., July 8, 1976.

Public corporation. — A public service

district is a public corporation and does not come within the constitutional inhibition requiring all corporations to be created by general law. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

Referendum. — There is no authority for voters, by written protest or otherwise, to force a referendum upon the issue of whether or not a created public service district should be continued or abolished. 52 Op. Att'y Gen. 33 (1966).

"Shall apply with like effect," etc. — Because a protest against creation triggers a referendum, the language "shall apply with like effect as if a district were being created" can mean only that a protest against enlargement or reduction likewise triggers a referendum. Op. Att'y Gen., Nov. 13, 1975.

Applied in Berkeley County Pub. Serv. Sewer Dist. v. West Va. Pub. Serv. Comm'n, 204 W. Va. 279, 512 S.E.2d 201 (1998).

Cited in State v. Neary, 179 W. Va. 115, 365 S.E.2d 395 (1987).

§ 16-13A-3. District to be a public corporation and political subdivision; powers thereof; public service boards.

From and after the date of the adoption of the order creating any public service district, it is a public corporation and political subdivision of the state, but without any power to levy or collect ad valorem taxes. Each district may acquire, own and hold property, both real and personal, in its corporate name, and may sue, may be sued, may adopt an official seal and may enter into contracts necessary or incidental to its purposes, including contracts with any city, incorporated town or other municipal corporation located within or without its boundaries for furnishing wholesale supply of water for the distribution system of the city, town or other municipal corporation, and contract for the operation, maintenance, servicing, repair and extension of any properties owned by it or for the operation and improvement or extension by the district of all or any part of the existing municipally owned public service properties of any city, incorporated town or other municipal corporation included within the district: Provided, That no contract shall extend beyond a maximum of forty years, but provisions may be included therein for a renewal or successive renewals thereof and shall conform to and comply with the rights of the holders of any outstanding bonds issued by the municipalities for the public service properties.

The powers of each public service district shall be vested in and exercised by a public service board consisting of not less than three members, who shall be persons residing within the district, who possess certain educational, business or work experience which will be conducive to operating a public service district. Each board member shall, within six months of taking office, successfully complete the training program to be established and administered by the public service commission in conjunction with the division of environmental protection and the bureau of public health. Board members shall not be or become pecuniarily interested, directly or indirectly, in the proceeds of any contract or service, or in furnishing any supplies or materials to the district nor shall a former board member be hired by the district in any capacity within a minimum of twelve months after board member's term has expired or such board member has resigned from the district board. The members shall be appointed in the following manner:

Each city, incorporated town or other municipal corporation having a population of more than three thousand but less than eighteen thousand is

entitled to appoint one member of the board, and each city, incorporated town or other municipal corporation having a population in excess of eighteen thousand shall be entitled to appoint one additional member of the board for each additional eighteen thousand population. The members of the board representing such cities, incorporated towns or other municipal corporations shall be residents thereof and shall be appointed by a resolution of the governing bodies thereof and upon the filing of a certified copy or copies of the resolution or resolutions in the office of the clerk of the county commission which entered the order creating the district, the persons so appointed become members of the board without any further act or proceedings. If the number of members of the board so appointed by the governing bodies of cities, incorporated towns or other municipal corporations included in the district equals or exceeds three, then no further members shall be appointed to the board and the members so appointed are the board of the district except in cases of merger or consolidation where the number of board members may equal five.

If no city, incorporated town or other municipal corporation having a population of more than three thousand is included within the district, then the county commission which entered the order creating the district shall appoint three members of the board, who are persons residing within the district and residing within the state of West Virginia, which three members become members of the board of the district without any further act or proceedings except in cases of merger or consolidation where the number of board members may equal five.

If the number of members of the board appointed by the governing bodies of cities, incorporated towns or other municipal corporations included within the district is less than three, then the county commission which entered the order creating the district shall appoint such additional member or members of the board, who are persons residing within the district, as is necessary to make the number of members of the board equal three except in cases of merger or consolidation where the number of board members may equal five, and the member or members appointed by the governing bodies of the cities, incorporated towns or other municipal corporations included within the district and the additional member or members appointed by the county commission as aforesaid, are the board of the district. A person may serve as a member of the board in one or more public service districts.

The population of any city, incorporated town or other municipal corporation, for the purpose of determining the number of members of the board, if any, to be appointed by the governing body or bodies thereof, is the population stated for such city, incorporated town or other municipal corporation in the last official federal census.

Notwithstanding any provision of this code to the contrary, whenever a district is consolidated or merged pursuant to section two [§ 16-13A-2] of this article, the terms of office of the existing board members shall end on the effective date of the merger or consolidation. The county commission shall appoint a new board according to rules promulgated by the public service commission. Whenever districts are consolidated or merged no provision of this code prohibits the expansion of membership on the new board to five.

The respective terms of office of the members of the first board shall be fixed by the county commission and shall be as equally divided as may be, that is approximately one third of the members for a term of two years, a like number for a term of four years, the term of the remaining member or members for six years, from the first day of the month during which the appointments are made. The first members of the board appointed as aforesaid shall meet at the office of the clerk of the county commission which entered the order creating the district as soon as practicable after the appointments and shall qualify by taking an oath of office: Provided, That any member or members of the board may be removed from their respective office as provided in section three-a [§ 16-13A-3a] of this article.

Any vacancy shall be filled for the unexpired term within thirty days, otherwise successor members of the board shall be appointed for terms of six years and the terms of office shall continue until successors have been appointed and qualified. All successor members shall be appointed in the same manner as the member succeeded was appointed. The district shall provide to the public service commission, within thirty days of the appointment, the following information: The new board member's name, home address, home and office phone numbers, date of appointment, length of term, who the new member replaces and if the new appointee has previously served on the board. The public service commission shall notify each new board member of the legal obligation to attend training as prescribed in this section.

The board shall organize within thirty days following the first appointments and annually thereafter at its first meeting after the first day of January of each year by selecting one of its members to serve as chair and by appointing a secretary and a treasurer who need not be members of the board. The secretary shall keep a record of all proceedings of the board which shall be available for inspection as other public records. Duplicate records shall be filed with the county commission and shall include the minutes of all board meetings. The treasurer is lawful custodian of all funds of the public service district and shall pay same out on orders authorized or approved by the board. The secretary and treasurer shall perform other duties appertaining to the affairs of the district and shall receive salaries as shall be prescribed by the board. The treasurer shall furnish bond in an amount to be fixed by the board for the use and benefit of the district.

The members of the board, and the chair, secretary and treasurer thereof, shall make available to the county commission, at all times, all of its books and records pertaining to the district's operation, finances and affairs, for inspection and audit. The board shall meet at least monthly. (1953, c. 147; 1965, c. 134; 1971, c. 72; 1981, c. 124; 1983, c. 166; 1986, c. 81; 1994, c. 61; 1997, c. 159.)

Textbooks. — Instructions for Virginia and West Virginia, Publisher's Editorial Staff (Michie).

W. Va. Law Review. — Fisher, "The Scope of Title Examination in West Virginia: Can Reasonable Minds Differ?," 98 W. Va. L. Rev. 449 (1996).

Authority of districts. — Public service districts are agents of the county commission by which they were created, having no authority other than that expressly set out in this article. Op. Att'y Gen., July 8, 1976.

Compensation for additional duties. — Board members of a public service district could not be compensated for performing the duties of treasurer and/or secretary, or for reading

meters for the public service district. Op. Att'y Gen., July 14, 1988, No. 2.

Exemptions. — Public service districts of West Virginia are political subdivisions of the State, and as such, they are specifically, by express statute, exempted from the duty of paying registration fees (provided by § 17A-10-8), the privilege tax (imposed by § 17A-3-4), and the certificate of title charge (required by § 17A-3-4). 49 Op. Att'y Gen. 131 (1961).

Furnishing water to another state. — A public service district may furnish water wholesale in bulk quantities to a municipal corporation in another state. 51 Op. Att'y Gen. 739 (1966).

Applied in McCloud v. Salt Rock Water Pub. Serv. Dist., 207 W. Va. 453, 533 S.E.2d 679 (2000).

Cited in State v. Neary, 179 W. Va. 115, 365 S.E.2d 395 (1987).

§ 16-13A-3a. Removal of members of public service board.

The county commission or the public service commission or any other appointive body creating or establishing a public service district under the provisions of this article, or any group of five percent or more of the customers of a public service district, may petition the circuit court of the county in which the district maintains its principal office for the removal of any member of the governing board thereof for consistent violations of any provisions of this article, for reasonable cause which includes, but is not limited to, a continued failure to attend meetings of the board, failure to diligently pursue the objectives for which the district was created, or failure to perform any other duty either prescribed by law or required by a final order of the public service commission or for any malfeasance in public office. Any board member charged with a violation under this section who offers a successful defense against such charges shall be reimbursed for the reasonable costs of such defense from district revenues. Such costs shall be considered as costs associated with rate determination by the public service district and the public service commission. If the circuit court judge hearing the petition for removal finds that the charges are frivolous in nature, the judge may assess all or part of the court costs, plus the reasonable costs associated with the board member's defense, against the party or parties who petitioned the court for the board member's removal. (1963, c. 75; 1971, c. 72; 1981, c. 124; 1986, c. 81.)

Textbooks. — Instructions for Virginia and West Virginia, Publisher's Editorial Staff (Michie).

Quoted in State v. Neary, 179 W. Va. 115, 365 S.E.2d 395 (1987).

§ 16-13A-4. Board chairman; members' compensation; procedure; district name.

(a) The chairman shall preside at all meetings of the board and may vote as any other member of the board. If the chairman is absent from any meeting, the remaining members may select a temporary chairman and if the member selected as chairman resigns as such or ceases for any reason to be a member of the board, the board shall select one of its members as chairman to serve until the next annual organization meeting.

(b) Salaries of the board members are:

(1) For districts with fewer than six hundred customers, up to seventy-five dollars per attendance at regular monthly meetings and fifty dollars per

attendance at additional special meetings, total salary not to exceed fifteen hundred dollars per annum;

(2) For districts with six hundred customers or more but fewer than two thousand customers, up to one hundred dollars per attendance at regular monthly meetings and seventy-five dollars per attendance at additional special meetings, total salary not to exceed two thousand five hundred fifty dollars per annum;

(3) For districts with two thousand customers or more, up to one hundred twenty-five dollars per attendance at regular monthly meetings and seventy-five dollars per attendance at additional special meetings, total salary not to exceed three thousand seven hundred fifty dollars per annum; and

(4) For districts with four thousand or more customers, up to one hundred fifty dollars per attendance at regular monthly meetings and one hundred dollars per attendance at additional special meetings, total salary not to exceed five thousand four hundred dollars per annum.

The public service district shall certify the number of customers served to the public service commission beginning on the first day of July, one thousand nine hundred eighty-six, and continue each fiscal year thereafter.

(c) Public service districts selling water to other water utilities for resale may adopt the following salaries for its board members:

(1) For districts with annual revenues of less than fifty thousand dollars, up to seventy-five dollars per attendance at regular monthly meetings and fifty dollars per attendance at additional special meetings, total salary not to exceed fifteen hundred dollars per annum;

(2) For districts with annual revenues of fifty thousand dollars or more, but less than two hundred fifty thousand dollars, up to one hundred dollars per attendance at regular monthly meetings and seventy-five dollars per attendance at special meetings, total salary not to exceed two thousand five hundred fifty dollars per annum;

(3) For districts with annual revenues of two hundred fifty thousand dollars or more, but less than five hundred thousand dollars, up to one hundred twenty-five dollars per attendance at regular monthly meetings and seventy-five dollars per attendance at additional special meetings, total salary not to exceed three thousand seven hundred fifty dollars per annum; and

(4) For districts with annual revenues of five hundred thousand dollars or more, up to one hundred fifty dollars per attendance at regular monthly meetings and one hundred dollars per attendance at additional special meetings, total salary not to exceed five thousand four hundred dollars per annum.

The public service district shall certify the number of customers served and its annual revenue to the public service commission beginning on the first day of July, two thousand, and continue each fiscal year thereafter.

(d) Board members may be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their duties as provided for by the rules of the board.

(e) The board shall by resolution determine its own rules of procedure, fix the time and place of its meetings and the manner in which special meetings

may be called. Public notice of meetings shall be given in accordance with section three [§ 6-9A-3], article nine-a, chapter six of this code. Emergency meetings may be called as provided for by said section. A majority of the members constituting the board also constitute a quorum to do business.

(f) The members of the board are not personally liable or responsible for any obligations of the district or the board, but are answerable only for willful misconduct in the performance of their duties. At any time prior to the issuance of bonds as hereinafter provided, the board may by resolution change the official or corporate name of the public service district and the change is effective from the filing of an authenticated copy of such resolution with the clerk of the county commission of each county in which the territory embraced within such district or any part thereof is located and with the public service commission. The official name of any district created under the provisions of this article may contain the name or names of any city, incorporated town or other municipal corporation included therein or the name of any county or counties in which it is located. (1953, c. 147; 1981, c. 124; 1986, c. 81; 1997, c. 159; 2000, c. 199.)

Effect of amendment of 2000. — Acts 2000, c. 199, effective June 9, 2000, rewrote the section.

Compensation for performing additional duties. — Board members of a public service district could not be compensated for performing the duties of treasurer and/or secretary, or for reading meters for the public service district. Op. Att'y Gen., July 14, 1988, No. 2.

§ 16-13A-5. General manager of board.

The board may employ a general manager to serve a term of not more than five years and until his successor is employed, and his compensation shall be fixed by resolution of the board. Such general manager shall devote all or the required portion of his time to the affairs of the district and may employ, discharge and fix the compensation of all employees of the district, except as in this article otherwise provided, and he shall perform and exercise such other powers and duties as may be conferred upon him by the board.

Such general manager shall be chosen without regard to his political affiliations and upon the sole basis of his administrative and technical qualifications to manage public service properties and affairs of the district and he may be discharged only upon the affirmative vote of two thirds of the board. Such general manager need not be a resident of the district at the time he is chosen. Such general manager may not be a member of the board but shall be an employee of the board.

The board of any public service district which purchases water or sewer service from a municipal water of sewer system or another public service district may, as an alternative to hiring its own general manager, elect to permit the general manager of the municipal water or sewer system or public service district from which such water or sewer service is purchased provide professional management to the district, if the appropriate municipality or public service board agrees to provide such assistance. The general manager shall receive reasonable compensation for such service. (1953, c. 147; 1981, c. 124; 1986, c. 81.)

§ 16-13A-6. Employees of board.

The board may in its discretion from time to time by resolution passed by a majority vote provide for the employment of an attorney, fiscal agent, one or more engineers and such other employees as the board may determine necessary and expedient. The board shall in and by such resolution fix the term of employment and compensation and prescribe the duties to be performed by such employees. (1953, c. 147; 1981, c. 124.)

§ 16-13A-7. Acquisition and operation of district properties.

The board of such districts shall have the supervision and control of all public service properties acquired or constructed by the district, and shall have the power, and it shall be its duty, to maintain, operate, extend and improve the same. All contracts involving the expenditure by the district of more than fifteen thousand dollars for construction work or for the purchase of equipment and improvements, extensions or replacements, shall be entered into only after notice inviting bids shall have been published as a Class I legal advertisement in compliance with the provision of article three [§§ 59-3-1 et seq.], chapter fifty-nine of this code, and the publication area for such publication shall be as specified in section two [§ 16-13A-2] of this article in the county or counties in which the district is located. The publication shall not be less than ten days prior to the making of any such contract. To the extent allowed by law, in-state contractors shall be given first priority in awarding public service district contracts. It shall be the duty of the board to ensure that local in-state labor shall be utilized to the greatest extent possible when hiring laborers for public service district construction or maintenance repair jobs. It shall further be the duty of the board to encourage contractors to use American made products in their construction to the extent possible. Any obligations incurred of any kind or character shall not in any event constitute or be deemed an indebtedness within the meaning of any of the provisions or limitations of the constitution, but all such obligations shall be payable solely and only out of revenues derived from the operation of the public service properties of the district or from proceeds of bonds issued as hereinafter provided. No continuing contract for the purchase of materials or supplies or for furnishing the district with electrical energy or power shall be entered into for a longer period than fifteen years. (1953, c. 147; 1967, c. 105; 1981, c. 124; 1982, c. 24; 1986, c. 81; 1997, c. 159.)

§ 16-13A-8. Acquisition and purchase of public service properties; right of eminent domain; extraterritorial powers.

The board may acquire any publicly or privately owned public service properties located within the boundaries of the district regardless of whether or not all or any part of such properties are located within the corporate limits

of any city, incorporated town or other municipal corporation included within the district and may purchase and acquire all rights and franchises and any and all property within or outside the district necessary or incidental to the purpose of the district.

The board may construct any public service properties within or outside the district necessary or incidental to its purposes and each such district may acquire, construct, maintain and operate any such public service properties within the corporate limits of any city, incorporated town or other municipal corporation included within the district or in any unincorporated territory within ten miles of the territorial boundaries of the district: Provided, That if any incorporated city, town or other municipal corporation included within the district owns and operates either water facilities, sewer facilities or gas facilities or all of these, then the district may not acquire, construct, establish, improve or extend any public service properties of the same kind within such city, incorporated towns or other municipal corporations or the adjacent unincorporated territory served by such cities, incorporated towns or other municipal corporations, except upon the approval of the public service commission, the consent of such cities, incorporated towns or other municipal corporations and in conformity and compliance with the rights of the holders of any revenue bonds or obligations theretofore issued by such cities, incorporated towns or other municipal corporations then outstanding and in accordance with the ordinance, resolution or other proceedings which authorize the issuance of such revenue bonds or obligations.

Whenever such district has constructed, acquired or established water facilities, sewer facilities or gas facilities for water, sewer or gas services within any city, incorporated town or other municipal corporation included within a district, then such city, incorporated town or other municipal corporation may not thereafter construct, acquire or establish any facilities of the same kind within such city, incorporated town or other municipal corporation without the consent of such district.

For the purpose of acquiring any public service properties or lands, rights or easements deemed necessary or incidental for the purposes of the district, each such district has the right of eminent domain to the same extent and to be exercised in the same manner as now or hereafter provided by law for such right of eminent domain by cities, incorporated towns and other municipal corporations: Provided, That such board may not acquire all or any substantial part of a privately owned waterworks system unless and until authorized so to do by the public service commission of West Virginia, and that this section shall not be construed to authorize any district to acquire through condemnation proceedings either in whole or substantial part an existing privately owned waterworks plant or system or gas facilities located in or furnishing water or gas service within such district or extensions made or to be made by it in territory contiguous to such existing plant or system, nor may any such board construct or extend its public service properties to supply its services into areas served by or in competition with existing waterworks or gas facilities or extensions made or to be made in territory contiguous to such existing plant or system by the owner thereof. (1953, c. 147; 1980, c. 60; 1981, c. 124.)

Eminent domain. — The grant of power of eminent domain to public service districts by this section is valid. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

If a facility creates a nuisance this harm is simply an element of just compensation in an eminent domain proceeding. Sexton v. Public Serv. Comm'n, 188 W. Va. 305, 423 S.E.2d 914 (1992).

Public service commission, in the absence of specific statutory authority, is not empowered to determine whether particular property interests acquired or to be acquired by a utility are compensable in an eminent domain action, or to render any type of monetary judgment for such property interests. Affixing the value of the property taken is the function of the trier of fact in an eminent domain proceeding. Sexton v. Public Serv. Comm'n, 188 W. Va. 305, 423 S.E.2d 914 (1992).

Superior right of municipality to extend public services. — If a tract of real estate located within a public service district has been annexed into a municipality, then, as between the municipality and the public service district, the municipality has the superior right under this section to extend public services, such as water and/or sewer service, which were not being previously furnished to the tract by the public service district. Berkeley County Pub. Serv. Sewer Dist. v. West Va. Pub. Serv. Comm'n, 204 W. Va. 279, 512 S.E.2d 201 (1998).

When consent of municipality needed. — Where municipality has superior right to extend social services, a public service district would need the consent of the municipality and the public service commission in order to provide such services. Berkeley County Pub. Serv. Sewer Dist. v. West Va. Pub. Serv. Comm'n, 204 W. Va. 279, 512 S.E.2d 201 (1998).

Cited in 45 Op. Att'y Gen. 506 (1953).

§ 16-13A-9. Rules; service rates and charges; discontinuance of service; required water and sewer connections; lien for delinquent fees.

The board may make, enact and enforce all needful rules and regulations in connection with the acquisition, construction, improvement, extension, management, maintenance, operation, care, protection and the use of any public service properties owned or controlled by the district, and the board shall establish rates and charges for the services and facilities it furnishes, which shall be sufficient at all times, notwithstanding the provisions of any other law or laws, to pay the cost of maintenance, operation and depreciation of such public service properties and principal of and interest on all bonds issued, other obligations incurred under the provisions of this article and all reserve or other payments provided for in the proceedings which authorized the issuance of any bonds hereunder. The schedule of such rates and charges may be based upon either (a) the consumption of water or gas on premises connected with such facilities, taking into consideration domestic, commercial, industrial and public use of water and gas; or (b) the number and kind of fixtures connected with such facilities located on the various premises; or (c) the number of persons served by such facilities; or (d) any combination thereof; or (e) may be determined on any other basis or classification which the board may determine to be fair and reasonable, taking into consideration the location of the premises served and the nature and extent of the services and facilities furnished. Where water, sewer and gas services are all furnished to any premises, the schedule of charges may be billed as a single amount for the aggregate thereof. The board shall require all users of services and facilities furnished by the district to designate on every application for service whether the applicant is a tenant or an owner of the premises to be served. If the applicant is a tenant, he or she shall state the name and address of the owner or owners of the premises to be served by the district. All new applicants for service shall

deposit a minimum of fifty dollars with the district to secure the payment of service rates and charges in the event they become delinquent as provided in this section. In any case where a deposit is forfeited to pay service rates and charges which were delinquent at the time of disconnection or termination of service, no reconnection or reinstatement of service may be made by the district until another minimum deposit of fifty dollars has been remitted to the district. Whenever any rates, rentals or charges for services or facilities furnished remain unpaid for a period of thirty days after the same become due and payable, the property and the owner thereof, as well as the user of the services and facilities provided are delinquent and the owner, user and property are liable at law until such time as all such rates and charges are fully paid: Provided, That the property owner shall be given notice of any said delinquency by certified mail, return receipt requested. The board may, under reasonable rules promulgated by the public service commission, shut off and discontinue water or gas services to all delinquent users of either water or gas facilities, or both: Provided, however, That upon written request of the owner or owners of the premises, the board shall shut off and discontinue water and gas services where any rates, rentals, or charges for services or facilities remain unpaid by the user of the premises for a period of sixty days after the same became due and payable.

In the event that any publicly or privately owned utility, city, incorporated town, other municipal corporation or other public service district included within the district owns and operates separately either water facilities or sewer facilities, and the district owns and operates the other kind of facilities, either water or sewer, as the case may be, then the district and such publicly or privately owned utility, city, incorporated town or other municipal corporation or other public service district shall covenant and contract with each other to shut off and discontinue the supplying of water service for the nonpayment of sewer service fees and charges: Provided, That any contracts entered into by a public service district pursuant to this section shall be submitted to the public service commission for approval. Any public service district providing water and sewer service to its customers has the right to terminate water service for delinquency in payment of either water or sewer bills. Where one public service district is providing sewer service and another public service district or a municipality included within the boundaries of the sewer district is providing water service, and the district providing sewer service experiences a delinquency in payment, the district or the municipality included within the boundaries of the sewer district that is providing water service, upon the request of the district providing sewer service to the delinquent account, shall terminate its water service to the customer having the delinquent sewer account: Provided, however, That any termination of water service must comply with all rules and orders of the public service commission.

Any district furnishing sewer facilities within the district may require, or may by petition to the circuit court of the county in which the property is located, compel or may require the bureau of public health to compel all owners, tenants or occupants of any houses, dwellings and buildings located near any such sewer facilities, where sewage will flow by gravity or be

transported by such other methods approved by the bureau of public health including, but not limited to, vacuum and pressure systems, approved under the provisions of section nine [§ 16-1-9], article one, chapter sixteen of this code, from such houses, dwellings or buildings into such sewer facilities, to connect with and use such sewer facilities, and to cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from such houses, dwellings and buildings where there is such gravity flow or transportation by such other methods approved by the bureau of public health including, but not limited to, vacuum and pressure systems, approved under the provisions of section nine, article one, chapter sixteen of this code, and such houses, dwellings and buildings can be adequately served by the sewer facilities of the district, and it is hereby found, determined and declared that the mandatory use of such sewer facilities provided for in this paragraph is necessary and essential for the health and welfare of the inhabitants and residents of such districts and of the state: Provided, That if the public service district determines that the property owner must connect with the sewer facilities even when sewage from such dwellings may not flow to the main line by gravity and the property owner must incur costs for any changes in the existing dwellings' exterior plumbing in order to connect to the main sewer line, the public service district board shall authorize the district to pay all reasonable costs for such changes in the exterior plumbing, including, but not limited to, installation, operation, maintenance and purchase of a pump, or any other method approved by the bureau of public health; maintenance and operation costs for such extra installation should be reflected in the users charge for approval of the public service commission. The circuit court shall adjudicate the merits of such petition by summary hearing to be held not later than thirty days after service of petition to the appropriate owners, tenants or occupants.

Whenever any district has made available sewer facilities to any owner, tenant or occupant of any house, dwelling or building located near such sewer facility, and the engineer for the district has certified that such sewer facilities are available to and are adequate to serve such owner, tenant or occupant, and sewage will flow by gravity or be transported by such other methods approved by the bureau of public health from such house, dwelling or building into such sewer facilities, the district may charge, and such owner, tenant or occupant shall pay the rates and charges for services established under this article only after thirty-day notice of the availability of the facilities has been received by the owner.

All delinquent fees, rates and charges of the district for either water facilities, sewer facilities or gas facilities are liens on the premises served of equal dignity, rank and priority with the lien on such premises of state, county, school and municipal taxes. In addition to the other remedies provided in this section, public service districts are hereby granted a deferral of filing fees or other fees and costs incidental to the bringing and maintenance of an action in magistrate court for the collection of delinquent water, sewer or gas bills. If the district collects the delinquent account, plus reasonable costs, from its customer or other responsible party, the district shall pay to the magistrate the

normal filing fee and reasonable costs which were previously deferred. In addition, each public service district may exchange with other public service districts a list of delinquent accounts.

Anything in this section to the contrary notwithstanding, any establishment, as defined in section three [§ 22-11-3], article eleven, chapter twenty-two, now or hereafter operating its own sewage disposal system pursuant to a permit issued by the division of environmental protection, as prescribed by section eleven [§ 22-11-11], article eleven, chapter twenty-two of this code, is exempt from the provisions of this section. (1953, c. 147; 1965, c. 134; 1980, c. 60; 1981, c. 124; 1986, c. 81; 1989, c. 174; 1994, c. 61.)

W. Va. Law Review. — Fisher, "The Scope of Title Examination in West Virginia: Can Reasonable Minds Differ?," 98 W. Va. L. Rev. 449 (1996).

Abandonment of private systems. — Where a public service district requires a property owner, tenant, or occupant to connect onto its sewer system and to abandon a private sewer system located on the property, such person cannot recover from the public service district the value of the private system on the ground that such abandonment constitutes a taking of private property without just compensation within the meaning of W. Va. Const., art. III, § 9. Kingmill Valley Pub. Serv. Dist. v. Riverview Estates Mobile Home Park, 182 W. Va. 116, 386 S.E.2d 483 (1989).

Buffer-zone requirements. — Public Service Commission did not err in finding that the proposed sewage lagoons site satisfied the buffer-zone requirements. Sexton v. Public Serv. Comm'n, 188 W. Va. 305, 423 S.E.2d 914 (1992).

Duty to pay. — Owners, tenants, or occupants have a duty under this section to pay rates and charges for the district sewer facilities from and after the date of receipt of notice (now 30 days after receipt) that such facilities are available. Rhodes v. Malden Pub. Serv. Dist., 171 W. Va. 645, 301 S.E.2d 601 (1983) (construing this section prior to 1980 and 1981 amendments).

Liens. — The provision that delinquent fixed rates and charges for services rendered by a public service district shall be a lien on the premises served of equal dignity, rank and priority with the lien on such premises of state, county, school and municipal taxes, does not deprive the owners of their property without due process of law. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

Public service district liens created and enforceable under this section are subject to the recordation requirements of § 38-10C-1 so that such liens must be docketed to be enforceable against a purchaser of the property for valuable consideration, without notice. McClung Invs., Inc. v. Green Valley Community Pub. Serv. Dist, 199 W. Va. 490, 485 S.E.2d 434 (1997).

Sewer connection requirements. — The boards of public service districts have no authority to require potential users who live outside the boundaries of the districts, but within the 10-mile limit, to hook onto the district's sewer facilities. Op. Att'y Gen., July 8, 1976.

Quoted in State ex rel. Water Dev. Auth. v. Northern Wayne County Pub. Serv. Dist., 195 W. Va. 135, 464 S.E.2d 777 (1995).

§ 16-13A-9a. Limitations with respect to foreclosure.

No public service district shall foreclose upon the premises served by such district for delinquent fees, rates or charges for which a lien is authorized by sections nine or nineteen [§§ 16-13A-9 or 16-13A-19] of this article except through the bringing and maintenance of a civil action for such purpose brought in the circuit court of the county wherein the district lies. In every such action, the court shall be required to make a finding based upon the evidence and facts presented that the district prior to the bringing of such action had exhausted all other remedies for the collection of debts with respect to such delinquencies. In no event shall foreclosure procedures be instituted by any such district or on its behalf unless such delinquency had been in existence or continued for a period of two years from the date of the first such delinquency for which foreclosure is being sought. (1982, c. 74.)

§ 16-13A-10. Budget.

The board shall establish the beginning and ending of its fiscal year, which period shall constitute its budget year, and at least thirty days prior to the beginning of the first full fiscal year after the creation of the district and annually thereafter the general manager shall prepare and submit to the board a tentative budget which shall include all operation and maintenance expenses, payments to a capital replacement account and bond payment schedules for the ensuing fiscal year. Such tentative budget shall be considered by the board, and, subject to any revisions or amendments that may be determined by the board, shall be adopted as the budget for the ensuing fiscal year. Upon adoption of the budget, a copy of the budget shall be forwarded to the county commission. No expenditures for operation and maintenance expenses in excess of the budget shall be made during such fiscal year unless unanimously authorized and directed by the board. (1953, c. 147; 1981, c. 124.)

Textbooks. — Instructions for Virginia and West Virginia, Publisher's Editorial Staff (Michie).

§ 16-13A-11. Accounts; audit.

The general manager, under direction of the board, shall install and maintain a proper system of accounts, in accordance with all rules, regulations or orders pertaining thereto by the public service commission, showing receipts from operation and application of the same, and the board shall at least once a year cause such accounts to be properly audited: Provided, That such audit may be any audit by an independent public accountant completed within one year of the time required for the submission of the report: Provided, however, That if the district is required to have its books, records and accounts audited annually by an independent certified public accountant as a result of any covenant in any board resolution or bond instrument, a copy of such audit may be submitted in satisfaction of the requirements of this section, and is hereby found, declared and determined to be sufficient to satisfy the requirements of article nine [§§ 6-9-1 et seq.], chapter six of this code pertaining to the annual audit report by the state tax commission. A copy of the audit shall be forwarded within thirty days of submission to the county commission and to the public service commission.

The treasurer of each public service district shall keep and preserve all financial records of the public service district for ten years, and shall at all times have such records readily available for public inspection. At the end of his term of office, the treasurer of each public service district shall promptly deliver all financial records of the public service district to his successor in office. Any treasurer of a public service district who knowingly or willfully violates any provision of this section is guilty of a misdemeanor, and shall be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned in the county jail not more than ten days, or both. (1953, c. 147; 1981, c. 124; 1986, c. 81.)

Textbooks. — Instructions for Virginia and West Virginia, Publisher's Editorial Staff (Michie).

§ 16-13A-12. Disbursement of district funds.

No money may be paid out by a district except upon an order signed by the chairman and secretary of such board, or such other person or persons authorized by the chairman or secretary, as the case may be, to sign such orders on their behalf. Each order for the payment of money shall specify the purposes for which the amount thereof is to be paid, with sufficient clearness to indicate the purpose for which the order is issued, and there shall be endorsed thereon the name of the particular fund out of which it is payable and it shall be payable from the fund constituted for such purpose, and no other. All such orders shall be reflected in the minutes of the next meeting of the board. (1953, c. 147; 1981, c. 124.)

§ 16-13A-13. Revenue bonds.

For constructing or acquiring any public service properties for the authorized purposes of the district, or necessary or incidental thereto, and for constructing improvements and extensions thereto, and also for reimbursing or paying the costs and expenses of creating the district, the board of any such district is hereby authorized to borrow money from time to time and in evidence thereof issue the bonds of such district, payable solely from the revenues derived from the operation of the public service properties under control of the district. Such bonds may be issued in one or more series, may bear such date or dates, may mature at such time or times not exceeding forty years from their respective dates, may bear interest at such rate or rates not exceeding eighteen percent per annum payable at such times, may be in such form, may carry such registration privileges, may be executed in such manner, may be payable at such place or places, may be subject to such terms of redemption with or without premium, may be declared or become due before maturity date thereof, may be authenticated in any manner, and upon compliance with such conditions, and may contain such terms and covenants as may be provided by resolution or resolutions of the board. Notwithstanding the form or tenor thereof, and in the absence of any express recital on the face thereof, that the bond is nonnegotiable, all such bonds shall be, and shall be treated as, negotiable instruments for all purposes. Bonds bearing the signatures of officers in office on the date of the signing thereof shall be valid and binding for all purposes notwithstanding that before the delivery thereof any or all of the persons whose signatures appear thereon shall have ceased to be such officers. Notwithstanding the requirements or provisions of any other law, any such bonds may be negotiated or sold in such manner and at such time or times as is found by the board to be most advantageous, and all such bonds may be sold at such price that the interest cost of the proceeds therefrom does not exceed nineteen percent per annum, based on the average maturity of such bonds and computed according to standard tables of bond values. Any resolu-

tion or resolutions providing for the issuance of such bonds may contain such covenants and restrictions upon the issuance of additional bonds thereafter as may be deemed necessary or advisable for the assurance of the payment of the bonds thereby authorized. (1953, c. 147; 1970, cc. 11, 12; 1970, 1st Ex. Sess., c. 2; 1980, c. 33; 1981, 1st Ex. Sess., c. 2; 1989, c. 174.)

Cross references. — Procedure for borrowing and issuing bonds, § 16-13A-25.

§ 16-13A-14. Items included in cost of properties.

The cost of any public service properties acquired under the provisions of this article shall be deemed to include the cost of the acquisition or construction thereof, the cost of all property rights, easements and franchises deemed necessary or convenient therefor and for the improvements and extensions thereto; interest upon bonds prior to and during construction or acquisition and for six months after completion of construction or of acquisition of the improvements and extensions; engineering, fiscal agents and legal expenses; expenses for estimates of cost and of revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, and such other expenses as may be necessary or incident to the financing herein authorized, and the construction or acquisition of the properties and the placing of same in operation, and the performance of the things herein required or permitted, in connection with any thereof. (1953, c. 147.)

§ 16-13A-15. Bonds may be secured by trust indenture.

In the discretion and at the option of the board such bonds may be secured by a trust indenture by and between the district and a corporate trustee, which may be a trust company or bank having powers of a trust company within or without the State of West Virginia, but no such trust indenture shall convey, mortgage or create any lien upon the public service properties or any part thereof. The resolution authorizing the bonds and fixing the details thereof may provide that such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of bondholders as may be reasonable and proper, not in violation of law, including covenants setting forth the duties of the district and the members of its board and officers in relation to the construction or acquisition of public service properties and the improvement, extension, operation, repair, maintenance and insurance thereof, and the custody, safeguarding and application of all moneys, and may provide that all or any part of the construction work shall be contracted for, constructed and paid for, under the supervision and approval of consulting engineers employed or designated by the board and satisfactory to the original bond purchasers, their successors, assignees or nominees, who may be given the right to require the security given by contractors and by any depository of the proceeds of bonds or revenues of the public service properties or other money pertaining thereto be satisfactory to such purchasers, their successors, assignees or

nominees. Such indenture may set forth the rights and remedies of the bondholders and such trustee. (1953, c. 147.)

§ 16-13A-16. Sinking fund for revenue bonds.

At or before the time of the issuance of any bonds under this article the board shall by resolution or in the trust indenture provide for the creation of a sinking fund and for monthly payments into such fund from the revenues of the public service properties operated by the district such sums in excess of the cost of maintenance and operation of such properties as will be sufficient to pay the accruing interest and retire the bonds at or before the time each will respectively become due and to establish and maintain reserves therefor. All sums which are or should be, in accordance with such provisions, paid into such sinking fund shall be used solely for payment of interest and for the retirement of such bonds at or prior to maturity as may be provided or required by such resolutions. (1953, c. 147.)

§ 16-13A-17. Collection, etc., of revenues and enforcement of covenants; default; suit, etc., by bondholder or trustee to compel performance of duties; appointment and powers of receiver.

The board of any such district shall have power to insert enforceable provisions in any resolution authorizing the issuance of bonds relating to the collection, custody and application of revenues of the district from the operation of the public service properties under its control and to the enforcement of the covenants and undertakings of the district. In the event there shall be default in the sinking fund provisions aforesaid or in the payment of the principal or interest on any of such bonds or, in the event the district or its board or any of its officers, agents or employees, shall fail or refuse to comply with the provisions of this article, or shall default in any covenant or agreement made with respect to the issuance of such bonds or offered as security therefor, then any holder or holders of such bonds and any such trustee under the trust indenture, if there be one, shall have the right by suit, action, mandamus or other proceeding instituted in the circuit court for the county or any of the counties wherein the district extends, or in any other court of competent jurisdiction, to enforce and compel performance of all duties required by this article or undertaken by the district in connection with the issuance of such bonds, and upon application of any such holder or holders, or such trustee, such court shall, upon proof of such defaults, appoint a receiver for the affairs of the district and its properties, which receiver so appointed shall forthwith directly, or by his agents and attorneys, enter into and upon and take possession of the affairs of the district and each and every part thereof, and hold, use, operate, manage and control the same, and in the name of the district exercise all of the rights and powers of such district as shall be deemed expedient, and such receiver shall have power and authority to collect and receive all revenues and apply same in such manner as the court shall

direct. Whenever the default causing the appointment of such receiver shall have been cleared and fully discharged and all other defaults shall have been cured, the court may in its discretion and after such notice and hearing as it deems reasonable and proper direct the receiver to surrender possession of the affairs of the district to its board. Such receiver so appointed shall have no power to sell, assign, mortgage, or otherwise dispose of any assets of the district except as hereinbefore provided. (1953, c. 147.)

Rules of Civil Procedure. — As to abolition of the procedural distinctions between law and equity, see Rule 2.

As to receivers, see Rule 66.

As to application of rules to writ of mandamus, see Rule 81(a)(5).

As to effect of rules on jurisdiction and venue, see Rule 82.

Mandamus. — Mandamus is a proper remedy to be pursued by the holder of a municipal revenue bond to require a municipal corporation to comply with rate covenants in its revenue bonds. State ex rel. Allstate Ins. Co. v. Union Pub. Serv. Dist., 151 W. Va. 207, 151 S.E.2d 102 (1966).

Under this section, any holder of the bonds of the Union public service district shall have the right by mandamus to enforce and compel the performance of all the duties required by statute or undertaken by the district in connection with the issuance of bonds by such district. State ex rel. Allstate Ins. Co. v. Union Pub. Serv. Dist., 151 W. Va. 207, 151 S.E.2d 102 (1966).

§ 16-13A-18. Operating contracts.

The board may enter into contracts or agreements with any persons, firms or corporations for the operation and management of the public service properties within the district, or any part thereof, for such period of time and under such terms and conditions as shall be agreed upon between the board and such persons, firms or corporations. The board shall have power to provide in the resolution authorizing the issuance of bonds, or in any trust indenture securing such bonds, that such contracts or agreements shall be valid and binding upon the district as long as any of said bonds, or interest thereon, are outstanding and unpaid. (1953, c. 147.)

§ 16-13A-18a. Sale, lease or rental of water, sewer or gas system by district; distribution of proceeds.

In any case where a public service district owns a water, sewer or gas system, and a majority of not less than sixty percent of the members of the public service board thereof deem it for the best interests of the district to sell, lease or rent such water, sewer or gas system to any municipality or privately-owned water, sewer or gas system, or to any water, sewer or gas system owned by an adjacent public service district, the board may so sell, lease or rent such water, sewer or gas system upon such terms and conditions as said board, in its discretion, considers in the best interests of the district: Provided, That such sale, leasing or rental may be made only upon: (1) The publication of notice of a hearing before the board of the public service district, as a Class I legal advertisement in compliance with the provisions of article three [§§ 59-3-1 et seq.], chapter fifty-nine of this code, in a newspaper published and of general circulation in the county or counties wherein the district is located, such publication to be made not earlier than twenty days and not later than seven days prior to the hearing; (2) approval by the county commission or commis-

sions of the county or counties in which the district operates; and (3) approval by the public service commission of West Virginia.

In the event of any such sale, the proceeds thereof, if any, remaining after payment of all outstanding bonds and other obligations of the district, shall be ratably distributed to any persons who have made contributions in aid of construction of such water, sewer or gas system, such distribution not to exceed the actual amount of any such contribution, without interest, and any balance of funds thereafter remaining shall be paid to the county commission of the county in which the major portion of such water, sewer or gas system is located to be placed in the general funds of such county commission. (1963, c. 75; 1981, c. 124; 1986, c. 81; 1997, c. 160.)

§ 16-13A-19. Statutory mortgage lien created; foreclosure thereof.

There shall be and is hereby created a statutory mortgage lien upon such public service properties of the district, which shall exist in favor of the holders of bonds hereby authorized to be issued, and each of them, and the coupons attached to said bonds, and such public service properties shall remain subject to such statutory mortgage lien until payment in full of all principal of and interest on such bonds. Any holder of such bonds, of any coupons attached thereto, may, either at law or in equity, enforce said statutory mortgage lien conferred hereby and upon default in the payment of the principal of or interest on said bonds, may foreclose such statutory mortgage lien in the manner now provided by the laws of the State of West Virginia for the foreclosure of mortgages on real property. (1953, c. 147.)

Rules of Civil Procedure. — As to abolition of the procedural distinctions between law and equity, see Rule 2.

In general. — The provision granting bondholders a statutory mortgage lien is valid. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

§ 16-13A-20. Refunding revenue bonds.

The board of any district having issued bonds under the provisions of this article is hereby empowered thereafter by resolution to issue refunding bonds of such district for the purpose of retiring or refinancing such outstanding bonds, together with any unpaid interest thereon and redemption premium thereunto appertaining and all of the provisions of this article relating to the issuance, security and payment of bonds shall be applicable to such refunding bonds, subject, however, to the provisions of the proceedings which authorized the issuance of the bonds to be so refunded. (1953, c. 147.)

In general. — The only purpose for refunding bonds is the retirement or refinancing of outstanding bond issues of a particular district. Op. Att'y Gen., July 8, 1976.

Combination of bond issues. — Combination of two outstanding bond issues into one refunding bond issue may well be restricted by the use of the singular language in this section. Op. Att'y Gen., July 8, 1976.

Previous issuance of bonds. — This section is clearly written in language which speaks only of refunding bonds issued by any district which has previously issued bonds. Op. Att'y Gen., July 8, 1976.

§ 16-13A-21. Complete authority of article; liberal construction; district to be public instrumentality; tax exemption.

This article is full and complete authority for the creation of public service districts and for carrying out the powers and duties of same as herein provided. The provisions of this article shall be liberally construed to accomplish its purpose and no procedure or proceedings, notices, consents or approvals, are required in connection therewith except as may be prescribed by this article: Provided, That all functions, powers and duties of the public service commission of West Virginia, the bureau of public health, the division of environmental protection and the environmental quality board remain unaffected by this article. Every district organized, consolidated, merged or expanded under this article is a public instrumentality created and functioning in the interest and for the benefit of the public, and its property and income and any bonds issued by it are exempt from taxation by the state of West Virginia, and the other taxing bodies of the state: Provided, however, That the board of any such district may use and apply any of its available revenues and income for the payment of what such board determines to be tax or license fee equivalents to any local taxing body and in any proceedings for the issuance of bonds of such district may reserve the right to annually pay a fixed or computable sum to such taxing bodies as such tax or license fee equivalent. (1953, c. 147; 1986, c. 81; 1994, c. 61.)

Constitutionality. — The tax exemption granted to the property, income, and bonds of the district does not violate W. Va. Const., art. X, § 1. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

Applied in Rhodes v. Malden Pub. Serv. Dist, 171 W. Va. 645, 301 S.E.2d 601 (1983).

§ 16-13A-22. Validation of prior acts and proceedings of county courts for creation of districts, inclusion of additional territory, and appointment of members of district boards.

All acts and proceedings taken by any county court [county commission] of this State purporting to have been carried out under the provisions of this article which have been taken, prior to the date this section takes effect for the purpose of creating public service districts or for the purpose of subsequent inclusion of additional territory to existing public service districts, after notice published by any such county court having territorial jurisdiction thereof of its intention to include such additional territory after hearing thereon, are hereby validated, ratified, approved and confirmed notwithstanding any other lack of power (other than constitutional) of any such county court to create such public service districts or to include additional territory to existing public service districts or irregularities (other than constitutional) in such proceedings, relating to the appointment and qualification of more than three members to the board of any such public service district or the subsequent appointment of successors of any or all of such members, notwithstanding that no city,

incorporated town or other municipal corporation having a population in excess of three thousand is included within the district, and the appointment and qualification of such members, and further including any irregularities in the petition for the creation of any public service district, irregularities in the description of the area embraced by such district, and irregularities in the notice and publication of notice for the hearing creating such district, prior to the date this section takes effect, is hereby validated, ratified, approved and confirmed; and, further, in such cases where more than three members of the board of such districts have been so appointed prior to the date this section takes effect then such county court shall appoint, and they are hereby authorized and empowered to appoint, successors to such members in the manner as otherwise provided by this article. (1958, c. 14; 1960, c. 19.)

Editor's notes. — For construction of the county court as the county commission, see W.Va. Const. art. IX, § 9.

Concerning the reference to "the date this section takes effect", Acts 1958, c. 14, which enacted this section and included this language, became effective February 1, 1958. Acts 1960, c. 19, which amended this section, provided that the act take effect January 29, 1960.

§ 16-13A-23. Validation of acts and proceedings of public service boards.

All acts and proceedings taken by any public service board the members of which were appointed, prior to the date this section takes effect, by any county court [county commission] of this State having territorial jurisdiction thereof, are hereby validated, ratified, approved and confirmed, as to defects and irregularities which may otherwise exist on account of their appointment and qualification: Provided, however, That nothing herein contained shall be construed to excuse a criminal act. (1958, c. 14; 1960, c. 19; 1965, c. 134.)

Editor's notes. — For construction of the county court as the county commission, see W.Va. Const. art. IX, § 9.

Concerning the reference to "the date this section takes effect", Acts 1965, c. 134, which amended this section, provided that the act take effect March 13, 1965.

§ 16-13A-24. Acceptance of loans, grants or temporary advances.

Any public service district created pursuant to the provisions of this article is authorized and empowered to accept loans or grants and procure loans or temporary advances evidenced by notes or other negotiable instruments issued in the manner, and subject to the privileges and limitations, set forth with respect to bonds authorized to be issued under the provisions of this article, for the purpose of paying part or all of the cost of construction or acquisition of water systems, sewage systems or gas facilities, or all of these, and the other purposes herein authorized, from any authorized agency or from the United States of America or any federal or public agency or department of the United States or any private agency, corporation or individual, which loans or temporary advances, including the interest thereon, may be repaid out of the proceeds of the bonds authorized to be issued under the provisions of this

article, the revenues of the said water system, sewage system or gas facilities or grants to the public service district from any authorized agency or from the United States of America or any federal or public agency or department of the United States or from any private agency, corporation or individual or from any combination of such sources of payment, and to enter into the necessary contracts and agreements to carry out the purposes hereof with any authorized agency or the United States of America or any federal or public agency or department of the United States, or with any private agency, corporation or individual. Any other provisions of this article to the contrary notwithstanding, interest on any such loans or temporary advances may be paid from the proceeds thereof until the maturity of such notes or other negotiable instrument. (1958, c. 14; 1980, c. 60; 1981, c. 124; 1986, c. 118.)

Permissible borrowing. — The borrowing by public service districts of money from counties and/or municipalities, as evidenced by a note, is permissible borrowing under this section. Op. Att'y Gen., May 6, 1988, No. 27.

§ 16-13A-25. Borrowing and bond issuance; procedure.

Notwithstanding any other provisions of this article to the contrary, a public service district shall not borrow money, enter into contracts for the provision of engineering, design or feasibility studies, issue or contract to issue revenue bonds or exercise any of the powers conferred by the provisions of section thirteen, twenty or twenty-four [§ 16-13A-13, § 16-13A-20 or § 16-13A-24] of this article, without the prior consent and approval of the public service commission. The public service commission may waive the provision of prior consent and approval for entering into contracts for engineering, design or feasibility studies pursuant to this section for good cause shown which is evidenced by the public service district filing a request for waiver of this section stated in a letter directed to the commission with a brief description of the project, evidence of compliance with chapter five-g [§§ 5G-1-1 et seq.] of this code, and further explanation of ability to evaluate their own engineering contract, including, but not limited to: (1) Experience with the same engineering firm in the past two years requiring engineering services; or (2) completion of a construction project within the past two years requiring engineering services. The district shall also forward an executed copy of the engineering contract to the commission after receiving approval of the waiver. Unless the properties to be constructed or acquired represent ordinary extensions or repairs of existing systems in the usual course of business, a public service district must first obtain a certificate of public convenience and necessity from the public service commission in accordance with the provisions of chapter twenty-four [§§ 24-1-1 et seq.] of this code, when a public service district is seeking to acquire or construct public service property.

Thirty days prior to making formal application for the certificate, the public service district shall prefile with the public service commission its plans and supporting information for the project and shall publish a Class II legal advertisement in a newspaper or newspapers of general circulation in each city, incorporated town or municipal corporation if available in the public service district, which legal advertisement shall state:

(a) The amount of money to be borrowed, or the amount of revenue bonds to be issued: Provided, That if the amount is an estimate, the notice may be stated in terms of an amount "not to exceed" a specific amount;

(b) The interest rate and terms of the loan or bonds: Provided, That if the interest rate is an estimate, the notice may be stated in terms of a rate "not to exceed" a specific rate;

(c) The public service properties to be acquired or constructed, and the cost of the public service properties;

(d) The anticipated rates which will be charged by the public service district: Provided, That if the rates are an estimate, the notice may be stated in terms of rates "not to exceed" a specific rate; and

(e) The date that the formal application for a certificate of public convenience and necessity is to be filed with the public service commission. The public service commission may grant its consent and approval for the certificate, or any other request for approval under this section, subject to such terms and conditions as may be necessary for the protection of the public interest, pursuant to the provisions of chapter twenty-four of this code, or may withhold such consent and approval for the protection of the public interest.

In the event of disapproval, the reasons for the disapproval shall be assigned in writing by the commission. (1969, 1st Ex. Sess., c. 6; 1981, c. 124; 1986, c. 81; 1996, c. 213; 1997, c. 159.)

Cross references. — Class II legal advertisement defined, § 59-3-2.

Certificate. — Under this section, a public service district must first obtain a certificate of public convenience and necessity before it can acquire or construct public service property. Sexton v. Public Serv. Comm'n, 188 W. Va. 305, 423 S.E.2d 914 (1992).

Eminent domain. — Although construction of a new facility proposed by a utility will often require the taking of private property through eminent domain, in the absence of express statutory language, the public service commission has no duty to review and decide issues that are inherent in the eminent domain proceeding. Sexton v. Public Serv. Comm'n, 188 W. Va. 305, 423 S.E.2d 914 (1992).

ARTICLE 13B.

COMMUNITY IMPROVEMENT ACT.

Sec.

16-13B-1. Short title.
16-13B-2. Definitions.
16-13B-3. Power and authority of counties and municipalities relating to flood relief, wastewater and water projects.
16-13B-4. Determination of need and feasibility of creating an assessment district.
16-13B-5. Notice to property owners before creation of assessment district and construction of project; form of notice; affidavit of publication.
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16-13B-8. Assessment district to be a public corporation and political subdivision; powers thereof; community improvement boards.
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16-13B-10. Notice to property owners of assessments; hearings, correcting and laying assessments; report on project completion; permits.
16-13B-11. Construction of projects; assessments; corner lots, etc.
16-13B-12. Apportionment and assessment of cost.

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VOLUME 5A

2001 Replacement Volume

2005 SUPPLEMENT

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(k) All rates, fees or charges, if not paid when due, shall constitute a lien upon the premises served by such works. If any service rate, fees or charge so established is not paid within twenty days after the same is due, the amount thereof, together with a penalty of ten percent, and a reasonable attorney's fee, may be recovered by the board in a civil action in the name of the municipality, and in connection with such action said lien may be foreclosed against such lot, parcel of land or building, in accordance with the laws relating thereto: Provided, That where both water and sewer services are furnished by any municipality to any premises the schedule of charges may be billed as a single amount or individually itemized and billed for the aggregate thereof.

(*l*) Whenever any rates, rentals, fees or charges for services or facilities furnished shall remain unpaid for a period of twenty days after the same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities shall be delinquent until such time as all rates, fees and charges are fully paid. When any payment for rates, rentals, fees or charges becomes delinquent, the governing body may use the security deposit to satisfy the delinquent payment.

(m) The board collecting such rates, fees or charges shall be obligated under reasonable rules to shut off and discontinue both water and sewer services to all delinquent users of either water facilities, or sewer facilities or both, and shall not restore either water facilities or sewer facilities, to any delinquent user of either until all delinquent rates, fees or charges for both water facilities, and sewer facilities, including reasonable interest and penalty charges, have been paid in full. (1933, Ex. Sess., c. 25, § 16; 1933, 2nd Ex. Sess., c. 48; 1959, c. 125; 1967, c. 105; 2001, c. 212; 2004, c. 185.)

Effect of amendment of 2004. — Acts 2004, c. 185, effective June 10, 2004, inserted "deposit required for new customers; forfeiture of deposit; reconnecting deposit; tenant's deposit" in the section heading; added the subsection designations for (c) through (m); added (d) and (e); substituted "Class II-0" for "Class II-O" in (h); substituted "within twenty days" for "within thirty days" in (k); in (*l*) substituted "twenty days" for "thirty days" and added the second sentence; and deleted "and regulations" following "reasonable rules" in (m).

§ 16-13-22. Powers conferred in addition to existing powers; jurisdiction outside corporate limits.

Cited in Buda v. Town of Masontown, 2005 W. Va. LEXIS 18, — W. Va. —, — S.E.2d — (Mar 22, 2005).

ARTICLE 13A.

PUBLIC SERVICE DISTRICTS FOR WATER, SEWERAGE AND GAS SERVICES.

Sec.		Sec.	
16-13A-1c.	General purpose of districts.		ducing, merging, or dissolving district; consolidation; agreements, etc.; infringing-
16-13A-2.	Creation of districts by county commission; enlarging, re-		

Sec.
upon powers of county commission; filing list of members and districts with the Secretary of State.
16-13A-3. District to be a public corporation and political subdivision; powers thereof; public service boards.
16-13A-4. Board chairman; members' compensation; procedure; district name.
16-13A-5. General manager of board.
16-13A-7. Acquisition and operation of district properties.
16-13A-8. Acquisition and purchase of public service properties; right of eminent domain; extraterritorial powers.
16-13A-9. Rules; service rates and charges; discontinuance of service; required water and sewer connections; lien for delinquent fees.
16-13A-14. Items included in cost of properties.
16-13A-18a. Sale, lease or rental of water, sewer, stormwater or gas system by district; distribution of proceeds.
16-13A-24. Acceptance of loans, grants or temporary advances.
16-13A-25. Borrowing and bond issuance; procedure.

§ 16-13A-1. Legislative findings.

Code of State Rules References. — Government of public service districts, 150 CSR 17, effective September 1, 1990.

§ 16-13A-1c. General purpose of districts.

Any territory constituting the whole or any part of one or more counties in the state so situated that the construction or acquisition by purchase or otherwise and the maintenance, operation, improvement and extension of, properties supplying water, sewerage or stormwater services or gas distribution services or all of these within such territory, will be conducive to the preservation of the public health, comfort and convenience of such area, may be constituted a public service district under and in the manner provided by this article. The words "public service properties," when used in this article, shall mean and include any facility used or to be used for or in connection with: (1) The diversion, development, pumping, impounding, treatment, storage, distribution or furnishing of water to or for the public for industrial, public, private or other uses (herein sometimes referred to as "water facilities"); (2) the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes (herein sometimes referred to as "sewer facilities" or "landfills"); (3) the distribution or the furnishing of natural gas to the public for industrial, public, private or other uses (herein sometimes referred to as "gas utilities or gas system"); or (4) the collection, control or disposal of stormwater (herein sometimes referred to as "stormwater system" or "stormwater systems"), or (5) the management, operation, maintenance and control of stormwater and stormwater systems (herein sometimes referred to as "stormwater management program" or "stormwater management programs"). As used in this article "stormwater system" or "stormwater systems" means a stormwater system in its entirety or any integral part thereof used to collect, control or dispose of stormwater, and includes all facilities, structures and

3A-9. Rules; service rates and charges; discontinuance of service; required water and sewer connections; lien for delinquent fees.
3A-14. Items included in cost of properties.
3A-18a. Sale, lease or rental of water, sewer, stormwater or gas system by district; distribution of proceeds.
3A-24. Acceptance of loans, grants or temporary advances.
3A-25. Borrowing and bond issuance; procedure.

districts.

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natural water courses used for collecting and conducting stormwater to, through and from drainage areas to the points of final outlet including, but not limited to, any and all of the following: Inlets, conduits, outlets, channels, ponds, drainage easements, water quality facilities, catch basins, ditches, streams, gulches, flumes, culverts, siphons, retention or detention basins, dams, floodwalls, pipes, flood control systems, levies and pumping stations: Provided, That the term "stormwater system" or "stormwater systems" does not include highways, road and drainage easements, or stormwater facilities constructed, owned or operated by the West Virginia Division of Highways. As used in this article "stormwater management program" or "stormwater management programs" means those activities associated with the management, operation, maintenance and control of stormwater and stormwater systems, and includes, but is not limited to, public education, stormwater and surface runoff water quality improvement, mapping, planning, flood control, inspection, enforcement and any other activities required by state and federal law: Provided, however, That the term "stormwater management program" or "stormwater management programs" does not include those activities associated with the management, operation, maintenance and control of highways, road and drainage easements, or stormwater facilities constructed, owned or operated by the West Virginia Division of Highways without the express agreement of the Commissioner of Highways. (1986, c. 81; 2002, c. 272.)

Effect of amendment of 2002. — Acts 2002, c. 272, effective June 7, 2002, inserted "or stormwater" following sewerage" in the first sentence; added subdivisions (4) and (5); added the last two sentences; and made minor stylistic changes.

§ 16-13A-2. Creation of districts by county commission; enlarging, reducing, merging, or dissolving district; consolidation; agreements, etc.; infringing upon powers of county commission; filing list of members and districts with the Secretary of State.

(a) The county commission of any county may propose the creation, enlargement, reduction, merger, dissolution, or consolidation of a public service district by any of the following methods: (1) On its own motion by order duly adopted, (2) upon the recommendation of the Public Service Commission, or (3) by petition of twenty-five percent of the registered voters who reside within the limits of the proposed public service district within one or more counties. The petition shall contain a description, including metes and bounds, sufficient to identify the territory to be embraced therein and the name of such proposed district: Provided, That after the effective date of this section, no new public service district shall be created, enlarged, reduced, merged, dissolved or consolidated under this section without the written consent and approval of the Public Service Commission, which approval and consent shall be in accordance with rules promulgated by the Public Service Commission and may only be requested after consent is given by the appropriate county commission or commissions pursuant to this section. Any territory may be included

regardless of whether or not the territory includes one or more cities, incorporated towns or other municipal corporations which own and operate any public service properties and regardless of whether or not it includes one or more cities, incorporated towns or other municipal corporations being served by privately owned public service properties: Provided, however, That the same territory shall not be included within the boundaries of more than one public service district except where the territory or part thereof is included within the boundaries of a separate public service district organized to supply water, sewerage services, stormwater services or gas facilities not being furnished within such territory or part thereof: Provided further, That no city, incorporated town or other municipal corporation shall be included within the boundaries of the proposed district except upon the adoption of a resolution of the governing body of the city, incorporated town or other municipal corporation consenting.

(b) The petition shall be filed in the office of the clerk of the county commission of the county in which the territory to constitute the proposed district is situated, and if the territory is situated in more than one county, then the petition shall be filed in the office of the clerk of the county commission of the county in which the major portion of the territory extends, and a copy thereof (omitting signatures) shall be filed with each of the clerks of the county commission of the other county or counties into which the territory extends. The clerk of the county commission receiving such petition shall present it to the county commission of the county at the first regular meeting after the filing or at a special meeting called for the consideration thereof.

(c) When the county commission of any county enters an order on its own motion proposing the creation, enlargement, reduction, merger, dissolution or consolidation of a public service district, as aforesaid, or when a petition for the creation is presented, as aforesaid, the county commission shall at the same session fix a date of hearing in the county on the creation, enlargement, reduction, merger, dissolution or consolidation of the proposed public service district, which date so fixed shall be not more than forty days nor less than twenty days from the date of the action. Within ten days of fixing the date of hearing, the county commission shall provide the Executive Secretary of the Public Service Commission with a copy of the order or petition and notification of the time and place of the hearing to be held by the county commission. If the territory proposed to be included is situated in more than one county, the county commission, when fixing a date of hearing, shall provide for notifying the county commission and clerk thereof of each of the other counties into which the territory extends of the date so fixed. The clerk of the county commission of each county in which any territory in the proposed public service district is located shall cause notice of the hearing and the time and place thereof, and setting forth a description of all of the territory proposed to be included therein to be given by publication as a Class I legal advertisement in compliance with the provisions of article three [§§ 59-3-1 et seq.], chapter fifty-nine of this code, and the publication area for the publication shall be by publication in each city, incorporated town or municipal corporation if avail-

itory includes one or more cities, orporations which own and operate ess of whether or not it includes one other municipal corporations being properties: Provided, however, That within the boundaries of more than e territory or part thereof is included service district organized to supply ervices or gas facilities not being ereof: Provided further, That no city, oration shall be included within the upon the adoption of a resolution of d town or other municipal corpora-

office of the clerk of the county erritory to constitute the proposed situated in more than one county, office of the clerk of the county jor portion of the territory extends, hall be filed with each of the clerks ounty or counties into which the commission receiving such petition of the county at the first regular eeting called for the consideration

county enters an order on its own t, reduction, merger, dissolution or aforesaid, or when a petition for the nty commission shall at the same ty on the creation, enlargement, ion of the proposed public service ore than forty days nor less than ithin ten days of fixing the date of de the Executive Secretary of the e order or petition and notification d by the county commission. If the ed in more than one county, the earing, shall provide for notifying f each of the other counties into o fixed. The clerk of the county tory in the proposed public service hearing and the time and place ll of the territory proposed to be s a Class I legal advertisement in hree [§§ 59-3-1 et seq.], chapter ea for the publication shall be by r municipal corporation if available in each county in which any territory in the proposed public service district is located. The publication shall be at least ten days prior to the hearing.

(d) In all cases where proceedings for the creation, enlargement, reduction, merger, dissolution or consolidation of the public service districts are initiated by petition as aforesaid, the person filing the petition shall advance or satisfactorily indemnify the payment of the cost and expenses of publishing the hearing notice, and otherwise the costs and expenses of the notice shall be paid in the first instance by the county commission out of contingent funds or any other funds available or made available for that purpose. In addition to the notice required herein to be published, there shall also be posted in at least five conspicuous places in the proposed public service district, a notice containing the same information as is contained in the published notice. The posted notices shall be posted not less than ten days before the hearing.

(e) All persons residing in or owning or having any interest in property in the proposed public service district shall have an opportunity to be heard for and against its creation, enlargement, reduction, merger, dissolution or consolidation. At the hearing the county commission before which the hearing is conducted shall consider and determine the feasibility of the creation, enlargement, reduction, merger, dissolution or consolidation of the proposed district. If the county commission determines that the construction or acquisition by purchase or otherwise and maintenance, operation, improvement and extension of public service properties by the public service district will be conducive to the preservation of public health, comfort and convenience of such area, the county commission shall by order create, enlarge, reduce, merge, dissolve or consolidate such public service district. If the county commission, after due consideration, determines that the proposed district will not be conducive to the preservation of public health, comfort or convenience of the area or that the creation, enlargement, reduction, merger, dissolution or consolidation of the proposed district as set forth and described in the petition or order is not feasible, it may refuse to enter an order creating the district or it may enter an order amending the description of the proposed district and create, enlarge, reduce, merge, dissolve or consolidate the district as amended.

(f) If the county commission determines that any other public service district or districts can adequately serve the area of the proposed public service district, whether by enlargement, reduction, merger, dissolution or consolidation, it shall refuse to enter the order, but shall enter an order creating, enlarging, reducing, merging, dissolving or consolidating the area with an existing public service district, in accordance with rules adopted by the Public Service Commission for such purpose: Provided, That no enlargement of a public service district may occur if the present or proposed physical facilities of the public service district are determined by the appropriate county commission or the Public Service Commission to be inadequate to provide such enlarged service. The clerk of the county commission of each county into which any part of such district extends shall retain in his office an authentic copy of the order creating, enlarging, reducing, merging, dissolving or consolidating the district: Provided, however, That within ten days after the entry of an order

creating, enlarging, reducing, merging, dissolving or consolidating a district, such order must be filed for review and approval by the Public Service Commission. The Public Service Commission may provide a hearing in the affected county on the matter and may approve, reject or modify the order of the county commission if it finds it is in the best interests of the public to do so. The Public Service Commission shall adopt rules relating to such filings and the approval, disapproval or modification of county commission orders for creating, enlarging, merging, dissolving or consolidating districts. The provisions of this section shall not apply to the implementation by a county commission of an order issued by the Public Service Commission pursuant to this section and section one-b [§ 16-13A-1b], of this article.

(g) The county commission may, if in its discretion it deems it necessary, feasible and proper, enlarge the district to include additional areas, reduce the area of the district, where facilities, equipment, service or materials have not been extended, or dissolve the district if inactive or create or consolidate two or more such districts. If consolidation of districts is not feasible, the county commission may consolidate and centralize management and administration of districts within its county or multi-county area to achieve efficiency of operations: Provided, That where the county commission determines on its own motion by order entered of record, or there is a petition to enlarge the district, merge and consolidate districts, or the management and administration thereof, reduce the area of the district or dissolve the district if inactive, all of the applicable provisions of this article providing for hearing, notice of hearing and approval by the Public Service Commission shall apply. The Commission shall at all times attempt to bring about the enlargement or merger of existing public service districts in order to provide increased services and to eliminate the need for creation of new public service districts in those areas which are not currently serviced by a public service district: Provided, however, That where two or more public service districts are consolidated pursuant to this section, any rate differentials may continue for the period of bonded indebtedness incurred prior to consolidation. The districts may not enter into any agreement, contract or covenant that infringes upon, impairs, abridges or usurps the duties, rights or powers of the county commission, as set forth in this article, or conflicts with any provision of this article.

(h) A list of all districts and their current board members shall be filed by the county commission with the Secretary of State and the Public Service Commission by the first day of July of each year. (1953, c. 147; 1965, c. 134; 1967, c. 105; 1975, c. 140; 1980, c. 60; 1981, c. 124; 1986, c. 81; 1995, c. 125; 2002, c. 272; 2005, c. 195.)

Effect of amendment of 2002. — Acts 2002, c. 272, effective June 7, 2002, in (a), capitalized "On" at the beginning of subdivision (1), and inserted "stormwater services" near the middle of the last sentence.

Effect of amendment of 2005. — Acts 2005, c. 195, effective July 8, 2005, added the second sentence in (c); and made minor stylistic changes.

olving or consolidating a district, approval by the Public Service on may provide a hearing in the ove, reject or modify the order of est interests of the public to do so. rules relating to such filings and of county commission orders for onsolidating districts. The provi- he implementation by a county Service Commission pursuant to of this article.

discretion it deems it necessary, clude additional areas, reduce the ent, service or materials have not ive or create or consolidate two or ricts is not feasible, the county management and administration ity area to achieve efficiency of y commission determines on its here is a petition to enlarge the he management and administra- r dissolve the district if inactive, e providing for hearing, notice of e Commission shall apply. The bring about the enlargement or rder to provide increased services v public service districts in those public service district: Provided, ervice districts are consolidated ls may continue for the period of olidation. The districts may not ant that infringes upon, impairs, s of the county commission, as set vision of this article.

board members shall be filed by of State and the Public Service year. (1953, c. 147; 1965, c. 134; c. 124; 1986, c. 81; 1995, c. 125;

ct of amendment of 2005. — Acts c. 195, effective July 8, 2005, added the l sentence in (c); and made minor stylistic es.

§ 16-13A-3. District to be a public corporation and political subdivision; powers thereof; public service boards.

From and after the date of the adoption of the order creating any public service district, it is a public corporation and political subdivision of the state, but without any power to levy or collect ad valorem taxes. Each district may acquire, own and hold property, both real and personal, in its corporate name, and may sue, may be sued, may adopt an official seal and may enter into contracts necessary or incidental to its purposes, including contracts with any city, incorporated town or other municipal corporation located within or without its boundaries for furnishing wholesale supply of water for the distribution system of the city, town or other municipal corporation, or for furnishing stormwater services for the city, town or other municipal corporation, and contract for the operation, maintenance, servicing, repair and extension of any properties owned by it or for the operation and improvement or extension by the district of all or any part of the existing municipally owned public service properties of any city, incorporated town or other municipal corporation included within the district: Provided, That no contract shall extend beyond a maximum of forty years, but provisions may be included therein for a renewal or successive renewals thereof and shall conform to and comply with the rights of the holders of any outstanding bonds issued by the municipalities for the public service properties.

The powers of each public service district shall be vested in and exercised by a public service board consisting of not less than three members, who shall be persons residing within the district, who possess certain educational, business or work experience which will be conducive to operating a public service district. Each board member shall, within six months of taking office, successfully complete the training program to be established and administered by the Public Service Commission in conjunction with the Division of Environmental Protection and the Bureau of Public Health. Board members shall not be or become pecuniarily interested, directly or indirectly, in the proceeds of any contract or service, or in furnishing any supplies or materials to the district nor shall a former board member be hired by the district in any capacity within a minimum of twelve months after board member's term has expired or such board member has resigned from the district board. The members shall be appointed in the following manner:

Each city, incorporated town or other municipal corporation having a population of more than three thousand but less than eighteen thousand is entitled to appoint one member of the board, and each city, incorporated town or other municipal corporation having a population in excess of eighteen thousand shall be entitled to appoint one additional member of the board for each additional eighteen thousand population. The members of the board representing such cities, incorporated towns or other municipal corporations shall be residents thereof and shall be appointed by a resolution of the governing bodies thereof and upon the filing of a certified copy or copies of the resolution or resolutions in the office of the clerk of the county commission

which entered the order creating the district, the persons so appointed become members of the board without any further act or proceedings. If the number of members of the board so appointed by the governing bodies of cities, incorporated towns or other municipal corporations included in the district equals or exceeds three, then no further members shall be appointed to the board and the members so appointed are the board of the district except in cases of merger or consolidation where the number of board members may equal five.

If no city, incorporated town or other municipal corporation having a population of more than three thousand is included within the district, then the county commission which entered the order creating the district shall appoint three members of the board, who are persons residing within the district and residing within the state of West Virginia, which three members become members of the board of the district without any further act or proceedings except in cases of merger or consolidation where the number of board members may equal five.

If the number of members of the board appointed by the governing bodies of cities, incorporated towns or other municipal corporations included within the district is less than three, then the county commission which entered the order creating the district shall appoint such additional member or members of the board, who are persons residing within the district, as is necessary to make the number of members of the board equal three except in cases of merger or consolidation where the number of board members may equal five, and the member or members appointed by the governing bodies of the cities, incorporated towns or other municipal corporations included within the district and the additional member or members appointed by the county commission as aforesaid, are the board of the district. A person may serve as a member of the board in one or more public service districts.

The population of any city, incorporated town or other municipal corporation, for the purpose of determining the number of members of the board, if any, to be appointed by the governing body or bodies thereof, is the population stated for such city, incorporated town or other municipal corporation in the last official federal census.

Notwithstanding any provision of this code to the contrary, whenever a district is consolidated or merged pursuant to section two [§ 16-13A-2] of this article, the terms of office of the existing board members shall end on the effective date of the merger or consolidation. The county commission shall appoint a new board according to rules promulgated by the public service commission. Whenever districts are consolidated or merged no provision of this code prohibits the expansion of membership on the new board to five.

The respective terms of office of the members of the first board shall be fixed by the county commission and shall be as equally divided as may be, that is approximately one third of the members for a term of two years, a like number for a term of four years, the term of the remaining member or members for six years, from the first day of the month during which the appointments are made. The first members of the board appointed as aforesaid shall meet at the office of the clerk of the county commission which entered the order creating the district as soon as practicable after the appointments and shall qualify by

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taking an oath of office: Provided, That any member or members of the board may be removed from their respective office as provided in section three-a [§ 16-13A-3a] of this article.

Any vacancy shall be filled for the unexpired term within thirty days, otherwise successor members of the board shall be appointed for terms of six years and the terms of office shall continue until successors have been appointed and qualified. All successor members shall be appointed in the same manner as the member succeeded was appointed. The district shall provide to the Public Service Commission, within thirty days of the appointment, the following information: The new board member's name, home address, home and office phone numbers, date of appointment, length of term, who the new member replaces and if the new appointee has previously served on the board. The Public Service Commission shall notify each new board member of the legal obligation to attend training as prescribed in this section.

The board shall organize within thirty days following the first appointments and annually thereafter at its first meeting after the first day of January of each year by selecting one of its members to serve as chair and by appointing a secretary and a treasurer who need not be members of the board. The secretary shall keep a record of all proceedings of the board which shall be available for inspection as other public records. Duplicate records shall be filed with the county commission and shall include the minutes of all board meetings. The treasurer is lawful custodian of all funds of the public service district and shall pay same out on orders authorized or approved by the board. The secretary and treasurer shall perform other duties appertaining to the affairs of the district and shall receive salaries as shall be prescribed by the board. The treasurer shall furnish bond in an amount to be fixed by the board for the use and benefit of the district.

The members of the board, and the chair, secretary and treasurer thereof, shall make available to the county commission, at all times, all of its books and records pertaining to the district's operation, finances and affairs, for inspection and audit. The board shall meet at least monthly. (1953, c. 147; 1965, c. 134; 1971, c. 72; 1981, c. 124; 1983, c. 166; 1986, c. 81; 1994, c. 61; 1997, c. 159; 2002, c. 272.)

Effect of amendment of 2002. — Acts 2002, c. 272, effective June 7, 2002, inserted "or for furnishing stormwater services for the city, town or other municipal corporation" in the second sentence of the first paragraph.

§ 16-13A-4. Board chairman; members' compensation; procedure; district name.

(a) The chairman shall preside at all meetings of the board and may vote as any other member of the board. If the chairman is absent from any meeting, the remaining members may select a temporary chairman and if the member selected as chairman resigns as such or ceases for any reason to be a member of the board, the board shall select one of its members as chairman to serve until the next annual organization meeting.

(b) Salaries of the board members are:

(1) For districts with fewer than six hundred customers, up to seventy-five dollars per attendance at regular monthly meetings and fifty dollars per attendance at additional special meetings, total salary not to exceed fifteen hundred dollars per annum;

(2) For districts with six hundred customers or more but fewer than two thousand customers, up to one hundred dollars per attendance at regular monthly meetings and seventy-five dollars per attendance at additional special meetings, total salary not to exceed two thousand five hundred fifty dollars per annum;

(3) For districts with two thousand customers or more, up to one hundred twenty-five dollars per attendance at regular monthly meetings and seventy-five dollars per attendance at additional special meetings, total salary not to exceed three thousand seven hundred fifty dollars per annum; and

(4) For districts with four thousand or more customers, up to one hundred fifty dollars per attendance at regular monthly meetings and one hundred dollars per attendance at additional special meetings, total salary not to exceed five thousand four hundred dollars per annum.

The public service district shall certify the number of customers served to the Public Service Commission beginning on the first day of July, one thousand nine hundred eighty-six, and continue each fiscal year thereafter.

(c) Public service districts selling water to other water utilities for resale may adopt the following salaries for its board members:

(1) For districts with annual revenues of less than fifty thousand dollars, up to seventy-five dollars per attendance at regular monthly meetings and fifty dollars per attendance at additional special meetings, total salary not to exceed fifteen hundred dollars per annum;

(2) For districts with annual revenues of fifty thousand dollars or more, but less than two hundred fifty thousand dollars, up to one hundred dollars per attendance at regular monthly meetings and seventy-five dollars per attendance at special meetings, total salary not to exceed two thousand five hundred fifty dollars per annum;

(3) For districts with annual revenues of two hundred fifty thousand dollars or more, but less than five hundred thousand dollars, up to one hundred twenty-five dollars per attendance at regular monthly meetings and seventy-five dollars per attendance at additional special meetings, total salary not to exceed three thousand seven hundred fifty dollars per annum; and

(4) For districts with annual revenues of five hundred thousand dollars or more, up to one hundred fifty dollars per attendance at regular monthly meetings and one hundred dollars per attendance at additional special meetings, total salary not to exceed five thousand four hundred dollars per annum.

The public service district shall certify the number of customers served and its annual revenue to the public service commission beginning on the first day of July, two thousand, and continue each fiscal year thereafter.

(d) Board members may be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their duties as provided for by the rules of the board.

(e) The board shall by resolution determine its own rules of procedure, fix the time and place of its meetings and the manner in which special meetings may be called. Public notice of meetings shall be given in accordance with section three [§ 6-9A-3], article nine-a, chapter six of this code. Emergency meetings may be called as provided for by said section. A majority of the members constituting the board also constitute a quorum to do business.

(f) The members of the board are not personally liable or responsible for any obligations of the district or the board, but are answerable only for willful misconduct in the performance of their duties. The county commission which created a district or county commissions if more than one created the district may, upon written request of the district, adopt an order changing the official name of a public service district: Provided, That such name change will not be effective until approved by the Public Service Commission of West Virginia and the owners of any bonds and notes issued by the district, if any, shall have consented, in writing, to the name change. If a district includes territory located in more than one county, the county commission or county commissions changing the name of the district shall provide any county commission into which the district also extends with a certified copy of the order changing the name of the district. The official name of any district created under the provisions of this article may contain the name or names of any city, incorporated town or other municipal corporation included therein or the name of any county or counties in which it is located. (1953, c. 147; 1981, c. 124; 1986, c. 81; 1997, c. 159; 2000, c. 199; 2005, c. 196.)

Effect of amendment of 2005. — Acts 2005, c. 196, effective July 7, 2005, rewrote the second sentence in (f) pertaining to the changing of the official or corporate name of a public service district by the public service board; and made minor stylistic changes.

§ 16-13A-5. General manager of board.

The board may employ a general manager to serve a term of not more than five years and until his or her successor is employed, and his or her compensation shall be fixed by resolution of the board. Such general manager shall devote all or the required portion of his or her time to the affairs of the district and may employ, discharge and fix the compensation of all employees of the district, except as in this article otherwise provided, and he or she shall perform and exercise such other powers and duties as may be conferred upon him or her by the board.

Such general manager shall be chosen without regard to his or her political affiliations and upon the sole basis of his or her administrative and technical qualifications to manage public service properties and affairs of the district and he or she may be discharged only upon the affirmative vote of two thirds of the board. Such general manager need not be a resident of the district at the time he or she is chosen. Such general manager may not be a member of the board but shall be an employee of the board.

The board of any public service district which purchases water, sewer or stormwater service from a municipal water, sewer or stormwater system or another public service district may, as an alternative to hiring its own general

manager, elect to permit the general manager of the municipal water, sewer or stormwater system or public service district from which such water, sewer or stormwater service is purchased provide professional management to the district, if the appropriate municipality or public service board agrees to provide such assistance. The general manager shall receive reasonable compensation for such service. (1953, c. 147; 1981, c. 124; 1986, c. 81; 2002, c. 272.)

Effect of amendment of 2002. — Acts 2002, c. 272, effective June 7, 2002, inserted "or stormwater" following "sewer" four times in the third paragraph, and made minor stylistic changes.

§ 16-13A-7. Acquisition and operation of district properties.

The board of such districts shall have the supervision and control of all public service properties acquired or constructed by the district, and shall have the power, and it shall be its duty, to maintain, operate, extend and improve the same, including, but not limited to, those activities necessary to comply with all federal and state requirements, including water quality improvement activities. All contracts involving the expenditure by the district of more than fifteen thousand dollars for construction work or for the purchase of equipment and improvements, extensions or replacements, shall be entered into only after notice inviting bids shall have been published as a Class I legal advertisement in compliance with the provision of article three [§§ 59-3-1 et seq.], chapter fifty-nine of this code, and the publication area for such publication shall be as specified in section two [§ 16-13A-2] of this article in the county or counties in which the district is located. The publication shall not be less than ten days prior to the making of any such contract. To the extent allowed by law, in-state contractors shall be given first priority in awarding public service district contracts. It shall be the duty of the board to ensure that local in-state labor shall be utilized to the greatest extent possible when hiring laborers for public service district construction or maintenance repair jobs. It shall further be the duty of the board to encourage contractors to use American made products in their construction to the extent possible. Any obligations incurred of any kind or character shall not in any event constitute or be deemed an indebtedness within the meaning of any of the provisions or limitations of the constitution, but all such obligations shall be payable solely and only out of revenues derived from the operation of the public service properties of the district or from proceeds of bonds issued as hereinafter provided. No continuing contract for the purchase of materials or supplies or for furnishing the district with electrical energy or power shall be entered into for a longer period than fifteen years. (1953, c. 147; 1967, c. 105; 1981, c. 124; 1982, c. 24; 1986, c. 81; 1997, c. 159; 2002, c. 272.)

Effect of amendment of 2002. — Acts 2002, c. 272, effective June 7, 2002, added "including, but not limited to, those activities necessary to comply with all federal and state requirements, including water quality improvement activities" to the end of the first sentence.

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§ 16-13A-8. Acquisition and purchase of public service properties; right of eminent domain; extraterritorial powers.

The board may acquire any publicly or privately owned public service properties located within the boundaries of the district regardless of whether or not all or any part of such properties are located within the corporate limits of any city, incorporated town or other municipal corporation included within the district and may purchase and acquire all rights and franchises and any and all property within or outside the district necessary or incidental to the purpose of the district.

The board may construct any public service properties within or outside the district necessary or incidental to its purposes and each such district may acquire, construct, maintain and operate any such public service properties within the corporate limits of any city, incorporated town or other municipal corporation included within the district or in any unincorporated territory within ten miles of the territorial boundaries of the district: Provided, That if any incorporated city, town or other municipal corporation included within the district owns and operates either water facilities, sewer facilities, stormwater facilities or gas facilities or all of these, then the district may not acquire, construct, establish, improve or extend any public service properties of the same kind within such city, incorporated towns or other municipal corporations or the adjacent unincorporated territory served by such cities, incorporated towns or other municipal corporations, except upon the approval of the public service commission, the consent of such cities, incorporated towns or other municipal corporations and in conformity and compliance with the rights of the holders of any revenue bonds or obligations theretofore issued by such cities, incorporated towns or other municipal corporations then outstanding and in accordance with the ordinance, resolution or other proceedings which authorize the issuance of such revenue bonds or obligations.

Whenever such district has constructed, acquired or established water facilities, sewer facilities, a stormwater system, stormwater management program or gas facilities for water, sewer, stormwater or gas services within any city, incorporated town or other municipal corporation included within a district, then such city, incorporated town or other municipal corporation may not thereafter construct, acquire or establish any facilities of the same kind within such city, incorporated town or other municipal corporation without the consent of such district.

For the purpose of acquiring any public service properties or lands, rights or easements deemed necessary or incidental for the purposes of the district, each such district has the right of eminent domain to the same extent and to be exercised in the same manner as now or hereafter provided by law for such right of eminent domain by cities, incorporated towns and other municipal corporations: Provided, That the power of eminent domain provided in this section does not extend to highways, road and drainage easements, or stormwater facilities constructed, owned or operated by the West Virginia Division of Highways without the express agreement of the Commissioner of

Highways: Provided, however, That such board may not acquire all or any substantial part of a privately owned waterworks system unless and until authorized so to do by the Public Service Commission of West Virginia, and that this section shall not be construed to authorize any district to acquire through condemnation proceedings either in whole or substantial part an existing privately owned waterworks plant or system or gas facilities located in or furnishing water or gas service within such district or extensions made or to be made by it in territory contiguous to such existing plant or system, nor may any such board construct or extend its public service properties to supply its services into areas served by or in competition with existing waterworks or gas facilities or extensions made or to be made in territory contiguous to such existing plant or system by the owner thereof. (1953, c. 147; 1980, c. 60; 1981, c. 124; 2002, c. 272.)

Effect of amendment of 2002. — Acts 2002, c. 272, effective June 7, 2002, in the second paragraph, inserted "stormwater facilities" following "sewer facilities" in the proviso; in the third paragraph, inserted "a stormwater system, stormwater management program" following "sewer facilities" and "stormwater" preceding "or gas services"; in the last paragraph, added a new first proviso and redesignated the former first proviso as the second.

§ 16-13A-9. Rules; service rates and charges; discontinuance of service; required water and sewer connections; lien for delinquent fees.

(a)(1) The board may make, enact and enforce all needful rules in connection with the acquisition, construction, improvement, extension, management, maintenance, operation, care, protection and the use of any public service properties owned or controlled by the district. The board shall establish rates, fees and charges for the services and facilities it furnishes, which shall be sufficient at all times, notwithstanding the provisions of any other law or laws, to pay the cost of maintenance, operation and depreciation of the public service properties and principal of and interest on all bonds issued, other obligations incurred under the provisions of this article and all reserve or other payments provided for in the proceedings which authorized the issuance of any bonds under this article. The schedule of the rates, fees and charges may be based upon:

(A) The consumption of water or gas on premises connected with the facilities, taking into consideration domestic, commercial, industrial and public use of water and gas;

(B) The number and kind of fixtures connected with the facilities located on the various premises;

(C) The number of persons served by the facilities;

(D) Any combination of paragraphs (A), (B) and (C) of this subdivision; or

(E) May be determined on any other basis or classification which the board may determine to be fair and reasonable, taking into consideration the location of the premises served and the nature and extent of the services and facilities furnished. However, no rates, fees or charges for stormwater services may be assessed against highways, road and drainage easements or stormwater

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facilities constructed, owned or operated by the West Virginia Division of Highways.

(2) Where water, sewer, stormwater or gas services, or any combination thereof, are all furnished to any premises, the schedule of charges may be billed as a single amount for the aggregate of the charges. The board shall require all users of services and facilities furnished by the district to designate on every application for service whether the applicant is a tenant or an owner of the premises to be served. If the applicant is a tenant, he or she shall state the name and address of the owner or owners of the premises to be served by the district. Notwithstanding the provisions of section eight [§ 24-3-8], article three, chapter twenty-four of this code to the contrary, all new applicants for service shall deposit the greater of a sum equal to two twelfths of the average annual usage of the applicant's specific customer class or fifty dollars, with the district to secure the payment of service rates, fees and charges in the event they become delinquent as provided in this section. If a district provides both water and sewer service, all new applicants for service shall deposit the greater of a sum equal to two twelfths of the average annual usage for water service or fifty dollars and the greater of a sum equal to two twelfths of the average annual usage for wastewater service of the applicant's specific customer class or fifty dollars. In any case where a deposit is forfeited to pay service rates, fees and charges which were delinquent at the time of disconnection or termination of service, no reconnection or reinstatement of service may be made by the district until another deposit equal to the greater of a sum equal to two twelfths of the average usage for the applicant's specific customer class or fifty dollars has been remitted to the district. After twelve months of prompt payment history, the district shall return the deposit to the customer or credit the customer's account at a rate as the Public Service Commission may prescribe: Provided, That where the customer is a tenant, the district is not required to return the deposit until the time the tenant discontinues service with the district. Whenever any rates, fees, rentals or charges for services or facilities furnished remain unpaid for a period of twenty days after the same become due and payable, the user of the services and facilities provided is delinquent and the user is liable at law until all rates, fees and charges are fully paid. The board may, under reasonable rules promulgated by the Public Service Commission, shut off and discontinue water or gas services to all delinquent users of either water or gas facilities, or both, ten days after the water or gas services become delinquent.

(b) In the event that any publicly or privately owned utility, city, incorporated town, other municipal corporation or other public service district included within the district owns and operates separately either water facilities or sewer facilities, and the district owns and operates the other kind of facilities, either water or sewer, as the case may be, then the district and the publicly or privately owned utility, city, incorporated town or other municipal corporation or other public service district shall covenant and contract with each other to shut off and discontinue the supplying of water service for the nonpayment of sewer service fees and charges: Provided, That any contracts entered into by a public service district pursuant to this section shall be

submitted to the Public Service Commission for approval. Any public service district providing water and sewer service to its customers has the right to terminate water service for delinquency in payment of either water or sewer bills. Where one Public Service District is providing sewer service and another public service district or a municipality included within the boundaries of the sewer district is providing water service, and the district providing sewer service experiences a delinquency in payment, the district or the municipality included within the boundaries of the sewer district that is providing water service, upon the request of the district providing sewer service to the delinquent account, shall terminate its water service to the customer having the delinquent sewer account: Provided, however, That any termination of water service must comply with all rules and orders of the Public Service Commission.

(c) Any district furnishing sewer facilities within the district may require, or may by petition to the circuit court of the county in which the property is located, compel or may require the division of health to compel all owners, tenants or occupants of any houses, dwellings and buildings located near any sewer facilities where sewage will flow by gravity or be transported by other methods approved by the Division of Health, including, but not limited to, vacuum and pressure systems, approved under the provisions of section nine [§ 16-1-9], article one, chapter sixteen of this code, from the houses, dwellings or buildings into the sewer facilities, to connect with and use the sewer facilities and to cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from the houses, dwellings and buildings where there is gravity flow or transportation by any other methods approved by the Division of Health, including, but not limited to, vacuum and pressure systems, approved under the provisions of section nine, article one, chapter sixteen of this code and the houses, dwellings and buildings can be adequately served by the sewer facilities of the district and it is declared that the mandatory use of the sewer facilities provided for in this paragraph is necessary and essential for the health and welfare of the inhabitants and residents of the districts and of the state. If the public service district requires the property owner to connect with the sewer facilities even when sewage from dwellings may not flow to the main line by gravity and the property owner incurs costs for any changes in the existing dwellings' exterior plumbing in order to connect to the main sewer line, the public service district board shall authorize the district to pay all reasonable costs for the changes in the exterior plumbing, including, but not limited to, installation, operation, maintenance and purchase of a pump or any other method approved by the division of health. Maintenance and operation costs for the extra installation should be reflected in the users charge for approval of the Public Service Commission. The circuit court shall adjudicate the merits of the petition by summary hearing to be held not later than thirty days after service of petition to the appropriate owners, tenants or occupants.

(d) Whenever any district has made available sewer facilities to any owner, tenant or occupant of any house, dwelling or building located near the sewer facility and the engineer for the district has certified that the sewer facilities

are available to and are adequate to serve the owner, tenant or occupant and sewage will flow by gravity or be transported by other methods approved by the Division of Health from the house, dwelling or building into the sewer facilities, the district may charge, and the owner, tenant or occupant shall pay the rates and charges for services established under this article only after thirty-day notice of the availability of the facilities has been received by the owner, tenant or occupant. Rates and charges for sewage services shall be based upon actual water consumption or the average monthly water consumption based upon the owner's, tenant's or occupant's specific customer class.

(e) Whenever any district has made available a stormwater system to any owner, tenant or occupant of any real property located near the stormwater system and where stormwater from real property affects or drains into the stormwater system, it is hereby found, determined and declared that the owner, tenant or occupant is being served by the stormwater system and it is further hereby found, determined and declared that the mandatory use of the stormwater system is necessary and essential for the health and welfare of the inhabitants and residents of the district and of the state. The district may charge, and the owner, tenant or occupant shall pay the rates, fees and charges for stormwater services established under this article only after thirty-day notice of the availability of the stormwater system has been received by the owner.

(f) All delinquent fees, rates and charges of the district for either water facilities, sewer facilities, gas facilities or stormwater systems or stormwater management programs are liens on the premises served of equal dignity, rank and priority with the lien on the premises of state, county, school and municipal taxes. In addition to the other remedies provided in this section, public service districts are granted a deferral of filing fees or other fees and costs incidental to the bringing and maintenance of an action in magistrate court for the collection of delinquent water, sewer, stormwater or gas bills. If the district collects the delinquent account, plus reasonable costs, from its customer or other responsible party, the district shall pay to the magistrate the normal filing fee and reasonable costs which were previously deferred. In addition, each public service district may exchange with other public service districts a list of delinquent accounts: Provided, That an owner of real property may not be held liable for the delinquent rates or charges for services or facilities of a tenant, nor may any lien attach to real property for the reason of delinquent rates or charges for services or facilities of a tenant of the real property, unless the owner has contracted directly with the public service district to purchase the services or facilities.

(g) Anything in this section to the contrary notwithstanding, any establishment, as defined in section three [§ 22-11-3], article eleven, chapter twenty-two, now or hereafter operating its own sewage disposal system pursuant to a permit issued by the Division of Environmental Protection, as prescribed by section eleven [§ 22-11-11], article eleven, chapter twenty-two of this code, is exempt from the provisions of this section. (1953, c. 147; 1965, c. 134; 1980, c. 60; 1981, c. 124; 1986, c. 81; 1989, c. 174; 1994, c. 61; 2002, c. 272; 2003, c. 183.)

Code of State Rules References. — Rules and regulations for the government of gas utilities and gas pipeline safety, 150 CSR 4, effective July 21, 1996.

Rules and regulations for the government of sewer utilities, 150 CSR 5, effective October 24, 2003.

Rules and regulations for the government of telephone utilities, 150 CSR 6, effective October 10, 2000.

Rules and regulations for the government of water utilities, 150 CSR 7, effective October 24, 2003.

Effect of amendment of 2002. — Acts 2002, c. 272, effective June 7, 2002, inserted "fees" following "rates" throughout the section; in the first paragraph, deleted "and regulations" following "needful rules" in the first sentence, inserted a new third sentence, substituted "Where water, sewer, stormwater or gas services, or any combination thereof" for "Where water, sewer and gas services" in the present fourth sentence; inserted the fifth paragraph; in the present sixth paragraph, inserted "stormwater systems or stormwater management systems" following "sewer facilities" and "stormwater" preceding "or gas bills" in the first sentence.

Effect of amendment of 2003. — Acts 2003, c. 183, effective June 6, 2003, added subsection designations; rewrote present (a)(2), and (c); in (d), substituted "division of health" for "bureau of public health," added "tenant or occupant" to the end of the next-to-last sentence, and added the last sentence; in (f), substituted "gas facilities or stormwater systems or stormwater management programs" for "stormwater systems or stormwater management systems or gas facilities" and added the proviso to the end; and made minor stylistic changes.

§ 16-13A-14. Items included in cost of properties.

The cost of any public service properties acquired under the provisions of this article shall be deemed to include the cost of the acquisition or construction thereof, the cost of all property rights, easements and franchises deemed necessary or convenient therefor and for the improvements and extensions thereto; for stormwater systems and associated stormwater management programs, those activities which include, but are not limited to, water quality improvement activities necessary to comply with all federal and state requirements; interest upon bonds prior to and during construction or acquisition and for six months after completion of construction or of acquisition of the improvements and extensions; engineering, fiscal agents and legal expenses; expenses for estimates of cost and of revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, and such other expenses as may be necessary or incident to the financing herein authorized, and the construction or acquisition of the properties and the placing of same in operation, and the performance of the things herein required or permitted, in connection with any thereof. (1953, c. 147; 2002, c. 272.)

Effect of amendment of 2002. — Acts 2002, c. 272, effective June 7, 2002, inserted "for stormwater systems ... federal and state requirements" following the first phrase.

§ 16-13A-18a. Sale, lease or rental of water, sewer, stormwater or gas system by district; distribution of proceeds.

In any case where a public service district owns a water, sewer, stormwater or gas system, and a majority of not less than sixty percent of the members of the public service board thereof deem it for the best interests of the district to

sell, lease or rent such water, sewer, stormwater or gas system to any municipality or privately-owned water, sewer, stormwater or gas system, or to any water, sewer, stormwater or gas system owned by an adjacent public service district, the board may so sell, lease or rent such water, sewer, stormwater or gas system upon such terms and conditions as said board, in its discretion, considers in the best interests of the district: Provided, That such sale, leasing or rental may be made only upon: (1) The publication of notice of a hearing before the board of the public service district, as a Class I legal advertisement in compliance with the provisions of article three [§§ 59-3-1 et seq.], chapter fifty-nine of this code, in a newspaper published and of general circulation in the county or counties wherein the district is located, such publication to be made not earlier than twenty days and not later than seven days prior to the hearing; (2) approval by the county commission or commissions of the county or counties in which the district operates; and (3) approval by the Public Service Commission of West Virginia.

In the event of any such sale, the proceeds thereof, if any, remaining after payment of all outstanding bonds and other obligations of the district, shall be ratably distributed to any persons who have made contributions in aid of construction of such water, sewer, stormwater or gas system, such distribution not to exceed the actual amount of any such contribution, without interest, and any balance of funds thereafter remaining shall be paid to the county commission of the county in which the major portion of such water, sewer, stormwater or gas system is located to be placed in the general funds of such county commission. (1963, c. 75; 1981, c. 124; 1986, c. 81; 1997, c. 160; 2002, c. 272.)

Effect of amendment of 2002. — Acts 2002, c. 272, effective June 7, 2002, inserted "stormwater" following "sewer" in the section heading and throughout the section.

§ 16-13A-24. Acceptance of loans, grants or temporary advances.

Any public service district created pursuant to the provisions of this article is authorized and empowered to accept loans or grants and procure loans or temporary advances evidenced by notes or other negotiable instruments issued in the manner, and subject to the privileges and limitations, set forth with respect to bonds authorized to be issued under the provisions of this article, for the purpose of paying part or all of the cost of construction or acquisition of water systems, sewage systems, stormwater systems or stormwater management systems or gas facilities, or all of these, and the other purposes herein authorized, from any authorized agency or from the United States of America or any federal or public agency or department of the United States or any private agency, corporation or individual, which loans or temporary advances, including the interest thereon, may be repaid out of the proceeds of the bonds authorized to be issued under the provisions of this article, the revenues of the said water system, sewage system, stormwater system or associated stormwater management system or gas facilities, or grants to the public service district from any authorized agency or from the United States of

America or any federal or public agency or department of the United States or from any private agency, corporation or individual or from any combination of such sources of payment, and to enter into the necessary contracts and agreements to carry out the purposes hereof with any authorized agency or the United States of America or any federal or public agency or department of the United States, or with any private agency, corporation or individual. Any other provisions of this article to the contrary notwithstanding, interest on any such loans or temporary advances may be paid from the proceeds thereof until the maturity of such notes or other negotiable instrument. (1958, c. 14; 1980, c. 60; 1981, c. 124; 1986, c. 118; 2002, c. 272.)

Effect of amendment of 2002. — Acts 2002, c. 272, effective June 7, 2002, inserted "stormwater systems or stormwater management systems" and "stormwater system or associated stormwater management system."

§ 16-13A-25. Borrowing and bond issuance; procedure.

(a) Notwithstanding any other provisions of this article to the contrary, a public service district may not borrow money, enter into contracts for the provision of engineering, design or feasibility studies, issue or contract to issue revenue bonds or exercise any of the powers conferred by the provisions of section thirteen [§ 16-13A-13], twenty [§ 16-13A-20] or twenty-four [§ 16-13A-24] of this article, without the prior consent and approval of the Public Service Commission.

(b) The Public Service Commission may waive the provision of prior consent and approval for entering into contracts for engineering, design or feasibility studies pursuant to this section for good cause shown which is evidenced by the public service district filing a request for waiver of this section stated in a letter directed to the commission with a brief description of the project, a verified statement by the board members that the public service district has complied with chapter five-g [§§ 5G-1-1 et seq.] of this code, and further explanation of ability to evaluate their own engineering contract, including, but not limited to:

(1) Experience with the same engineering firm; or

(2) completion of a construction project requiring engineering services. The district shall also forward an executed copy of the engineering contract to the commission after receiving approval of the waiver.

(c) An engineering contract that meets one or more of the following criteria is exempt from the waiver or approval requirements:

(1) A contract with a public service district that is a Class A utility on the first day of April, two thousand three, or subsequently becomes a Class A utility as defined by commission rule;

(2) A contract with a public service district that does not require borrowing and that can be paid out of existing rates;

(3) A contract where the payment of engineering fees are contingent upon the receipt of funding, and commission approval of the funding, to construct the project which is the subject of the contract; or

(4) A contract that does not exceed fifteen thousand dollars.

(d) Requests for approval or waivers of engineering contracts shall be deemed granted thirty days after the filing date unless the staff of the Public Service Commission or a party files an objection to the request. If an objection is filed, the Public Service Commission shall issue its decision within one hundred twenty days of the filing date. In the event objection is received to a request for a waiver, the application shall be considered a request for waiver as well as a request for approval in the event a waiver is not appropriate.

(e) Unless the properties to be constructed or acquired represent ordinary extensions or repairs of existing systems in the usual course of business, a public service district must first obtain a certificate of public convenience and necessity from the Public Service Commission in accordance with the provisions of chapter twenty-four [§§ 24-1-1 et seq.] of this code, when a public service district is seeking to acquire or construct public service property. (1969, 1st Ex. Sess., c. 6; 1981, c. 124; 1986, c. 81; 1996, c. 213; 1997, c. 159; 2003, c. 184; 2005, c. 193.)

Effect of amendment of 2003. — Acts 2003, c. 184, effective June 5, 2003, added subsection designations; inserted (c) and (d); in (b), substituted "a verified statement by the board members that the public service district has complied" for "evidence of compliance," deleted "in the past two years requiring engineering services" from the end of subdivision (1), and deleted "within the past two years" preceding "requiring engineering services" in subdivision (2); and rewrote the final paragraph of the section, deleting former subdivisions (a) through (e) regarding requirements for legal advertisements giving public notice of projects.

Effect of amendment of 2005. — Acts 2005, c. 193, effective July 8, 2005, deleted the second paragraph in (e), pertaining to prefiling of plans by the public service district; and made minor stylistic changes.

ALR references. — Remedies for sewage treatment plant alleged or deemed to be nuisance, 101 ALR5th 287.

ARTICLE 13C.

DRINKING WATER TREATMENT REVOLVING FUND ACT.

§ 16-13C-2. Designation of division of health as state instrumentality; rules; small systems; disadvantaged communities.

Code of State Rules References. — Drinking water treatment revolving fund, 64 CSR 49, effective June 1, 1998.

Public water systems capacity development, 64 CSR 61, effective May 14, 1999.

ARTICLE 13E.

COMMUNITY ENHANCEMENT ACT.

Sec.		Sec.	
16-13E-1.	Short title.		sion of community enhancement district; petition requirements.
16-13E-2.	Definitions.	16-13E-5.	Notice to property owners before creation or expansion of community enhancement district and construction or acquisi-
16-13E-3.	Power and authority of counties and municipalities to create and establish community enhancement districts.		
16-13E-4.	Petition for creation or expan-		

EASTERN WYOMING PSD Resolution and Order Proposing Creation

On this the 4th day of October 2000, the Wyoming County Commission upon its own motion pursuant to Chapter 16, Article 13A, Section 2 of the West Virginia Code of 1931 as amended proposed the creation of a Eastern Wyoming Public Service District and the merger of the Wyco Public Service District.

WHEREAS, on the 7th day of June 1983 the Wyoming County Commission,upon its own motion by Order duly adopted, created the Wyco Public Service district in accordance with Chapter 16, Article 13A, Section 2 of the West Virginia Code of 1931, as amended.

WHEREAS, on the 22nd day of March 1994 the Wyoming County Commission, upon its own motion by Order duly adopted expanded the Wyco Public Service District to include certain areas of Wyoming County which were duly described in said Order.

WHEREAS, with this Order, the Wyoming County Commission proposes to merge the Wyco Public Service District with the newly created Eastern Wyoming Public Service District.

WHEREAS, it is hereby proposed that the area or part of Wyoming County included in the following described territory and indicated on the attached map titled "Proposed Water Service Boundary of Eastern Wyoming Public Service District", shall be included in the Eastern Wyoming County Public Service District:

BEGINNING at a point in the Wyoming County-Raleigh County line on a ridge southeast of Glen Rogers, with said point being a common corner with the existing boundary line of Ravencliff-McGraws-Saulsville Public Service District (RMSPSD) at Latitude 37° 41' 07" and Longitude 81° 23' 39"; thence with said RMSPSD boundary line in a southwesterly direction to Polks Gap at Latitude 37° 40' 59" and Longitude 81° 25' 31"; thence with said RMSPSD boundary line in a southwesterly direction to Saulsville Mountain in Twin Falls State Park boundary line at Latitude 37° 39' 11" and Longitude 81° 25' 57"; thence leaving said RMSPSD boundary line and meandering with Twin Falls State Park boundary line to a point just east of Cabin Creek, with point being a common corner to said RMSPSD boundary line at Latitude 37° 36' 30" and Longitude 81° 26' 43", thence with said RMSPSD boundary line in a southerly direction crossing Route 10 to the center of Guyandotte River at Latitude 37° 34' 22" and Longitude 81° 26' 43"; thence leaving said RMSPSD boundary line and continuing in a southerly direction to the Wyoming County-McDowell County line at County Route 6 at Latitude 37° 27' 36" and Longitude 81° 26' 43"; thence meandering with the said Wyoming County-McDowell County line in a southessterly direction to the Wyoming County-Mercer county line at Latitude 37° 25' 24" and Longitude 81°18' 26"; thence meandering with the said Wyoming County-Mercer County line in a northeasterly direction to the Wyoming County-Raleigh county line at Latitude 37° 30' 40" and Longitude 81° 13' 20"; thence meandering with the said Wyoming County-Raleigh County line to the southeast corner of the Wyoming County Public Service District No. 1 (WYCOPSD) boundary at Latitude 37° 33' 45" and Longitude 81° 18' 05"; thence meandering with the said Wyoming County-Raleigh county line and the said WYCOPSD boundary line in a northwesterly direction to the northern most corner of the said WYCOPSD boundary at Latitude 37 °37' 52" and Longitude 81° 20' 37"; thence leaving the said WYCOPSD boundary and with the Wyoming County Raleigh County line in a northwesterly direction to the point of BEGINNING and containing 120 square miles, more or less.

THEREAS it is hereby ORDERED that a hearing be set on this motion to create the Eastern Wyoming Public Service District to include that part of Wyoming County as is contained in the above described territory and merge the Wyco Public Service District with the Eastern Wyoming Public Service District. It is further ORDERED that a hearing will be held on this matter on the 1st day of November 2000 at 6:30 o'clock p.m. in the office of the County Commission of Wyoming County at the Courthouse in Pineville, WV.

It is further ORDERED that a notice of such hearing and the time and place thereof, setting forth a description of all the territory proposed to be included in said Eastern Wyoming Public Service District be given by publication as a Class I legal advertisement in the Pineville Independent Herald and the Mullens Advocate, newspapers of general circulation within the publication area and that said publication be at least ten (10) days prior to such hearing.

furthermore, it is ORDERED that said notice be posted in at least five (5) conspicuous places within the area to be included in the proposed Eastern Wyoming Public Service District which contains the same information as the published notice and said posted notices be posted not less than ten (10) days before said hearing.

All persons residing in or owning or having any interest inproperty in such proposed area to e included in the Eastern Wyoming Public Service district shall have an opportunity to be heard for or against this proposal. At this hearing the county Commission of Wyoming County, before which the hearing will be conducted, shall consider and determine the feasibility of creating the Eastern Wyoming Public Service District and merging the Wyco Public Service District.

Entered this the 4th day of October 2000.

I, Louise Morgan, being first duly sworn according to law, depose and say, that I am the duly appointed and qualified personal representative or the sole beneficiary of the Estate of Jay Morgan, deceased; that Louise Morgan is the sole beneficiary of said decedent's estate; that the said beneficiary is competent at Law and not under any legal disability; that said decedent's estate will be distributed to said sole beneficiary in accordance with the terms and provisions of said decedent's will or under the Laws of Descent and Distribution of the State of West Virginia; that there is no requirement of any further administration upon said decedent's estate; and that no reference to a fiduciary commissioner is necessary or required pursuant to Chapter 44, Article 2, Section 2 (b) of the West Virginia Code as amended.

ESTATE OF WILLIAM BOWMAN — Unadministered Estate

I, Helen Marie Bowman being first duly sworn according to law, depose and say that I am the duly appointed and qualified personal representative or the sole beneficiary of the Estate of William Bowman, deceased; that Helen Marie Bowman is the sole beneficiary of said decedent's estate; that the said beneficiary is competent at Law and not under any legal disability that said decedent's will be distributed to said sole beneficiary in accordance with the terms and provisions of said decedent's will or under the laws of Descent and Distribution of the State of West Virginia; that there is no requirement of any further administration upon said decedent's estate; that no reference to a fiduciary commissioner is necessary or required pursuant to chapter 44, Article 2, Section 2 (b) of the West Virginia code as amended.

ESTATE OF WILLIAM RALPH MAYS — Unadministered Estate

I, Lula M. Wright, being first duly sworn according to law, depose and say that I am the duly appointed and qualified personal representative or the sole beneficiary of the Estate of William Ralph Mays, deceased; that the W. R. Mays Testamentary Trust is the sole beneficiary of said decedent's estate; that the said beneficiary is competent at Law and not under any legal disability; that said decedent's estate will be distributed to said sole beneficiary in accordance with the terms and provisions of said decedent's will or under the laws of Descent and Distribution of the State of West Virginia; that there is no requirement of any further administration upon said decedent's estate; and that no reference to a fiduciary commissioner is necessary or required pursuant to chapter 44, Article 2, and 2 b or Chapter 44, Article 3 A of the West Virginia Code as amended.

BANK BALANCES

Bank balances were detailed as follows: General County $1,143,730.56; Coal tax $187,695.94; Coal Tax investment $135,415.89; 911 Communication $19,177.20; Landfill $14,861.74; Airport $7,003.08.

PINEVILLE Little League — Greg Cook--Request for monies, water system

Greg Cook informed the Commission that they need a new water system at the Pineville Little League field on Pinnacle Creek. US. Steel has dug a well for them but the water has an extremely high iron content. He would like the Commission to purchase the system and help pay the yearly cost for the power and chemicals, a cost estimated at $5000. The Commission tabled the matter.

BILLS APPROVED

Bills in the amount of $162,773.40 were presented to the Commission for review and approval. Motion was made by Harold Hayden and seconded by Ed Hackess to approve all bills.

CENTER PSD — Gene Young-Gas purchases

Gene Young informed the Commission that the Center PSD would like to purchase their gas from Dept. of Highways and reimburse them for it. Oliver Stewart had told him they would have to purchase it through the county and reimburse them. The Commission stated that they simply could not start that as the paper work would be to heavy for them.

EASTERN WYOMING PSD — Public Hearing for the creation

A public hearing was held on the creation of the Eastern Wyoming PSD. Present were: Mr. & Mrs. Earl Sweeney, Bob Johnson, Jimmy Miles, Bryce Phillips and Rick Roberts. A number of questions were asked but there was no protest against the creation of the PSD. Motion was made by Ed Hackess and seconded by

A RESOLUTION AND ORDER CREATING EASTERN WYOMING PUBLIC SERVICE DISTRICT AND MERGING WYCO PUBLIC SERVICE DISTRICT IN WYOMING COUNTY, WEST VIRGINIA

WHEREAS, on the 4th day of October, 2000, pursuant to Chapter 16, Article 13A, Section 2, of the West Virginia Code of 1931 as amended, the county Commission of Wyoming County, West Virginia, upon its own motion, entered a resoltuion and order fixing a date for a public hearing on the proposed creation of a Eastern Wyoming Public Service District and merger of Wyco Public Service District and in and by said resolution and order provided that all persons residing in or owning or having an interest in property within the proposed Eastern Wyoming Public Service District might appear before the County Commission andhave the opportunity to be heard for and against the creation and merger of said districts; and,

WHEREAS, the City Council of the city of Mullens, Wyoming County, West Virginia has consented to be included within the boundaries of the Eastern Wyoming Public Service District by resolution, which is attached hereto, and incorporated as part hereof; and,

WHEREAS, notice of this hearing was duly given in the manner provided and required by said resolution and order and by Article 13A of chapter 16 of the West Virginia Code, and all interested persons have been afforded an opportunity of being heard for and against the creation of Eastern Wyoming Public Service District and merger of Wyco Public Service District, but no written protest has been filed by the requisit number of qualified voters registered and residing within said proposed Eastern Wyoming Public Service District and said County Commission has given due consideration to all matter for which such hearing was offered; and

WHEREAS, it is now deemed desirable by said County Commission to adopt a resolution and order creating and merging said District.

NOW, THEREFORE, be it and it is hereby resolved and ordered by the county Commission of Wyoming County, West Virginia as follows:

SECTION 1. That a Public Service District within Wyoming County, West Virginia is hereby created, and said District shall have boundaries as set forth by the map attached hereto.

SECTION 2. That said Public Service District so created shall have the name and corporate title of Eastern Wyoming Service District and shall constitute a public corporation and political subdivision of the State of West Virginia having all the rights and powers conferred on a public service district by the laws of the State of West Virginia, and particularly Article 13A of chapter 16 of the West Virginia Code of 1931, as amended.

Section 3. that the County Commission of Wyoming county, West Virginia, has determined that the territory within Wyoming County, West Virginia, having the boundaries as follows:

Beginning at a point in the Wyoming County-Raleigh County line on a ridge southeast of Glen Rogers, with said point being a common corner with the existing boundary line of Ravencliff-McGraws-Saulsville Public Service District (RMSPSD) at Latitude 37°42'07" and Longitude 81°23'39"; thence with said RMSPSD boundary line in a southwesterly direction to Polks Gap at Latitude 37° 49' 59" and Longitude 81° 25' 31"; thence with said RMSPSD Boundary line in a southwesterly direction to Saulsville Mountain in Twin Falls State Park boundary line at Latitude 37° 39' 11" and Longitude 81° 25' 57"; thence leaving said RMSPSD boundary line and meandering with Twin Falls State park boundary line to a point just east of Cabin Creek, with point being a common corner to said RMSPSD boundary line at Latitude 37° 36' 30" and Longitude 81° 26' 43", thence with said RMSPSD boundary line in a southerly direction crossing Route 10 to the center of guyandotte River at Latitude 37° 34' 22" and Longitude 81° 26' 43"; thence leaving said RMSPSD boundary line and continuing in a southerly direction to the Wyoming county-McDowell County line at county Route 6 at Latitude 37°27' 36" and Longitude 81° 26' 43"; thence meandering with the said Wyoming County-McDowell county line in a southeasterly direction to the Wyoming County-Mercer County line at Latitude 37° 25' 24" and Longitude 81° 18' 26"; thence meandering with the said Wyoming County-Mercer County line in a northeasterly direction to the Wyoming County-Raleigh County line at Latitude 37° 30' 40" and Longitude 81° 13" 20"; thence meandering with the said Wyoming County-Raleigh county line to the southeast corner of the Wyoming county Public Service District No. 1 (WYCOPSD) boundary at Latitude 37° 33' 45" and Longitude 81° 18' 05"; thence meandering with the said wyoming county-Raleigh County line and the said WYCOPSD boundary line in a northwestly direction to the northern most corner of the said WYCOPSD boundary at Latitude 37° 37' 52" and Longitude 81° 20' 37"; thence leaving the said WYCOPSD boundary and with the Wyoming County-Raleigh County line in a northwesterly direction to the point of BEGINNING and containing 120 square miles, more or less.

this is so situated that the construction or acquistion by purchase or otherwise and the maintence operation, improvement and extension of properties supplying water services within such territory by said Eastern Wyoming Public Service District will be conducive to the preservation of public health, comfort and convenience of such area.

SECTION 4. That the Wyco Public Service District shall be merged with the Easten Wyoming Public Service District.

SECTION 4. That the creation of the Eastern Wyoming Public Service District and the merger of the Wyco Public Service district, as ordered herein, shall be effective on the date of the Final Order of the Public Service commission of West virginia approving the creation and merger.

ADOPTED BY THE COUNTY COMMISSION this 1st day of November, 2000.

/s/ H. R. Davis.

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 27th day of February, 2001.

CASE NO. 00-1652-PWD-PC

WYOMING COUNTY COMMISSION
Petition for consent and approval to create the Eastern Wyoming Public Service District and for merger of the WYCO Public Service District with the Eastern Wyoming Public Service District.

COMMISSION ORDER

On November 3, 2000, the Wyoming County Commission (County Commission) filed a petition, pursuant to W.Va. Code §16-13A-2, requesting approval to create the Eastern Wyoming Public Service District (EWPSD) and to merge the WYCO Public Service District (WYCO) into the newly created EWPSD. The petition explained that the County Commission, by Order dated October 4, 2000, proposed the creation of the EWPSD and the merger of WYCO into EWPSD, for the purpose of addressing the receivership status of the water utility systems serving the towns of Corrine, Welton, and Buckeye.

On December 1, 2000, Commission Staff (Staff) filed a memorandum in this case recommending that the County Commission's petition be approved, with the modification that the Garwood, Herndon, Otsego, and Pierpont water systems also be merged into the EWPSD.

On December 8, 2000, the County Commission filed a response to Staff's memorandum and argued that adoption of Staff's recommended modification would delay the EWPSD's efforts to acquire Mullens Water Works and certain other utilities currently in receivership. The County Commission stated that it anticipates the future acquisition of the Garwood, Herndon, Otsego, and Pierpont water systems, but that such acquisition should not be a condition precedent to the Commission's approval of the creation of the EWPSD.

By Order issued December 18, 2000, the Commission adopted a procedural schedule in this case, culminating in a hearing to be held on January 24, 2001, at 1:30 p.m., Mullens City Hall, Community Room, 2nd Floor, 316 Moran Avenue, Mullens, West Virginia. The procedural schedule included a deadline of January 5, 2001, for the filing of petitions to intervene. Notice of the hearing was published in the *Pineville Independent Herald*, on December 20, 2000.

On January 3, 2001, a motion to intervene was filed by the City of Mullens, the Town of Garwood and its water system, the Town of Herndon and its water system, the Town of Otsego and its water system, the Town of Pierpont and its water system, the Herndon Heights Community Water System, and the Bud Mountain Community Water System.

The motion to intervene stated that the above referenced entities are potentially affected by the creation and merger proposed in these proceedings, in that they reside or exist within the proposed geographic boundary of the proposed public service district. The motion further stated that the entities would be potentially affected by the Staff proposal to merge "other systems into the proposed public service district."

By Order issued January 16, 2001, the Commission granted the petitions to intervene.

The hearing convened as scheduled on January 24, 2001. Mr. W. Richard Staton appeared on behalf of the Wyoming County Commission, the City of Mullens and the intervenors. Mr. Terry Owen appeared on behalf of Commission Staff. Several members of the public made statements at the hearing.

Mr. Freeman Davis, the administrator and operator of Garwood Community Water stated there have been many recent upgrades to the Garwood system and its customers did not wish to be taken over by EWPSD. (Tr. pp. 6-7).

Ms. Ella Mae Cook testified that she is a resident of Mullens and that the water quality in Mullens is poor. The water appears brownish in color. She presented a brown water sample and a dirty water filter as evidence. (Tr. p. 8-9; Protestant Exh. 1 and 2).

Mr. Owen explained that Mullens Water Works has not yet been incorporated into EWPSD. He stated that a sale is currently being negotiated between the City of Mullens and the Mullens Water Works. That option agreement would be assignable to EWPSD. Mr. Owen explained that the purpose of the hearing is to create the EWPSD. The purchase of Mullens Water Works by EWPSD cannot occur until EWPSD is properly created. Mr. Owen acknowledged that rather than have the City of Mullens purchase

Mullens Water Works and then assign the system to EWPSD, the EWPSD could purchase Mullens Water Works directly. (Tr. pp. 11-12).

Mr. Jack Feller complained that notice of the hearing was not provided in the Mullens newspaper. (Tr. p. 13). He stated that he supports the creation of EWPSD, but that the cost should not be borne solely by the citizens of Mullens. He did not believe the City should purchase Mullens Water Works. Rather, EWPSD should purchase Mullens Water Works directly. (Tr. p. 29-30)

Mrs. Carlie King testified that she is a customer of the Herndon Community Water Works system and does not want to be taken over by EWPSD. (Tr. p. 14-15). She has paid a $10 per month flat rate for seventeen (17) years. (Tr. p. 17). The Herndon Community Water Works system is located approximately nine miles from Mullens. (Tr. p. 18).

Mr. Hank Shrewsberry testified that he is a customer of the Gooney Otter Water Association and would like to be a customer of a larger water system. He believes that one public service district should serve the area between the Hinton Dam to the Baileysville Dam. Mr. Shrewsberry believes that there was not sufficient notice of this hearing, or time for citizens to prepare and plan for the hearing. (Tr. p. 18-23).

Mr. Jody Clowers suggested that the County Commission do a better job of getting the word out about hearings. He complained that notices in the Pineville newspaper are not read by most people in Mullens. (Tr. p. 24-29).

The Wyoming County Commission called Michael Goode, Clerk of the County Commission as its first witness. Mr. Goode stated that the County Commission's purpose in creating EWPSD is to resolve serious water problems in Wyco PSD, Stephenson, Buckeye, Iroquois, Corinne, Black Eagle, Black Hoe, Welton, all located along Route 16, and the City of Mullens ("Included systems"). The Mullens Water Works system was included in the boundaries because of the City of Mullens' water quality problems and because a better funding package might be available if the City were included. The application filed with the Commission did not contemplate the inclusion of the water systems serving Herndon Heights, Garwood, Bud Mountain, Otsego or Pierpont (the "Excluded systems"). The Included systems will be provided with a new water source and new piping. Mr. Goode testified that it would be difficult for the new system to serve customers of the Excluded systems because the topography of the area would make the extensions extremely difficult. The boundaries of EWPSD have been revised, however, to include the communities served by the Excluded systems so that extensions may be constructed at some future date. The current funding proposals will only build a new

Public Service Commission
of West Virginia

water system to serve Mullens, Wyco, Stephenson, Buckeye, Iroquois, Corinne, Black Eagle, Black Hoe, and Welton. (Tr. p. 31-38).

The County Commission's second witness was David N. Cole, Assistant Executive Director of the Region 1 Planning and Development Council. Mr. Cole explained that this project began in 1994 in an effort to upgrade the existing Wyco Public Service District water system. The County Commission decided that the upgrade should be expanded to address other water needs in the area. The current project budget is approximately $14,580,000. The project has been awarded $3,000,000 for its construction design budget comprised of both a loan from the West Virginia Infrastructure and Jobs Development Council (Infrastructure Council) and a grant from the Corps of Engineers. The Abandoned Mines Lands Program may provide some financing. Although the HUD Small Cities and the ARC funding program rejected the project last year, the County Commission has higher hopes for funding commitments this year. The funding proposals would not cover new water service to Garwood and other areas between Mullens and the Mercer County line. Mr. Cole estimated that if all funding falls into place, construction of the new system could be completed in three (3) years. (Tr. p. 40-48).

The County Commission's third witness was Mr. Randy Brewer, Mayor of the City of Mullens. Mayor Brewer testified about the water quality problems in the City. The City was advised by the Infrastructure Council that the City needed to combine its efforts with nearby areas to obtain adequate funding to address its water problems. Mayor Brewer stated that the City has negotiated an option to purchase Mullens Water Works and that the agreement is assumable by EWPSD. The City does not have the independent means to acquire Mullens Water Works. The City hopes that the EWPSD is created as soon as possible so that it can acquire Mullens Water Works. The City would oppose the inclusion of areas into the new system that would cause a delay in funding and construction. The City has passed a resolution agreeing to be included in the EWPSD. The City has participated in negotiations with the Logan County Public Service District (Logan County PSD) to the end that Logan County PSD would operate and maintain the EWPSD system pursuant to an operation and maintenance agreement. (Tr. pp. 48-59).

The County Commission's fourth witness was Charles Richard Roberts, Managing Engineer of the Logan County Public Service District. Mr. Roberts assisted the Wyoming County Commission in producing the documentation necessary to create the EWPSD. Mr. Roberts caused the posting of the necessary County Commission orders and notices. Mr. Roberts testified that the Logan County PSD has agreed to take over operation and maintenance of the five existing systems to be included in the new EWPSD water system pursuant to a contract between Logan County PSD and EWPSD. Logan County PSD would immediately begin replacing some of the deteriorated systems. Mr. Roberts stated that the proposed service area has massive needs that will take years to address. Mr.

Roberts stated that it would not be economically feasible to add the areas served by the Excluded systems to the project. Mr. Roberts testified that Mullens Water Works had indicated a willingness to proceed with the sale of its system to EWPSD, but that the sale could not occur until the EWPSD is created. Mr. Roberts testified that it could provide daily chlorination services to the Excluded systems only with the addition of a third operator/employee. The Logan County PSD contemplates operating the EWPSD system in the short and long-term as a satellite operation with local employees. Management would continue from Logan. Initially, the water sources will be the treatment plants owned by the separate systems, but in the long-term, a new treatment plant will be constructed in the Stephenson area to satisfy the needs of the Route 16 communities and the City of Mullens. (Tr. pp. 60-74).

Mr. Staton submitted into evidence documentation that the County Commission properly resolved and ordered the creation of the EWPSD. and properly published notice of its proceedings in the *Mullens Advocate* as required by state law. W. Va. Code §16-13A-2.

Commission Staff called as its sole witness Mr. Chris Farrish, Engineering Technician employed by the Public Service Commission. Mr. Farrish testified that prior to the time the Corinne Water System, Wyco PSD, Welton Water Company, Buckeye Waterworks, and Rainey Subdivision (collectively "Gulf systems") were placed into receivership, the water quality of these systems was unsatisfactory. Mr. Farrish stated that the purpose of this proceeding is to create a public service district to supply clean potable water to the Gulf systems in Eastern Wyoming County and that Commission Staff supports creation of the EWPSD. During the course of its study, Staff also became aware that the Excluded systems were not providing dependable water supplies. Staff's current plans are to petition the Commission to conduct a general investigation of the operation of the Excluded systems to determine whether the Excluded systems should be placed into receivership. The Pierpont system has been abandoned by its operators. (Tr. p. 77-88).

Following Mr. Farrish's testimony, Mr. Staton represented to the Commission that the Wyoming County Commission has no objection to adding the Otsego and Pierpont systems to the operation and maintenance agreement between the EWPSD and Logan County PSD, after those systems are legally placed into receivership. (Tr. p. 89).

Mr. Owen then represented to the Commission that Staff's position has changed from the position stated in Staff's memorandum filed on December 1, 2000. Staff no longer proposes that the areas served by Excluded systems be served by the EWPSD's proposed project. Rather, Staff plans to petition the Commission to initiate a general investigation of the operation of the Excluded systems. Within the context of the general investigation, Staff may recommend to the Commission that EWPSD take on

responsibility for operating the Excluded systems. Staff recommends that the Commission approve the County Commission's current proposal for the creation of the EWPSD. (Tr. pp. 90-91).

Mr. Bobby Johnson made a public statement in opposition to Logan County PSD serving as operator of the EWPSD's water system. Mr. Johnson stated that he has a formal complaint against the Logan County PSD currently pending at the Public Service Commission. (Tr. p. 91-94).

DISCUSSION

A number of persons in attendance at the Commission's hearing questioned whether notice of the hearing was sufficient. There were actually two hearings held in this proceeding. The first was held by the County Commission on November 1, 2000, and the second hearing was held by the Commission on January 24, 2001. The West Virginia Code specifies the type of notice to be provided for the County Commission hearing. The Code does not specify the type of notice to be provided for the Commission's hearing. (See W.Va. Code §16-13A-2(c),(d), (f)). In the absence of specific instruction, the Commission followed its standard procedures for noticing a public hearing, and published notice in the *Pineville Independent Herald*, a newspaper of general circulation in Wyoming County. The Commission finds that the published notice was sufficient.

The Commission's review of the County Commission's application to create the EWPSD is made pursuant to W.Va. Code § 16-13A-2(f) which provides in relevant part.

> The public service commission shall provide a hearing in the affected county on the matter and may approve, reject or modify the order of the county commission if it finds it is in the best interests of the public to do so. The public service commission shall adopt rules relating to such filings and the approval, disapproval or modification of county commission orders for creating, enlarging, merging, dissolving or consolidating districts . . . .

Pursuant to this section of the West Virginia Code, the Commission promulgated Rule 6.1 *et seq.* of its Rules and Regulations for the Government of Public Service Districts, 150 C.S.R. 17. The rules provide as follows:

> 6.1. Upon entering an order or receipt of a petition proposing the creation, expansion, merger, consolidation, reduction or dissolution of a public service district, pursuant to West Virginia Code §16-13A-2, the county commission shall notify the Executive Secretary of the Public Service Commission of the time and place of the hearing to be held by the

county commission and shall file a copy with such order or petition with the Executive Secretary of the Public Service Commission at least ten (10) days prior to such hearing.

6.2. The county commission shall file an order creating, expanding, merging, consolidating reducing or dissolving a public service district with the Executive Secretary of the Public Service Commission within ten (10) days of entering such order.

6.3. A hearing shall be held in the county affected by a county commission order filed pursuant to rule 6.2. Such hearing may be waived if the county commission order is entered for the purpose of executing the county plan as required by West Virginia Code §16-13A-1b and as finally adopted and approved by the Public Service Commission.

6.4. After public comment and hearing the Public Service Commission shall, by order, approve, disapprove or modify a county commission order creating, expanding, merging, consolidating, reducing or dissolving a public service district. In deliberating on approval, modification or disapproval the Public Service Commission may consider, among other things:

a. Whether or not the county commission order is consistent with the county plan required by West Virginia Code §16-13A-1b as approved by the Public Service Commission;

b. the public convenience and necessity;

c. the economic feasibility, including sources of funding, costs and related benefits of the county commission's order;

d. the adequacy of facilities;

e. other facilities in the area; and

f. other possible alternatives.

The Commission finds that the record clearly establishes that the public convenience and necessity will be served by the creation of the EWPSD. (Tr. p. 31-33;

64). The new public service district intends to construct a new water distribution system to replace a number of failing systems. (Tr. p. 63-64). Furthermore, in the short-term, the EWPSD will improve service to customers served by the Included systems by placing the management and operations of the failing systems with the Logan County PSD. (Tr. p. 53; 59; 62-65).

Secondly, we find that the County Commission's order creating the EWPSD is economically feasible if the projected funding is obtained. (Tr. p. 40-48). The economic feasibility of the EWPSD's proposed new water distribution system will, of course, be separately examined by the Commission in the future when the EWPSD files its application for a certificate of convenience and necessity for that project. The Commission will review that application in a separate proceeding.

As to the adequacy of facilities, the evidence is clear that the poor condition of the current facilities within the boundaries of the new EWPSD makes creation of the EWPSD desirable.

Finally, the Commission notes that the County Commission has inquired of other utilities operating in the vicinity and in the State, including the West Virginia-American Water Company, and that none have indicated a willingness to address the needs of Eastern Wyoming County. (Statements of Mr. Staton in response to questions posed by Mr. Clowers, Tr. p. 95-96).

Based on the foregoing, the Commission will consent to and approve the County Commission's order creating the EWPSD.

FINDINGS OF FACT

1. The County Commission seeks Commission consent and approval of the creation of the Eastern Wyoming Public Service District and the merger of Wyco PSD into EWPSD pursuant to W.Va. Code §16-13A-2. (See Application filed November 3, 2000).

2. The County Commission intends that the new EWPSD will eventually resolve water quality problems present in the Wyco PSD, Stephenson, Buckeye, Iroquois, Corinne, Black Eagle, Black Hoe, Welton, all located along Route 16, and the City of Mullens ("Included systems"). (Id.; Tr. p. 31-38).

3. Commission Staff initially recommended that the Commission approve the County Commission's petition with the modification that the Garwood, Herndon, Otsego, and Pierpont water systems also be merged into the EWPSD. (Staff Memorandum filed

December 1, 2000). However, Staff's position has changed. Staff no longer proposes that the areas served by Excluded systems be served by the EWPSD's proposed project. (Tr. p. 77-88; 90-91).

4. The County Commission contends that inclusion of the Excluded systems would delay the EWPSD's proposed water project and render the project not financially feasible. (Response filed December 8, 2000; Tr. p. 31-38; 60-74). The County Commission is willing to include the areas served by the Excluded system within the EWPSD's boundaries and to attempt to address the water quality problems in the Excluded systems at a later date. (Id.)

5. The City of Mullens, the Town of Garwood and its water system, the Town of Herndon and its water system, the Town of Otsego and its water system, the Town of Pierpont and its water system, the Herndon Heights Community Water System, and the Bud Mountain Community Water System petitioned to intervene and were granted intervenor status in this proceeding. (Commission Order entered January 16, 2001).

6. The County Commission held a hearing in this matter on November 1, 2000.

7. The Public Service Commission held a second hearing in this matter on January 24, 2001. Notice of the Commission hearing was published in the *Pineville Independent Herald*, on December 20, 2000.

8. Mr. Freeman Davis, the administrator and operator of Garwood Community Water, stated there have been many recent upgrades to the Garwood system and its customers did not wish to be taken over by EWPSC. (Tr. pp. 6-7).

9. Ms. Ella Mae Cook testified that she is a resident of Mullens and that the water quality in Mullens is poor. The water appears brownish in color. She presented a brown water sample and a dirty water filter as evidence. (Tr. p. 8-9; Protestant Exh. 1 and 2).

10. Mrs. Carlie King testified that she is a customer of the Herndon Community Water Works system and does not want to be taken over by EWPSD. (Tr. p. 14-15). She has paid a $10 per month flat rate for seventeen (17) years. (Tr. p. 17). The Herndon Community Water Works system is located approximately nine miles from Mullens. (Tr. p. 18).

11. Mr. Hank Shrewsberry testified that he is a customer of the Gooney Otter

Water Association and would like to be a customer of a larger water system. He believes that one public service district should serve the area between the Hinton Dam to the Baileysville Dam. (Tr. p. 18-23).

12. The City of Mullens has negotiated an option to purchase Mullens Water Works and would assign that agreement to EWPSD upon the creation of EWPSD. (Tr. pp. 11-12; 48-59).

13. The Mullens Water Works system was included in the new EWPSD because of the City of Mullens' water quality problems and because a better funding package might be available if the City were included. (Tr. p. 32).

14. The current project budget is approximately $14,580,000. The project has been awarded $3,000,000 for its construction design budget comprised of both a loan from the West Virginia Infrastructure and Jobs Development Council (Infrastructure Council) and a grant from the Corps of Engineers. The Abandoned Mines Lands Program may provide some financing. The project is considered to be 80% Wyoming/Gulf eligible. Although the HUD Small Cities and the ARC funding program rejected the project last year, the County Commission has higher hopes for funding commitments this year. (Tr. p. 40-48).

15. The funding proposals would not cover new water service to Garwood and other areas between Mullens and the Mercer County line. (Tr. p. 44-45).

16. The City of Mullens was advised by the Infrastructure Council that the City needed to combine its efforts with nearby areas to obtain adequate funding to address its water problems. The City does not have the independent means to acquire Mullens Water Works. (Tr. p. 50-51).

17. The Logan County PSD has agreed to take over operation and maintenance of the five existing systems to be included in the new EWPSD water system pursuant to a contract between Logan County PSD and EWPSD. Logan County PSD would immediately begin replacing some of the deteriorated systems. (Tr. p. 60-74).

18. The Logan County PSD believes it would not be economically feasible to add the areas served by the Excluded systems to the project. (Id.)

19. The Logan County PSD contemplates operating the EWPSD system in the short and long-term as a satellite operation with local employees. Management would continue from Logan. Initially, the water sources will be the treatment plants owned by the separate systems, but in the long-term, a new treatment plant will be constructed in the

Public Service Commission

Stephenson area to satisfy the needs of the Route 16 communities and the City of Mullens. (Id.)

20. Commission Staff supports creation of the EWPSD. (Tr. pp. 90-91).

21. Staff plans are to petition the Commission to conduct a general investigation of the operation of the Excluded systems to determine whether the Excluded systems should be placed into receivership. The Pierpont system has been abandoned by its operators. (Tr. p. 77-88).

22. The County Commission has no objection to adding the Otsego and Pierpont systems to the operation and maintenance agreement between the EWPSD and Logan County PSD, after those systems are legally placed into receivership. (Tr. p. 89).

23. The County Commission has inquired of other utilities operating in the vicinity and in the State, including the West Virginia-American Water Company, and that none have indicated a willingness to address the needs of Eastern Wyoming County. (Statements of Mr. Staton in response to questions posed by Mr. Clowers. Tr. p. 95-96).

CONCLUSIONS OF LAW

1. The County Commission properly resolved and ordered the creation of the EWPSD, and properly published and posted notice of its proceedings in the *Mullens Advocate* as required by state law. W.Va. Code §16-13A-2.

2. The West Virginia Code specifies the type of notice to be provided for the County Commission hearing. The Code does not specify the type of notice to be provided for the Commission's hearing. (See W.Va. Code §16-13A-2(c),(d). (f)).

3. Sufficient legal notice of the Commission's January 24, 2001, hearing was provided.

4. The Commission's review of the County Commission's application to create the EWPSD is made pursuant to W.Va. Code § 16-13A-2(f) and Rule 6.1 *et seq.* of the Commission's Rules and Regulations for the Government of Public Service Districts, 150 C.S.R. 17.

5. The Commission finds that the record clearly establishes that the public convenience and necessity will be served by the creation of the EWPSD. (Tr. p. 31-38; 48-59; 77-88).

6. The County Commission's order creating the EWPSD is economically feasible. The economic feasibility of the EWPSD's proposed new water distribution system will, of course, be separately examined by the Commission in the future when the EWPSD files its application for a certificate of convenience and necessity for that project. The Commission will review that application in a separate proceeding.

7. Creation of the EWPSD is appropriate in light of the poor condition of the current facilities within the boundaries of the new EWPSD. (Id.)

8. Creation of the EWPSD is appropriate in light of the lack of alternative solutions to the water supply problems and needs of Eastern Wyoming County. (Tr. p. 95-96).

9. The Commission will consent to and approve the County Commission's order creating the EWPSD.

ORDER

IT IS THEREFORE ORDERED that the petition filed by the Wyoming County Commission, pursuant to W.Va. Code §16-13A-2, for the Commission's consent and approval of the County Commission's creation of the Eastern Wyoming Public Service District (EWPSD) and merger of the WYCO Public Service District (WYCO) into the newly created EWPSD, is hereby granted.

IT IS FURTHER ORDERED that upon entry hereof, this proceeding shall be removed from the Commission's docket of open cases.

IT IS FURTHER ORDERED that the Commission's Executive Secretary shall serve a copy of this order on all parties of record by First Class United States Mail, and upon Commission Staff by hand delivery.

JML/ljm
001652cb.wpd

A True Copy, Teste:

Sandra Squire

Sandra Squire
Executive Secretary

ORDER
COUNTY COMMISSION OF WYOMING COUNTY

At a Regular Session of the County Commission of Wyoming County, West Virginia, held at the Courthouse thereof, on the 18th day of January, 2006, the following order was made and entered:

SUBJECT: REAPPOINTMENT OF DALLAS DECIL AS A BOARD MEMBER TO THE EASTERN WYOMING PUBLIC SERVICE DISTRICT

The following motion was offered by Harold Hayden, Commissioner:

The County Commission of Wyoming County, West Virginia, on January 5, 2005 did hereby appoint Dallas Cecil to the Eastern Wyoming Public Service District to serve for a term expiring January 1, 2011.

Dallas Cecil did appear at the office of the County Commission on December 17, 2004, and took his oath of office as required in Chapter 16, Article 13A, Section 3, of the Code of West Virginia, 1931, as amended.

The County Commission hereby ratifies its appointment of Dallas Cecil to the Eastern Wyoming Public Service District to serve for a term expiring January 1, 2011, and will enter this Order reflecting its decision.

The adoption of the foregoing motion having been moved by Harold Hayden, Commissioner, and duly seconded by Dr. Samuel Muscari, Commissioner, the vote thereon was as follows:

H.R. Davis — Yes

Harold Hayden — Yes

Samuel Muscari — Yes

WHEREUPON, H.R. Davis, President, declared said motion duly adopted, and it is therefore ADJUDGED and ORDERED that said motion be, and the same is hereby adopted.

H.R. Davis

Samuel Muscari

Harold Hayden

Approved By _____
Prosecuting Attorney

ORDER
COUNTY COMMISSION OF WYOMING COUNTY

At a Regular Session of the County Commission of Wyoming County, West Virginia, held at the Courthouse thereof, on the 18th day of January, 2006, the following order was made and entered:

SUBJECT: APPOINTMENT OF MART LANE AS A BOARD MEMBER TO THE EASTERN WYOMING PUBLIC SERVICE DISTRICT

The following motion was offered by Harold Hayden, Commissioner:

The County Commission of Wyoming County, West Virginia, on December 18, 2002 did hereby appoint Mart Lane to the Eastern Wyoming Public Service District to serve for a term expiring January 1, 2009.

Mart Lane did appear at the office of the County Commission on August 18, 2004, and took his oath of office as required in Chapter 16, Article 13A, Section 3, of the Code of West Virginia, 1931, as amended.

The County Commission hereby ratifies its appointment of Mart Lane to the Eastern Wyoming Public Service District to serve for a term expiring January 1, 2009, and will enter this Order reflecting its decision.

The adoption of the foregoing motion having been moved by Harold Hayden Commissioner, the vote Commissioner, and duly seconded by Dr. Samuel Muscari, thereon was as follows:

H.R. Davis — Yes

Harold Hayden — Yes

Samuel Muscari — Yes

WHEREUPON, H.R. Davis, President, declared said motion duly adopted; and it is therefore ADJUDGED and ORDERED that said motion be, and the same is hereby adopted.

H.R. Davis

Samuel Muscari

Harold Hayden

Approved By _____
Prosecuting Attorney

ORDER
COUNTY COMMISSION OF WYOMING COUNTY

At a Regular Session of the County Commission of Wyoming County, West Virginia, held at the Courthouse thereof, on the 18th day of January, 2006, the following order was made and entered:

SUBJECT: APPOINTMENT OF KENNETH W. MCBRIDE, JR. AS A BOARD MEMBER TO THE EASTERN WYOMING PUBLIC SERVICE DISTRICT

The following motion was offered by Harold Hayden, Commissioner:

The County Commission of Wyoming County, West Virginia, on February 6, 2002 did hereby appoint Kenneth W. McBride, Jr. to the Eastern Wyoming Public Service District to serve for a term expiring January 1, 2007.

Kenneth W. McBride, Jr. did appear at the office of the County Commission on March 5, 2002, and took his oath of office as required in Chapter 16, Article 13A, Section 3, of the Code of West Virginia, 1931, as amended.

The County Commission hereby ratifies its appointment of Kenneth W. McBride, Jr. to the Eastern Wyoming Public Service District to serve for a term expiring January 1, 2007, and will enter this Order reflecting its decision.

The adoption of the foregoing motion having been moved by Harold Hayden, Commissioner, and duly seconded by Samuel Muscari, Commissioner, the vote thereon was as follows:

H.R. Davis — Yes

Harold Hayden — Yes

Samuel Muscari — Yes

WHEREUPON, H.R. Davis, President, declared said motion duly adopted; and it is therefore ADJUDGED and ORDERED that said motion be, and the same is hereby adopted.

H.R. Davis

Samuel Muscari

Harold Hayden

Approved By _____
Prosecuting Attorney

OATH OF OFFICE

State of West Virginia,
County of Wyoming, to-wit:

I, Kenneth W. McBride, do solemnly swear that I will support the Constitution of the United States, and the Constitution of this State, and I further swear that I will faithfully and honestly discharge my duties as a member of the board for the Eastern Wyoming Public Service District with his term expiring 01-01-07

until my successor is duly elected or appointed, and qualified according to law, to the best of my skill and judgment, so help me God.

Kenneth W McBride, Affiant.

Taken, subscribed and sworn to before me this 5th day of March, 19 2002

Leandra K. Rezzonico, N. P.

My Commission Expires 20th day of November, 19 2011

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
LEANDRA K. REZZONICO
WYOMING COUNTY ASSESSORS OFFICE
P. O. BOX 929
PINEVILLE, WV 24874
My commission expires November 20, 2011

OATH O. OFFICE

State of West Virginia,
County of Wyoming, to-wit:

I, Mart Lane, do solemnly swear that I will support the Constitution of the United States, and the Constitution of this State, and I further swear that I will faithfully and honestly discharge my duties as a member of the Eastern Wyoming Public Service District's board

ENTERED
AUG 19 2004
PRESIDENT

until my successor is duly elected or appointed and qualified according to law, to the best of my skill and judgment, so help me God.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
LINDA R. COOK
WYOMING COUNTY CLERK'S OFFICE
PO DRAWER 309
PINEVILLE, WV 24874
My commission expires September 7, 2012

Mart Lane, Affiant.

Taken, subscribed and sworn to before me this 18th day of August, 19 2004

Linda R. Cook, N. P.

My Commission Expires 7th day of September, 19 2012

3049462645 logan co. psd 09:32:40 a.m. 08-19-2004 2/14

OATH OF OFFICE

State of West Virginia,
County of Wyoming, to-wit:

I, Dallas Cecil, do solemnly swear that I will support the Constitution of the United States, and the Constitution of this State, and I further swear that I will faithfully and honestly discharge my duties as A board member for the Eastern Wyoming PSD with histerm expiring January 1, 2011

until my successor is duly elected or appointed, and qualified according to law, to the best of my skill and judgment, so help me God.

X Dallas J. Cecil, Affiant.

Taken, subscribed and sworn to before me this 17th day of December, 19 2004

N. P.

My Commission Expires 7th day of September, 19 2012

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OFFICE OF THE CLERK OF THE COUNTY COMMISSION
WYOMING COUNTY, W. VA. Dec 17 2004 5:14 P.M. SS-

The foregoing writing, together with the certificate of acknowledgment thereof thereto annexed, was this day admitted to record.

Clerk

By Deputy

RULES OF PROCEDURE

EASTERN WYOMING PUBLIC SERVICE DISTRICT

ARTICLE I

NAME AND PLACE OF BUSINESS

Section 1. Name: EASTERN WYOMING PUBLIC SERVICE DISTRICT.

Section 2. The principal office of this Public Service District (the "District") will be located at 316 Moran Avenue, Mullens, West Virginia 25882.

Section 3. The Common Seal of the District shall consist of 2 concentric circles between which circles shall be inscribed Eastern Wyoming Public Service District West Virginia, and in the center "seal" as follows:

Section 4. The fiscal year of the District shall begin on July 1 of each year and shall end on the following June 30.

ARTICLE II

PURPOSE

This District is organized exclusively for the purposes set forth in Chapter 16, Article 13A of the Code of West Virginia of 1931, as amended (the "Act").

ARTICLE III

MEMBERSHIP

Section 1. The members of the Board of the District shall be those persons appointed by The County Commission of Wyoming County, West Virginia, or otherwise appointed pursuant to the Act, who shall serve for such terms as may be specified in the order of the County Commission or otherwise.

Section 2. Should any member of the Board resign or otherwise become legally disqualified to serve as a member of the Board, the Secretary of the Board shall immediately notify the County Commission or other entity provided under the Act and request the appointment of a qualified person to fill such vacancy. Prior to the end of the term of any member of the Board, the Secretary shall notify the County Commission or other entity provided under the Act of the pending termination and request the County Commission or other entity provided under the Act to enter an order of appointment or re-appointment to maintain a fully qualified membership of the Board.

Section 3. The District shall provide to the Public Service Commission of West Virginia, within 30 days of the appointment, the following information: the new board member's name, home address, home and office phone numbers, date of appointment, length of term, who the new member replaces and if the new appointee has previously served on the board, and such other information required under the Act.

ARTICLE IV

MEETINGS OF THE BOARD

Section 1. The members of the Board of the District shall hold regular monthly meetings on the first Tuesday of each month at such place and hour as the members shall determine from time to time. If the day stated shall fall on a legal holiday, the meeting shall be held on the following day. Special meetings of the Board may be called at any time by the Chairperson or by a quorum of the Board.

Section 2. At any meeting of the Board of the District, a majority of the members of the Board shall constitute a quorum. Each member of the Board shall have one vote at any membership meeting and if a quorum is not present, those present may adjourn the meeting to a later date.

Section 3. Unless otherwise agreed, notice to members of regular meetings shall not be required. Unless otherwise waived, notice of each special meeting of the Board shall be given to all members by the Secretary by fax, telephone, mail or other satisfactory means at least 3 days before the date fixed for such special meeting. The notice of any special meeting shall state briefly the purposes of such meeting and the nature of the business to be transacted at such meeting, and no business other than that stated in the notice or incidental thereto shall be transacted at any such special meeting.

Section 4. The Board may hold a meeting without providing the notice to the public required by Section 10 of this Article only in the event of an emergency requiring immediate official action. The existence for such an emergency requiring immediate official action shall be determined by the Board and shall be attested to in a certificate by the Secretary describing such emergency and setting forth the reason or reasons immediate official action is required, which certificate shall be attached to and made a part of the minutes of such emergency meeting.

Section 5. The Board may hold an executive session during a regular, special or emergency meeting in accordance with Chapter 6, Article 9A, Section 4 of the West Virginia Code of 1931, as amended. During the open portion of the meeting, prior to convening an executive session, the Chairperson shall identify the authorization under Chapter 6, Article 9A, Section 4 of the West Virginia Code of 1931, as amended, for holding the executive session and present it to the Board and to the general public, but no decision may be made in the executive session. An executive session may be held only upon a majority affirmative vote of the Board members present. The Board may hold an executive session and exclude the public only when a closed session is required for any of the actions permitted under Chapter 6, Article 9A, Section 4 of the West Virginia Code of 1931, as amended.

Section 6. The Board shall provide for the preparation of written minutes of all of its meetings. Subject to the exceptions set forth in Chapter 6, Article 9A, Section 4 of the West Virginia Code of 1931, as amended, minutes of all meetings except minutes of executive sessions, if any are taken, shall be available to the public within a reasonable time after the meeting and shall include, at least, the following information:

(1) The date, time and place of the meeting;
(2) The name of each Board member present and absent;
(3) All motions, proposals, resolutions, orders, ordinances and measures proposed, the name of the person proposing the same and their disposition; and
(4) The results of all votes and, upon the request of a Board member, the vote of each Board member, by name.

Section 7. Except as otherwise expressly provided by law, the Board may not deliberate, vote, or otherwise take official action upon any matter by reference to a letter, number or other designation or other secret device or method, which may render it difficult for persons attending a meeting to understand what is being deliberated, voted or acted upon. However, this section does not prohibit the Board from deliberating, voting or otherwise taking action by reference to an agenda, if copies of the agenda, sufficiently worded to enable the public to understand what is being deliberated, voted or acted upon, are available for public inspection at the meeting. The Board may not vote by secret or written ballot.

Section 8. Board meetings may be held by telephone conference or other electronic means. All Board members participating by telephone or other electronic means must be audible to all those personally present.

Section 9. All meetings of any committee of the Board shall be subject to the Rules of Procedure set forth in Sections 1-8 above.

Section 10. Pursuant to Chapter 6, Article 9A, Section 3 of the West Virginia Code of 1931, as amended (1999 Revision), notice of the date, time, place and agenda of all regularly scheduled meetings of such Board, and the date, time, place and purpose of all special meetings of such Board, shall be made available, in advance, to the public and news media (except in the event of an emergency requiring immediate action) as follows:

A. Regular Meetings. Immediately after adoption of these Rules of Procedure and in January of each year thereafter, the Board shall instruct the Secretary to, and the Secretary shall, post and leave posted throughout the year to which it applies, at the front door or bulletin board of the Wyoming County Courthouse and at the front door or bulletin board of the place fixed for regular meetings of the Board a notice setting forth the date, time and place of the Board's regularly scheduled meetings for the ensuing year. In addition, a copy of the agenda for each regularly scheduled meeting shall be posted at the same locations by the Secretary of the Board not less than 48 hours before such regular meeting is to be held. If a particular regularly scheduled meeting is canceled or postponed, a notice of such cancellation or postponement shall be posted at the same locations as soon as feasible after such cancellation or postponement has been determined.

B. Special Meetings. The Board shall instruct the Secretary to, and the Secretary shall post at the front door or bulletin board of the Wyoming County Courthouse and at the front door or bulletin board of the place fixed for the regular meetings of the Board, not less than 48 hours before a specially scheduled meeting is to be held, a notice stating the date, time, place and purpose for which such special meeting shall be held. If the special meeting is canceled, a notice of such cancellation shall be posted at the same locations as soon as feasible after such cancellation has been determined.

ARTICLE V

OFFICERS

Section 1. The officers of the Board shall be a Chairperson, a Secretary and a Treasurer. The Chairperson shall be elected from the members of the Board. The Secretary and Treasurer need not be members of the Board, and may be the same person.

Section 2. The officers of the Board shall be elected each year by the members at the first meeting held in such year. The officers so elected shall serve until the next annual election by the membership and until their successors are duly elected and qualified. Any vacancy occurring among the officers shall be filled by the members of the Board at a regular or special meeting. Persons selected to fill vacancies shall serve until the following first yearly meeting of the Board when their successors shall be elected as hereinabove provided.

ARTICLE VI

DUTIES OF OFFICERS

Section 1. When present, the Chairperson shall preside as Chairperson at all meetings of the Board. The Chairperson shall, together with the secretary, sign the minutes of all meetings at which he or she shall preside. The Chairperson shall attend generally to the executive business of the Board and exercise such powers as may be conferred by the Board, by these Rules of Procedure, or as prescribed by law. The Chairperson shall execute, and if necessary, acknowledge for record, any deeds, deeds of trust, contracts, notes, bonds, agreements or other papers necessary, requisite, proper or convenient to be executed by or on behalf of the Board when and if directed by the members of the Board.

Section 2. The Secretary shall keep a record of all proceedings of the Board which shall be available for inspection as other public records. The Secretary shall, together with the Chairperson, sign the minutes of the meetings at which he or she is present. The Secretary shall have charge of the minute book, be the custodian of the Common Seal of the District and all deeds and other writings and papers of the Board. The Secretary shall also perform such other duties as he or she may have under law by virtue of the office or as may be conferred from time to time by the members of the Board, these Rules of Procedure or as prescribed by law.

Section 3. The Treasurer shall be the lawful custodian of all funds of the District and shall disburse funds of the District on orders authorized or approved by the Board. The Treasurer shall keep or cause to be kept proper and accurate books of accounts and proper receipts and vouchers for all disbursements made by or through him and shall prepare and submit such reports and statements of the financial condition of the Board as the members may from time to time prescribe. He shall perform such other duties as may be required of him by law or as may be conferred upon him by the members of the Board, these Rules of Procedure or as prescribed by law.

Section 4. If the Chairperson, Secretary or Treasurer is absent from any meeting, the remaining members of the Board shall select a temporary chairperson, secretary or treasurer, as necessary, who shall have all of the powers of the absent officer during such period of absence.

ARTICLE VII

AMENDMENTS TO RULES OF PROCEDURE

These Rules of Procedure may be altered, changed, amended, repealed or added to at any regular or special meeting of the Board by a majority vote of the entire Board, or at any regular or special meeting of the members when a quorum is present in person and a majority of those present vote for the amendment; but no such change, alteration, amendment, repeal or addition and a clear statement of the substance thereof be included in the written notice calling such meeting.

These Rules of Procedure shall replace any and all previous rules of procedure, bylaws or similar rules heretofore adopted by the District.

Adopted this 3rd day of April, 2001.

Morgan K Davis, Chair and Member

Charles W. Thompson, Member

Dallas J. Cecil, Member

EASTERN WYOMING
PUBLIC SERVICE DISTRICT

P.O. Box 506
Logan, West Virginia 25601

Phone:(304) 946-2641
Fax: (304) 946-2645

MINUTES

January 4, 2006

Respectfully submitted,

Kenneth W. McBride, Jr., Chairman

Mart Lane, Treasurer

Dallas J. Cecil, Secretary

The Eastern Wyoming Public Service District held its regular monthly meeting on Wednesday, January 4, 2006 at 6:30 p.m. in the City Council Chambers, Mullens City Hall, 316 Moran Avenue, Mullens, West Virginia. Mr. Kenneth McBride, Jr., Chairman, called the meeting to order. See attached list of those in attendance.

APPROVAL OF MINUTES – Minutes of the December 6, 2005 Regular Board Meeting were previously circulated by Mr. Rick Roberts. A motion was made by Mr. McBride to dispense with the reading of the minutes and approve the minutes as presented, seconded by Mr. Cecil. Motion passed 3-0.

ELECTION OF OFFICERS - Being the first District Board Meeting of the new year, the election of the officers was discussed. Mr. McBride opened the floor for nominations. Mr. Cecil made a motion to nominate Kenneth McBride as Chairman for 2006, seconded by Mr. Lane. Motion passed 3-0. Mr. McBride made a motion to nominate Dallas Cecil as Secretary for 2006, seconded by Mr. Lane. Motion passed 3-0. Mr. McBride made a motion to nominate Mart Lane as Treasurer for 2006, seconded by Mr. Cecil. Motion passed 3-0.

CUSTOMER / PUBLIC PRESENTATIONS – Bobby Johnson, a resident of Stephenson, stated that on November 23, 2005 his water went off. Mr. Johnson stated that he called the water plant and they told him they would install a new pump for him. Mr. Johnson stated that since then he has had a problem with low water pressure. Mr. Johnson stated he has called the District approximately 20-30 times and on a couple of occasions talked to Mr. Roberts and Mr. Don Morgan. Mr. Johnson inquired as to what the District plans to do about his problem. Don Morgan stated that the normal pressure at the treatment plant is 60 lbs. Mr. Morgan stated that Mr. Johnson is the only customer that has complained. Mr. Morgan stated that Mr. Johnson is the last resident on the hill. Mr. Johnson stated that when the District installed the pump in 2001 and he didn't have any problems except when there were leaks or other problems. Mr. Johnson stated that when the District changed out the pump in November, 2005, that was when he started having problems again. Mr. Morgan stated that the District took a 8 horsepower out and put a 10 horsepower in which was a better pump. Mr. Morgan stated that the District searched the area around Mr. Johnson's home for leaks and didn't find any. Mr. Johnson stated that when the District installed the pump the second time he didn't have any water at all. Mr. Johnson stated that after he complained to the Public Service Commission, the District came back and put another pump in resulting in low pressure again. Mr. McBride inquired as to what's the closest house to Mr. Johnson. Mr. Johnson stated that his brother lives approximately 20 feet from him and he has lost pressure since the new pump was installed. Mr. Roberts stated that the District had installed a new pump identical to the one that was adequately serving the customers. Mr. Roberts stated that he didn't understand why he has less pressure than he did before. Mr. Morgan stated that the pump was a spare for Nuriva which pumps the same elevation and a lot more water than the one that was in there. Mr. Roberts asked Mr. Morgan if that was the little one that was installed and if he put another one in after that. Mr. Morgan stated that the District made a mistake and put a big one pump and then went back and put a small one in causing Mr. Johnson's water outage. Mr. Morgan stated that the District went

back and put the big one back in. Mr. Johnson stated that his water pressure is between 8 and 11 lbs. now. Mr. Roberts stated that he had talked to Mr. Johnson approximately two to three weeks ago. Mr. Roberts asked Mr. Johnson if he had called the District since then. Mr. Johnson said he called the plant and he has called for Mr. Morgan a couple of times but he didn't return his call. Mr. Roberts stated that he was under the impression that Mr. Johnson had not called in two or three weeks. Mr. Roberts stated that he had thought the problem had been taken care of. Mr. McBride stated that they would get the District to come by to check to see what the problem is. Mr. McBride stated that the District is working toward improving the system but that more often than he would care to share with those attending, that when there are problems and there are calls whether to Logan or to the plant, there are messages left, promises made and things are, most of the time, followed up on but not all the time. Mr. McBride stated that it seems that if there is an ongoing problem then that scenario plays itself out a little more than he is comfortable with. Mr. McBride stated that he knows that the District is a Public Service District and a not-for-profit agency but he feels that the District should keep in mind that customer satisfaction whether it's the right answer or the wrong answer we need to address the customer's needs and let them know that something is being done or respond back to them. Mr. McBride stated that if the messages aren't getting to Don then we have a communication problem and if they are getting to Don and they are not being responded to then we are ignoring the customer problem which is not the way to run any business. Mr. McBride stated to just give the gentleman a call and if the pump is not big enough, we are obviously sticking money somewhere, give him something that will give him enough water to service his house and when people call in and if there is a problem, all Mr. McBride is asking the District to do is to respond to it and deal with the problem as they exist. Mr. McBride stated that he knows that the system is bad and will be bad until it gets better but the thing that hurts the District a lot of time is the fact that the District has the public perception, not all the time, that the problem does not get dealt with all the times. Mr. Morgan stated that the problem was not ignored that he had been to Mr. Johnson's resident approximately 2 or 3 times and had four or five employees out looking for leaks. Mr. McBride asked if he had communicated that to Mr. Johnson. Mr. Morgan stated that he had talked to Mr. Johnson one time but he can't drop everything going for one person with all the other major problems going on. Mr. McBride stated that he disagrees with that because sometimes you have to deal with the customer, one customer at a time. Mr. McBride stated that he realizes that you might get busy but there is a telephone and he can pick up the telephone and let the gentleman know what's going on.

(Donald Morgan exited the meeting)

Mr. McBride told Mr. Roberts that the District doesn't put up with this from customers and they will not put up with it from Mr. Morgan. Mr. McBride told Mr. Roberts to take care of this. Mr. McBride stated that this was crap right there. Mr. McBride stated that Mr. Morgan better come back here with an apology to all these people. Mr. McBride told Mr. Roberts that if Mr. Morgan works for the District, make sure Mr. Morgan calls the people back. Mr. McBride stated that he was not going to put up with Mr. Morgan's attitude. Mr. McBride stated that

if Mr. Morgan doesn't want to do the job then find someone to come up here to do it. Mr. McBride stated that the District had stuck with Mr. Morgan through thick and thin and Mr. Roberts too. Mr. McBride stated that Mr. Morgan is going to have to respond to the people and call them back and tell them what the problem is or the District can find someone else to do Mr. McBride's job. Mr. McBride stated that he had sat in the meetings and Mr. Roberts had to and they have been talked to like dogs. Mr. McBride stated that he has stood behind Mr. Morgan and he is not going to have Mr. Morgan cuss and walk out of a meeting. Mr. McBride stated that he is not going to put up with it from Mr. Morgan. Mr. McBride told Mr. Johnson that the District would check into his problem.

ANNOUNCEMENTS – Mr. Roberts stated that a special board meeting for loan closing items has been scheduled for Tuesday, January 10, 2006 at 9:30 a.m. in City Council Chambers, Mullens City Hall, 316 Moran Avenue, Mullens, West Virginia.

Mr. Roberts stated that the next regular Board Meeting is scheduled to be held on Tuesday, February 7, 2006, at 6:30 p.m. in City Council Chambers, Mullens City Hall, 316 Moran Avenue, Mullens, West Virginia.

Mr. Roberts presented the Annual Notice of Meetings to the Board.

SYSTEM OPERATIONS: Mr. Roberts stated that the financial report is in the Board's packet for their review.

Mr. Roberts stated that the District has been having numerous leaks in Mullens and Itmann. Mr. Roberts stated that the District has changed the locations of the pump and they are able to pump water from the mine source at Nuriva.

MULLENS/WYCO WATER PROJECT: Mr. David Cole, Region I Planning and Development Council, presented a Disadvantage Business Enterprise Utilization Report to the Board for approval and signature. A motion was made by Mr. McBride to approve the DBE Utilization Quarterly Report Project No. 99DWTRF001A as presented, seconded by Mr. Cecil. Motion passed 3-0.

Mr. Cole presented a Requisition for a USEDA drawdown for the EDA Project to the Board for approval and signature as follows:

Pentree, Inc.	$ 6,980.00
Diversified Enterprises, Inc.	46,053.23
Region I PDC	5,000.00
Moler & Staton, LC	30.00
TOTAL	$ 58,063.23

(IJDC - $ 0.00) (DWTRF - $ 0.00) (USEDA - $ 58,063.23)

A motion was made by Mr. McBride to approve the drawdown as presented, seconded by Mr. Lane. Motion passed 3-0.

Mr. Cole presented the SCBG Drawdown No. 30 in the amount of $45,701.77 and it includes $38,134.78 to Pentree, Inc. for special services, $6,746.99 for Region I for administration and $820.00 for the Moler & Staton for legal services to the Board for approval and signature. A motion was made by Mr. McBride to approve the invoices and drawdown as presented, seconded by Mr. Lane. Motion passed 3-0.

Mr. Cole presented a Final Reimbursement Request on the EDA Project to the Board for review and signature. A motion was made by Mr. McBride to approve the Reimbursement Request #16 which is the final request as presented, seconded by Mr. Lane. Motion passed 3-0.

A discussion was held on the damage claims filed against Diversified Enterprise, Inc.

Mr. Roberts presented the Binding Commitment Letter from IJDC for the Phase II Water Project to the Board for approval and signature. A motion was made by Mr. McBride that the District acknowledges the receipt of the Binding Commitment Letter from the Infrastructure and Jobs Development Council, seconded by Mr. Lane. Motion passed 3-0.

Mr. Roberts presented the Memorandum of Understanding for the AML Grant to the Board for approval and signature. A motion was made by Mr. McBride to approve the Memorandum of Understanding as presented, seconded by Mr. Lane. Motion passed 3-0.

Mr. Roberts presented a Grant Agreement (WVIJDC) to the Board for review and approval. A motion was made by Mr. McBride to approve the Grant Agreement as presented, seconded by Mr. Lane. Motion passed 3-0. Mr. Roberts presented a Loan Agreement (WVDWTRF) to the Board for review and approval. A motion was made by Mr. McBride to approve the Loan Agreement as presented, seconded by Mr. Lane. Motion passed 3-0.

A discussion was held on the awarding of the contracts. A motion was made by Mr. McBride to award Contract No. 1 to Hazelett Construction Company in the amount of $3,677,695, Contract No. 2 to Mid-Atlantic Storage Systems in the amount of $470,030, Contract No. 4 to Gold Diggers, Inc. in the amount $3,063,300 and Contract No. 5 to McCoy Construction Company in the amount of $2,246,430, seconded by Mr. Cecil. Motion passed 3-0.

ITMANN/BUD MOUNTAIN WATER PROJECT: Mr. Roberts presented an AML Priority List of 2006 which is funding consideration in 2008 for the Board's review. Mr. Roberts stated that the Water Advisory Committee voted to issue binding commitment letters out of the 2008 funding year which includes Itmann/Bud Mountain. Mr. Roberts presented a revised construction cost estimate and anticipated financing for the Board's review.

WATER SYSTEM ACQUISITIONS: A discussion was held the process of acquiring the Corinne Water System.

OTHER: Mr. McBride informed the Board that Kelly Jo Drey of the Upper Guyandotte Watershed Association is trying to bring a watershed/ wastewater treatment system to the area. Mr. McBride stated that Ms. Drey requested that the District write a letter that the District supports her actions and we would like for her to get the grant money. Mr. McBride made a motion that the District prepare a letter to Mr. Clark, seconded by Mr. Cecil. Motion passed 3-0. A motion was made by Mr. McBride that the District supports the work of the Upper Guyandotte Watershed Association as it relates to wastewater treatment, seconded by Mr. Lane. Motion passed. 3-0

Mr. Roberts presented a letter from South Putnam PSD on the intervention of the AEP rate increase case. A discussion was held on the District's participation and contribution toward the intervention on the AEP rate increase case. After the discussion, Mr. McBride made a motion to work with South Putnam PSD effort and contribute $1,000.00 to intervene on the rate case without Mr. Staton's action to intervene for the District, seconded by Mr. Cecil. Motion passed 3-0.

EXECUTIVE SESSION: A motion was made by Mr. McBride to enter into executive session at pursuit to Chapter 6, Article 9A, Section 4(b)(9) of the Code of West Virginia, 1931, to consider matters involving or affecting the purchase, sale or lease of property, advance construction planning, the investment of public funds or other matters involving commercial competition, which if made public, might adversely affect the financial or other interest of the state or any political subdivision, seconded by Mr. Lane. Motion passed 3-0.

A motion was made by Mr. McBride to arise from Executive Session with no action taken, seconded by Mr. Cecil. Motion passed 3-0.

ADJOURNMENT: Being no other business, a motion made by Mr. McBride and seconded by Mr. Lane, the meeting was adjourned.

EASTERN WYOMING PUBLIC SERVICE DISTRICT
January 4, 2006 Board Meeting
Attendance List

Name	Representing
Rick Roberts	LCPSD/EWPSD
Ken McBride	EWPSD
Dallas J. Cecil	EWPSD
Alvis Tollefson	Bud mtn comm
Mamie Weaver	Bud mtn comm
Ethel Day	Myself
BOBBIE JOHNSON	STEPHENSON
KellyJo Dray	UGWA
Karen Presley	Hagg / Presley
Amanda Morse	" "
Lon Morgan	EWPSD / LCPSD
Matt Lane	EWPSD
Joel James	District R/W's
Ken Hale	Region I PDC

DWTRF
(11/01/04)

LOAN AGREEMENT

THIS DRINKING WATER TREATMENT REVOLVING FUND LOAN AGREEMENT (the "Loan Agreement"), made and entered into in several counterparts, by and between the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, a governmental instrumentality and body corporate of the State of West Virginia (the "Authority"), acting under the direction of the WEST VIRGINIA BUREAU FOR PUBLIC HEALTH, a division of the West Virginia Department of Health and Human Resources (the "BPH"), and the local entity designated below (the "Local Entity").

EASTERN WYOMING PUBLIC SERVICE DISTRICT
(Local Entity)

W I T N E S S E T H:

WHEREAS, the United States Congress under Section 1452 of the Safe Drinking Water Act, as amended (the "Safe Drinking Water Act"), has provided for capitalization grants to be awarded to states for the express purpose of establishing and maintaining drinking water treatment revolving funds for the construction, acquisition and improvement of drinking water systems;

WHEREAS, pursuant to the provisions of Chapter 16, Article 13C of the Code of West Virginia, 1931, as amended (the "Act"), the State of West Virginia (the "State") has established a drinking water treatment revolving fund program (the "Program") to direct the distribution of loans to eligible Local Entities pursuant to the Safe Drinking Water Act;

WHEREAS, under the Act the BPH is designated the instrumentality to enter into capitalization agreements with the United States Environmental Protection Agency ("EPA") to accept capitalization grant awards (U.S. General Services Administration; Catalog of Federal Domestic Assistance, 32nd Edition §66.458 (1998)) and BPH has been awarded capitalization grants to partially fund the Program;

WHEREAS, the Act establishes a permanent perpetual fund known as the "West Virginia Drinking Water Treatment Revolving Fund" (hereinafter the "Fund"), which fund is to be administered and managed by the Authority under the direction of the BPH;

WHEREAS, pursuant to the Act, the Authority and BPH are empowered to make loans from the Fund to Local Entities for the acquisition or construction of drinking water projects by such Local Entities, all subject to such provisions and limitations as are contained in the Safe Drinking Water Act and the Act;

WHEREAS, the Local Entity constitutes a local entity as defined by the Act;

WHEREAS, the Local Entity is included on the BPH State Project Priority List and the Intended Use Plan and has met BPH's pre-application requirements for the Program;

WHEREAS, the Local Entity is authorized and empowered by the statutes of the State to acquire, construct, improve, operate and maintain a drinking water project and to finance the cost of acquisition and construction of the same by borrowing money to be evidenced by revenue bonds issued by the Local Entity;

WHEREAS, the Local Entity intends to construct, is constructing or has constructed such a drinking water project at the location and as more particularly described and set forth in the Application, as hereinafter defined (the "Project");

WHEREAS, the Local Entity has completed and filed with the Authority and BPH an Application for a Construction Loan with attachments and exhibits and an Amended Application for a Construction Loan also with attachments and exhibits (together, as further revised and supplemented, the "Application"), which Application is incorporated herein by this reference; and

WHEREAS, having reviewed the Application and the Fund having available sufficient funds therefor, the Authority and BPH are willing to lend the Local Entity the amount set forth on Schedule X attached hereto and incorporated herein by reference, through the purchase of revenue bonds of the Local Entity with moneys held in the Fund, subject to the Local Entity's satisfaction of certain legal and other requirements of the Program.

NOW, THEREFORE, in consideration of the premises and the mutual agreements hereinafter contained, the Local Entity, BPH and the Authority hereby agree as follows:

ARTICLE I

Definitions

1.1 Except where the context clearly indicates otherwise, the terms "Authority," "cost," "fund," "local entity," and "project" have the definitions and meanings ascribed to them in the Act or in the DWTRF Regulations.

1.2 "Consulting Engineers" means the professional engineer, licensed by the State, designated in the Application and any successor thereto.

1.3 "Loan" means the loan to be made by the Authority and BPH to the Local Entity through the purchase of Local Bonds, as hereinafter defined, pursuant to this Loan Agreement.

1.4 "Local Act" means the official action of the Local Entity required by Section 4.1 hereof, authorizing the Local Bonds.

1.5 "Local Bonds" means the revenue bonds to be issued by the Local Entity pursuant to the provisions of the Local Statute, as hereinafter defined, to evidence the Loan and to be purchased by the Authority with money held in the Fund, all in accordance with the provisions of this Loan Agreement.

1.6 "Local Statute" means the specific provisions of the Code of West Virginia, 1931, as amended, pursuant to which the Local Bonds are issued.

1.7 "Operating Expenses" means the reasonable, proper and necessary costs of operation and maintenance of the System, as hereinafter defined, as should normally and regularly be included as such under generally accepted accounting principles.

1.8 "Program" means the drinking water facility acquisition, construction and improvement program coordinated through the capitalization grants program established under the Safe Drinking Water Act and administered by BPH.

1.9 "Project" means the drinking water project hereinabove referred to, to be constructed or being constructed by the Local Entity in whole or in part with the net proceeds of the Local Bonds or being or having been constructed by the Local Entity in whole or in part with the proceeds of bond anticipation notes or other interim financing, which is to be paid in whole or in part with the net proceeds of the Local Bonds.

1.10 "DWTRF Regulations" means the regulations set forth in the West Virginia Code of State Regulations.

1.11 "System" means the drinking water system owned by the Local Entity, of which the Project constitutes all or to which the Project constitutes an improvement, and any improvements thereto hereafter constructed or acquired from any sources whatsoever.

1.12 Additional terms and phrases are defined in this Loan Agreement as they are used.

ARTICLE II

The Project and the System

2.1 The Project shall generally consist of the construction and acquisition of the facilities described in the Application, to be, being or having been constructed in accordance with plans, specifications and designs prepared for the Local Entity by the Consulting Engineers, the BPH and Authority having found, to the extent applicable, that the Project is consistent with the applicable provisions of the Program.

2.2 Subject to the terms, conditions and provisions of this Loan Agreement and the Local Act, the Local Entity has acquired, or shall do all things necessary to acquire, the proposed site of the Project and shall do, is doing or has done all things necessary to construct the Project in accordance with the plans, specifications and designs prepared for the Local Entity by the Consulting Engineers.

2.3 All real estate and interests in real estate and all personal property constituting the Project and the Project site heretofore or hereafter acquired shall at all times be and remain the property of the Local Entity, subject to any mortgage lien or other security interest as is provided for in the Local Statute unless a sale or transfer of all or a portion of said property is approved by BPH and the Authority.

2.4 The Local Entity agrees that the Authority and BPH and their respective duly authorized agents shall have the right at all reasonable times to enter upon the Project site and Project facilities and to examine and inspect the same. The Local Entity further agrees that the Authority and BPH and their respective duly authorized agents shall, prior to, during and after completion of construction and commencement of operation of the Project, have such rights of access to the System site and System facilities as may be reasonably necessary to accomplish all of the powers and rights of the Authority and BPH with respect to the System pursuant to the pertinent provisions of the Act.

2.5 The Local Entity shall keep complete and accurate records of the cost of acquiring the Project site and the costs of constructing, acquiring and installing the Project. The Local Entity shall permit the Authority and BPH, acting by and through their directors or duly authorized agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System at any and all reasonable times for the purpose of audit and examination, and the Local Entity shall submit to the Authority and BPH such documents and information as it may reasonably require in connection with the construction, acquisition and installation of the Project, the operation and maintenance of the System and the administration of the Loan or of any State and federal grants or other sources of financing for the Project.

2.6 The Local Entity agrees that it will permit the Authority and BPH and their respective agents to have access to the records of the Local Entity pertaining to the operation and maintenance of the System at any reasonable time following completion of construction of the Project and commencement of operation thereof or if the Project is an improvement to an existing system at any reasonable time following commencement of construction.

2.7 The Local Entity shall require that each construction contractor furnish a performance bond and a payment bond, each in an amount at least equal to one hundred percent (100%) of the contract price of the portion of the Project covered by the particular contract, as security for the faithful performance of such contract and shall verify or have verified such bonds prior to commencement of construction.

2.8 The Local Entity shall require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority and BPH and shall verify or have verified such insurance prior to commencement of construction. Until the Project facilities are completed and accepted by the Local Entity, the Local Entity or (at the option of the Local Entity) the contractor shall maintain builder's risk insurance (fire and extended coverage) on a one hundred percent (100%) basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Local Entity, the prime contractor and all subcontractors, as their interests may appear. If facilities of the System which are detrimentally affected by flooding are or will be located in designated special flood or mudslide-prone areas and if flood insurance is available at a reasonable cost, a flood insurance policy must be obtained by the Local Entity on or before the Date of Loan Closing, as hereinafter defined, and maintained so long as any of the Local Bonds are outstanding. Prior to commencing operation of the Project, the Local Entity must

also obtain, and maintain so long as any of the Local Bonds are outstanding, business interruption insurance if available at a reasonable cost.

2.9 The Local Entity shall provide and maintain competent and adequate engineering services satisfactory to the Authority and BPH covering the supervision and inspection of the development and construction of the Project and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. Such engineer shall certify to the Authority, BPH and the Local Entity at the completion of construction that construction is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies. The Local Entity shall require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the DWTRF Regulations, to it within 60 days of the completion of the Project. The Local Entity shall notify BPH in writing of such receipt.

2.10 The Local Entity shall require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the DWTRF Regulations, to BPH when the Project is 90% completed. The Local Entity shall at all times provide operation and maintenance of the System in compliance with any and all State and federal standards. The Local Entity shall employ qualified operating personnel properly certified by the State before the Project is 50% complete and shall retain such a certified operator(s) to operate the System during the entire term of this Loan Agreement. The Local Entity shall notify BPH in writing of the certified operator employed at the 50% completion stage.

2.11 The Local Entity hereby covenants and agrees to comply with all applicable laws, rules and regulations issued by the Authority, BPH or other State, federal or local bodies in regard to the construction of the Project and operation, maintenance and use of the System.

2.12 The Local Entity, commencing on the date contracts are executed for the acquisition or construction of the Project and for two years following the completion of acquisition or construction of the Project, shall each month complete a Monthly Financial Report, the form of which is attached hereto as Exhibit A and incorporated herein by reference, and forward a copy by the 10th of each month to BPH and the Authority.

2.13 The Local Entity, during construction of the Project, shall complete Payment Requisition Forms, the form of which is attached hereto as Exhibit B and incorporated herein by reference, and forward such forms to BPH in compliance with the Local Entity's construction schedule.

ARTICLE III

Conditions to Loan;
Issuance of Local Bonds

3.1 The agreement of the Authority and BPH to make the Loan is subject to the Local Entity's fulfillment, to the satisfaction of the Authority and BPH, of each and all of those certain conditions precedent on or before the delivery date for the Local Bonds, which shall be the date established pursuant to Section 3.4 hereof. Said conditions precedent are as follows:

(a) The Local Entity shall have delivered to BPH and the Authority a report listing the specific purposes for which the proceeds of the Loan will be expended and the procedures as to the disbursement of loan proceeds, including an estimated monthly draw schedule;

(b) The Local Entity shall have performed and satisfied all of the terms and conditions to be performed and satisfied by it in this Loan Agreement;

(c) The Local Entity shall have authorized the issuance of and delivery to the Authority of the Local Bonds described in this Article III and in Article IV hereof;

(d) The Local Entity shall either have received bids or entered into contracts for the construction of the Project, which are in an amount and otherwise compatible with the plan of financing described in the Application; provided, that, if the Loan will refund an interim construction financing, the Local Entity must either be constructing or have constructed its Project for a cost and as otherwise compatible with the plan of financing described in the Application; and, in either case, the Authority and BPH shall have received a certificate of the Consulting Engineers to such effect, the form of which certificate is attached hereto as Exhibit C;

(e) The Local Entity shall have obtained all permits required by the laws of the State and the federal government necessary for the construction of the Project, and the Authority and BPH shall have received a certificate of the Consulting Engineers to such effect;

(f) The Local Entity shall have obtained all requisite orders of and approvals from the Public Service Commission of West Virginia (the "PSC") and the West Virginia Infrastructure and Jobs Development Council necessary for the construction of the Project and operation of the System, with all requisite appeal periods having expired without

successful appeal, and the Authority and BPH shall have received an opinion of counsel to the Local Entity, which may be local counsel to the Local Entity, bond counsel or special PSC counsel but must be satisfactory to the Authority and BPH, to such effect;

(g) The Local Entity shall have obtained any and all approvals for the issuance of the Local Bonds required by State law, and the Authority and BPH shall have received an opinion of counsel to the Local Entity, which may be local counsel to the Local Entity, bond counsel or special PSC counsel but must be satisfactory to the Authority and BPH, to such effect;

(h) The Local Entity shall have obtained any and all approvals of rates and charges required by State law and shall have taken any other action required to establish and impose such rates and charges (imposition of such rates and charges is not, however, required to be effective until completion of construction of the Project), with all requisite appeal periods having expired without successful appeal, and the Authority and BPH shall have received an opinion of counsel to the Local Entity, which may be local counsel to the Local Entity, bond counsel or special PSC counsel but must be satisfactory to the Authority and BPH, to such effect;

(i) Such rates and charges for the System shall be sufficient to comply with the provisions of Subsections 4.1(a) and 4.1(b)(ii) hereof, and the Authority and BPH shall have received a certificate of the accountant for the Local Entity, or such other person or firm experienced in the finances of local entities and satisfactory to the Authority and BPH, to such effect; and

(j) The net proceeds of the Local Bonds, together with all moneys on deposit or to be simultaneously deposited (or, with respect to proceeds of grant anticipation notes or other indebtedness for which a binding purchase contract has been entered, to be deposited on a date certain) and irrevocably pledged thereto and the proceeds of grants irrevocably committed therefor, shall be sufficient to pay the costs of construction and acquisition of the Project as set forth in the Application, and the Authority and BPH shall have received a certificate of the Consulting Engineers, or such other person or firm experienced in the financing of drinking water projects and satisfactory to the Authority and BPH, to such effect, such certificate to be in form and substance satisfactory to the Authority and BPH, and evidence satisfactory to the Authority and BPH of such irrevocably committed grants.

3.2 Subject to the terms and provisions of this Loan Agreement, the rules and regulations promulgated by the BPH, including the DWTRF Regulations, or any other appropriate State agency and any applicable rules, regulations and procedures promulgated from time to time by the federal government, it is hereby agreed that the Authority shall make

the Loan to the Local Entity and the Local Entity shall accept the Loan from the Authority, and in furtherance thereof it is agreed that the Local Entity shall sell to the Authority and the Authority shall make the Loan by purchasing the Local Bonds in the principal amount and at the price set forth in Schedule X hereto. The Local Bonds shall have such further terms and provisions as described in Article IV hereof.

3.3 The Loan shall be secured and shall be repaid in the manner hereinafter provided in this Loan Agreement.

3.4 The Local Bonds shall be delivered to the Authority, at the offices of the Authority, on a date designated by the Local Entity by written notice to the Authority, which written notice shall be given not less than ten (10) business days prior to the date designated; provided, however, that if the Authority is unable to accept delivery on the date designated, the Local Bonds shall be delivered to the Authority on a date as close as possible to the designated date and mutually agreeable to the Authority, BPH and the Local Entity. The date of delivery so designated or agreed upon is hereinafter referred to as the "Date of Loan Closing." Notwithstanding the foregoing, the Date of Loan Closing shall in no event occur more than ninety (90) days after the date of execution of this Loan Agreement by the Authority.

3.5 The Local Entity understands and acknowledges that it is one of several local entities which have applied to the Authority and BPH for loans from the Fund to finance drinking water projects and that the obligation of the Authority to make any such loan is subject to the Local Entity's fulfilling all of the terms and conditions of this Loan Agreement on or prior to the Date of Loan Closing and to the requirements of the Program. The Local Entity specifically recognizes that the Authority will not purchase the Local Bonds unless and until sufficient funds are available in the Fund to purchase all the Local Bonds and that, prior to execution of this Loan Agreement, the Authority may purchase the bonds of other local entities set out in the State Project Priority List, as defined in the DWTRF Regulations. The Local Entity further specifically recognizes that all loans will be originated in conjunction with the DWTRF Regulations and with the prior approval of BPH or such later date as is agreed to in writing by the BPH.

3.6 The Local Entity shall provide BPH with the appropriate documentation to comply with the special conditions regarding the public release requirements established by federal and State regulations as set forth in Exhibit D attached hereto at such times as are set forth therein.

ARTICLE IV

Local Bonds; Security for Loan; Repayment of Loan; Interest on Loan; Fees and Charges

4.1 The Local Entity shall, as one of the conditions of the Authority and BPH to make the Loan, authorize the issuance of and issue the Local Bonds pursuant to an official action of the Local Entity in accordance with the Local Statute, which shall, as adopted or enacted, contain provisions and covenants in substantially the form as follows:

(a) That the gross revenues of the System shall always be used for purposes of the System. Such gross revenues will be used monthly, in the order of priority listed below:

(i) to pay Operating Expenses of the System;

(ii) to the extent not otherwise limited by any outstanding loan resolution, indenture or other act or document and beginning on the date set forth in Schedule X, to provide debt service on the Local Bonds by depositing in a sinking fund one-third (1/3) of the interest payment next coming due on the Local Bonds and one-third (1/3) of the principal payment next coming due on the Local Bonds and, beginning three (3) months prior to the first date of payment of principal of the Local Bonds, if the reserve account for the Local Bonds (the "Reserve Account") was not funded from proceeds of the Local Bonds or otherwise concurrently with the issuance thereof in an amount equal to the maximum amount of principal and interest which will come due on the Local Bonds in the then current or any succeeding year (the "Reserve Requirement"), by depositing in the Reserve Account an amount not less than one-twelfth (1/12) of one-tenth (1/10) of the Reserve Requirement or, if the Reserve Account has been so funded (whether by Local Bond proceeds, monthly deposits or otherwise), any amount necessary to maintain the Reserve Account at the Reserve Requirement;

(iii) to create a renewal and replacement, or similar, fund in an amount equal to two and one-half percent (2-1/2%) of the gross revenues from the System, exclusive of any payments into the Reserve Account, for the purpose of improving or making emergency repairs or replacements to the System or eliminating any deficiencies in the Reserve Account; and

(iv) for other legal purposes of the System, including payment of debt service on other obligations junior, subordinate and inferior to the Local Bonds.

Provided that if the Local Entity has existing outstanding indebtedness which has greater coverage or renewal and replacement fund requirements, then the greater requirements will prevail until said existing indebtedness is paid in full.

(b) Covenants substantially as follows:

(i) That the Local Bonds shall be secured by a pledge of either the gross or net revenues, as applicable, of the System as provided in the Local Act;

(ii) That the schedule of rates or charges for the services of the System shall be sufficient to provide funds which, along with other revenues of the System, will pay all Operating Expenses and leave a balance each year equal to at least one hundred fifteen percent (115%) of the maximum amount required in any year for debt service on the Local Bonds and all other obligations secured by a lien on or payable from the revenues of the System prior to or on a parity with the Local Bonds or, if the Reserve Account is funded (whether by Local Bond proceeds, monthly deposits or otherwise) at an amount equal to the Reserve Requirement and any reserve account for any such prior or parity obligations is funded at least at the requirement therefor, equal to at least one hundred ten percent (110%) of the maximum amount required in any year for debt service on the Local Bonds and any such prior or parity obligations;

(iii) That the Local Entity will complete the Project and operate and maintain the System in good condition;

(iv) That, except as otherwise required by State law or the DWTRF Regulations, the System may not be sold, mortgaged, leased or otherwise disposed of, except as a whole, or substantially as a whole, and only if the net proceeds to be realized from such sale, mortgage, lease or other disposition shall be sufficient to fully pay all of the Local Bonds outstanding and further provided that portions of the System when no longer required for the ongoing operation of the System as evidenced by certificates from the Consulting Engineer, may be disposed of with such restrictions as are normally contained in such covenants;

(v) That the Local Entity shall not issue any other obligations payable from the revenues of the System which rank prior to, or equally, as to lien and security with the Local Bonds, except parity bonds which shall only be issued if net revenues of the System prior to issuance of such parity bonds, plus reasonably projected revenues from rate increases and the improvements to be financed by such parity bonds, shall not be less than one hundred fifteen percent (115%) of the maximum debt service in any succeeding year

on all Local Bonds and parity bonds theretofore and then being issued and on any obligations secured by a lien on or payable from the revenues of the System prior to the Local Bonds and with the prior written consent of the Authority and BPH;

(vi) That the Local Entity will carry such insurance as is customarily carried with respect to works and properties similar to the System, including those specified by Section 2.8 hereof;

(vii) That the Local Entity will not render any free services of the System;

(viii) That the Authority may, by proper legal action, compel the performance of the duties of the Local Entity under the Local Act, including the making and collection of sufficient rates or charges for services rendered by the System, and shall also have, in the event of a default in payment of principal of or interest on the Local Bonds, the right to obtain the appointment of a receiver to administer the System or construction of the Project, or both, as provided by law and all rights as set forth in Section 5 of the Act;

(ix) That, to the extent authorized by the laws of the State and the rules and regulations of the PSC, all delinquent rates and charges, if not paid when due, shall become a lien on the premises served by the System;

(x) That, to the extent legally allowable, the Local Entity will not grant any franchise to provide any services which would compete with the System;

(xi) That the Local Entity shall annually, within six months of the end of the fiscal year, cause the records of the System to be audited by an independent certified public accountant or independent public accountant and shall submit the report of said audit to the Authority and BPH. If the Local Entity receives $300,000 or more (in federal funds) in a fiscal year, the audit shall be obtained in accordance with the Single Audit Act (as amended from time to time) and the applicable OMB Circular (or any successor thereto). Financial statement audits are required once all funds have been received by the Local Entity. The audit shall include a statement that notes whether the results of tests disclosed instances of noncompliance that are required to be reported under government auditing standards and, if they are, describes the instances of noncompliance and the audited financial statements shall include a statement that notes whether the Local Entity's revenues are adequate to meet its Operating Expenses and debt service and reserve requirements;

(xii) That the Local Entity shall annually adopt a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding fiscal year and shall submit a copy of such budget to the Authority and BPH within 30 days of adoption thereof;

(xiii) That, to the extent authorized by the laws of the State and the rules and regulations of the PSC, prospective users of the System shall be required to connect thereto;

(xiv) That the proceeds of the Local Bonds, advanced from time to time, except for accrued interest and capitalized interest, if any, must (a) be deposited in a construction fund, which, except as otherwise agreed to in writing by the Authority, shall be held separate and apart from all other funds of the Local Entity and on which the owners of the Local Bonds shall have a lien until such proceeds are applied to the construction of the Project (including the repayment of any incidental interim financing) and/or (b) be used to pay (or redeem) bond anticipation notes or other interim funding of such Local Entity, the proceeds of which were used to finance the construction of the Project; provided that, with the prior written consent of the Authority and BPH, the proceeds of the Local Bonds may be used to fund all or a portion of the Reserve Account, on which the owner of the Local Bonds shall have a lien as provided herein;

(xv) That, as long as the Authority is the owner of any of the Local Bonds, the Local Entity may authorize redemption of the Local Bonds with 30 days written notice to BPH and the Authority;

(xvi) That the West Virginia Municipal Bond Commission (the "Commission") shall serve as paying agent for all Local Bonds;

(xvii) That the Local Entity shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the required interest, principal and reserve account payment. The Local Entity shall complete the Monthly Payment Form, attached hereto as Exhibit E and incorporated herein by reference, and submit a copy of said form along with a copy of the check or electronic transfer to the Authority by the 5th day of such calendar month;

(xviii) That, unless it qualifies for an exception to the provisions of Section 148 of the Internal Revenue Code of 1986, as amended, which exception shall be set forth in an opinion of bond counsel, the Local Entity will furnish to the Authority, annually, at such time as it is required to perform its rebate calculations under the Internal Revenue Code of 1986, as amended, a certificate with respect to its rebate calculations and, at any time, any additional information requested by the Authority;

(xix) That the Local Entity shall have obtained the certificate of the Consulting Engineers to the effect that the Project has been or will be constructed in accordance with the approved plans, specifications and design as submitted to the Authority

and BPH, the Project is adequate for the purposes for which it was designed, the funding plan as submitted to the Authority and BPH is sufficient to pay the costs of acquisition and construction of the Project and all permits required by federal and State laws for construction of the Project have been obtained;

(xx) That the Local Entity shall, to the full extent permitted by applicable law and the rules and regulations of the PSC, terminate its services to any customer of the System who is delinquent in payment of charges for services provided by the System and will not restore such services until all delinquent charges for the services of the System have been fully paid; and

(xxi) That the Local Entity shall submit all proposed change orders to the BPH for written approval. The Local Entity shall obtain the written approval of the BPH before expending any proceeds of the Local Bonds held in "contingency" as set forth in the final Schedule A attached to the certificate of the Consulting Engineer. The Local Entity shall obtain the written approval of the BPH before expending any proceeds of the Local Bonds available due to bid/construction/project underruns.

The Local Entity hereby represents and warrants that the Local Act has been or shall be duly adopted or enacted in compliance with all necessary corporate and other action and in accordance with applicable provisions of law. All legal matters incident to the authorization, issuance, validity, sale and delivery of the Local Bonds shall be approved without qualification by nationally recognized bond counsel acceptable to the Authority in substantially the form of legal opinion attached hereto as Exhibit F.

4.2 The Loan shall be secured by the pledge and assignment by the Local Entity, as effected by the Local Act, of the fees, charges and other revenues of the Local Entity from the System.

4.3 At least five percent (5%) of the proceeds of the Local Bonds will be advanced on the Date of Loan Closing. The remaining proceeds of the Local Bonds shall be advanced by the Authority monthly as required by the Local Entity to pay Costs of the Project, provided, however, if the proceeds of the Local Bonds will be used to repay an interim financing, the proceeds will be advanced on a schedule mutually agreeable to the Local Entity, the BPH and the Authority. The Local Bonds shall not bear interest during the construction period but interest shall commence accruing on the completion date as defined in the DWTRF Regulations, provided that the annual repayment of principal and payment of interest shall begin not later than one (1) year after the completion date. The repayment of principal and interest on the Local Bonds shall be as set forth on Schedule Y hereto. In no event shall the interest rate on or the net interest cost of the Local Bonds exceed any statutory limitation with regard thereto.

4.4 The Local Bonds shall be delivered to the Authority in fully registered form, transferable and exchangeable as provided in the Local Act at the expense of the Local Entity. Anything to the contrary herein notwithstanding, the Local Bonds may be issued in one or more series.

4.5 As provided by the DWTRF Regulations, the Local Entity agrees to pay from time to time, if required by the Authority and BPH, the Local Entity's allocable share of the reasonable administrative expenses of the BPH and the Authority relating to the Program. Such administrative expenses shall be determined by the BPH and the Authority and shall include, without limitation, Program expenses, legal fees paid by the BPH and the Authority and fees paid for any bonds or notes to be issued by the Authority for contribution to the Fund.

4.6 The obligation of the Authority to make any loans shall be conditioned upon the availability of moneys in the Fund in such amount and on such terms and conditions as, in the sole judgment of the Authority, will enable it to make the Loan.

ARTICLE V

Certain Covenants of the Local Entity;
Imposition and Collection of User Charges;
Payments To Be Made by
Local Entity to the Authority

5.1 The Local Entity hereby irrevocably covenants and agrees to comply with all of the terms, conditions and requirements of this Loan Agreement and the Local Act. The Local Entity hereby further irrevocably covenants and agrees that, as one of the conditions of the Authority to make the Loan, it has fixed and collected, or will fix and collect, the rates, fees and other charges for the use of the System and will take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Local Act and in compliance with the provisions of Subsections 4.1(a) and 4.1(b)(ii) hereof.

5.2 In the event, for any reason, the schedule of rates, fees and charges initially established for the System in connection with the Local Bonds shall prove to be insufficient to produce the required sums set forth in the Local Act and this Loan Agreement, the Local Entity hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges (or where applicable, immediately file with the PSC for a rate increase) and take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Local Act and this Loan Agreement.

5.3 In the event the Local Entity defaults in any payment due to the Authority pursuant to this Loan Agreement, the amount of such default shall bear interest at the interest rate of the installment of the Loan next due, from the date of the default until the date of the payment thereof.

5.4 The Local Entity hereby irrevocably covenants and agrees with the Authority that, in the event of any default hereunder by the Local Entity, the Authority may exercise any or all of the rights and powers granted under Section 5 of the Act, including, without limitation, the right to impose, enforce and collect charges of the System.

ARTICLE VI

Other Agreements of the Local Entity

6.1 The Local Entity hereby acknowledges to the Authority and BPH its understanding of the provisions of the Act, vesting in the Authority and BPH certain powers, rights and privileges with respect to drinking water projects in the event of default by local entities in the terms and covenants of this Loan Agreement, and the Local Entity hereby covenants and agrees that, if the Authority should hereafter have recourse to said rights and powers, the Local Entity shall take no action of any nature whatsoever calculated to inhibit, nullify, void, delay or render nugatory such actions of the Authority in the due and prompt implementation of this Loan Agreement.

6.2 The Local Entity hereby warrants and represents that all information provided to the Authority and BPH in this Loan Agreement, in the Application or in any other application or documentation with respect to financing the Project was at the time, and now is, true, correct and complete, and such information does not omit any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. Prior to the Authority's making the Loan and receiving the Local Bonds, the Authority and BPH shall have the right to cancel all or any of their obligations under this Loan Agreement if (a) any representation made to the Authority and BPH by the Local Entity in connection with the Loan shall be incorrect or incomplete in any material respect or (b) the Local Entity has violated any commitment made by it in its Application or in any supporting documentation or has violated any of the terms of the Act, the DWTRF Regulations or this Loan Agreement.

6.3 The Local Entity hereby agrees to repay on or prior to the Date of Loan Closing any moneys due and owing by it to the Authority or any other lender for the planning or design of the Project, provided that such repayment shall not be made from the proceeds of the Loan.

6.4 The Local Entity hereby covenants that it will rebate any amounts required by Section 148 of the Internal Revenue Code of 1986, as amended, and will take all steps necessary to make any such rebates. In the event the Local Entity fails to make any such rebates as required, then the Local Entity shall pay any and all penalties, obtain a waiver from the Internal Revenue Service and take any other actions necessary or desirable to preserve the exclusion from gross income for federal income tax purposes of interest on the Local Bonds.

6.5 Notwithstanding Section 6.4, the Authority and BPH may at any time, in their sole discretion, cause the rebate calculations prepared by or on behalf of the Local Entity to be monitored or cause the rebate calculations for the Local Entity to be prepared, in either case at the expense of the Local Entity.

6.6 The Local Entity hereby agrees to give the Authority and BPH prior written notice of the issuance by it of any other obligations to be used for the System, payable from the revenues of the System or from any grants for the Project or otherwise related to the Project or the System.

6.7 The Local Entity hereby agrees to file with the Authority and BPH upon completion of acquisition and construction of the Project a schedule in substantially the form of Amended Schedule B to the Application, setting forth the actual costs of the Project and sources of funds therefor.

ARTICLE VII

Miscellaneous

7.1 Schedules X and Y shall be attached to this Loan Agreement by the Authority as soon as practicable after the Date of Loan Closing is established and shall be approved by an official action of the Local Entity supplementing the Local Act, a certified copy of which official action shall be submitted to the Authority.

7.2 If any provision of this Loan Agreement shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of this Loan Agreement, and this Loan Agreement shall be construed and enforced as if such invalid or unenforceable provision had not been contained herein.

7.3 This Loan Agreement may be executed in one or more counterparts, any of which shall be regarded for all purposes as an original and all of which constitute but one and the same instrument. Each party agrees that it will execute any and all documents or other instruments and take such other actions as may be necessary to give effect to the terms of this Loan Agreement.

7.4 No waiver by any party of any term or condition of this Loan Agreement shall be deemed or construed as a waiver of any other terms or conditions, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach, whether of the same or of a different section, subsection, paragraph, clause, phrase or other provision of this Loan Agreement.

7.5 This Loan Agreement supersedes all prior negotiations, representations and agreements between the parties hereto relating to the Loan and constitutes the entire agreement between the parties hereto in respect thereof.

7.6 By execution and delivery of this Loan Agreement, notwithstanding the date hereof, the Local Entity specifically recognizes that it is hereby agreeing to sell its Local Bonds to the Authority and that such obligation may be specifically enforced or subject to a similar equitable remedy by the Authority.

7.7 This Loan Agreement shall terminate upon the earlier of:

(i) written notice of termination to the Local Entity from either the Authority or BPH;

(ii) the end of ninety (90) days after the date of execution hereof by the Authority or such later date as is agreed to in writing by the BPH if the Local Entity has failed to deliver the Local Bonds to the Authority;

(iii) termination by the Authority and BPH pursuant to Section 6.2 hereof; or

(iv) payment in full of the principal of and interest on the Loan and of any fees and charges owed by the Local Entity to the Authority or BPH.

In the event funds are not available to make all of the Loan, the responsibility of the Authority and BPH to make all the Loan is terminated; provided further that the obligation of the Local Entity to repay the outstanding amount of the Loan made by the

Authority and BPH is not terminated due to such non-funding on any balance of the Loan. The BPH agrees to use its best efforts to have the amount contemplated under this Loan Agreement included in its budget. Non-funding of the Loan shall not be considered an event of default under this Loan Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Loan Agreement to be executed by their respective duly authorized officers as of the date executed below by the Authority.

EASTERN WYOMING PSD

(SEAL)

By: Kenneth W McCoy
Its: Chairman
Date: January 12, 2006

Attest:

Dallas J. Cecil
Its: Secretary

WEST VIRGINIA WATER
DEVELOPMENT AUTHORITY

(SEAL)

By: Daniel B. Lyon Jr.
Its: Director
Date: January 12, 2006

Attest:

Barbara B Meadows
Its: Secretary-Treasurer

000832/00520
11/01/04

EXHIBIT A

MONTHLY FINANCIAL REPORT

Name of Local Entity _____

Name of Bond Issue(s) _____

Type of Project _____ **Water** _____ **Wastewater**

Fiscal Year _____ **Report Month** _____

Item	Current Month	Total Year To Date	Budget Year To Date	Budget Year To Date Minus Total Year To Date
1. Gross Revenues				
2. Operating Expenses				
3. Bond Payments:				
Type of Issue				
Clean Water SRF				
Drinking Water TRF				
Infrastructure Fund				
Water Development Authority				
Rural Utilities Service				
Economic Development Administration				
Other (Identify)				
_____				
_____				
4. Renewal and Replacement Fund Deposits				

_____

Name of Person Completing Form

_____

Address

_____

Telephone

INSTRUCTIONS FOR COMPLETING MONTHLY FINANCIAL REPORT

Item 1 — You will need a copy of the current fiscal year budget adopted by the Local Entity to complete Items 1 and 2. In Item 1, provide the amount of actual **Gross Revenues** for the current month and the total amount year-to-date in the respective columns. Divide the budgeted annual Gross Revenues by 12. For example, if Gross Revenues of $1,200 are anticipated to be received for the year, each month the base would be increased by $100 ($1,200/12). This is the incremental amount for the Budget Year-to-Date column.

Item 2 — Provide the amount of actual **Operating Expenses** for the current month and the total amount year-to-date in the respective columns. Any administrative fee should be included in the Operating Expenses. Divide the budgeted annual Operating Expenses by 12. For example, if Operating Expenses of $900 are anticipated to be incurred for the year, each month the base would be increased by $75 ($900/12). This is the incremental amount for the Budget Year-to-Date column.

Item 3 — Provide the **Bond Payments (principal, interest and reserve account)** for all the outstanding bonds of the Local Entity according to the source of funding. For example, Clean Water State Revolving Fund loan from Department of Environmental Protection, Drinking Water Treatment Revolving Fund loan from Bureau for Public Health, Infrastructure Fund loan from Infrastructure and Jobs Development Council, or a loan from the Water Development Authority, etc.

Item 4 — Provide the amount deposited into the **Renewal and Replacement Fund** each month. This amount is equal to 2.5% of Gross Revenues minus the total reserve account payments included in Item 3. If Gross Revenues are $1,200, then $30 (2.5% of $1,200), LESS the amount of all reserve account payments in Item 3 should be deposited into the Renewal and Replacement Fund. The money in the Renewal and Replacement Fund should be kept separate and apart from all other funds of the Local Entity.

The Local Entity must complete the Monthly Financial Report and forward it to the Water Development Authority by the 10th day of each month, commencing on the date contracts are executed for the acquisition or construction of the Project and for two years following the completion of acquisition or construction of the Project.

EXHIBIT B

PAYMENT REQUISITION FORM

EXHIBIT C

FORM OF CERTIFICATE OF CONSULTING ENGINEER

_____
(Issuer)

_____
(Name of Bonds)

I, _____, Registered Professional Engineer, West Virginia License No._____, of _____ Consulting Engineers, _____, _____, hereby certify as follows:

1. My firm is engineer for the acquisition and construction of _____ to the _____ system (the "Project") of _____ (the "Issuer"), to be constructed primarily in _____County, West Virginia, which acquisition and construction are being permanently financed in part by the above-captioned bonds (the "Bonds") of the Issuer. Capitalized words used herein and not defined herein shall have the same meaning set forth in the bond _____ adopted or enacted by the Issuer on _____, and the Loan Agreement by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health (the "BPH"), dated _____.

2. The Bonds are being issued for the purposes of (i) _____ _____,and (ii) paying certain issuance and other costs in connection therewith.

3. To the best of my knowledge, information and belief, (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed in general accordance with the approved plans, specifications and designs prepared by my firm and approved by BPH and any change orders approved by the Issuer, BPH and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and has a useful life of at least _____ years, if properly operated and maintained, excepting anticipated replacements due to normal wear and tear; (iii) the Issuer has received bids for the acquisition and construction of the Project which are in an amount and otherwise compatible with the plan of financing set forth in

Schedule B attached hereto as Exhibit A, and my firm[1] has ascertained that all successful bidders have made required provisions for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified for accuracy; (iv) the successful bidders received any and all addenda to the original bid documents; (v) the bid documents relating to the Project reflect the Project as approved by the BPH and the bid forms provided to the bidders contain all critical operational components of the Project; (vi) the successful bids include prices for every item on such bid forms; (vii) the uniform bid procedures were followed; (viii) the Issuer has obtained all permits required by the laws of the State of West Virginia and the United States necessary for the acquisition and construction of the Project and operation of the System; (ix) as of the effective date thereof[2], the rates and charges for the System as adopted by the Issuer will be sufficient to comply with the provisions of the Loan Agreement; (x) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants, if any, irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction of the Project approved by BPH; and (xi) attached hereto as Exhibit A is the final amended "Schedule B - Total Cost of Project; Sources of Funds and Cost of Financing" for the Project.

WITNESS my signature and seal on this ____ day of _____, ____

.

[SEAL]

_____

By: _____

_____

West Virginia License No. _____

---

[1]If another responsible party, such as the Issuer's attorney, reviews the insurance and payment bonds, then insert the following: [and in reliance upon the opinion of _____, Esq.] and delete "my firm has ascertained that".

[2]If the Rule 42 Exhibit and/or rate structure was prepared by an accountant, then insert the following: "In reliance upon the certificate of _____ of even date herewith," at the beginning of (ix).

EXHIBIT D

SPECIAL CONDITIONS

The Local Entity agrees to include, when issuing statements, press releases, requests for proposals, bid solicitations, groundbreaking or project dedication program documents and other documents describing projects or programs funded in whole or in part with federal money, (1) the percentage of the total costs of the program or project which will be financed with federal money, (2) the dollar amount of federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

EXHIBIT E

MONTHLY PAYMENT FORM

West Virginia Water Development Authority
180 Association Drive
Charleston, WV 25311

Re: [Name of bond issue]

Ladies and Gentlemen:

The following deposits were made to the West Virginia Municipal Bond Commission

on behalf of _____ on _____.
[Local Entity] [Date]

Sinking Fund:

Interest $_____

Principal $_____

Total: $_____

Reserve Account: $_____

Witness my signature this ___ day of _____.

_____
[Name of Local Entity]

By: _____
Authorized Officer

Enclosure: wire transfer form

EXHIBIT F

OPINION OF BOND COUNSEL FOR LOCAL ENTITY

[To Be Dated as of Date of Loan Closing]

West Virginia Water Development Authority
180 Association Drive
Charleston, WV 25311

West Virginia Bureau for Public Health
815 Quarrier Street, Suite 418
Charleston, WV 25301-2616

Ladies and Gentlemen:

We are bond counsel to _____ (the "Local Entity"), a _____.

We have examined a certified copy of proceedings and other papers relating to the authorization of a (i) loan agreement dated _____, including all schedules and exhibits attached thereto (the "Loan Agreement"), between the Local Entity and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health (the "BPH"), and (ii) the issue of a series of revenue bonds of the Local Entity, dated _____ (the "Local Bonds"), to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Local Bonds are issued in the principal amount of $_____, in the form of one bond, registered as to principal and interest to the Authority, with principal and interest payable quarterly on March 1, June 1, September 1, and December 1 of each year, beginning _____ 1, ____, and ending _____ 1, _____, all as set forth in the "Schedule Y" attached to the Loan Agreement and incorporated in and made a part of the Local Bonds.

The Local Bonds are issued for the purposes of (i) _____, and (ii) paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of _____ of the Code of West Virginia, 1931, as amended (the "Local Statute"), and the bond _____ duly adopted or enacted by the Local Entity on _____, as supplemented by the supplemental resolution duly adopted by the Local Entity on _____ (collectively, the "Local Act"), pursuant to and under which Local Statute and Local Act the Local Bonds are authorized and issued, and the Loan Agreement has been undertaken. The Local Bonds

are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Loan Agreement.

Based upon the foregoing and upon our examination of such other documents as we have deemed necessary, we are of the opinion as follows:

1. The Loan Agreement has been duly authorized by and executed on behalf of the Local Entity and is a valid and binding special obligation of the Local Entity, enforceable in accordance with the terms thereof.

2. The Loan Agreement inures to the benefit of the Authority and the BPH and cannot be amended so as to affect adversely the rights of the Authority or the BPH or diminish the obligations of the Local Entity without the consent of the Authority and the BPH.

3. The Local Entity is a duly organized and validly existing_____, with full power and authority to acquire and construct the Project, to operate and maintain the System, to adopt or enact the Local Act and to issue and sell the Local Bonds, all under the Local Statute and other applicable provisions of law.

4. The Local Act and all other necessary orders and resolutions have been legally and effectively adopted or enacted by the Local Entity and constitute valid and binding obligations of the Local Entity, enforceable against the Local Entity in accordance with their terms. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

5. The Local Bonds have been duly authorized, issued, executed and delivered by the Local Entity to the Authority and are valid, legally enforceable and binding special obligations of the Local Entity, payable from the gross or net revenues of the System set forth in the Local Act and secured by a first lien on and pledge of the gross or net revenues of the System, all in accordance with the terms of the Local Bonds and the Local Act.

6. The Local Bonds are, by statute, exempt _____, and under existing statutes and court decisions of the United States of America, as presently written and applied, the interest on the Local Bonds is excludable from the gross income of the recipients thereof for federal income tax purposes.

No opinion is given herein as to the effect upon enforceability of the Local Bonds of bankruptcy, insolvency, reorganization, moratorium and other laws affecting creditors' rights or in the exercise of judicial discretion in appropriate cases.

We have examined executed and authenticated Local Bond numbered R-1, and in our opinion the form of said bond and its execution and authentication are regular and proper.

Very truly yours,

SCHEDULE X

DESCRIPTION OF LOCAL BONDS

Principal Amount of Local Bonds	$ 2,570,000
Purchase Price of Local Bonds	$ 2,570,000

The Local Bonds shall bear no interest. Commencing December 1, 2007, principal of the Local Bonds is payable quarterly, with an administrative fee of 1%. Quarterly payments will be made on March 1, June 1, September 1 and December 1 of each year as set forth on the Schedule Y attached hereto and incorporated herein by reference.

The Local Entity shall submit its payments monthly to the Commission with instructions that the Commission will make quarterly payments to the Authority at such address as is given to the Commission in writing by the Authority. If the Reserve Account is not fully funded at closing, the Local Entity shall commence the payment of the 1/120 of the maximum annual debt service on the first day of the month it makes its first monthly payment to the Commission. The Local Entity shall instruct the Commission to notify the Authority of any monthly payments which are not received by the 20th day of the month in which the payment was due.

The Local Bonds are fully registered in the name of the Authority as to principal and interest, if any, and the Local Bonds shall grant the Authority a first lien on the gross or net revenues of the Local Entity's system as provided in the Local Act.

The Local Entity may prepay the Local Bonds in full at any time at the price of par upon 30 days' written notice to the Authority and BPH. The Local Entity shall request approval from the Authority and BPH in writing of any proposed debt which will be issued by the Local Entity on a parity with the Local Bonds which request must be filed at least 60 days prior to the intended date of issuance.

As of the date of the Loan Agreement, the Local Bonds are on a parity as to liens, pledge and source of and security for payment with the following obligations of the Local Entity:

Water Revenue Bonds, Series 2001 A (West Virginia DWTRF Program), dated October 16, 2001, issued in the original principal amount of $360,000 and Water Revenue Bonds, Series 2004 A (West Virginia DWTRF Program), dated August 24, 2004, issued in the original principal amount of $570,000.

$2,570,000

Eastern Wyoming PSD
0% Interest Rate, 1% Administrative Fee, 30 Years
Closing Date: January 12, 2006

Debt Service Schedule

Date	Principal	Coupon	Total P+I
03/01/2006	-	-	-
06/01/2006	-	-	-
09/01/2006	-	-	-
12/01/2006	-	-	-
03/01/2007	-	-	-
06/01/2007	-	-	-
09/01/2007	-	-	-
12/01/2007	21,417.00	-	21,417.00
03/01/2008	21,417.00	-	21,417.00
06/01/2008	21,417.00	-	21,417.00
09/01/2008	21,417.00	-	21,417.00
12/01/2008	21,417.00	-	21,417.00
03/01/2009	21,417.00	-	21,417.00
06/01/2009	21,417.00	-	21,417.00
09/01/2009	21,417.00	-	21,417.00
12/01/2009	21,417.00	-	21,417.00
03/01/2010	21,417.00	-	21,417.00
06/01/2010	21,417.00	-	21,417.00
09/01/2010	21,417.00	-	21,417.00
12/01/2010	21,417.00	-	21,417.00
03/01/2011	21,417.00	-	21,417.00
06/01/2011	21,417.00	-	21,417.00
09/01/2011	21,417.00	-	21,417.00
12/01/2011	21,417.00	-	21,417.00
03/01/2012	21,417.00	-	21,417.00
06/01/2012	21,417.00	-	21,417.00
09/01/2012	21,417.00	-	21,417.00
12/01/2012	21,417.00	-	21,417.00
03/01/2013	21,417.00	-	21,417.00
06/01/2013	21,417.00	-	21,417.00
09/01/2013	21,417.00	-	21,417.00
12/01/2013	21,417.00	-	21,417.00
03/01/2014	21,417.00	-	21,417.00
06/01/2014	21,417.00	-	21,417.00
09/01/2014	21,417.00	-	21,417.00
12/01/2014	21,417.00	-	21,417.00
03/01/2015	21,417.00	-	21,417.00
06/01/2015	21,417.00	-	21,417.00
09/01/2015	21,417.00	-	21,417.00
12/01/2015	21,417.00	-	21,417.00
03/01/2016	21,417.00	-	21,417.00
06/01/2016	21,417.00	-	21,417.00
09/01/2016	21,417.00	-	21,417.00
12/01/2016	21,417.00	-	21,417.00

$2,570,000

Eastern Wyoming PSD
0% Interest Rate, 1% Administrative Fee, 30 Years
Closing Date: January 12, 2006

Debt Service Schedule

Date	Principal	Coupon	Total P+I
03/01/2017	21,417.00	-	21,417.00
06/01/2017	21,417.00	-	21,417.00
09/01/2017	21,417.00	-	21,417.00
12/01/2017	21,417.00	-	21,417.00
03/01/2018	21,417.00	-	21,417.00
06/01/2018	21,417.00	-	21,417.00
09/01/2018	21,417.00	-	21,417.00
12/01/2018	21,417.00	-	21,417.00
03/01/2019	21,417.00	-	21,417.00
06/01/2019	21,417.00	-	21,417.00
09/01/2019	21,417.00	-	21,417.00
12/01/2019	21,417.00	-	21,417.00
03/01/2020	21,417.00	-	21,417.00
06/01/2020	21,417.00	-	21,417.00
09/01/2020	21,417.00	-	21,417.00
12/01/2020	21,417.00	-	21,417.00
03/01/2021	21,417.00	-	21,417.00
06/01/2021	21,417.00	-	21,417.00
09/01/2021	21,417.00	-	21,417.00
12/01/2021	21,417.00	-	21,417.00
03/01/2022	21,417.00	-	21,417.00
06/01/2022	21,417.00	-	21,417.00
09/01/2022	21,417.00	-	21,417.00
12/01/2022	21,417.00	-	21,417.00
03/01/2023	21,417.00	-	21,417.00
06/01/2023	21,417.00	-	21,417.00
09/01/2023	21,417.00	-	21,417.00
12/01/2023	21,417.00	-	21,417.00
03/01/2024	21,417.00	-	21,417.00
06/01/2024	21,417.00	-	21,417.00
09/01/2024	21,417.00	-	21,417.00
12/01/2024	21,417.00	-	21,417.00
03/01/2025	21,417.00	-	21,417.00
06/01/2025	21,417.00	-	21,417.00
09/01/2025	21,417.00	-	21,417.00
12/01/2025	21,417.00	-	21,417.00
03/01/2026	21,417.00	-	21,417.00
06/01/2026	21,417.00	-	21,417.00
09/01/2026	21,417.00	-	21,417.00
12/01/2026	21,417.00	-	21,417.00
03/01/2027	21,417.00	-	21,417.00
06/01/2027	21,417.00	-	21,417.00
09/01/2027	21,417.00	-	21,417.00
12/01/2027	21,416.00	-	21,416.00

$2,570,000

Eastern Wyoming PSD
0% Interest Rate, 1% Administrative Fee, 30 Years
Closing Date: January 12, 2006

Debt Service Schedule

Date	Principal	Coupon	Total P+I
03/01/2028	21,416.00	-	21,416.00
06/01/2028	21,416.00	-	21,416.00
09/01/2028	21,416.00	-	21,416.00
12/01/2028	21,416.00	-	21,416.00
03/01/2029	21,416.00	-	21,416.00
06/01/2029	21,416.00	-	21,416.00
09/01/2029	21,416.00	-	21,416.00
12/01/2029	21,416.00	-	21,416.00
03/01/2030	21,416.00	-	21,416.00
06/01/2030	21,416.00	-	21,416.00
09/01/2030	21,416.00	-	21,416.00
12/01/2030	21,416.00	-	21,416.00
03/01/2031	21,416.00	-	21,416.00
06/01/2031	21,416.00	-	21,416.00
09/01/2031	21,416.00	-	21,416.00
12/01/2031	21,416.00	-	21,416.00
03/01/2032	21,416.00	-	21,416.00
06/01/2032	21,416.00	-	21,416.00
09/01/2032	21,416.00	-	21,416.00
12/01/2032	21,416.00	-	21,416.00
03/01/2033	21,416.00	-	21,416.00
06/01/2033	21,416.00	-	21,416.00
09/01/2033	21,416.00	-	21,416.00
12/01/2033	21,416.00	-	21,416.00
03/01/2034	21,416.00	-	21,416.00
06/01/2034	21,416.00	-	21,416.00
09/01/2034	21,416.00	-	21,416.00
12/01/2034	21,416.00	-	21,416.00
03/01/2035	21,416.00	-	21,416.00
06/01/2035	21,416.00	-	21,416.00
09/01/2035	21,416.00	-	21,416.00
12/01/2035	21,416.00	-	21,416.00
03/01/2036	21,416.00	-	21,416.00
06/01/2036	21,416.00	-	21,416.00
09/01/2036	21,416.00	-	21,416.00
12/01/2036	21,416.00	-	21,416.00
03/01/2037	21,416.00	-	21,416.00
06/01/2037	21,416.00	-	21,416.00
09/01/2037	21,416.00	-	21,416.00
Total	**$2,570,000.00**	-	**$2,570,000.00** *

*Plus $3,239.24 one-percent administrative fee paid quarterly. Total fee over life of loan is $388,708.80.

BOND RESOLUTION

Authorizing

EASTERN WYOMING PUBLIC SERVICE DISTRICT WATER REVENUE BONDS (WEST VIRGINIA DWTRF PROGRAM), 2006 SERIES A

Adopted: January 10, 2006

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EASTERN WYOMING PUBLIC SERVICE DISTRICT

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF WATER TREATMENT AND DISTRIBUTION FACILITIES BY EASTERN WYOMING PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COSTS THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE DISTRICT OF $2,570,000 IN AGGREGATE PRINCIPAL AMOUNT OF EASTERN WYOMING PUBLIC SERVICE DISTRICT WATER REVENUE BONDS (WEST VIRGINIA DWTRF PROGRAM), 2006 SERIES A; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING AND RATIFYING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF EASTERN WYOMING PUBLIC SERVICE DISTRICT:

ARTICLE I

DEFINITIONS, STATUTORY AUTHORITY AND FINDINGS

Section 1.01 Definitions. The following terms shall have the following meanings in this Resolution unless the context expressly requires otherwise.

"Act" means, collectively, Chapter 16, Article 13A and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended and in effect on the date of adoption of this Resolution.

"AML Grant" means the West Virginia Department of Environmental Protection – Abandoned Mine Lands Grant in the amount of $4,465,920.

"AML Grant Agreement" means a written commitment for the payment of the West Virginia Department of Environmental Protection – Abandoned Mine Lands Grant which specifies the amount of such Grant, the terms and conditions upon which such Grant is made and the date or dates or event or events upon which such Grant is to be paid to the Issuer.

"Administrative Fee" means any administrative fee required to be paid pursuant to the Loan Agreement for the 2006 Series A Bonds.

"Application" means the application, with attachments and exhibits, filed by the Issuer with the BPH for a DWTRF loan.

"ARC Grant" means the Appalachian Regional Commission Grant in the amount of $1,000,000.

"ARC Grant Agreement" means a written commitment for the payment of the Appalachian Regional Commission Grant which specifies the amount of such Grant, the terms and conditions upon which such Grant is made and the date or dates or event or events upon which such Grant is to be paid to the Issuer.

"Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser and Registered Owner of the 2006 Series A Bonds acting in its administrative capacity and upon authorization from the BPH under the Act.

"Authorized Officer" means the Chairman of the Governing Body of the Issuer or any other officer or person of the Issuer specifically designated by resolution of the Governing Body of the Issuer.

"Board" or "Governing Body" means the public service board of the Issuer as it may now or hereafter be constituted.

"Bondholders," "Holder of the Bonds," "Holder," "Registered Owner," "Owner" or any similar term, whenever used herein with respect to an Outstanding Bond or Bonds, means the person in whose name such Bond is registered.

"Bond Register" means the books of the Issuer as hereinafter defined, maintained by the Bond Registrar as hereinafter defined for the registration and transfer of the Bonds.

"Bond Registrar" or "Registrar" means United Bank, Inc., Charleston, West Virginia, and its successors and assigns.

"Bonds" means, collectively, the 2006 Series A Bonds, the Prior Bonds and any additional Parity Bonds hereafter issued within the terms, restrictions and conditions contained in this Resolution or another resolution of the Issuer.

"Bond Year" means the 12-month period beginning on the anniversary of the Closing Date in each year and ending on the day prior to the anniversary date of the Closing Date in the following year except that the first Bond Year shall begin on the Closing Date.

"BPH" means the West Virginia Bureau for Public Health, a division of the West Virginia Department of Health and Human Resources, or any successor thereto.

"Chairman" means the Chairman of the Governing Body of the Issuer.

"Closing Date" means the date upon which there is an exchange of the 2006 Series A Bonds for all or a portion of the proceeds of the 2006 Series A Bonds.

"Code" means the Internal Revenue Code of 1986, as amended, including the rules and regulations promulgated pursuant thereto or any predecessors or successors thereto.

"Commission" means the West Virginia Municipal Bond Commission or any other agency of the State of West Virginia that succeeds to the functions of the Commission.

"Consulting Engineer" or "Consulting Engineers" means Pentree, Incorporated, Princeton, West Virginia, or any qualified engineer or firm of engineers licensed by the State, that shall at any time hereafter be procured by the Issuer as Consulting Engineers for the System in accordance with Chapter 5G, Article 1 of the Code of West Virginia, 1931, as amended.

"Costs" or "Costs of the Project" or any similar phrase means those costs described in Section 1.03 D hereof to be part of the cost of acquisition and construction of the Project.

"Council" means the West Virginia Infrastructure and Jobs Development Council or any successor thereto.

"Council Act" means Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended, and in effect on the date of the adoption of this Resolution.

"Debt Service" means the scheduled amount of interest and amortization of principal payable on the Bonds, as hereinafter defined, during the period of computation,

excluding amounts scheduled during such period which relate to principal which has been retired before the beginning of such period.

"Depository Bank" means The Peoples Bank of Mullens, Mullens, West Virginia, and its successors and assigns.

"DWTRF Loan" means the West Virginia Drinking Water Treatment Revolving Fund Loan in the amount of $2,570,000.

"EWSAA Grant" means the Emergency Wartime Supplemental Appropriation Act Grant in the amount of $487,242.

"EWSAA Grant Agreement" means a written commitment for the payment of the Emergency Wartime Supplemental Appropriation Act Grant which specifies the amount of such Grant, the terms and conditions upon which such Grant is made and the date or dates or event or events upon which such Grant is to be paid to the Issuer.

"FDIC" means the Federal Deposit Insurance Corporation or any successor to the functions of the FDIC.

"Fiscal Year" means each 12-month period beginning on July 1 and ending on the succeeding June 30.

"Governmental Obligations" means direct obligations of, or obligations the timely payment of the principal of and interest on which is guaranteed by, the United States of America including (i) such obligations which have been stripped from their unmatured interest coupons, interest coupons stripped from such obligations and receipts or certificates evidencing payments from such obligations or interest coupons stripped from such obligations, (ii) evidences of ownership of a proportionate interest in specified direct obligations of, or specified obligations which are unconditionally and fully guaranteed by, the United States of America, which obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity of custodian and (iii) obligations, the sole source of the payment of the principal of and interest on which are obligations of the nature of those described in clause (i), which are irrevocably pledged for such purposes.

"Grant Receipts" means all moneys received by the Issuer on account of any Grant to pay Costs of the Project.

"Gross Proceeds" means the sum of the following amounts:

(i) Original proceeds, namely, net amounts received by or for the Issuer as a result of the sale of the Bonds, excluding original proceeds which become

transferred proceeds (determined in accordance with applicable Regulations) of obligations issued to refund in whole or in part the Bonds;

(ii) Investment proceeds, namely, amounts received at any time by or for the Issuer, such as interest and dividends, resulting from the investment of any original proceeds (as reference in clause (i) above) or investment proceeds (as referenced in this clause (ii)) in Nonpurpose Investments, increased by profits and decreased (if necessary, below zero) by any losses on such investments, excluding investment proceeds which become transferred proceeds (determined in accordance with applicable Regulations) of obligations issued to refund in whole or in part the Bonds;

(iii) Transferred proceeds, namely, original proceeds of any prior obligations, and interest earnings and profits less losses resulting from investment of such original proceeds in Nonpurpose Investments, which are used to discharge the outstanding principal of any prior obligations and which are deemed to become proceeds of the Bonds ratably as original proceeds of the Bonds, and interest earnings and profits resulting from investment of such original proceeds in Nonpurpose Investments, which are used to discharge the outstanding principal of any such prior obligations, all on the date of such ratable discharge;

(iv) Sinking fund proceeds, namely, amounts, other than original proceeds, investment proceeds or transferred proceeds as referenced in clauses (i) through (iii) above, of the Bonds, which are held in any fund to the extent that the Issuer reasonably expects to use such other fund to pay Debt Service;

(v) Amounts in the Bonds and in any other fund established as a reasonably required reserve or replacement fund;

(vi) Investment Property pledged by the Issuer as security for payment of Debt Service on the Bonds;

(viii) Amounts, other than as specified in this definition, used to pay Debt Service on the Bonds; and

(viii) Amounts received as a result of investing amounts described in this definition.

"Gross Revenues" means the aggregate gross operating and non-operating revenues of the System, as hereinafter defined, determined in accordance with generally accepted accounting principles, after deduction of prompt payment discounts, if any, and reasonable provision for uncollectible accounts; provided, that "Gross Revenues" does not include any gains from the sale or other disposition of, or from any increase in the value of, capital assets (including Qualified Investments, as hereinafter defined, or any Tap Fees, as hereinafter defined).

"Independent Certified Public Accountants" means any certified public accountant or firm of certified public accountants that shall at any time hereafter be retained by the Issuer to prepare an independent annual or special audit of the accounts of the System, or for any other purpose except keeping the accounts of such System in the normal operation of its business and affairs.

"Investment Property" means any security (as said term is defined in Section 165(g)(2)(A) or (B) of the Code), obligation, annuity contract or investment-type property, excluding, however, obligations the interest on which is excluded from gross income under Section 103 of the Code for federal income tax purposes.

"Issuer" means Eastern Wyoming Public Service District, a public service district and political subdivision of the State of West Virginia, in Wyoming County, West Virginia, and, unless the context clearly indicates otherwise, includes the Board and any successor thereto.

"Loan Agreement" means the Loan Agreement heretofore entered into, or to be entered into, between the Issuer and the Authority, on behalf of the BPH providing for the purchase of the 2006 Series A Bonds from the Issuer by the Authority, the form of which shall be approved, and the execution and delivery by the Issuer authorized and directed or ratified by this Resolution.

"LCPSD" means the Logan County Public Service District, or any successor thereto, which operates and maintains the System for the Issuer pursuant to an agreement dated August 30, 2001, by and between the Issuer and LCPSD.

"Managing Engineer" means the managing engineer of the Issuer or any successor thereto.

"Net Proceeds" means the face amount of the 2006 Series A Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds deposited in the 2006 Series A Bonds Reserve Account. For purposes of the Private Business Use limitations set forth herein, the term Net Proceeds shall include any amounts resulting from the investment of proceeds of the 2006 Series A Bonds, without regard to whether or not such investment is made in tax-exempt obligations.

"Net Revenues" means the balance of the Gross Revenues remaining after deduction of Operating Expenses, as hereinafter defined.

"Nonpurpose Investment" means any Investment Property which is acquired with the Gross Proceeds of the Bonds and is not acquired in order to carry out the governmental purpose of the Bonds.

"Operating Expenses" means the reasonable, proper and necessary costs of repair, maintenance and operation of the System, as hereinafter described and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses, other than those capitalized as part of the Costs of the Project, the Administrative Fee, fees and expenses of the Authority, fiscal agents, the Depository Bank, Registrar and Paying Agent, other than those capitalized as part of the Costs of the Project, payments to pension or retirement funds, taxes and such other reasonable operating costs and expenses as should normally and regularly be included under generally accepted accounting principles; provided, that "Operating Expenses" does not include payments on account of the principal of or redemption premium, if any, or interest on the Bonds, charges for depreciation, losses from the sale or other disposition of, or from any decrease in the value, capital assets, amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

"Operation and Maintenance Agreement" means that certain Agreement dated August 30, 2001 by and between the LCPSD and the Issuer, pursuant to which the LCPSD operates and maintains the Issuer's System.

"Outstanding," when used with reference to Bonds and as of any particular date, describes all Bonds theretofore and thereupon being delivered except (a) any Bond for the payment of which moneys, equal to its principal amount, with interest to the date of maturity, shall be held in trust under this Resolution and set aside for such payment (whether upon or prior to maturity); and (b) any Bond deemed to have been paid as provided in Article X hereof.

"Parity Bonds" means additional Bonds issued under the provisions and within the limitations prescribed by Section 7.07 hereof.

"Paying Agent" means the West Virginia Municipal Bond Commission and its successors and assigns.

"Prior Bonds" means, collectively, the Eastern Wyoming Public Service District Water Revenue Bonds, Series 2001 A (West Virginia DWTRF Program), dated October 16, 2001, issued in the original principal amount of $360,000 and the Eastern Wyoming Public Service District Water Revenue Bonds, Series 2004 A (West Virginia DWTRF Program), dated August 24, 2004, issued in the original principal amount of $570,000.

"Prior Resolution" means, collectively, the resolutions of the Issuer authorizing the Prior Bonds adopted on October 10, 2001 and August 23, 2004.

"Private Business Use" means use directly or indirectly in a trade or business carried on by a natural person, including all persons "related" to such person within the meaning of Section 144(a)(3) of the Code, or in any activity carried on by a

person other than a natural person, including all persons "related" to such person within the meaning of Section 144(a)(3) of the Code, excluding, however, use by a state or local governmental unit by a member of the general public. All of the foregoing shall be determined in accordance with the Code, including, without limitation, giving due regard to "incidental use," if any, of the proceeds of the issue and/or proceeds used for "qualified improvements" if any.

"Project" means the Project described in Section 1.03B hereof.

"PSC" means the Public Service Commission of West Virginia or any other agency of the State of West Virginia that succeeds to the functions of the Public Service Commission of West Virginia.

"PSC Order" means, collectively, the Recommended Decision entered January 31, 2005 in Case No. 04-0023-PWD-PC-CN, which became a Final Order of the Public Service Commission of West Virginia (the "PSC") on February 20, 2005, with all requisite appeal periods having expired without successful appeal, and a Commission Order entered January 4, 2006 in Case No. 04-0023-PWD-PC-CN, among other things, granting to the Issuer a certificate of convenience and necessity and approving funding for the Project and the rates for the System. The time for appeal of the January 4, 2006 Commission Order has not expired prior to the date hereof. However, the Issuer hereby states it will not appeal the January 4, 2006 Commission Order, and the only other party to Case No. 04-0023-PWD-PC-CN, the Commission Staff, has stated that it does not intend to appeal the January 4, 2006 Commission Order. Both orders are in full force and effect.

"Qualified Investments" means and includes any of the following:

(a) Government Obligations;

(b) Government Obligations which have been stripped of their unmatured interest coupons, interest coupons stripped from Government Obligations, and receipts or certificates evidencing payments from Government Obligations or interest coupons stripped from Government Obligations;

(c) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Government National Mortgage Association; Tennessee Valley Authority; or Washington Metropolitan Area Transit Authority;

(d) Any bond, debenture, note, participation certificate or other similar obligations issued by the Federal National Mortgage Association to the extent such obligation is guaranteed by the Government National Mortgage Association or issued by any other federal agency and backed by the full faith and credit of the Unites States of America;

(e) Time accounts (including accounts evidenced by time certificates of deposit, time deposits or other similar banking arrangements) which, to the extent not insured by the FDIC or Federal Savings and Loan Insurance Corporation, shall be secured by a pledge of Government Obligations, provided, that said Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;

(f) Money market funds or similar funds whose only assets are investments of the type described in paragraphs (a) through (e) above;

(g) Repurchase agreements, fully secured by investments of the types described in paragraphs (a) through (e) above, with banks or national banking associations which are members of the FDIC or with government bond dealers recognized as primary dealers by the Federal Reserve Bank of New York; provided, that said investments securing said repurchase agreements either must mature as nearly as practical coincident with the maturity of said repurchase agreements or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said repurchase agreements, and provided further that the holder of such repurchase agreement shall have a prior perfected security interest in the collateral therefor, must have (or its agent must have) possession of such collateral, and such collateral must be free of all claims by third parties;

(h) The West Virginia "consolidated fund" managed by the West Virginia Investment

Management Board pursuant to Chapter 12, Article 6 of the West Virginia Code of 1931, as amended; and

(i) Obligations of States or political subdivisions or agencies thereof, the interest on which is exempt from federal income taxation, and which are rated at least "A" by Moody's Investors Service, Inc. or Standard & Poor's Corporation.

"Renewal and Replacement Fund" means the Renewal and Replacement Fund established by the Prior Resolution and continued by Section 5.01(2) hereof.

"Reserve Accounts" means, collectively, the respective reserve accounts established for the 2006 Series A Bonds and the Prior Bonds.

"Resolution" or "Bond Legislation" means this bond resolution, as from time to time amended or supplemented.

"Revenue Fund" means the Revenue Fund established by the Prior Resolution and continued by Section 5.01(1) hereof.

"Secretary" means the Secretary of the Issuer.

"Sinking Funds" shall mean, collectively, the respective sinking funds established for the 2006 Series A Bonds and the Prior Bonds.

"SCBG" means the Small Cities Block Grant in the amount of $3,000,000.

"SCBG Grant Agreement" means a written commitment for the payment of the Small Cities Block Grant which specifies the amount of such Grant, the terms and conditions upon which such Grant is made and the date or dates or event or events upon which such Grant is to be paid to the Issuer.

"State" means the State of West Virginia.

"Supplemental Resolution" means any resolution or order of the Issuer, amending or supplementing this Resolution; provided, that any matter intended by this Resolution to be included in the Supplemental Resolution with respect to the 2006 Series A Bonds, and not so included may be included in another Supplemental Resolution.

"Surplus Revenues" means the Net Revenues not required by this Resolution to be set aside and held for the payment of or security for the 2006 Series A Bonds, the Prior Bonds or any other obligations of the Issuer, including but not limited to

the Renewal and Replacement Fund, the Reserve Accounts and Sinking Funds.

"System" means the complete existing waterworks system of the Issuer, including the Project, and any improvements and extensions thereto hereafter constructed or acquired from any sources whatsoever.

"Tap Fees" means the fees, if any, paid by prospective customers of the System in order to connect thereto.

"West Virginia DWTRF Program" means the West Virginia Drinking Water Treatment Revolving Fund Program established by the State, administered by the BPH and funded by capitalization grants awarded to the State pursuant to the Federal Safe Drinking Water Act, as amended, for the purpose of providing, establishing and maintaining a permanent perpetual fund for the acquisition, construction and improvement of drinking water projects.

"WVIJDC Grant" means the West Virginia Infrastructure and Jobs Development Council Grant in the amount of $228,742.

"WVIJDC Grant Agreement" means a written commitment for the payment of the West Virginia Infrastructure and Jobs Development Council Grant which specifies the amount of such Grant, the terms and conditions upon which such Grant is made and the date or dates or event or events upon which such Grant is to be paid to the Issuer.

"2006 Series A Bonds" means the $2,570,000 in aggregate principal amount of Eastern Wyoming Public Service District Water Revenue Bonds (West Virginia DWTRF Program), 2006 Series A, of the Issuer originally authorized hereby.

"2006 Series A Bonds Construction Trust Fund" means the 2006 Series A Bonds Construction Trust Fund created by Section 5.01 hereof.

"2006 Series A Bonds Reserve Account" means the 2006 Series A Bonds Reserve Account established by Section 5.02.

"2006 Series A Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the 2006 Series A Bonds in the then current or any succeeding year.

"2006 Series A Bonds Sinking Fund" means the 2006 Series A Bonds Sinking Fund established by Section 5.02.

Additional terms and phrases are defined in this Resolution as they are used. Accounting terms not specifically defined herein shall be given meaning in accordance with generally accepted accounting principles.

Words importing singular number include the plural number in each case and vice versa; words importing the masculine gender include every other gender; and words importing persons include firms, partnerships, associations and corporations.

The terms "herein," "hereunder," "hereby," "hereto," "hereof" and any similar terms refer to this Resolution; and the term "hereafter" means after the date of adoption of this Resolution.

Articles, sections and subsections mentioned by number only are the respective articles, sections and subsections of this Resolution so numbered.

Section 1.02. Authority for this Resolution. This Resolution, together with any resolution supplemental hereto or amendatory hereof, is adopted pursuant to the provisions of the Act and other applicable provisions of the law.

Section 1.03. Findings. It is hereby found, determined and declared as follows:

A. The Issuer is a public service district and a public corporation and political subdivision of the State, located in and near Mullens, Wyoming County, West Virginia, created pursuant to the Act by an order issued by The County Commission of Wyoming County, West Virginia.

B. The Issuer presently owns and operates a public water system. However, it is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that the Issuer construct a new regional water treatment plant, two storage tanks, distribution lines and other necessary appurtenances to eliminate the existing inadequate and outdated water treatment plants located at Mullens, Nuriva, Welton, Wyco, Iroquois and Stephenson, West Virginia (collectively, the "Project"), which constitute properties for the treatment and distribution of potable water (the existing public water system of the Issuer, the Project and any further additions, betterments and improvements thereto or extensions thereof are herein called the "System"), in accordance with the plans and specifications prepared by the Consulting Engineer, which plans and specifications have heretofore been filed with the Issuer and to pay the cost of issuance hereof and related costs.

C. The estimated maximum cost of the construction and acquisition of the Project is approximately $11,751,904, of which approximately $2,570,000 will be permanently financed by the 2006 Series A Bonds herein authorized. The remaining cost will be funded with a $4,465,920 AML Grant, a $1,000,000 ARC Grant, a $487,242 EWSAA Grant, a $3,000,000 SCBG and a $228,742 WVIJDC Grant.

D. It is necessary for the Issuer to issue its Water Revenue Bonds (West Virginia DWTRF Program), 2006 Series A in the aggregate principal amount of $2,570,000 to permanently finance, in part, the cost of acquisition and construction of the Project, and to pay the cost of issuance thereof. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; engineering and legal expenses; expenses for estimates of costs and revenues and for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise; administrative expenses, commitment fees, fees of the Authority, initial fees for the services of registrars, and the placing of the Project in operation, and the performance of the things herein required or permitted, in connection with any thereof; provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the 2006 Series A Bonds or the repayment of indebtedness, incurred by the Issuer for such purposes shall be deemed part of the Costs of the Project.

E. The estimated revenues to be derived in each year after completion of the Project from the operation of the System will be sufficient to pay all the Operating Expenses of the System, the principal of and interest on the Prior Bonds, the 2006 Series A Bonds and all sinking funds, reserve accounts and other payments provided for herein, and in the Prior Resolution.

F. The period of usefulness of the System after completion of the Project is not less than 30 years.

G. There are outstanding obligations of the Issuer which will rank on parity with the 2006 Series A Bonds as to liens, pledge, and source of and security for payment, which obligations are designated and have the lien positions with respect to the 2006 Series A Bonds as follows:

Designation	Lien Position
Water Revenue Bonds, Series 2001 A (West Virginia DWTRF Program), dated October 16, 2001, in the original principal amount of $360,000	First Lien
Water Revenue Bonds, Series 2004 A (West Virginia DWTRF Program), dated August 24, 2004, in the original principal amount of $570,000 (collectively, the "Prior Bonds")	First Lien

The 2006 Series A Bonds shall be issued on a parity with the Prior Bonds with respect to liens, pledge and source of and security for payment and in all other respects. The Issuer has met the parity and coverage requirements for issuance of bonds on a parity with the Prior Bonds and the resolutions authorizing the Prior Bonds and has

substantially complied with all other parity requirements, except to the extent that noncompliance with any such other parity requirements is not of a material nature. Prior to the issuance of the 2006 Series A Bonds, the Issuer will obtain (i) a certificate of an Independent Certified Public Accountant stating that the parity and coverage tests of the Prior Bonds have been met and (ii) the written consent of the Registered Owners of the Prior Bonds to the issuance of the 2006 Series A Bonds on a parity with the Prior Bonds. Other than the Prior Bonds, there are no outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System.

H. It is in the best interests of the Issuer that the 2006 Series A Bonds be sold to the Authority pursuant to the terms and provisions of the Loan Agreement.

I. The Issuer has complied with all requirements of West Virginia law and the Loan Agreement relating to the authorization of the Project, operation of the System, and the issuance of the 2006 Series A Bonds, or will have so complied prior to the issuance of the 2006 Series A Bonds, including, among other things, the obtaining of the PSC Order.

J. The Project has been approved by the Council, and the Authority, on behalf of BPH, has agreed to make the DWTRF Loan to the Issuer.

K. The Issuer shall not permit at any time or times any of the proceeds of the Bonds or any other funds of the Issuer to be used directly or indirectly in a manner which would result in the exclusion of the Bonds from the treatment afforded by Section 103(a) of the Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder or under any predecessor thereto (the "Code"), by reason of the classification of the Bonds as "private activity bonds" within the meaning of the Code. The Issuer will take all actions necessary to comply with the Code and Treasury Regulations to be promulgated thereunder.

Section 1.04. Bond Legislation Constitutes Contract. In consideration of the acceptance of the 2006 Series A Bonds by those who shall be Registered Owners of the same from time to time, this Bond Legislation shall be deemed to be and shall constitute a contract between the Issuer and such Registered Owners, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the benefit, protection and security of the Registered Owners of the 2006 Series A Bonds.

ARTICLE II

AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT; APPROVAL OF OPERATION AND MAINTENANCE OF THE SYSTEM

Section 2.01. Authorization of the Acquisition and Construction of the Project. There is hereby authorized and ordered the acquisition and construction of the Project at an estimated cost of $11,751,904 in accordance with the plans and specifications which have been prepared by the Consulting Engineers and heretofore filed in the office of the Governing Body. The proceeds of the 2006 Series A Bonds hereby authorized shall be applied as provided in Article VI hereof. The Issuer has received bids and will enter into contracts for the acquisition and construction of the Project in an amount and otherwise compatible with the plan of financing described in the application to the Authority, the BPH and the Council.

Section 2.02. Approval of Operation and Maintenance of the System. The Issuer hereby approves the operation and maintenance of the System by LCPSD, for and on behalf of the Issuer, along with any other assets of the Issuer that the Issuer may desire for LCPSD to operate and maintain, pursuant to the Operation and Maintenance Agreement.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF BONDS; AUTHORIZATION AND EXECUTION OF LOAN AGREEMENT

Section 3.01. Authorization of Bonds. For the purposes of paying the Costs of the Project and paying certain costs of issuance and related costs, there shall be and hereby are authorized to be issued negotiable bonds of the Issuer. Said 2006 Series A Bonds shall be issued as a single bond, to be designated the "Eastern Wyoming Public Service District Water Revenue Bonds (West Virginia DWTRF Program), 2006 Series A", in the aggregate principal amount of $2,570,000, and shall have such terms as are set forth hereinafter in this Resolution or any Supplemental Resolution thereto. The proceeds of the 2006 Series A Bonds shall be deposited in the 2006 Series A Bonds Construction Trust Fund established by Section 5.01 hereof.

Section 3.02. Term of Bonds. The 2006 Series A Bonds shall be issued in the original principal amount of $2,570,000; shall bear interest, if any, at such rate or rates, not exceeding the then legal maximum, with interest and principal payable quarterly on such dates; shall mature on such dates and in such amounts and at such times as shall be set forth in Schedule Y to the Loan Agreement; the terms of which are incorporated herein by reference. In the event of an inconsistency between the terms hereof and said Loan Agreement, the terms of the Loan Agreement shall apply; and shall be redeemable with the consent of the Authority and the BPH and in compliance with the Loan Agreement. The repayment of principal, interest and the Administrative Fee on the 2006 Series A Bonds shall be as set forth in Schedule Y to the Loan Agreement. The 2006 Series A Bonds shall be payable as to principal at the office of the Paying Agent in any coin or currency which, on the dates of payment of principal, is legal tender for the payment of public and private debts under the laws of the United States of America.

Interest on the 2006 Series A Bonds, if any, shall be paid by check or draft of the Paying Agent mailed to the Registered Owner thereof at the address as it appears on the books of the Bond Registrar, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner thereof.

Unless otherwise provided by this Resolution or any Supplemental Resolution thereto, the 2006 Series A Bonds shall be issued in the form of a single bond, fully registered to the Authority, with a debt service schedule and a record of advances attached, representing the aggregate principal amount of the 2006 Series A Bonds. The 2006 Series A Bonds shall be exchangeable at the option and expense of the Holder for another fully registered bond in aggregate principal amount equal to the amount of said bonds then Outstanding and being exchanged, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said bond; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

Section 3.03. Execution of Bonds. The 2006 Series A Bonds shall be executed in the name of the Issuer by the Chairman, and the seal of the Issuer shall be affixed thereto and attested by the Secretary of the Issuer. In case any one or more of the officers who shall have signed or sealed any of the 2006 Series A Bonds shall cease to be such officer of the Issuer before the 2006 Series A Bonds so signed and sealed shall have been actually sold or delivered, such 2006 Series A Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such 2006 Series A Bonds had not ceased to hold such office. Any 2006 Series A Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such 2006 Series A Bonds shall hold the proper office of the Issuer, although at the date of such 2006 Series A Bonds such person may not have held such office or may not have been so authorized.

Section 3.04. Authentication and Registration. The Issuer hereby appoints and designates United Bank, Inc., Charleston, West Virginia, to serve as the Bond Registrar for the 2006 Series A Bonds. No 2006 Series A Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Resolution unless and until the Certificate of Authentication and Registration on such Bond, substantially in the form set forth in Section 3.10 shall have been manually executed by the Bond Registrar. Any such executed Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Resolution. The Certificate of Authentication and Registration shall be deemed to have been executed by the Bond Registrar if signed by an authorized officer of the Bond Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the 2006 Series A Bonds issued hereunder.

Section 3.05. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the 2006 Series A Bonds shall be

and have all the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State, and each successive Registered Owner, in accepting any of said 2006 Series A Bonds, shall be conclusively deemed to have agreed that said 2006 Series A Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State, and each successive Registered Owner shall further be conclusively deemed to have agreed that said 2006 Series A Bonds shall be incontestable in the hands of a bona fide holder for value.

So long as any of the 2006 Series A Bonds remain Outstanding, the Issuer, through the Bond Registrar, shall keep and maintain books for the registration and transfer of the 2006 Series A Bonds.

The 2006 Series A Bonds shall be transferrable only upon the books of the Bond Registrar, by the Registered Owner thereof in person or by his attorney duly authorized in writing, upon surrender thereto, together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the Registered Owner or his duly authorized attorney.

In all cases in which the privilege of exchanging the 2006 Series A Bonds or transferring the 2006 Series A Bonds is exercised, such Bonds shall be delivered in accordance with the provisions of this Resolution. All 2006 Series A Bonds surrendered in any such exchanges or transfers shall forthwith be canceled by the Bond Registrar. For every such exchange or transfer of 2006 Series A Bonds, the Bond Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer and the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the Bond Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer. The Bond Registrar shall not be obligated to make any such exchange or transfer of 2006 Series A Bonds during the period commencing on the 15th day of the month preceding an interest payment date on the 2006 Series A Bonds or, in the case of any proposed redemption of 2006 Series A Bonds, next preceding the date of the selection of 2006 Series A Bonds to be redeemed, and ending on such interest payment date or redemption date.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case any bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Bond Registrar shall, if so advised by the Issuer, authenticate and deliver a new Bond of the same series and of like tenor of the 2006 Series A Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated bond, upon surrender and cancellation of such mutilated bond, or in lieu of and substitution for the bond destroyed, stolen or lost and upon the Holder's furnishing the Issuer proof of ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and Bond Registrar may incur. All 2006 Series A Bonds so surrendered shall be cancelled by the Bond Registrar and held for the account of the Issuer. If any such bond

shall have matured or be about to mature, instead of issuing a substitute bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such bond be lost, stolen or destroyed, without surrender thereof.

Section 3.07. Bonds Not to be Indebtedness of the Issuer. The 2006 Series A Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided and amounts in the 2006 Series A Bonds Reserve Account. No Holder of any of the 2006 Series A Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer, if any, to pay the 2006 Series A Bonds or the interest thereon.

Section 3.08. Bonds Secured by Pledge of Net Revenues. The payment of the debt service on all the 2006 Series A Bonds shall be secured forthwith by a first lien on the Net Revenues derived from the System, on parity with the lien on the Net Revenues in favor of the holders of the Prior Bonds. Such Net Revenues in an amount sufficient to pay the principal of, and interest on and other payments for the 2006 Series A Bonds and the Prior Bonds and to make the payments into the Sinking Funds, the Reserve Accounts and the Renewal and Replacement Fund hereinafter established, and established in the Prior Resolution, are hereby irrevocably pledged to the payment of the principal of and interest on the Prior Bonds and the 2006 Series A Bonds as the same become due.

Section 3.09. Delivery of Bonds. The Issuer shall execute and deliver the 2006 Series A Bonds to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the 2006 Series A Bonds to the original purchasers upon receipt of the documents set forth below:

A. If other than the Authority, a list of the names in which the 2006 Series A Bonds are to be registered upon original issuance, together with such taxpayer identification and other information as the Bond Registrar may reasonably require;

B. A request and authorization to the Bond Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate and deliver the 2006 Series A Bonds to the original purchasers;

C. An executed and certified copy of the Bond Legislation;

D. An executed copy of the Loan Agreement; and

E. The unqualified approving opinion of bond counsel on the 2006 Series A Bonds.

Section 3.10. Form of Bonds. The text of the 2006 Series A Bonds shall be in substantially the form attached hereto as Exhibit A, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted by this Resolution or by any Supplemental Resolution thereto adopted prior to the issuance thereof.

Section 3.11. Sale of Bonds; Ratification and Execution of Loan Agreement. The 2006 Series A Bonds shall be sold to the Authority pursuant to the terms and conditions of the Loan Agreement. If not so authorized by previous resolution, the Chairman is specifically authorized and directed to execute the Loan Agreement and the Secretary is directed to affix the seal of the Issuer, attest the same and deliver the Loan Agreement to the Authority, and any such prior execution and delivery is hereby authorized, ratified and approved. The Loan Agreement, including all schedules and exhibits attached hereto, is hereby approved and incorporated into this Bond Legislation.

Section 3.12. Amended Schedule Filing. Upon completion of acquisition and construction of the Project, the Issuer will file with the Authority, the BPH and the Council a schedule, the form of which will be provided by the BPH, setting forth the actual Costs of the Project and sources of funds therefor.

ARTICLE IV

[RESERVED]

ARTICLE V

FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF

Section 5.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are created with (or continued if previously established by the Prior Resolution) and shall be held by the Depository Bank separate and apart from all other funds or accounts of the Depository Bank:

(1) Revenue Fund (established by Prior Resolution);

(2) Renewal and Replacement Fund (established by Prior Resolution); and

(3) 2006 Series A Bonds Construction Trust Fund.

The Issuer hereby appoints and designates The Peoples Bank of Mullens, located in Mullens, West Virginia, as the Depository Bank under the Resolution.

Section 5.02. Establishment of Funds and Accounts with Commission. The Issuer hereby appoints and designates the Commission as the Paying Agent for the 2006 Series A Bonds. The special funds or accounts hereby established with the Commission are the 2006 Series A Bonds Sinking Fund, and the 2006 Series A Bonds Reserve Account.

Section 5.03. System Revenues; Flow of Funds. A. The entire Gross Revenues derived from the operation of the System shall be deposited upon receipt in the Revenue Fund created pursuant to the Prior Resolution. The Revenue Fund shall constitute a trust fund for the purposes provided in this Resolution and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner herein provided.

(1) The Issuer shall first, each month, pay from the Revenue Fund the current Operating Expenses of the System.

(2) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission (i) the principal payment for the Prior Bonds required by the Prior Resolution, and (ii) commencing 3 months prior to the first date of payment of principal of the 2006 Series A Bonds, for deposit in the 2006 Series A Bonds Sinking Fund, a sum equal to $1/3^{rd}$ of the amount of principal which will mature and become due on the 2006 Series A Bonds on the next ensuing quarterly principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the 2006 Series A Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months,

then such monthly payment shall be increased proportionately to provide, one month prior to the next quarterly principal payment date, the required amount of principal coming due on such date.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission (i) for deposit in the Reserve Accounts for the Prior Bonds, the amounts required by the Prior Resolution, and (ii) commencing 3 months prior to the first date of payment of principal of the 2006 Series A Bonds, if not fully funded upon issuance of the 2006 Series A Bonds, for deposit in the 2006 Series A Bonds Reserve Account, an amount equal to 1/120 of the 2006 Series A Bonds Reserve Requirement; provided, that no further payments shall be made into the 2006 Series A Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the 2006 Series A Bonds Reserve Requirement.

(4) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Depository Bank for deposit in the Renewal and Replacement Fund a sum equal to 2½% of the Gross Revenues each month (as required in the Prior Resolution and not in addition thereto), exclusive of any payments for account of any Reserve Account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, emergency repairs, improvements or extensions to the System; provided that, any deficiencies in any Reserve Account, except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required, shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

Moneys in the 2006 Series A Bonds Sinking Fund shall be used only for the purpose of paying principal of, and interest, if any, on the 2006 Series A Bonds as the same shall become due. Moneys in the 2006 Series A Bonds Reserve Account shall be used only for the purpose of paying principal of, and interest, if any, on the 2006 Series A Bonds, as the same shall come due, when other moneys in the 2006 Series A Bonds Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the 2006 Series A Bonds Reserve Account shall be transferred, not less than once each year, to the

2006 Series A Bonds Construction Trust Fund prior to completion of the Project and thereafter to the 2006 Series A Bonds Sinking Fund.

Any withdrawals from the 2006 Series A Bonds Reserve Account which result in a reduction in the balance of such account to below the 2006 Series A Bonds Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments have been made in full in the order set forth above.

As and when additional Bonds ranking on a parity with the 2006 Series A Bonds are issued, provision shall be made for additional payments into the respective sinking funds sufficient to pay any interest on and principal of such Parity Bonds and to accumulate a balance in the respective reserve accounts in an amount equal to the requirement therefor.

The Commission is hereby designated as the fiscal agent for the administration of the 2006 Series A Bonds Sinking Fund and the 2006 Series A Bonds Reserve Account created hereunder, and all amounts required for said accounts shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein. If required by the Authority, the Issuer shall make the necessary arrangements whereby required payments into such accounts are automatically debited from the Revenue Fund and electronically transferred to the Commission on the required date.

Moneys in the 2006 Series A Bonds Reserve Account and 2006 Series A Bonds Sinking Fund shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The 2006 Series A Bonds Sinking Fund and the 2006 Series A Bonds Reserve Account shall be used solely and only for, and are hereby pledged for, the purpose of servicing the 2006 Series A Bonds under the conditions and restrictions hereinafter set forth.

Interest, principal or reserve account payments, whether made for a deficiency or otherwise, shall be made on a parity and pro rata, with respect to the 2006 Series A Bonds and the Prior Bonds in accordance with the respective principal amounts then outstanding.

B. The Issuer shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the required principal, interest and reserve account payments with respect to the 2006 Series A Bonds and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of

this Bond Legislation. The Issuer shall also on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the Administrative Fee as set forth in the Schedule Y attached to the Loan Agreement.

C. The Issuer shall complete the "Monthly Payment Form," a form of which is attached to the Loan Agreement and submit a copy of said form along with a copy of its payment check to the Authority by the 5th day of such calendar month.

D. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinbefore provided, are current and there remains in the Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into such funds during the following month or such other period as required by law, such excess shall be considered Surplus Revenues. Surplus Revenues may be used for any lawful purpose of the System.

E. The Issuer shall remit from the Revenue Fund to the Commission, the Registrar, the Paying Agent, or the Depository Bank, on such dates as the Commission, the Registrar, the Paying Agent, or the Depository Bank as the case may be, shall require, such additional sums as shall be necessary to pay the charges and the fees then due. In the case of payments to the Commission under this paragraph, the Issuer shall, if required by the Authority at anytime, make the necessary arrangements whereby such required payments shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required.

F. The moneys in excess of the maximum amounts insured by FDIC in the Revenue Fund and the Renewal and Replacement Fund shall at all times be secured, to the full extent thereof in excess of such insured sum, by Qualified Investments as shall be eligible as security for deposits of state and municipal funds under the laws of the State.

G. If on any monthly payment date the revenues are insufficient to place the required amount in any of the funds and accounts as hereinabove provided, the deficiency shall be made up in the subsequent payments in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payment dates; provided, that all deposits, including on account of deficiencies, shall be made in the order of priority set forth in Paragraph (A), above, and no payment of lower priority shall be made if there exists a deficiency in a fund or account of higher priority. No such deficiency shall exist solely because the required payments into the 2006 Series A Bonds Reserve Account have not, as of such date, funded such account to the requirement therefor.

H. All remittances made by the Issuer to the Commission or the Depository Bank shall clearly identify the fund or account into which each amount is to be deposited.

I. The Gross Revenues of the System shall only be used for purposes of the System.

J. All Tap Fees shall be deposited by the Issuer, as received, in the 2006 Series A Bonds Construction Trust Fund, and following completion of the Project, shall be deposited in the Revenue Fund and used for any lawful purpose of the System.

ARTICLE VI

APPLICATION OF BOND PROCEEDS

Section 6.01. Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds. Moneys received from time to time from the sale of the 2006 Series A Bonds shall be deposited with the Depository Bank in the 2006 Series A Bonds Construction Trust Fund and applied solely to payment of Costs of the Project and until so expended are hereby pledged as additional security for the 2006 Series A Bonds.

Section 6.02. Disbursements From the Construction Trust Fund. On or before the Closing Date, the Issuer shall have delivered to the Authority, the BPH and the Council a report listing the specific purposes for which the proceeds of the 2006 Series A Bonds will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule. Payments for Costs of the Project shall be made monthly.

Except as provided in Section 6.01 hereof, disbursements from the 2006 Series A Bonds Construction Trust Fund shall be made only after submission to the BPH of the following:

(1) a completed and signed "Payment Requisition Form," a form of which is attached to the Loan Agreement, in compliance with the construction schedule, and

(2) a certificate, signed by an Authorized Officer and the Consulting Engineers, stating that:

(A) None of the items for which the payment is proposed to be made has formed the basis for any disbursement theretofore made;

(B) Each item for which the payment is proposed to be made is or was necessary in connection with the Project and constitutes a Costs of the Project;

(C) Each of such costs has been otherwise properly incurred; and

(D) Payment for each of the items proposed is then due and owing.

Pending such application, moneys in the 2006 Series A Bonds Construction Trust Fund shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

Section 6.03. Excess Bond Proceeds. Upon completion of the Project, as certified by the Consulting Engineers, and after all costs have been paid, any remaining proceeds of the 2006 Series A Bonds shall be applied as directed by the BPH.

ARTICLE VII

ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this Resolution shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Holder of the 2006 Series A Bonds. In addition to the other covenants, agreements and provisions of this Resolution, the Issuer hereby covenants and agrees with the Holder of the 2006 Series A Bonds, as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of said 2006 Series A Bonds are Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The 2006 Series A Bonds shall not be nor constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Resolution. No Holder of any 2006 Series A Bonds shall ever have the right to compel the exercise of the taxing power, if any, of the Issuer to pay said 2006 Series A Bonds.

Section 7.03. Bonds Secured by Pledge of Net Revenues; Lien Position. The payment of the debt service of the 2006 Series A Bonds issued hereunder shall be secured forthwith equally and ratably by a first lien on the Net Revenues derived from the operation of the System on parity with the lien on said Net Revenues in favor of the holders of the Prior Bonds. The Net Revenues derived from the System, in an amount sufficient to pay the principal of the Prior Bonds and the 2006 Series A Bonds herein authorized and to make the payments into all funds and accounts, and all other payments provided for in this Resolution and the Prior Resolution are hereby irrevocably pledged to such payments as the same become due, and for the other purposes provided in this Resolution.

Section 7.04. Initial Schedule of Rates and Charges. The Issuer has obtained any and all approvals of rates and charges required by State law and has taken any other action required to establish and impose such rates and charges. Such rates and charges are and shall be sufficient to comply with the requirements of the Loan Agreement. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth and approved and described in the Recommended Decision entered January 31, 2005 in Case No. 04-0023-PWD-PC-CN, which became a Final Order of the Public Service Commission of West Virginia (the "PSC") on February 20, 2005, with all requisite appeal periods having expired without successful appeal, and a Commission Order entered January 4, 2006, in Case No. 04-0023-PWD-PC-CN, among other things, approving the rates and charges for the services of the System. The time for appeal of the January 4, 2006 Commission Order has not expired prior to the date hereof. However, the Issuer hereby states it will not appeal the January 4, 2006 Commission Order, and the only other party to Case No. 04-0023-PWD-PC-CN, the Commission Staff, has stated that it does not intend to appeal the January 4, 2006 Commission Order. Both orders are in full force and effect. Such rates and charges are hereby adopted.

So long as the 2006 Series A Bonds are outstanding, the Issuer covenants and agrees to fix and collect rates, fees and other charges for the use of the System and to take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Bond Legislation and in compliance with the requirements of the Loan Agreement. In the event the schedule of rates and charges initially established for the System in connection with the 2006 Series A Bonds shall prove to be insufficient to produce the required sums set forth in this Bond Legislation and the Loan Agreement, the Issuer hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates and charges and take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Bond Legislation and the Loan Agreement.

Section 7.05. Sale of the System. So long as the Prior Bonds are outstanding, the Issuer shall not sell, mortgage, lease or otherwise dispose of the System, except as provided in the Prior Resolution. Additionally, so long as the 2006 Series A Bonds are outstanding and except as otherwise required by law and with the written consent of the Authority and the BPH, the System may not be sold, mortgaged, leased or otherwise disposed of except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to pay fully all the 2006 Series A Bonds Outstanding in accordance with Article X hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall be immediately remitted to the Commission for deposit in the 2006 Series A Bonds Sinking Fund, and the Issuer shall direct the Commission to apply such proceeds to the payment of principal of and the Administrative Fee on the 2006 Series A Bonds. Any balance remaining after the payment of the 2006 Series A Bonds shall be remitted to the Issuer by the Commission unless

necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of $10,000, the Issuer shall, by resolution duly adopted, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. If the amount to be received from such sale, lease or other disposition of said property, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of $10,000 but not in excess of $50,000, the Issuer shall first, in writing, determine upon consultation with the Managing Engineer that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then, if it be so advised, by resolution duly adopted, authorize such sale, lease or other disposition of such property upon public bidding in accordance with the laws of the State. The proceeds derived from any such sale, lease or other disposition of such property, aggregating during such Fiscal Year in excess of $10,000 and not in excess of $50,000, shall be remitted by the Issuer to the Commission for deposit in the Sinking Funds and shall be applied only to the purchase of Bonds of the last maturities then Outstanding at prices not greater than par, then to the Renewal and Replacement Fund. The payment of such proceeds into the Sinking Funds or the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said funds by other provisions of this Resolution. No sale, lease or other disposition of the properties of the System shall be made by the Issuer if the proceeds to be derived therefrom, together with all other amounts received during the same Fiscal Year for such sales, leases, or other dispositions of such properties, shall be in excess of $50,000 and insufficient to pay all Bonds then Outstanding without the prior approval and consent in writing of the Holders of the Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then Holder of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. So long as any of the 2006 Series A Bonds are Outstanding, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the 2006 Series A Bonds; provided, however, that Parity Bonds may be issued as provided for in Section 7.07 hereof and in the Prior Resolution (as long as the Prior Bonds are Outstanding). All obligations hereafter

issued by the Issuer payable from the revenues of the System, except such Parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on and source of and security for payment from such revenues and in all other respects, to the 2006 Series A Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts set forth herein and in the Prior Resolution have been made and are current at the time of the issuance of such subordinate obligations.

Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or being on a parity with the liens of the 2006 Series A Bonds, upon any of the income and revenues of the System pledged for payment of the 2006 Series A Bonds and the interest thereon in this Resolution, or upon the System or any part hereof.

The Issuer shall give the Authority, the BPH and the Council prior written notice of its issuance of any other obligations to be used for the System, payable from the revenues of the System or from any grants, or any other obligations related to the Project or the System.

Section 7.07. Parity Bonds. So long as the Prior Bonds are outstanding, the limitations on the issuance of parity obligations set forth in the Prior Resolution shall be applicable. Additionally, no Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of the 2006 Series A Bonds pursuant to this Resolution, except under the conditions and in the manner herein provided and, as provided in the Prior Resolution, so long as the Prior Bonds are outstanding.

All Parity Bonds issued hereunder shall be on a parity in all respects with the 2006 Series A Bonds. The prior written consent of the Authority and BPH must be received prior to the issuance of any Parity Bonds.

No such Parity Bonds shall be issued except for the purposes of financing the costs of the design, construction or acquisition of extensions, additions, betterments or improvements to the System or refunding any outstanding Bonds or both such purposes.

No Parity Bonds shall be issued at any time, however, unless there has been procured and filed with the Secretary a written statement by the Independent Certified Public Accountants, reciting the conclusion that the Net Revenues actually derived, subject to the adjustments hereinafter provided for, from the System during any 12 consecutive months within the 18 months immediately preceding the date of the actual issuance of such Parity Bonds, plus the estimated average increased annual Net Revenues to be received in each of the three succeeding years after the completion of the improvements to be financed by such Parity Bonds, if any, shall not be less than 115% of the largest aggregate amount that will mature and become due in any succeeding Fiscal Year for principal of and interest on the following:

(1) The Bonds then Outstanding;

(2) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Resolution then Outstanding; and

(3) The Parity Bonds then proposed to be issued.

The "estimated average increased annual Net Revenues to be received in each of the three succeeding years," as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from any improvements to be financed by the Parity Bonds and any increase in rates adopted by the Issuer and approved by the PSC, the period for appeal of which has expired prior to the date of delivery of such Parity Bonds including the revenues from new customers to be served, and shall not exceed the amount to be stated in a certificate of the Independent Certified Public Accountants, which shall be filed in the office of the Secretary prior to the issuance of such Parity Bonds.

The Net Revenues actually derived from the System during the 12-consecutive-month period hereinabove discussed may be adjusted by adding to such Net Revenues such additional Net Revenues which would have been received, in the opinion of the Independent Certified Public Accountants, as stated in a certificate, on account of increased rates, rentals, fees and charges for the System adopted by the Issuer and approved by the PSC, the period for appeal of which has expired prior to the issuance of such Parity Bonds.

All covenants and other provisions of this Resolution (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Holder of the 2006 Series A Bonds and the Holders of any Parity Bonds issued from time to time within the limitations of and in compliance with this section. Any Bonds issued on a parity, regardless of the time or times of their issuance, shall rank equally with respect to their respective liens on the revenues of the System and their respective source of and security for payment from said revenues, without preference of any Bond of one series over any other Bond of another series on a parity therewith. The Issuer shall comply fully with all the increased payments into the various funds and accounts created in this Resolution required for and on account of such Parity Bonds, in addition to the payments required for 2006 Series A Bonds theretofore issued pursuant to this Resolution.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior liens of the Outstanding Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions

provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the 2006 Series A Bonds.

No Parity Bonds shall be issued any time, however, unless all the payments into the funds and accounts provided for in this Resolution with respect to the Bonds then Outstanding, and any other payments provided for in this Resolution, shall have been made in full as required to the date of delivery of such Parity Bonds, and the Issuer shall then be in full compliance with all the covenants, agreements and terms of this Resolution.

Section 7.08. Books; Records and Audit. The Issuer shall keep complete and accurate records of the cost of acquiring the Project sites and the costs of acquiring, constructing and installing the Project. The Issuer shall permit the Authority, the BPH and the Council, or their duly authorized agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System at any and all reasonable times for the purpose of audit and examination. The Issuer shall submit to the Authority, the BPH and the Council such documents and information as they may reasonably require in connection with the acquisition, construction and installation of the Project, the operation and maintenance of the System and the administration of the loan or any state and federal grants or other sources of financing for the Project.

The Issuer shall permit the Authority, the BPH and the Council, or their agents and representatives, to have access to the records pertaining to the operation and maintenance of the System at all reasonable times following completion of construction of the Project and commencement of operation thereof, or, if the Project is an improvement to an existing system, at any reasonable time following commencement of construction.

The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and any Holder of 2006 Series A Bonds issued pursuant to this Resolution shall have the right at all reasonable times to inspect the System and all parts thereof and all records, accounts and data of the Issuer relating thereto.

The accounting system for the System shall follow current generally accepted accounting principles and safeguards to the extent allowed by the Uniform System of Accounts promulgated by the PSC. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner and on the forms, books and other bookkeeping records as prescribed by the Governing Body. The Governing Body shall prescribe and initiate the manner by which subsidiary records of the accounting system, which may be installed remotely from the direct supervision of the Governing Body, shall be reported to such agent of the Issuer as the Governing Body shall direct.

The Issuer shall file with the BPH, and the Authority, or any other original purchaser of the 2006 Series A Bonds, and shall mail in each year to any Holder of 2006 Series A Bonds requesting the same, an annual report containing the following:

(A) A statement of Gross Revenues, Operating Expenses, Net Revenues, and Surplus Revenues derived from and relating to the System.

(B) A balance sheet statement showing all deposits in all the funds and accounts provided for in this Resolution and the status of all said funds and accounts.

(C) The amount of any Bonds, notes or other obligations outstanding.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants in compliance with the applicable OMB Circular, or any successor thereof, and the Single Audit Act, or any successor thereof, to the extent legally required, and shall mail upon request, and make available generally, the report of said Independent Certified Public Accountants, or a summary thereof, to any Holder of 2006 Series A Bonds and shall submit said report to the Authority, the BPH and the Council, or any other purchaser of the 2006 Series A Bonds. Such audit report submitted to the Authority, the BPH and the Council shall include a statement that notes whether the results of tests disclosed instances of noncompliance that are required to be reported under government auditing standards and if there are, describes the instances of noncompliance and the audited financial statements shall include a statement that notes whether the Issuer's revenues are adequate to meet its Operating Expenses and debt service and reserve requirements.

Subject to the terms, conditions and provisions of the Loan Agreement and the Act, the Issuer has acquired, or shall do all things necessary to acquire, the proposed site of the Project and shall do, is doing or has done all things necessary to construct the Project in accordance with the plans, specifications and designs prepared by the Consulting Engineers. All real estate and interests in real estate and all personal property constituting the Project and the Project site heretofore or hereafter acquired shall at all times be and remain the property of the Issuer.

The Issuer shall permit the Authority, the BPH and the Council, or their agents and representatives, to enter and inspect the Project sites and Project facilities at all reasonable times. Prior to, during and after completion of construction and commencement of operation of the Project, the Issuer shall also provide the Authority, the BPH and the Council, or their agents and representatives, with access to the System site and System facilities as may be reasonably necessary to accomplish all of the powers and rights of the Authority, the BPH and the Council with respect to the System pursuant to the Act.

The Issuer shall provide the BPH with all appropriate documentation to comply with any special conditions established by federal and/or state regulations as set forth in the Loan Agreement or as promulgated from time to time.

Section 7.09. Rates. Approvals of equitable rates or charges for the use of and service rendered by the System have been obtained all in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the Secretary, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from said System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder. Such schedule of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System (i) to provide for all Operating Expenses of the System, and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest on the 2006 Series A Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the 2006 Series A Bonds, including the Prior Bonds; provided that, in the event that amounts equal to or in excess of the 2006 Series A Bonds Reserve Requirement are on deposit in the 2006 Series A Bonds Reserve Account and all reserve accounts for obligations on a parity with the 2006 Series A Bonds, including the Prior Bonds, are funded at least at the requirement therefor, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal of, and interest on the 2006 Series A Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the 2006 Series A Bonds. In any event, the Issuer shall not reduce the rates or charges for services of the System set forth in Section 7.04, so long as the 2006 Series A Bonds are outstanding.

Section 7.10. Operating Budget and Monthly Financial Report. The Issuer shall annually, at least 30 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding Fiscal Year and shall submit a copy of such budget to the Authority, the BPH and the Council within thirty days of the adoption thereof. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by the Managing Engineer, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Issuer shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of

10% of the amount of such budget shall be made except upon the further certificate of the Managing Engineer that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Authority, the BPH and the Council and to any Holder of any 2006 Series A Bonds, within 30 days of adoption thereof, and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to the Authority, the BPH and the Council and to any Holder of any 2006 Series A Bonds or anyone acting for and in behalf of such Holder of any 2006 Series A Bonds.

Commencing on the date contracts are executed for the acquisition and construction of the Project and for two years following the completion of the Project, the Issuer shall each month complete a "Monthly Financial Report," a form of which is attached to the Loan Agreement, and forward a copy of such report to the Authority, the BPH and the Council by the 10^{th} day of each month.

Section 7.11. No Competing Franchise. To the extent legally allowable, the Issuer will not grant or cause, consent to or allow the granting of, any franchise or permit to any person, firm, corporation, body, agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

Section 7.12. Enforcement of Collections. The Issuer will diligently enforce and collect all fees, rentals or other charges for the services and facilities of the System, and take all steps, actions and proceedings for the enforcement and collection of such fees, rentals or other charges which shall become delinquent to the full extent permitted or authorized by the Act, the rules and regulations of the PSC and other laws of the State.

Whenever any rates, fees, rentals or other charges for the services or facilities of the System remain unpaid for a period of 20 days after the same shall become due and payable, the user of the services and facilities provided is delinquent and the user is liable at law until such time as all such rates, fees and charges are fully paid. To the extent authorized by the laws of the State and the rules and regulations of the PSC, rates, rentals and other charges, if not paid when due, shall become a lien on the premises served by the System. The Issuer further covenants and agrees that it will, to the full extent permitted by law and the rules promulgated by the PSC, discontinue and shut off the services of the System to all users of the services of the System delinquent in payment of charges for the services of the System and will not restore such services until all delinquent charges for the services of the System, plus reasonable interest and penalty charges for the restoration of service, have been fully paid and shall take all further actions to enforce collections to the maximum extent permitted by law.

Section 7.13. No Free Services. The Issuer will not render or cause to be rendered any free services of any nature by the System, nor will any preferential rates be established for users of the same class; and in the event the Issuer, or any department, agency, instrumentality, officer or employee of the Issuer shall avail itself or themselves of the facilities or services provided by the System, or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the Issuer and any such department, agency, instrumentality, officer or employee. Such charges shall be paid as they accrue and the Issuer shall transfer from its general funds sufficient sums to pay such charges for service to any of its departments or properties. The revenues so received shall be deemed to be revenues derived from the operation of the System, and shall be deposited and accounted for in the same manner as other revenues derived from such operation of the System.

Section 7.14. Connections to System. The Issuer will, to the extent authorized by the laws of the State and the rules and regulations of the PSC, require prospective users of the System to connect thereto.

Section 7.15. Insurance. The Issuer hereby covenants and agrees that so long as the 2006 Series A Bonds remain Outstanding, the Issuer will, as an Operating Expense, procure, carry and maintain insurance with a reputable insurance carrier or carriers as is customarily covered with respect to works and properties similar to the System. Such insurance shall initially cover the following risks and be in the following amounts:

(1) FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, on all above-ground insurable portions of the System in an amount equal to the actual cost thereof. In time of war the Issuer will also carry and maintain insurance to the extent available against the risks and hazards of war. The proceeds of all such insurance policies shall be placed in the Renewal and Replacement Fund and be used only for the repairs and restoration of the damaged or destroyed properties or for the other purposes provided herein for the Renewal and Replacement Fund. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) to protect the interests of the Issuer, the Authority, the prime contractor and all subcontractors as their respective interests may appear, in accordance with the Loan Agreement, during construction of the Project on a 100% basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Issuer, the contractors and subcontractors, as their interests may appear.

(2) PUBLIC LIABILITY INSURANCE, with limits of not less than $1,000,000 per occurrence to protect the Issuer from claims for bodily

injury and/or death and not less than $500,000 per occurrence from claims for damage to property of others which may arise from the operation of the System, and insurance with the same limits to protect the Issuer from claims arising out of operation or ownership of motor vehicles of or for the System.

(3) WORKERS' COMPENSATION COVERAGE FOR ALL EMPLOYEES OF OR FOR THE SYSTEM ELIGIBLE THEREFOR; PERFORMANCE AND PAYMENT OR COMPLETION BONDS, such bonds to be in the amounts of not less than 100% of the amount of any construction contract and to be required of each contractor dealing directly with the Issuer and such payment bonds will be filed with the Clerk of the County Commission of the County in which such work is to be performed prior to commencement of construction of the Project in compliance with West Virginia Code, Section 38-2-39.

(A) The Issuer shall require all contractors engaged in the construction of the Project to furnish a performance bond and a payment bond, each in an amount equal to 100% of the contract price of the portion of the Project covered by the particular contract as security for the faithful performance of such contract. The Issuer shall verify such bonds prior to commencement of construction of the Project.

(B) The Issuer shall also require all contractors engaged in the construction of the Project to carry such worker's compensation coverage for all employees working on the Project and public liability insurance, vehicular liability insurance and property damage insurance in amounts adequate for such purposes and as is customarily carried with respect to works and properties similar to the Project; provided, that the amounts and terms of such coverage are satisfactory to the Authority, the BPH and the Council. In the event the Loan Agreement so requires, such insurance shall be made payable to the order of the Authority, the Issuer, the prime contractor and all subcontractors, as their interests may appear. The Issuer shall verify such insurance prior to commencement of construction of the Project.

(4) FLOOD INSURANCE, if the facilities of the System are or will be located in designated special flood or mudslide-prone areas and to the extent available at reasonable cost to the Issuer.

(5) BUSINESS INTERRUPTION INSURANCE, to the extent available at reasonable cost to the Issuer.

(6) FIDELITY BONDS will be provided as to every officer, member and employee of the Issuer or the Governing Body having custody of the revenues or of any other funds of the System, in an amount at least equal to the total funds in the custody of any such person at any one time.

Section 7.16. Engineering Services and Operating Personnel. The Issuer will obtain a certificate of the Consulting Engineer in the form similar to that attached to the Loan Agreement, stating, among other things, that the Project has been or will be constructed in accordance with the approved plans, specifications and designs as submitted to the BPH, the Project is adequate for the purposes for which it was designed, the funding plan as submitted to the Authority, the BPH and the Council is sufficient to pay the costs of acquisition and construction of the Project, and all permits required by federal and state laws for construction of the Project have been obtained.

The Issuer shall provide and maintain competent and adequate engineering services satisfactory to the BPH and the Authority covering the supervision and inspection of the development and construction of the Project and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. The Consulting Engineer shall certify to the Authority, the BPH and the Issuer at the completion of construction that construction of the Project is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies.

The Issuer shall require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the DWTRF Regulations, to the Issuer within 60 days of the completion of the Project. The Issuer shall notify the BPH in writing of such receipt.

The Issuer shall require the Consulting Engineers to submit a final Operation and Maintenance Manual, as defined in the DWTRF Regulations, to the Issuer when the Project is 90% completed. The Issuer shall, at all times, provide operation and maintenance of the System in compliance with any and all State and Federal standards. The Issuer shall employ qualified operating personnel, properly certified by the State, before the Project is 50% complete and shall retain such a certified operator to operate the System during the entire term of the Loan Agreement. The Issuer shall notify the BPH in writing of the certified operator employed at the 50% completion stage.

Section 7.17. Completion of Project; Permits and Orders. The Issuer hereby covenants and agrees to complete the Project as promptly as possible and operate and maintain the System as a revenue-producing utility in good condition and in compliance with all applicable laws, rules and regulations issued by the BPH, the Authority or other State, federal or local bodies in regard to the construction of the Project and operation, maintenance and use of the System.

The Issuer has obtained all permits and approvals required by State and federal laws for the acquisition and construction of the Project and all orders and approvals from the PSC and the Council necessary for the acquisition and construction of the Project and the operation of the System and all approvals for issuance of the 2006 Series A Bonds required by State law.

Section 7.18. Statutory Mortgage Lien. For the further protection of the Holder of the 2006 Series A Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding, shall take effect immediately upon delivery of the 2006 Series A Bonds, shall be for the benefit of all Registered Owners of 2006 Series A Bonds and shall be on a parity with the statutory mortgage lien of the Prior Bonds.

Section 7.19. Compliance with Loan Agreement and Law. The Issuer agrees to perform, satisfy and comply with all terms and conditions of the Loan Agreement and the Act. The Issuer also agrees to comply with all applicable laws, rules and regulations issued by the Authority, the BPH or other state, federal or local bodies in regard to the construction and acquisition of the Project and the operation, maintenance and use of the System.

Section 7.20. PSC Order. The Issuer shall comply with the conditions of the PSC Order and any supplement or amendment thereto.

Section 7.21. Securities Law Compliance. The Issuer will provide the Authority, in a timely manner, with any and all information that may be requested of it (including its annual audit report, financial statements, related information and notices of changes in usage and customer base) so that the Authority may comply with the provisions of SEC Rule 15c2-12 (17 CFR Part 240).

Section 7.22. Public Releases. The Issuer shall list the funding provided by the BPH and the Authority in any press release, publication, program bulletin, sign or other public communication that references the Project, including but not limited to any program document distributed in conjunction with any groundbreaking or dedication of the Project.

Section 7.23. Contracts. A. The Issuer shall, simultaneously with the delivery of the 2006 Series A Bonds or immediately thereafter, enter into written contracts for the immediate acquisition or construction of the Project. The Issuer hereby approves and accepts all contracts relating to the financing, acquisition and construction of the Project and the Chairman is hereby authorized and directed to execute and deliver all such contracts.

B. The Issuer shall submit all proposed change orders to the BPH for written approval. The Issuer shall obtain the written approval of the BPH before expending any proceeds of the 2006 Series A Bonds held in "contingency" as set forth in

the Schedule B attached to the Certificate of the Consulting Engineer. The Issuer shall also obtain the written approval of the BPH before expending any proceeds of the 2006 Series A Bonds made available due to bid or construction or project underruns.

ARTICLE VIII

INVESTMENT OF FUNDS

Section 8.01. Investments. Any moneys held as a part of the funds and accounts created by this Resolution, other than the Revenue Fund, shall be invested and reinvested by the Commission, the Depository Bank or such other bank or national banking association holding such fund or account, as the case may be, at the direction of the Issuer in any Qualified Investments to the fullest extent possible under applicable laws, this Resolution, the need for such moneys for the purposes set forth herein and the specific restrictions and provisions set forth in this Section 8.01.

Except as specifically provided herein, any investment shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The investments held for any fund or account shall be valued at the lower of cost or then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including the value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held in the "Consolidated Fund." The Commission, the Depository Bank or such other bank or national banking association, as the case may be, shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of the loss on such liquidation. The Depository Bank or such other bank or national banking association, as the case may be, may make any and all investments permitted by this section through its own bond department and shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

The Depository Bank shall keep complete and accurate records of all funds, accounts and investments, and shall distribute to the Issuer, at least once a year, a summary of such funds, accounts and investment earnings. The Issuer shall retain all such records and any additional records relating thereto so long as any of the 2006 Series A Bonds are Outstanding.

Section 8.02. Certificate and Covenants as to Use of Proceeds. The Issuer shall deliver a certificate as to use of proceeds or other similar certificate to be prepared by nationally recognized bond counsel relating to restrictions on the use of proceeds of the 2006 Series A Bonds as a condition to issuance of the 2006 Series A Bonds. In addition,

the Issuer covenants (i) to comply with the Code and all Regulations from time to time in effect and applicable to the 2006 Series A Bonds as may be necessary in order to maintain the status of the 2006 Series A Bonds as governmental bonds; (ii) that it shall not take, or permit to suffer to be taken, any action with respect to the Issuer's use of the proceeds of the 2006 Series A Bonds which would cause any bonds, the interest on which is exempt from federal income taxation under Section 103(a) of the Code, issued by the Authority, the Council or the BPH, as the case may be, from which the proceeds of the 2006 Series A Bonds are derived, to lose their status as tax-exempt bonds; and (iii) to take such action, or refrain from taking such action, as shall be deemed necessary by the Issuer, or requested by the Authority, the Council or the BPH, to ensure compliance with the covenants and agreements set forth in this Section 8.02, regardless of whether such actions may be contrary to any of the provisions of this Resolution.

The Issuer shall annually furnish to the Authority information with respect to the Issuer's use of the proceeds of the 2006 Series A Bonds and any additional information requested by the Authority.

ARTICLE IX

DEFAULTS AND REMEDIES

Section 9.01. Events of Default. Each of the following events shall constitute an "Event of Default" with respect to the 2006 Series A Bonds:

(A) If default occurs in the due and punctual payment of the principal of or interest on any 2006 Series A Bonds; or

(B) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the 2006 Series A Bonds set forth in this Resolution or by any Supplemental Resolution thereto, or in the 2006 Series A Bonds, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Commission, the Depository Bank, the Bond Registrar, any Paying Agent or a Holder of a Bond; or

(C) If a default occurs with respect to the Prior Bonds or the Prior Resolution; or

(D) If the Issuer files a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America.

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of a Bond may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding enforce all rights of such Registered Owners including the right to require the Issuer to perform its duties under the Act, the Loan Agreement, and this Resolution relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon the 2006 Series A Bonds, (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of any express trust for the Registered Owners of the 2006 Series A Bonds, and (v) by action at law or bill in equity enjoin any acts in violation of the Resolution with respect to the 2006 Series A Bonds, or the rights of such Registered Owners; provided however, that all rights and remedies of the Registered Owners shall be on a parity with those of the Registered Owners of the Prior Bonds.

Section 9.03. Appointment of Receiver. Any Registered Owner of a Bond may, by proper legal action, compel the performance of the duties of the Issuer under this Resolution and the Act, including, the completion of the Project, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the

revenues therefrom and the application thereof. If there be any Event of Default with respect to the 2006 Series A Bonds any Registered Owner of a Bond shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System or to complete the acquisition and construction of the Project, or both, on behalf of the Issuer, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the 2006 Series A Bonds and interest and the deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Resolution and the Act.

The receiver so appointed shall forthwith, directly or by his agents and attorneys, enter into and upon and take possession of all facilities of said System and shall hold, operate and maintain, manage and control such facilities, and each and every part thereof, and in the name of the Issuer exercise all the rights and powers of the Issuer with respect to said facilities as the Issuer itself might do.

Whenever all that is due upon the 2006 Series A Bonds and interest thereon and under any covenants of this Resolution for Reserve, Sinking or other funds and upon any other obligations and interest thereon having a charge, lien or encumbrance upon the revenues of the System shall have been paid and made good, and all defaults under the provisions of this Resolution shall have been cured and made good, possession of the System shall be surrendered to the Issuer upon the entry of an order of the court to that effect. Upon any subsequent default, any Registered Owner of any 2006 Series A Bonds shall have the same right to secure the further appointment of a receiver upon any such subsequent default.

Such receiver, in the performance of the powers hereinabove conferred upon him, shall be under the direction and supervision of the court making such appointment, shall at all times be subject to the orders and decrees of such court and may be removed thereby, and a successor receiver may be appointed in the discretion of such court. Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any function not specifically set forth herein.

Any receiver appointed as provided herein shall hold and operate the System in the name of the Issuer and for the joint protection and benefit of the Issuer and Registered Owners of the 2006 Series A Bonds. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the possession, operation and maintenance of the System for the sole purpose of the protection of both the Issuer and Registered Owners of such 2006 Series A Bonds and the curing and making good of any Event of Default with respect thereto under the provisions of this Resolution, and the title to and ownership of said System shall remain in the Issuer, and no

court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, assign, mortgage or otherwise dispose of any assets of the System.

ARTICLE X

PAYMENT OF BONDS

Section 10.01. Payment of Bonds. If the Issuer shall pay or there shall otherwise be paid, to the Holder of the 2006 Series A Bonds, the principal of, and interest, if any, due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then the pledge of Net Revenues and other moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the 2006 Series A Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Amendment or Modification of Resolution. Prior to the issuance of the 2006 Series A Bonds, this Resolution may be amended or supplemented in any way by a Supplemental Resolution. Following the issuance of the 2006 Series A Bonds, no material modification or amendment of this Resolution, or of any resolution amendatory or supplemental hereto, that would materially and adversely affect the rights of Registered Owners of the 2006 Series A Bonds shall be made without the consent in writing of the Registered Owners of the 2006 Series A Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of the 2006 Series A Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the funds herein pledged therefor without the consent of the Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of 2006 Series A Bonds required for consent to the above-permitted amendments or modifications.

Section 11.02. Resolution Constitutes Contract. The provisions of the Resolution shall constitute a contract between the Issuer and the Holder of the 2006 Series A Bonds, and no change, variation or alteration of any kind of the provisions of the Resolution shall be made in any manner, except as in this Resolution provided.

Section 11.03. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Resolution, or any Supplemental Resolution thereto, should be held invalid by any court of competent jurisdiction, the invalidity of such

section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution, or the 2006 Series A Bonds.

Section 11.04. Headings, Etc. The headings and catchlines of the articles, sections and subsections hereof are for convenience of reference only, and shall not affect in any way the meaning or interpretation of any provision hereof.

Section 11.05. Conflicting Provisions Repealed; Prior Resolution. Except for the Prior Resolution, all orders or resolutions and parts thereof in conflict with the provisions of this Resolution are, to the extent of such conflict, hereby repealed; provided that, in the event of any conflict between the Resolution and the Prior Resolution, the Prior Resolution shall control (unless less restrictive), so long as the Prior Bonds are outstanding.

Section 11.06. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption and passage of this Resolution do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State applicable thereto; and that the Chairman, Secretary and members of the Governing Body were at all times when any actions in connection with this Resolution occurred and are duly in office and duly qualified for such office.

Section 11.07. Effective Date. This Resolution shall take effect immediately upon adoption thereof.

Adopted this 10th day of January, 2006.

EASTERN WYOMING PUBLIC SERVICE DISTRICT

By: _____
Chairman

By: _____
Member

By: _____
Member

CERTIFICATION

Certified a true copy of a Resolution duly adopted by the Public Service Board of EASTERN WYOMING PUBLIC SERVICE DISTRICT on the 10th day of January, 2006.

Dated: January 12, 2006.

[SEAL]

Dallas J. Cecil

Secretary

Exhibit A

(FORM OF BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
EASTERN WYOMING PUBLIC SERVICE DISTRICT
WATER REVENUE BOND (WEST VIRGINIA DWTRF PROGRAM), 2006 SERIES A

No. AR-1 $2,570,000

KNOW ALL MEN BY THESE PRESENTS: That EASTERN WYOMING PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia in Wyoming County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the sources and in the manner provided therefor, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority") or registered assigns, the principal sum of TWO MILLION FIVE HUNDRED SEVENTY THOUSAND DOLLARS ($2,570,000) or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as Exhibit A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing December 1, 2007, as set forth on the "Debt Service Schedule" attached as Exhibit B hereto and incorporated herein by reference. The Administrative Fee (as defined in the hereinafter described Bond Resolution) shall also be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing December 1, 2007, as set forth on said Exhibit B.

This Bond shall bear no interest. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Bureau for Public Health (the "BPH"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and between the Issuer and the Authority, on behalf of the BPH, dated January 12, 2006.

This Bond is issued (i) to permanently finance the cost of construction of a new regional water treatment plant, two storage tanks, distribution lines and other

necessary appurtenances by the Issuer (the "Project"); and (ii) to pay certain costs of issuance of this Bond and related costs. The existing public waterworks system of the Issuer, the Project and any further additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13A and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Resolution duly adopted by the Issuer on January 10, 2006 (the "Resolution"), and is subject to all the terms and conditions thereof. The Resolution provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for this Bond under the Resolution.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT WITH THE ISSUER'S (1) WATER REVENUE BONDS, SERIES 2001 A (WEST VIRGINIA DWTRF PROGRAM), DATED OCTOBER 16, 2001, ISSUED IN THE ORIGINAL AGGREGATE AMOUNT OF $360,000 AND (2) WATER REVENUE BONDS, SERIES 2004 A (WEST VIRGINIA DWTRF PROGRAM), DATED AUGUST 24, 2004, ISSUED IN THE ORIGINAL AGGREGATE AMOUNT OF $570,000 (COLLECTIVELY THE "PRIOR BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Resolution) to be derived from the operation of the System on a parity with the lien of the Prior Bonds, and from moneys in the reserve account created under the Bond Resolution for this Bond (the "Reserve Account") and unexpended proceeds of this Bond (the "Bond Proceeds"). Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act, and shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon, except from said special fund provided from the Net Revenues, the moneys in the Reserve Account and unexpended Bond Proceeds. Pursuant to the Bond Resolution, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount required in any year for debt service on this Bond, and all other obligations secured by a lien on or payable from such revenues on a parity with this Bond and the Prior Bonds, provided however, that so long as the Reserve Account is funded at an amount at least equal to the maximum amount of principal and interest which will come due on this Bond in the then current or any succeeding year, and the reserve accounts for any other obligations outstanding on a parity with this Bond, including the Prior Bonds, are funded at an amount at least equal to the

requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the Registered Owners of this Bond for the terms of which reference is made to the Resolution. Remedies provided the Registered Owners of this Bond are exclusively as provided in the Resolution, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Resolution, only upon the books of the Registrar (as defined in the Resolution), by the Registered Owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

Subject to the registration requirements set forth herein, this Bond, under the provision of the Act is, and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Resolution, shall be applied solely to payment of the Costs of the Project and costs of issuance hereof described in the Resolution, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the registered owner of this Bond.

Under the Act, this Bond is exempt from taxation by the State of West Virginia and the other taxing bodies of the State.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and at issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the Net Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of this Bond.

All provisions of the Resolution and the statutes under which this Bond is issued shall be deemed to be part of the contract evidenced by this Bond to the same extent as if written fully herein.

This Bond shall not be valid or obligatory unless authenticated and registered by the Registrar by the execution of the Registrar's Certificate of Authentication and Registration attached hereto and incorporated herein.

IN WITNESS WHEREOF, EASTERN WYOMING PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairman and its corporate seal to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated January __, 2006.

[SEAL]

EASTERN WYOMING PUBLIC SERVICE DISTRICT

_____
Chairman

Attest:

_____
Secretary

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This is to certify that this Bond is one of the 2006 Series A Bonds described in and issued under the provisions of the within mentioned Resolution and has been duly registered in the name of the registered owner set forth above.

Date: January _____, 2006.

_____
UNITED BANK, INC., as Registrar

_____
Authorized Officer

(Form of)

EXHIBIT A

RECORD OF ADVANCES

	AMOUNT	DATE		AMOUNT	DATE
(1)	$64,250.00		(19)		
(2)	$		(20)		
(3)	$		(21)		
(4)	$		(22)		
(5)	$		(23)		
(6)	$		(24)		
(7)	$		(25)		
(8)	$		(26)		
(9)	$		(27)		
(10)	$		(28)		
(11)	$		(29)		
(12)	$		(30)		
(13)	$		(31)		
(14)	$		(32)		
(15)	$		(33)		
(16)	$		(34)		
(17)	$		(35)		
(18)	$		(36)		

TOTAL $

(Form of)

EXHIBIT B

DEBT SERVICE SCHEDULE

$2,570,000

Eastern Wyoming PSD
0% Interest Rate, 1% Administrative Fee, 30 Years
Closing Date: January 12, 2006

Debt Service Schedule

Date	Principal	Coupon	Total P+I
03/01/2006	-	-	-
06/01/2006	-	-	-
09/01/2006	-	-	-
12/01/2006	-	-	-
03/01/2007	-	-	-
06/01/2007	-	-	-
09/01/2007	-	-	-
12/01/2007	21,417.00	-	21,417.00
03/01/2008	21,417.00	-	21,417.00
06/01/2008	21,417.00	-	21,417.00
09/01/2008	21,417.00	-	21,417.00
12/01/2008	21,417.00	-	21,417.00
03/01/2009	21,417.00	-	21,417.00
06/01/2009	21,417.00	-	21,417.00
09/01/2009	21,417.00	-	21,417.00
12/01/2009	21,417.00	-	21,417.00
03/01/2010	21,417.00	-	21,417.00
06/01/2010	21,417.00	-	21,417.00
09/01/2010	21,417.00	-	21,417.00
12/01/2010	21,417.00	-	21,417.00
03/01/2011	21,417.00	-	21,417.00
06/01/2011	21,417.00	-	21,417.00
09/01/2011	21,417.00	-	21,417.00
12/01/2011	21,417.00	-	21,417.00
03/01/2012	21,417.00	-	21,417.00
06/01/2012	21,417.00	-	21,417.00
09/01/2012	21,417.00	-	21,417.00
12/01/2012	21,417.00	-	21,417.00
03/01/2013	21,417.00	-	21,417.00
06/01/2013	21,417.00	-	21,417.00
09/01/2013	21,417.00	-	21,417.00
12/01/2013	21,417.00	-	21,417.00
03/01/2014	21,417.00	-	21,417.00
06/01/2014	21,417.00	-	21,417.00
09/01/2014	21,417.00	-	21,417.00
12/01/2014	21,417.00	-	21,417.00
03/01/2015	21,417.00	-	21,417.00
06/01/2015	21,417.00	-	21,417.00
09/01/2015	21,417.00	-	21,417.00
12/01/2015	21,417.00	-	21,417.00
03/01/2016	21,417.00	-	21,417.00
06/01/2016	21,417.00	-	21,417.00
09/01/2016	21,417.00	-	21,417.00
12/01/2016	21,417.00	-	21,417.00

$2,570,000

Eastern Wyoming PSD

0% Interest Rate, 1% Administrative Fee, 30 Years

Closing Date: January 12, 2006

Debt Service Schedule

Date	Principal	Coupon	Total P+I
03/01/2017	21,417.00	-	21,417.00
06/01/2017	21,417.00	-	21,417.00
09/01/2017	21,417.00	-	21,417.00
12/01/2017	21,417.00	-	21,417.00
03/01/2018	21,417.00	-	21,417.00
06/01/2018	21,417.00	-	21,417.00
09/01/2018	21,417.00	-	21,417.00
12/01/2018	21,417.00	-	21,417.00
03/01/2019	21,417.00	-	21,417.00
06/01/2019	21,417.00	-	21,417.00
09/01/2019	21,417.00	-	21,417.00
12/01/2019	21,417.00	-	21,417.00
03/01/2020	21,417.00	-	21,417.00
06/01/2020	21,417.00	-	21,417.00
09/01/2020	21,417.00	-	21,417.00
12/01/2020	21,417.00	-	21,417.00
03/01/2021	21,417.00	-	21,417.00
06/01/2021	21,417.00	-	21,417.00
09/01/2021	21,417.00	-	21,417.00
12/01/2021	21,417.00	-	21,417.00
03/01/2022	21,417.00	-	21,417.00
06/01/2022	21,417.00	-	21,417.00
09/01/2022	21,417.00	-	21,417.00
12/01/2022	21,417.00	-	21,417.00
03/01/2023	21,417.00	-	21,417.00
06/01/2023	21,417.00	-	21,417.00
09/01/2023	21,417.00	-	21,417.00
12/01/2023	21,417.00	-	21,417.00
03/01/2024	21,417.00	-	21,417.00
06/01/2024	21,417.00	-	21,417.00
09/01/2024	21,417.00	-	21,417.00
12/01/2024	21,417.00	-	21,417.00
03/01/2025	21,417.00	-	21,417.00
06/01/2025	21,417.00	-	21,417.00
09/01/2025	21,417.00	-	21,417.00
12/01/2025	21,417.00	-	21,417.00
03/01/2026	21,417.00	-	21,417.00
06/01/2026	21,417.00	-	21,417.00
09/01/2026	21,417.00	-	21,417.00
12/01/2026	21,417.00	-	21,417.00
03/01/2027	21,417.00	-	21,417.00
06/01/2027	21,417.00	-	21,417.00
09/01/2027	21,417.00	-	21,417.00
12/01/2027	21,416.00	-	21,416.00

$2,570,000

Eastern Wyoming PSD
0% Interest Rate, 1% Administrative Fee, 30 Years
Closing Date: January 12, 2006

Debt Service Schedule

Date	Principal	Coupon	Total P+I
03/01/2028	21,416.00	-	21,416.00
06/01/2028	21,416.00	-	21,416.00
09/01/2028	21,416.00	-	21,416.00
12/01/2028	21,416.00	-	21,416.00
03/01/2029	21,416.00	-	21,416.00
06/01/2029	21,416.00	-	21,416.00
09/01/2029	21,416.00	-	21,416.00
12/01/2029	21,416.00	-	21,416.00
03/01/2030	21,416.00	-	21,416.00
06/01/2030	21,416.00	-	21,416.00
09/01/2030	21,416.00	-	21,416.00
12/01/2030	21,416.00	-	21,416.00
03/01/2031	21,416.00	-	21,416.00
06/01/2031	21,416.00	-	21,416.00
09/01/2031	21,416.00	-	21,416.00
12/01/2031	21,416.00	-	21,416.00
03/01/2032	21,416.00	-	21,416.00
06/01/2032	21,416.00	-	21,416.00
09/01/2032	21,416.00	-	21,416.00
12/01/2032	21,416.00	-	21,416.00
03/01/2033	21,416.00	-	21,416.00
06/01/2033	21,416.00	-	21,416.00
09/01/2033	21,416.00	-	21,416.00
12/01/2033	21,416.00	-	21,416.00
03/01/2034	21,416.00	-	21,416.00
06/01/2034	21,416.00	-	21,416.00
09/01/2034	21,416.00	-	21,416.00
12/01/2034	21,416.00	-	21,416.00
03/01/2035	21,416.00	-	21,416.00
06/01/2035	21,416.00	-	21,416.00
09/01/2035	21,416.00	-	21,416.00
12/01/2035	21,416.00	-	21,416.00
03/01/2036	21,416.00	-	21,416.00
06/01/2036	21,416.00	-	21,416.00
09/01/2036	21,416.00	-	21,416.00
12/01/2036	21,416.00	-	21,416.00
03/01/2037	21,416.00	-	21,416.00
06/01/2037	21,416.00	-	21,416.00
09/01/2037	21,416.00	-	21,416.00
Total	**$2,570,000.00**	-	**$2,570,000.00** *

*Plus $3,239.24 one-percent administrative fee paid quarterly. Total fee over life of loan is $388,708.80.

Ferris, Baker Watts, Inc.
West Virginia Public Finance Office (J. Nassif)

(Form of)

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto _____, the within-mentioned Bond and does hereby irrevocably constitute and appoint _____, attorney, to transfer the said Bond on the books of the Registrar on behalf of said Issuer with full power of substitution in the premises.

Dated: _____

_____

IN THE PRESENCE OF:

_____

EASTERN WYOMING PUBLIC SERVICE DISTRICT

RESOLUTION AUTHORIZING THE FORM OF NOTICE OF A SPECIAL MEETING AND AUTHORIZING THE PUBLICATION OF NOTICE OF SPECIAL MEETING

WHEREAS, at a meeting to be held on January 10, 2006, the Eastern Wyoming Public Service District (the "District") will consider the adoption of a Bond Resolution authorizing the acquisition and construction of water treatment and distribution facilities and the financing of the costs thereof, not otherwise provided, through the issuance by the District of $2,570,000 in aggregate principal amount of Water Revenue Bonds (West Virginia DWTRF Program), 2006 Series A; to provide for the rights and remedies of and security for the holders of said Bonds; authorizing the execution and delivery of all documents relating to the issuance of such Bonds; approving and ratifying the loan agreement relating to such Bonds; authorizing the sale and providing for the terms and provisions of such Bonds; designating a Registrar, Paying Agent And Depository Bank; and adopting other provisions relating thereto;

WHEREAS, the District is required to publish a Notice of Special Meeting with respect to such meeting; and

WHEREAS, the District finds that the Notice of Special Meeting, attached hereto as "Exhibit A," gives adequate notice of the matter to be discussed at such meeting.

NOW THEREFORE BE IT RESOLVED, that the Secretary of the District is hereby authorized to cause Spilman Thomas & Battle, PLLC to publish the Notice of Special Meeting, on December 28, 2005, in The Mullens Advocate and The Independent Herald.

This Resolution shall take effect immediately upon adoption thereof.

Adopted this 6th day of December, 2005.

[SEAL]

Dallas J. Cecil
Secretary

389683

EXHIBIT A

NOTICE OF SPECIAL MEETING
OF THE BOARD OF EASTERN WYOMING PUBLIC SERVICE DISTRICT

Notice is hereby given, pursuant to West Virginia Code §6-9A-6, as amended, that a special meeting of the Board of Eastern Wyoming Public Service District (the "District") will be held on the 10th day of January, 2006, beginning at 10:00 a.m. at Mullens City Hall, 316 Moran Avenue, Mullens, WV, at which special meeting the District will consider the adoption of a Resolution entitled:

> RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF WATER TREATMENT AND DISTRIBUTION FACILITIES BY EASTERN WYOMING PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COSTS THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE DISTRICT OF $2,570,000 IN AGGREGATE PRINCIPAL AMOUNT OF EASTERN WYOMING PUBLIC SERVICE DISTRICT WATER REVENUE BONDS (WEST VIRGINIA DWTRF PROGRAM), 2006 SERIES A; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING AND RATIFYING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND ADOPTING OTHER PROVISIONS RELATING THERETO.

The Resolution would authorize the District to issue Water Revenue Bonds (West Virginia DWTRF Program), 2006 Series A for the acquisition and construction of water treatment and distribution facilities of Eastern Wyoming Public Service District, and the financing of the costs thereof, not otherwise provided, including costs of issuance and related costs in connection therewith, through the issuance by the District of $2,570,000 in aggregate principal amount of the Bonds. The Bond Resolution would authorize the District to enter into a Loan Agreement with the West Virginia Water Development Authority (the "Authority"). A copy of the Loan Agreement is on file with the Secretary of the District for review.

At the meeting the Board intends to adopt the Resolution and take such other actions as may be necessary in furtherance of the financing contemplated by the Resolution.

All interested individuals may appear before the District and be heard.

Dated: December 28, 2005

AFFIDAVIT OF PUBLICATION:

State of West Virginia
County of Wyoming, to wit:

I, Charlene Cook, being first duly sworn upon my oath, do depose and say that I am the Asst. Legal Editor of the Mullens Advocate, Inc. a corporation publisher of the newspaper entitled Mullens Advocate, Inc. a Republican newspaper; that I have been duly authorized by the board of directors of such corporation to execute this affidavit of publication; that such newspaper has been published for more than one year prior to publication of the annexed notice described below; that such newspaper is regularly published weekly, for at least fifty weeks during the calendar year, in the Municipality of Mullens, Wyoming County, West Virginia; that such newspaper is a newspaper of "general circulation," as that term is defined in article three, chapter fifty-nine of the Code of West Virginia, 1931, as amended, within the publication area or areas of the aforesaid municipality and Wyoming County, West Virginia; that such newspaper averages in length four or more pages, exclusive of any cover, per issue; that such newspaper is circulated to the general public at a definite price or consideration; that such newspaper is a newspaper to which the general public resorts for passing events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous reading matters, advertisements, and other notices; that the

annexed notice of
360 words

was duly published in said newspaper once a week for 1 successive weeks, (Class 1). commencing with the issue of the 28 day of Dec, 20 05, and ending with the issue of the 28 day of Dec, 20 05 (and was posted at the (if required) Mullens Advocate on the 28 day of Dec, 20 05): that said annexed notice was published on the following dates: 12/28/05

and that the cost of publishing said annexed notice as aforesaid was $ 41.40

Charlene Cook
Charlene Cook, Asst. Legal Editor
Mullens Advocate, Inc.

Taken subscribed and sworn to before me in my said county this 29 day of Dec, 20 05.

My commission expires June 21, 2014.

Irene Wooten
Notary Public, State of West Virginia

LEGAL NOTICE

NOTICE OF SPECIAL MEETING
OF THE BOARD OF EASTERN WYOMING PUBLIC SERVICE DISTRICT

Notice is hereby given, pursuant to West Virginia Code 6-9A-6, as amended, that a special meeting of the Board of Eastern Wyoming Public Service District (the "District") will be held on the 10th day of January, 2006, beginning at 9:30 a.m. at Mullens City Hall, 316 Moran Avenue, Mullens, WV, at which special meeting the District will consider the adoption of a Resolution entitled:

RESOLUTION AUTHORIZING THE ACQUISTION AND CONSTRUCTION OF WATER TREATMENT AND DISTRIBUTION FACILITIES BY EASTERN WYOMING PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COSTS THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE DISTRICT OF $2,570,000 IN AGGREGATE PRINCIPAL AMOUNT OF EASTERN WYOMING PUBLIC SERVICE DISTRICT WATER REVENUE BONDS (WEST VIRGINIA DWTRF PROGRAM), 2006 SERIES A; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING AND RATIFYING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISION OF SUCH BONDS; DESIGNATING A REGISTRAR, PAYING AGENTS AND DEPOSITORY BANK; AND ADOPTING OTHER PROVISIONS RELATING THERETO

The Resolution would authorizer the District to issue Water Revenue Bonds (West Virginia DWTRF Program), 2006 Series A for the acquisition and construction of water treatment and distribution facilities of Eastern Wyoming Public Service District, and the financing of the costs thereof, not otherwise provided, including costs of issuance and related costs in connection therewith, through the issuance by the District of $2,570,000 in aggregate principal amount of the Bonds. The Bond Resolution would authorize the District to enter into a Loan Agreement with the West Virginia Water Development Authority (the "Authority"). A copy of the Loan Agreement is on file with the Secretary of the District for review.

At the meeting the Board intends to adopt the Resolution and take such other actions as may be necessary in furtherance of the financing contemplated by the Resolution.

All individuals may appear before the District and be heard.

Dated: December 28, 2005
1wk-12/28

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
IRENE WOOTEN
1102 STEWART ST.
WELCH, WV 24801
My commission expires June 21, 2014

State of West Virginia, Wyoming County, to-wit:

I, Sandra G. Hurley, Publisher of Pineville Independent Herald, a paper published in the County aforesaid, do affirm that the notice hereto attached was published in said paper for 1 successive weeks, the first publication thereof being on the 28th day of December, 2005, and the subsequent publication on the _____, day of _____, 2005, the _____ day of _____, 2005, the _____ day of _____, 2005, the _____ day of _____, 2005, and the _____ day of _____, 2005.

Sandra G. Hurley

State of West Virginia, Wyoming County, to-wit:

_____ being duly sworn, says that she posted a copy of the annexed _____ at the front door of the Court House of said County, on the _____ day of _____, 2005.

Taken, subscribed and sworn to before me, this 28th day of December, 2005. Printer's fee $ 55.62

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
LINDA D. MAYNARD
THE FIRST NATIONAL BANK OF WILLIAMSON
POST OFFICE BOX 650
WILLIAMSON, WV 25661
My Commission Expires May 12, 2009

Linda D. Maynard
NOTARY PUBLIC

My commission expires May 12, 2009

NOTICE OF SPECIAL MEETIN OF THE BOARD OF EASTERN WYOMING PUBLIC SERVICE DISTRICT

Notice is hereby given, pursuant to West Virginia Code §6-9A-6 as amended, that a special meeting of the Board of Eastern Wyoming Public Service District (the "District") will be held on the 10th day of January, 2006, beginning at 9:30 a.m. at Mullens City Hall, 316 Moran Avenue, Mullens, WV, at which special meeting the District will consider the adoption of a Resolution entitled: RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF WATER TREATMENT AND DISTRIBUTION FACILITIES BY EASTERN WYOMING PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COSTS THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE DISTRICT OF $2,570,000 IN AGGREGATE PRINCIPAL AMOUNT OF EASTERN WYOMING PUBLIC SERVICE DISTRICT WATER REVENUE BONDS (WEST VIRGINIA DWTRF PROGRAM), 2006 SERIES A; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING AND RATIFYING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND ADOPTING OTHER PROVISIONS RELATING THERETO.

The Resolution would authorize the District to issue Water Revenue Bonds (West Virginia DWTRF Program), 2006 Series A for the acquisition and construction of water treatment and distribution facilities of Eastern Wyoming Public Service District, and the financing of the costs thereof, not otherwise provided, including costs of issuance and related costs in connection therewith through the issuance by the District of $2,570,000 in aggregate principal amount of the Bonds. The Bond Resolution would authorize the District to enter into a Loan Agreement with the West Virginia Water Development Authority (the "Authority"). A copy of the Loan Agreement is on file with the Secretary of the District for review.

At the meeting the Board intends to adopt the Resolution and take such other actions as may be necessary in furtherance of the financing contemplated by the Resolution.

All interested individuals may appear before the District and be heard.

Dated: December 28, 2005

12-28

$2,570,000
EASTERN WYOMING PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS (WEST VIRGINIA DWTRF PROGRAM),
2006 SERIES A

MINUTES ON ADOPTION OF BOND RESOLUTION

The undersigned, SECRETARY of the Public Service Board of Eastern Wyoming Public Service District, hereby certifies that the following is a true and correct excerpt of the minutes of a special meeting of the said Public Service Board:

*** *** ***

MEMBERS PRESENT:

Kenneth W. McBride, Jr. - Chairman
Dallas J. Cecil - Secretary
Mart Lane - Treasurer

MEMBERS ABSENT:

None

*** *** ***

The Public Service Board of Eastern Wyoming Public Service District (the "District") met in session, pursuant to notice duly posted, on the 10th day of January, 2006, in the City Council Meeting Room, Mullens, West Virginia. The meeting was called to order at the hour of 10:00 a.m. Kenneth McBride, Chairman, presided.

*** *** ***

Thereupon, the Chairman presented a proposed Bond Resolution in writing entitled:

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF WATER TREATMENT AND DISTRIBUTION FACILITIES BY EASTERN WYOMING PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COSTS THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE DISTRICT OF $2,570,000 IN AGGREGATE PRINCIPAL AMOUNT OF EASTERN WYOMING PUBLIC SERVICE DISTRICT WATER REVENUE BONDS (WEST VIRGINIA DWTRF PROGRAM), 2006 SERIES A; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION

AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING AND RATIFYING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND ADOPTING OTHER PROVISIONS RELATING THERETO.

and caused the same to be read and there was discussion. Thereupon, on motion duly made by Kenneth W. McBride, Jr. and seconded by Mart Lane, it was unanimously ordered that the said Bond Resolution be adopted and be in full force and effect on and from the date hereof.

*** *** ***

Upon motion made by Kenneth W. McBride, Jr. and seconded by Mart Lane, the meeting was adjourned at approximately 10:20 a.m.

[Signature Page to Follow]

WITNESS my signature on this 10th day of January, 2006.

Kenneth W. McBride, Jr., Chairman

CERTIFICATION

I hereby certify that the foregoing action of said Public Service Board remains in full force and effect and has not been amended, rescinded, superseded, repealed or changed.

WITNESS my signature on this 12th day of January, 2006.

Dallas J. Cecil

Dallas J. Cecil, Secretary

389705

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ENTERED
Order Book 05-0

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

ORIGINAL

Entered: January 31, 2005

CASE NO. 04-0023-PWD-CN

EASTERN WYOMING PUBLIC SERVICE DISTRICT.
Application for a certificate of convenience and necessity to construct additions and improvements to the existing water system.

FINAL
2-20-05

RECOMMENDED DECISION

On January 7, 2004, the Eastern Wyoming Public Service District filed an application for a certificate of convenience and necessity to construct and operate certain additions and improvements to its existing water system located in Wyoming County, West Virginia. The proposed project involves the construction of a new regional water treatment plant, three storage tanks, distribution lines and other necessary appurtenances to eliminate the existing inadequate and outdated water treatment plants located at Mullens, Nuriva, Welton, Wyco, Iroquois and Stephenson, West Virginia. The estimated total project cost is $11,752,120 and will be funded by a Small Cities Block grant in the amount of $3,000,000, an Appalachian Regional Commission grant of $1,000,000, a West Virginia Infrastructure and Jobs Development Council grant in the amount of $228,742, a West Virginia Department of Environmental Protection-Abandoned Mine Lands grant of $4,465,920, a loan from the Drinking Water Treatment Revolving Fund in the amount of $2,570,000, and a grant from the Emergency Wartime Supplemental Appropriation Act in the amount of $487,458.

The required pre-filing Notice of Intent for this application had been filed with the Public Service Commission on November 6, 2003. On December 8, 2003, the Applicant filed duly executed affidavits of publication demonstrating publication of a formal Pre-Filing Notice on November 12 and 19, 2003, in the Mullens Advocate and the Pineville Independent Herald, newspapers duly qualified by the Secretary of State, published and of general circulation in Wyoming County, West Virginia.

On January 7, 2004, the Public Service Commission entered a formal Notice of Filing in this matter requiring the Applicant to provide public legal notice of this application by causing to be published a copy of the Notice of Filing once in a newspaper duly qualified by the Secretary of State, published and of general circulation in Wyoming County and to make due return to the Commission of proof of said publication. The prepared Notice of Filing contained the rates proposed in support of this project and made provision for the filing of protest or intervention within thirty (30) days of publication. The Notice of Filing further provided that, in the absence of protest, the Commission may waive formal hearing

and grant the application based on such evidence submitted and available for its review.

On January 28, 2004, Commission Staff filed its Initial Joint Staff Memorandum in this matter. Staff detailed its initial observations concerning this project and stated that the need for this comprehensive water improvement project had been clearly demonstrated by previous Staff studies, reports and numerous customer complaints concerning water quality and reliability of the "hodgepodge" of old, small independent systems now serving this area. Staff also listed numerous documents and information needed from the Applicant before its review could continue.

In response to the Initial Joint Staff Memorandum, the Applicant filed, on February 4, 2004, a letter of commitment for the Small Cities Block grant to be used in this project.

Also on February 4, 2004, Commission Staff filed its "First Set of Interrogatories" in this matter.

By a Commission Referral Order entered February 10, 2004, this application was referred to the Division of Administrative Law Judges for further proceedings with a decision due date of August 4, 2004.

By a Further Initial Joint Staff Memorandum filed March 25, 2004, a Motion to Compel filed March 25, 2004, a motion to extend the decision due date filed April 6, 2004, a Second Further Initial Joint Staff Memorandum filed April 6, 2004, and a Third Further Initial Joint Staff Memorandum filed April 8, 2004, Commission Staff continued to point out that the Applicant had not completely provided the requested documentation needed for Staff to finalize its work in this matter and that insufficient time remained to process this case.

In response to Staff's concerns, the Commission entered an Order on April 13, 2004, which extended the Administrative Law Judge's decision due date until September 3, 2004.

On April 21, 2004, the Applicant, by counsel, filed its answers to Staff's First Set of Interrogatories.

By a Procedural Order entered April 30, 2004, this matter was scheduled for hearing to be held July 2, 2004, in Mullens, Wyoming County, West Virginia. The Order also required the Applicant to file proof of compliance with the publication requirement of the Commission's Notice of Filing entered on January 7, 2004.

On April 30, 2004, the Applicant filed a copy of duly executed affidavits of publication demonstrating timely publication of the Notice of Filing on January 14, 2004, in the Pineville Independent Herald and the Mullens Advocate, all in compliance with the Commission's Order filed on January 7, 2004. As of the date of this Recommended Decision, no written statements of protest, objection or intervention have been received in this matter.

Pursuant to the continuing development of this case, the Applicant formally requested on June 17, 2004, that the statutory deadline in this case be tolled. On June 24, 2004, a Commission Order was entered which granted the District's request and tolled the statutory period to process this certificate application. The Administrative Law Judge's decision due date was extended until November 2, 2004. Additionally, the scope of the case was expanded to address the District's acquisition of the assets and liabilities of Buckeye Water Works, doing business as Iroquois Water System and doing business as Stephenson Water Systems, Corinne Water System, Wyco Water Project and Welton Water System, by condemnation proceeding or otherwise; and the cancellation of the tariffs and reporting requirements of these small water utilities upon entry of final orders of condemnation by the Wyoming County Circuit Court.

On June 25, 2004, a Procedural Order was issued which cancelled the hearing previously scheduled to be held on July 2, 2004, pending further development.

Discovery continued in this matter, but the case review could no be completed under the initial amended time frame. Consequently, on September 17, 2004, the District requested an additional tolling period. On September 21, 2004, a Commission Order was entered granting the District's request for additional time and establishing an extended decision due date of January 31, 2005.

On October 22, 2004, the District filed financial commitment letters demonstrating the award of the Small Cities Block grant, an Abandoned Mine Lands grant and an Emergency Wartime Supplemental Appropriations Act grant for this project.

On December 23, 2004, Commission Staff filed its Final Joint Staff memorandum in this matter. Technical Staff detailed the proposed construction elements of this project and stated that the project plans and specifications present no apparent violation of Commission rules and regulations. The West Virginia Bureau for Public Health has issued the necessary "Permit to Construct" for this project. The proposed project will provide modern reliable and safe drinking water to over 1400 customers now served by numerous old, inadequate and failing systems. These old systems exhibit significant health and water quality problems including bacteriologic contamination, iron, calcium, manganese, sulfur and corresponding chemical compounds. Staff concluded that this project is both necessary and of appropriate design and scope. Not all construction permits and approvals have been acquired for this project, and Staff recommended that these permits and approvals be filled with the Commission prior to the award of the construction contracts.

The total estimated project costs are $11,752,120. The District plans to finance this project with a loan from the Bureau of Public Health in the amount of $2,570,000, a grant from the Infrastructure and Jobs Development Council in the amount of $228,742, a grant from the Appalachian Regional Commission in the amount of $1,000,000, a Small Cities Block grant in the amount of $3,000,000, a grant from the Emergency Wartime Supplemental Appropriations Act in the amount of

$487,458, and a grant from the Abandoned Mine Lands in the amount of $4,465,920. The Bureau of Public Health loan in the amount of $2,570,000 will have a term of 30 years at 1.0% interest and will require an annual payment of approximately $100,000, a 10% debt reserve of $10,000 and a renewal and replacement reserve of $5,813. The District has provided commitment letters for the respective grant and loan amounts from all the funding agencies. The District also plans to obtain interim financing from the Peoples Bank of Mullens at a rate of 4.65%. The commitment letter from the Peoples Bank does not specify an amount to be borrowed, but indicates that the bank is willing to loan the District funds on an interim basis. This interim financing will be repaid with proceeds from the permanent project funding once received.

The District submitted a Rule 42 Exhibit for the year ending June 30, 2003, with this filing. According to the Rule 42 Exhibit, the annual operation and maintenance (O & M) expenses are estimated to increase by approximately $59,433. In addition, the District is adjusting annual Taxes(Other) by $3,938 due to the additional man-hours required to operate the new facilities and the hiring of a new meter reader. The Staff Engineer has reviewed these proposed O & M adjustments and believes they are accurate. Thus, the total annual increase in expenses associated with the project, including O & M, Taxes(Other), debt service and reserves, is approximately $179,184.

The District proposed and Staff recommended a 1.5% increase in rates to cover the project-related costs. This increase is over and above the rates approved in Case No. 03-0980-PWD-CN which certificated a separate initial project for the District. The Staff-recommended rates will generate an additional $181,137 in annual operating revenues with a cash flow surplus of $6,838 and debt service coverage of 123.73%, which is sufficient to meet the bondholder's requirement of 115%. Staff also detailed its recommended cash flow analysis, reflecting revenue, surplus and debt coverage amounts resulting from the proposed and recommended rates. Staff has calculated an incremental leak adjustment rate for the District of $0.85 per 1,000 gallons.

Pursuant to its review of the financial and technical aspects of this case, Commission Staff made the following overall recommendations:

1. That the Eastern Wyoming Public Service District be granted a Certificate of Convenience and Necessity to construct and operate significant improvements to the existing water systems serving the City of Mullens and the adjoining communities of Blackeagle, Corrine, Beechwood, Allen Junction, Wyco, Iroquois, Stephenson and the surrounding areas along WV Route No. 16, North of Mullens;

2. Approve the proposed funding package, including a loan from the Bureau of Public Health in the amount of $2,570,000 for 30 years at 1%, a grant from the West Virginia Infrastructure and Jobs Development Council in the amount of $228,742, a grant from the Appalachian Regional Commission in the amount of $1,000,000, a Small Cities Block grant in the amount of

$3,000,000, a grant from the Emergency Wartime Supplemental Appropriations Act in the amount of $487,458, and a grant from the Abandoned Mine Lands Fund in the amount of $4,465,920;

3. Approve the Staff-recommended rates as set out in Appendix A, attached hereto;

4. Approve the $0.85 per 1,000 gallon incremental leak adjustment rate;

5. If there are any changes in the scope of the project or if increased financing is needed, Eastern Wyoming Public Service District be required to seek permission from the Commission before proceeding;

6. The Applicant provide a copy of the engineer's certified tabulation of bids, within ten (10) days of the bid opening date, for each construction contract or vendor bid contract to be awarded for this project;

7. Approve the purchase agreement between the District and the Welton Water Company. Staff also recommended approval of the District acquiring the assets and assuming the debt of Welton Water Company. In addition, Staff recommended that the District obtain approval from its bondholders concerning this acquisition;

8. Approve the purchase agreement between the District and the Buckeye Waterworks. Staff also recommended approval of the District acquiring the assets and assuming the debt of the Buckeye Waterworks. In addition, Staff recommended that the District obtain approval from its bondholders concerning this acquisition;

9. The District be required to apply to the Commission for a rate review within 18 months of substantial completion of this project; and

10. Staff's recommendation for approval of this certificate application be made contingent upon the District acquiring the Corinne Waterworks through a condemnation proceeding.

By a cover letter dated December 23, 2004, a copy of the Final Joint Staff Memorandum was transmitted to the District, with directions to respond, if desired, within ten (10) days. As of the date of this Recommended Decision, the District has not filed any response or objection to the Staff recommendations.

DISCUSSION

The Applicant, Eastern Wyoming Public Service District, has arranged an extremely advantageous funding package for this proposed project.

Seventy-eight percent (78%) of the estimated project costs will be covered by grant funding and the long-term loan requires an interest rate of only one percent (1%). As amended, the project will require only a 1-1/2% increase in operating revenue over the revenue levels approved in Case No. 03-0982-PWD-CN to cover the increased debt service, reserves and operation and maintenance expenses. These rates were included in the public legal notice, are de minimus in nature and should not have any detrimental impact on the District's customers.[1] This certificate application is unprotested and the need for this project is great. Therefore, approval of this project and its exceptional funding package is clearly in the public interest. For these reasons, this certificate application is convenient.

This project will bring modern, safe and reliable public drinking water and fire protection to over 1,400 existing households, businesses and public buildings. Many of these prospective customers currently rely on old, inadequate and failing systems which are subject to outages, contamination and high levels of troublesome and unpalatable minerals. The availability of a modern public water system will improve the quality of life in a large geographical area of Wyoming County and open that area for further economic development. Clearly, this project is also necessary.

For these reasons, and in the absence of protest, this application will be approved and a certificate of convenience and necessity granted for the project described therein.

FINDINGS OF FACT

1. On January 7, 2004, the Eastern Wyoming Public Service District filed an application for a certificate of convenience and necessity to construct and operate certain additions and improvements to its existing water system located in Wyoming County, West Virginia. The proposed project involves the construction of a new regional water treatment plant, three storage tanks, distribution lines and other necessary appurtenances to eliminate the existing inadequate and outdated water treatment plants located at Mullens, Nuriva, Welton, Wyco, Iroquois and Stephenson, West Virginia. (See, application filed January 7, 2004).

2. The required pre-filing Notice of Intent was filed with the Public Service Commission on November 6, 2003. On December 8, 2003, the Applicant filed duly executed affidavits of publication demonstrating publication of a formal Pre-Filing Notice on November 12 and 19, 2003, in the Mullens Advocate and the Pineville Independent Herald, newspapers duly qualified by the Secretary of State, published and of general circulation in Wyoming County, West Virginia. (See, Letter filed November 6, 2003; affidavits of publication filed December 8, 2003).

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[1] The rates approved herein actually are the District's current rates. The rates approved in Case No. 03-0980-PWD-CN reflected a slight decrease, but were to become effective only after substantial completion of that project.

3. The Applicant has provided public legal notice of this application by publication of the prepared Notice of Filing on January 14, 2004, in the Pineville Independent Herald and the Mullens Advocate, newspapers duly qualified by the Secretary of State, published and of general circulation in Wyoming County, West Virginia. This notice contained the requested post-project rates and made provision for the filing of protest, objection or intervention within thirty (30) days of said publication. (See, affidavits of publication filed April 30, 2004).

3. Pursuant to public legal notice of this application and opportunity, no statements of protest or objection, or petitions to intervene, have been filed in this matter. (See, Commission case file generally).

5. The District plans to finance this project with a loan from the Bureau of Public Health in the amount of $2,570,000, a grant from the Infrastructure and Jobs Development Council in the amount of $228,742, a grant from the Appalachian Regional Commission in the amount of $1,000,000, a Small Cities Block grant in the amount of $3,000,000, a grant from the Emergency Wartime Supplemental Appropriations Act in the amount of $487,458, and a grant from the Abandoned Mine Lands in the amount of $4, 465,920. The Bureau of Public Health loan in the amount of $2,570,000 has a term of 30 years at 1.0% interest, and will require an annual payment of approximately $100,000, a 10% debt reserve of $10,000 and a renewal and replacement reserve of $5,813. The District has provided commitment letters for the respective grant and loan amounts from all the funding agencies. The District is planning to obtain interim financing from the People Bank of Mullens at a rate of 4. 65%. The commitment letter from the Peoples Bank does not specify an amount to be borrowed but indicates the bank is willing to loan the District funds on an interim basis. This interim financing will be repaid with proceeds from the permanent project funding once received. (See, Final Joint Staff Memorandum filed December 23, 2004).

6. Commission Staff has calculated the increased operations and maintenance expenses expected from this extension of service and estimated the total increase in adjusted annual O & M expenses, debt service, and debt reserve funds to be $179,184. To cover the increased revenue requirement Staff has recommended an increase in rates of 1.5%. Staff's recommended rates will generate an additional $181,137 in annual operating revenues and will result in a cash flow surplus of $6,838, with a debt coverage factor of 123.7%. These rates are sufficient and not excessive or overly burdensome to the customer base. (See, Final Joint Staff Memorandum filed December 23, 2004).

7. The plans and specifications for this project are in general conformance with the Commission's rules and regulations. (See, Final Joint Staff Memorandum filed December 23, 2004).

8. The West Virginia Office of Environmental Health Services has reviewed this project and issued Permit Nos. 15,521, 15,759 and 15,760 for this project. (See, application and permits filed January 7, 2004).

9. The District's proposed project will provide modern, reliable and safe drinking water to approximately 1400 households, businesses, and public buildings, will improve the public health and welfare of the service territory and eliminate several inadequate, unsafe and failing water systems. (See, Final Joint Staff Memorandum filed December 23, 2004).

10. Pursuant to its review of the financial and technical aspects of this case, Commission Staff made the following overall recommendations;

A. The Eastern Wyoming Public Service District be granted a Certificate of Convenience and Necessity to construct and operate significant improvements to the existing water systems serving the City of Mullens and the adjoining communities of Blackeagle, Corrine, Beechwood, Allen Junction, Wyco, Iroquois, Stephenson and the surrounding areas along WV Route No. 16, North of Mullens;

B. Approve the proposed funding package, including a loan from the Bureau of Public Health in the amount of $2,570,000 for 30 years at 1%, a grant from the West Virginia Infrastructure and Jobs Development Council in the amount of $228,742, a grant from the Appalachian Regional Commission in the amount of $1,000,000, a Small Cities Block grant in the amount of $3,000,000, a grant from the Emergency Wartime Supplemental Appropriations Act in the amount of $487,458, and a grant from the Abandoned Mine Lands Fund in the amount of $4,465,920;

C. Approve the Staff recommended rates as set out in Appendix A, attached hereto;

D. Approve the $0.85 per 1,000 gallon incremental leak adjustment rate;

E. If there are any changes in the scope of the project or if increased financing is needed, Eastern Wyoming Public Service District be required to seek permission from the Commission before proceeding;

F. The Applicant provide a copy of the engineer's certified tabulation of bids, within ten (10) days of the bid opening date, for each construction contract or vendor bid contract to be awarded for this project;

G. Approve the purchase agreement between the District and the Welton Water Company. Staff also recommended approval of the District acquiring the assets and assuming the debt of Welton Water Company.

In addition, Staff recommended that the District obtain approval from its bondholders concerning this acquisition;

H. Approve the purchase agreement between the District and the Buckeye Waterworks. Staff also recommended approval of the District acquiring the assets and assuming the debt of the Buckeye Waterworks. In addition, Staff recommended that the District obtain approval from its bondholders concerning this acquisition;

I. The District be required to apply to the Commission for a rate review within 18 months of substantial completion of this project; and

J. Staff's recommendation for approval of this certificate application be made contingent upon the District acquiring the Corinne Waterworks through a condemnation proceeding. (See, Final Joint Staff Memorandum filed December 23, 2004)

11. Pursuant to notice and opportunity, the District has not objected to the Staff recommendations filed in this matter. (See, letter dated December 23, 2004; Commission case file generally).

CONCLUSIONS OF LAW

1. The proposed construction project detailed in this application, as amended, is convenient, in that a reasonable and advantageous funding package has been arranged and the Staff-recommended increased rates are sufficient, but not excessive, and do not appear to be burdensome on the customer base.

2. The proposed construction project detailed in this application is necessary, in that it will provide modern, safe and reliable drinking water to approximately 1400 households in a large geographical area of Wyoming County, West Virginia, improve the public health and welfare of the service territory and eliminate several inadequate, unsafe and failing public water systems.

ORDER

IT IS, THEREFORE, ORDERED that the application filed by the Eastern Wyoming Public Service District on January 7, 2004, shall be granted, as amended, and that a certificate of convenience and necessity shall be issued for the construction and operation of the extension project detailed in said application.

IT IS FURTHER ORDERED that the Eastern Wyoming Public Service District shall be authorized to accept, execute, and close on the funding package proposed for the project herein approved, including a loan from

the Bureau for Public Health in the amount of $2,570,000, at an interest rate of 1% for a term of thirty (30) years; a grant from the Infrastructure and Jobs Development Council in the amount of $228,742; a grant from the Appalachian Regional Commission in the amount of $1,000,000; a Small Cities Block grant in the amount of $3,000,000; a grant from the Emergency Wartime Supplemental Appropriations Act in the amount of $487,458; and a grant from the Abandoned Mine Lands Fund in the amount of $4,465,920. The District is further authorized to obtain interim financing from the Peoples Bank of Mullens at a rate not to exceed 4.65%. All interim financing will be repaid with proceeds from the permanent project funding.

IT IS FURTHER ORDERED that the final bid summaries for this project shall be provided to Commission Staff within ten (10) days of tabulation, and, further, should the bids exceed the estimated construction cost approved herein, or if the plans, scope or terms of financing for the project change, the District shall request a reopening of this case for subsequent review and approval by the Commission, prior to commencing construction.

IT IS FURTHER ORDERED that the certificate of substantial completion for this project shall be filed with the Commission within ten (10) days of its execution.

IT IS FURTHER ORDERED that the Staff-recommended tariff, attached hereto as Appendix A, including the increased leak adjustment increment of $0.85 per 1,000 gallons, be approved for all service provided upon substantial completion of the project approved herein. The District shall file an original and five (5) copies of its actual tariff, as amended in this Recommended Decision, within thirty (30) days of its initial use.

IT IS FURTHER ORDERED that the purchase agreement between the District and the Welton Water Company be approved, and the District be authorized to acquire the assets and assume the debt of Welton Water Company. The District shall acquire and file a statement of formal approval of this acquisition from its bondholders prior to the award of construction contracts for this project.

IT IS FURTHER ORDERED that the purchase agreement between the District and the Buckeye Waterworks be approved, and the District authorized to acquire the assets and assume the debt of Buckeye Waterworks. The District shall acquire and file a statement of formal approval of this acquisition from its bondholders prior to the award of construction contracts for this project.

IT IS FURTHER ORDERED that approval of this certificate application is contingent upon the District's acquisition of the Corinne Waterworks through the condemnation proceedings currently pending in Wyoming County Circuit Court or otherwise. A final order of condemnation shall be obtained from the Circuit Court, and filed herein, prior to the execution of construction contracts for this project.

IT IS FURTHER ORDERED that, within eighteen months of substantial completion of this project, the Eastern Wyoming Public Service District apply to the Public Service Commission for a general rate review. This provision shall not prevent the District from filing for rate relief at any sooner time, if required.

IT IS FURTHER ORDERED that, upon the date of acquisition of the Buckeye Waterworks, Welton Water Company and the Corinne Waterworks by the Eastern Wyoming Public Service District, the tariffs and reporting requirements of the acquired utilities shall be cancelled. Operations of these utilities will be merged with the operations of Eastern Wyoming Public Service District and the District's duly approved tariff will apply to all customers of the acquired utilities.

IT IS FURTHER ORDERED that this matter shall be removed from the Commission's docket of active cases.

The Executive Secretary is hereby ordered to serve a copy of this order upon the Commission by hand delivery, and upon all parties of record by United States Certified Mail, return receipt requested.

Leave is hereby granted to the parties to file written exceptions supported by a brief with the Executive Secretary of the Commission within fifteen (15) days of the date this order is mailed. If exceptions are filed, the parties filing exceptions shall certify to the Executive Secretary that all parties of record have been served said exceptions.

If no exceptions are so filed this order shall become the order of the Commission, without further action or order, five (5) days following the expiration of the aforesaid fifteen (15) day time period, unless it is ordered stayed or postponed by the Commission.

Any party may request waiver of the right to file exceptions to an Administrative Law Judge's Order by filing an appropriate petition in writing with the Secretary. No such waiver will be effective until approved by order of the Commission, nor shall any such waiver operate to make any Administrative Law Judge's Order or Decision the order of the Commission sooner than five (5) days after approval of such waiver by the Commission.

Thomas N. Trent
Administrative Law Judge

TNT:slj
040023ab.wpd

CASE NO. 04-0023-PWD-CN
EASTERN WYOMING PUBLIC SERVICE DISTRICT.

APPROVED RATES
WATER SCHEDULE NO. 1

APPLICABILITY
Applicable within the entire territory served.

AVAILABILITY
Available for general domestic, commercial and industrial water service.

RATE

First	2,000 gallons used per month	$9.70	per 1,000 gallons
Next	58,000 gallons used per month	$9.29	per 1,000 gallons
Next	240,000 gallons used per month	$6.82	per 1,000 gallons
All Over	300,000 gallons used per month	$3.51	per 1,000 gallons

MINIMUM CHARGE
No bill will be rendered for less than the following, based upon the meter size:

5/8-inch meter	$ 19.40	per month
3/4-inch meter	$ 29.10	per month
1 -inch meter	$ 48.50	per month
1-1/4-inch meter	$ 70.81	per month
1-1/2-inch meter	$ 97.00	per month
2 -inch meter	$ 155.20	per month
3 -inch meter	$ 291.00	per month
4 -inch meter	$ 485.00	per month
6 -inch meter	$ 970.00	per month
8 -inch meter	$1,552.00	per month

FLAT RATE CHARGE (Customers with non-metered water supply)
Equivalent to 4,500 gallons of water usage, $42.62 per month

DELAYED PAYMENT PENALTY
The above schedule is net. On all accounts not paid in full when due, ten percent will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

TAP FEE
The following charges are to be made whenever the utility installs a new tap to serve an applicant.

A tap fee of $100.00 will be charged to customers applying for service before construction is completed adjacent to the customers premises in connection with a certificate proceeding before the Commission. This pre-construction tap fee will be invalid after the completion of construction adjacent to an applicant's premises that is associated with a certificate proceeding.

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

A tap fee of $300.00 will be charged to all customers who apply for service outside of a certificate proceeding before the Commission for each new tap to the system.

RECONNECTION - $20.00

To be charged whenever the supply of water is turned off for violations of rules, non-payment of bills or fraudulent use of water.

RETURNED CHECK CHARGE

A service charge equal to the actual fee assessed to the District or a maximum of $25.00 will be imposed upon any customer whose check for payment of charges is returned by their bank due to insufficient funds.

LEAK ADJUSTMENT INCREMENT

$0.85 per 1,000 gallons is to be used when the bill reflects unusual consumption which can be attributed to eligible leakage on customer's side of the meter. This rate shall be applied to all such consumption above customer's historical average usage.

WATER SCHEDULE NO. 2

PRIVATE FIRE PROTECTION SERVICE

Where connections, hydrants, sprinklers, etc., on private property are maintained by consumer:

2 - inch service line w/hydrant, sprinkler, and/or hose connections	$ 49.60
3 - inch service line w/hydrant, sprinkler, and/or hose connections	$ 112.12
4 - inch service line w/hydrant, sprinkler, and/or hose connections	$ 196.39
6 - inch service line w/hydrant, sprinkler, and/or hose connections	$ 497.65
8 - inch service line w/hydrant, sprinkler, and/or hose connections	$ 816.07
10 - inch service line w/hydrant, sprinkler, and/or hose connections	$1,447.50
12 - inch service line w/hydrant, sprinkler, and/or hose connections	$2,028.25

LEAK ADJUSTMENT INCREMENT

$0.85 per 1,000 gallons is to be used when the bill reflects unusual consumption which can be attributed to eligible leakage on customer's side of the meter. This rate shall be applied to all such consumption above customer's historical average usage.

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

PUBLIC SERVICE COMMISSION OF WEST VIRGINIA CHARLESTON

At a session of the Public Service Commission of West Virginia, in the City of Charleston, on the 4th day of January, 2006.

CASE NO. 04-0023-PWD-PC-CN (REOPENED)

EASTERN WYOMING PUBLIC SERVICE DISTRICT, a public utility,

Petition to reopen for Commission approval of revisions to the scope and cost of the project.

COMMISSION ORDER

The Commission approves revisions to the scope and cost of a water project.

FINDINGS OF FACT

1. On February 20, 2005, Eastern Wyoming Public Service District received a certificate to build a regional water treatment plant, three storage tanks and distributions lines to eliminate inadequate water treatment plants located at Mullens, Nuriva, Welton, Wyco, Iroquois and Stephenson. Rec. Dec. pp. 1-3, 8 (Jan. 31, 2005, final Feb. 20, 2005). The project will provide water to some 1,400 customers now served by old, inadequate and failing systems. The following funding was approved:

Small Cities Block Grant	$ 3,000,000
Appalachian Regional Commission grant	1,000,000
WV Infrastructure & Jobs Dev. Council grant	228,742
DEP/Abandoned Mine Lands grant	4,465,920
Drinking Water Treatment Revolving Fund loan, 30 years @1%	2,570,000
Emergency Wartime Supp. Appropriation Act grant	487,458
Total	$11,752,120

Eastern Wyoming will obtain interim financing from the Peoples Bank of Mullens at a rate of 4.65%. Further, in this case, Eastern Wyoming was authorized to acquire the assets and liabilities of Buckeye Water Works, doing business as Iroquois Water System and doing

business as Stephenson Water Systems, Corrine Water System, Wyco Water Project and Welton Water System. A 1.5% rate increase was approved.

2. On November 7, 2005, Eastern Wyoming advised that bids were opened on October 20, 2005, and they were $5,061,660 greater than anticipated. Petition to reopen p. 2. The plant was bid as a dual source (groundwater and surface water) plant. To remedy the overbid, Eastern Wyoming proposes to rebid it as a groundwater only plant, which should lower the cost by several million dollars. Id.

3. The bid for the distribution system in the northern portion of the project came in 50% above the engineer's estimate, and Eastern Wyoming proposes to rebid Contract Number 5 to achieve cost savings. Petition to reopen p. 2.

4. Eastern Wyoming requested the Commission's approval of the changes in the project scope, relating to the treatment plant. Overall project cost, project funding, service area and rates are unchanged, Eastern Wyoming wrote. Petition to reopen p. 3.

5. On November 28, 2005, Eastern Wyoming filed the bid tabulations for Contracts 1, 2, 4 and 5.

6. On December 14, 2005, Eastern Wyoming filed a revised commitment letter from the West Virginia Infrastructure & Jobs Development Council, which revised the Emergency Wartime Supplemental Appropriation Act grant downward $216, to $487,242, and the total project cost down the same amount to $11,751,904. Eastern Wyoming also filed the Office of Environmental Health permit, which reflects that the treatment plant will be initially designed as a groundwater plant.

7. On December 21, 2005, Eastern Wyoming filed a commitment letter from the Peoples Bank of Mullens, reflecting the $800,000 interim financing, with a one-year term and interest fixed at 8%.

8. On December 22, 2005, Commission Staff recommended that the petition to reopen be granted. Final Joint Staff Memorandum p. 1. Staff advised that the utility needed a final order on or before January 10, 2006, to meet the scheduled bond closing. Id.

9. Technical Staff advised that the project costs had been slightly revised, due to a math error by the funding agencies, and that Eastern Wyoming had provided commitment letters for all of the revised funding. Final Internal Memorandum p. 2, attached to Final Joint Staff Memorandum. The rates and other financial information have not changed as a result of this petition to reopen, Technical Staff advised. Id.

Public Service Commission
of West Virginia
Charleston

10. The project scope was revised to reduce costs and allow the project to be built with available funding, Technical Staff advised. Final Internal Memorandum p. 2, attached to Final Joint Staff Memorandum. Although the treatment plant was originally designed to handle groundwater or surface water, the plant was redesigned to utilize only groundwater. Id. "This redesign allows a much simpler and less-expensive facility to be constructed at the present without sacrificing the future option of adding to this 'base' plant so that it may also treat surface water in the future," Technical Staff wrote. Id. The existing mine source is believed to be capable of meeting the system's present needs, as well as allowing for a small amount of growth, but Eastern Wyoming will need to be able to treat surface water to accommodate any significant growth. Id.

11. Technical Staff also advised that only two water storage tanks would be built, instead of three. Final Internal Memorandum p. 3, attached to Final Joint Staff Memorandum. One of two tanks located near Mullens has been eliminated.

12. Since the construction costs are now based on actual bids, Staff said it expected the costs to be quite reliable. Final Internal Memorandum p. 3, attached to Final Joint Staff Memorandum.

13. Technical Staff recommended that the revised interim financing be approved in the amount of $800,000 at a rate of 8%. Final Internal Memorandum p. 3, attached to Final Joint Staff Memorandum.

14. Technical Staff also recommended that Certificates of Substantial Completion for each construction contract should be provided to the PSC within ten days of the engineer issuing such certificates. Final Internal Memorandum p. 3, attached to Final Joint Staff Memorandum.

CONCLUSIONS OF LAW

1. This case should be reopened to consider Eastern Wyoming's proposed project revisions.

2. It is reasonable to approve the revisions to project scope and financing, as they will allow this project to be built with existing funding.

3. To accommodate the approaching closing, it is reasonable to grant Eastern Wyoming's request for expedited treatment.

Public Service Commission
of West Virginia

ORDER

IT IS THEREFORE ORDERED that Eastern Wyoming's petition to reopen is granted. The Commission approves the change in project scope – to construct a groundwater treatment plant and two storage tanks – as well as the following revised funding:

Small Cities Block Grant	$ 3,000,000
Appalachian Regional Commission grant	1,000,000
WV Infrastructure & Jobs Dev. Council grant	228,742
DEP/Abandoned Mine Lands grant	4,465,920
Drinking Water Treatment Revolving Fund loan, 30 years @1%	2,570,000
Emergency Wartime Supp. Appropriation Act grant	487,242
Total	$11,751,904
Interim Financing @8% – Peoples Bank of Mullens	$ 800,000

IT IS FURTHER ORDERED that if there are further changes in the project's plans or scope, as well as its terms of financing which affect rates, Eastern Wyoming must seek the Commission's approval of those changes.

IT IS FURTHER ORDERED that if there is a change in the project cost that does not affect rates, Eastern Wyoming need not petition to reopen this case for further Commission approval. Instead, Eastern Wyoming must file an affidavit from its certified public accountant verifying that rates are not affected.

IT IS FURTHER ORDERED that, if this project requires the use of Division of Highways' rights-of-way, Eastern Wyoming shall comply with all rules and regulations of the Division of Highways regarding the use of those rights-of-way.

IT IS FURTHER ORDERED that Certificates of Substantial Completion for each construction contract should be provided to the PSC within ten days of the engineer issuing such certificates.

IT IS FURTHER ORDERED that, except as was modified by this order, the Recommended Decision, which became a final order of the Commission on February 20, 2005, remains in full force and effect.

IT IS FURTHER ORDERED that Eastern Wyoming's motion for expedited treatment is granted.

IT IS FURTHER ORDERED that this case is removed from the Commission's docket of active cases.

IT IS FURTHER ORDERED that the Commission's Executive Secretary serve a copy of this order upon all parties of record by United States First Class Mail and upon Commission Staff by hand delivery.

A True Copy, Teste:

Sandra Squire

Sandra Squire
Executive Secretary

CLW/sek
040023cc.wpd

West Virginia Infrastructure & Jobs Development Council

Public Members:
Mark Prince
Hurricane
Dwight Calhoun
Petersburg
Tim Stranko
Morgantown
Dave McComas
Prichard

300 Summers Street, Suite 980
Charleston, West Virginia 25301
Telephone: (304) 558-4607
Facsimile: (304) 558-4609

Katy Mallory, PE
Executive Director

Katy.Mallory@verizon.net

December 7, 2005

Mr. Dallas Cecil, Chairman
Eastern Wyoming Public Service District
P.O. Box 907
Mullens, West Virginia 25882

Re: Eastern Wyoming Public Service District
Revised Binding Commitment Letter
Water Project 95W-127 - Phase II

Dear Mr. Cecil:

The West Virginia Infrastructure and Jobs Development Council (the "Infrastructure Council") has reviewed the Eastern Wyoming Public Service District (the "District") request for revision to the Infrastructure Council's binding commitment offer of July 7, 2004 to the District for financing the construction of a public water system to serve 615 existing customers on seven small private systems and one small public system. At its December 7, 2005 meeting, the Infrastructure Council voted to revise the binding commitment as shown on the attached proposed Schedule A.

If the District has any questions regarding this commitment, please contact Katy Mallory at the above-referenced telephone number.

Sincerely,

Mark Prince

NOTE: This letter is sent in triplicate. Please acknowledge receipt and immediately return two copies to the Infrastructure Council.

Eastern Wyoming Public Service District

By: Kenneth W. McCoy

Its: Chairman

Date: 1/4/06

WEST VIRGINIA INFRASTRUCTURE & JOBS DEVELOPMENT COUNCIL

Eastern Wyoming Public Service District
Water Project 95W-127 - Phase II
December 7, 2005

SCHEDULE A
Phase II

A.	Approximate Amount:		$ 228,742	Grant
B.	Grant:	$ 228,742		
	1.	Grant Advancement Date(s):		Monthly, upon receipt of proper requisition.
	2.	Special Conditions:		None
C.	Other Funding:	DWTRF loan		$ 2,570,000
		AML grant		$ 4,465,920
		SCBG		$ 3,000,000
		ARC grant		$ 1,000,000
		Emergency Wartime Suppl. Approp. Grant		$ 487,242
D.	Total Phase II Cost:			$11,751,904

cc: Bob Hazelwood, Pentree, Inc.
Tracey Rowan, WVDO
Pat Taylor, BPH
Danny Bess, AML
Rick Roberts, Logan County PSD
Dave Cole, Region I

West Virginia Infrastructure & Jobs Development Counci

Public Members:
Mark Prince, Chairman
Cottageville
Dwight Calhoun
Petersburg
C. R. "Rennie" Hill, III
Beckley
Tim Stranko
Morgantown

300 Summers Street, Suite 9
Charleston, West Virginia 253
Telephone: (304) 558-46
Facsimile: (304) 558-46

Katy Mallory, P

Executive Secretar
Katy.Mallory@verizon.n

July 7, 2004

Mr. Dallas Cecil, Chairman
Eastern Wyoming Public Service District
P.O. Box 907
Mullens, West Virginia 25882

Re: Eastern Wyoming Public Service District
Revised Binding Commitment Letter
Water Project 95W-127

Dear Mr. Cecil:

The West Virginia Infrastructure and Jobs Development Council (the "Infrastructure Council") has reviewed the Eastern Wyoming Public Service District (the "District") request for revision to the Infrastructure Council's binding commitment offer of August 18, 2003 to the District for financing the construction of a public water system to serve 1) 934 existing customers on previously privately owned water system in the City of Mullins, and 2) 615 existing customers on seven small private systems and one small public system. At its July 7, 2004 meeting, the Infrastructure Council voted to revise the binding commitment as shown on the attached proposed Schedule A. The total project cost is $14,227,000.

If the District has any questions regarding this commitment, please contact Katy Mallory at the above-referenced telephone number.

Sincerely,

Mark Prince

Attachments

cc: Samme Gee, Esq., Jackson Kelly
Pentree, Inc.
Debbie Legg, WVDO
Walt Ivey, BPH
Charlie Stover, AML
Rick Roberts, Logan County PSD
Susan Riggs, Esq.
Rick Staton, Esq.
Mike Griffith, CPA

NOTE: This letter is sent in triplicate. Please acknowledge receipt and immediately return two copies to the Infrastructure Council.

Eastern Wyoming Public Service District

By: Kenneth W Mc

Its: Chairman

Date: 8/3/04

WEST VIRGINIA INFRASTRUCTURE & JOBS DEVELOPMENT COUNCIL

Eastern Wyoming Public Service District
Water Project 95W-127
July 7, 2004

SCHEDULE A
Phase I

A.	Approximate Amount:		$ 592,338	Grant
B.	Grant:	$ 592,338		
	1.	Grant Advancement Date(s):		Monthly, upon receipt of proper requisition.
	2.	Special Conditions:		None
D.	Other Funding:		DWTRF loan	$ 570,000
			EDA grant	$ 1,800,000
E.	Total Phase I Cost:			$ 2,962,338

Phase II

A.	Approximate Amount:		$ 228,742	Grant
B.	Grant:	$ 228,742		
	1.	Grant Advancement Date(s):		Monthly, upon receipt of proper requisition.
	2.	Special Conditions:		None

NOTICE: The terms set forth above are subject to change following the receipt of construction bids.

D.	Other Funding:	DWTRF loan	$ 2,570,000
		AML grant	$ 4,465,920
		SCBG	$ 3,000,000
		ARC grant	$ 1,000,000
E.	Total Phase II Cost:		$11,264,662

West Virginia Infrastructure & Jobs Development Council

Public Members:
Russell L. Isaacs, Chairman
Cottageville
Timothy P. Stranko
Morgantown
Dwight Calhoun
Petersburg
C. R. "Rennie" Hill, III
Beckley

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Katy Mallory, PE

Executive Secretary
Katy.Mallory@verizon.net

August 18, 2003

Mr. Dallas Cecil, Chairman
Eastern Wyoming Public Service District
P.O. Box 907
Mullens, West Virginia 25882

Re: Eastern Wyoming Public Service District
Water Project 95W-127

Dear Mr. Cecil:

The West Virginia Infrastructure and Jobs Development Council (the "Infrastructure Council") provides this binding offer of an Infrastructure Fund grant of approximately $821,080 (the "Grant") to the Eastern Wyoming Public Service District (the "District") for above referenced water project (the "Project"). The Grant will be subject to the terms set forth on Schedule A attached hereto and incorporated herein by reference. The final Grant amounts will be established after the District has received acceptable bids for the Project. The Infrastructure Council will set aside a portion of the Infrastructure Fund to make the Grant upon the District's compliance with the program requirements.

This commitment is contingent upon the Project meeting the following schedule:

a. File Certificate Case with the Public Service Commission no later than December 3, 2003;
b. Advertise for bids no later than March 5, 2004
(The District must receive authority from the Infrastructure Council before bidding the project.)

The Infrastructure Council reserves the right to withdraw this Grant commitment if any of the above schedule dates are not met. The Infrastructure Council may, when justifiable circumstances occur, offer to modify the schedule. Any decision to modify the schedule is at the sole discretion of the Infrastructure Council.

If the District becomes aware that it will not meet one or more of the above schedule dates, the District should immediately notify the Infrastructure Council of this fact and the circumstances which have caused or will cause the District to be unable to meet the schedule. In addition, please immediately notify the Infrastructure Council if any of the other dates on the attached schedule have or will not be met.

The Water Development Authority (the "Authority"), on behalf of the Infrastructure Council, will enter into Grant agreement with the District following receipt of the completed Schedule B, a final, nonappealable order from the Public Service Commission authorizing construction and financing of the Project, evidence of binding commitments for other funding; evidence of all permits; evidence of acceptable bids; evidence of compliance with the WV Jobs Act; and any other documents requested by the Infrastructure Council.

No statements or representations made before or after the issuance of this contingent commitment by any person or member of the Infrastructure Council or Authority shall be construed as approval to alter or amend this commitment, as all such amendments or alterations shall only be made in writing after approval of the Infrastructure Council.

If the District has any questions regarding this commitment, please contact Katy Mallory at the above-referenced telephone number.

Sincerely,

Russell L. Isaacs

RLI/km
Attachments
cc: Samme Gee, Esq., Jackson & Kelly
Pentree, Inc.
Debbie Legg, WVDO
Walt Ivey, BPH
Charlie Stover, AML
Rick Roberts
Susan Riggs, Esq.
Rick Staton
Mike Griffith

NOTE: This letter is sent in triplicate. Please acknowledge receipt and immediately return two copies to the Infrastructure Council.

Eastern Wyoming Public Service District

By: Kenneth D. McBride

Its: Chairman

Date: 9/2/03

WEST VIRGINIA INFRASTRUCTURE & JOBS DEVELOPMENT COUNCIL

Eastern Wyoming Public Service District
Water Project 95W-127
August 18, 2003

SCHEDULE A

A. Approximate Amount: $ 821,080 Grant

B. Grant: $ 821,080

1. Grant Advancement Date(s): Monthly, upon receipt of proper requisition and after complete advancement of all IJDC loan funding.

2. Special Conditions: None

NOTICE: The terms set forth above are subject to change following the receipt of construction bids.

D. Other Funding:

DWTRF loan	$ 3,500,000
AML grant	$ 4,465,920
SCBG	$ 3,000,000
ARC grant	$ 1,000,000
EDA grant	$ 1,800,000

E. Total Project Cost: $14,587,000

F. Proposed User Rates: approximately $39.85 / 4500 gallons

Project Schedule
8/18/03

Project:	Eastern Wyoming PSD	IJDC grant	$ 821,080
County:	Wyoming	DWTRF loan	3,500,000
Project Number:	95W-127	SCBG	3,000,000
		AML grant	4,465,920
		ARC	1,000,000
		EDA	1,800,000
		TOTAL	$14,587,000

Action	Responsible Party	Start	Completion
Engineering Agreement	PSD / Pentree	complete	complete
PSC approval of Engineering Agreement	PSC	complete	complete
Prepare & Submit Plans & Specs to BPH	Pentree	complete	complete
Plans & Specs. Review & Approval (6 weeks)	BPH	July 25, 2003	Oct. 3, 2003
Prepare & Submit all Permit Applications	Pentree		Sept. 1, 2003
Rule 42	Mike Griffith	Sept. 1, 2003	Oct. 31, 2003
Pre-File with PSC (30 days)	Rick Staton		Nov. 3, 2003
File Certificate Case with PSC	Rick Staton		Dec. 3, 2003
Review & Approve PSC Certificate (6 months)	PSC	Dec. 3, 2003	May 7, 2004
Rights-of-way, Easements & Land Acquisition (80%)	Rick Staton		Feb. 27, 2004
Authority to Advertise	IJDC / DWTRF / AML / EDA / SCBG		Mar. 5, 2004
Advertise for Bids (1 month)	PSD / ~~Thrasher~~ Pentree	Mar. 12, 2004	Apr. 27, 2004
Bid Opening (90 days)	PSD / Pentree		Apr. 27, 2004
Loan Closing	Spillman, Thomas & Battle		July 6, 2004
Construction (12 months)	Pentree / PSD /Contractor	July 2004	July 2005

STATE OF WEST VIRGINIA
OFFICE OF THE GOVERNOR
CHARLESTON 25305

BOB WISE
GOVERNOR

August 23, 2004

The Honorable H. Russell Davis
President
Wyoming County Commission
100 Main Street
Pineville, West Virginia 24874

Dear Commissioner Davis:

On December 18, 2001, the Wyoming County Commission received a commitment of $400,000 in Small Cities Block Grant funds for Western Wyoming PSD/Wyco Water Extension. On October 3, 2002, this project received an additional commitment of $650,000 in SCBG funds. On October 27, 2003, an additional $1,050,000 of SCBG funds were committed. Eventually, $3,000,000 will be committed to this project to serve 1,549 new customers of the Wyoming County Public Service District's regional water project.

The SCBG award was based upon your immediate need for funds; and, therefore, only $2,100,000 was made available from the FY2002 and FY2003 allocations, with a commitment to evaluate your progress and provide the remaining funding from future allocations.

Based upon the Wyoming County Commission's ability to proceed with this worthwhile project, I am committing the remaining $900,000 from the FY2004 Small Cities allocation. Your existing SCBG contract will be amended to include the additional funds.

The West Virginia Development Office reserves the ability to withdraw these funds if your project does not proceed on schedule. These funds would be replaced with a letter of intent for consideration from future allocations.

I am pleased to work with you to make this improvement a reality for the citizens of Wyoming County.

Very truly yours,

Bob Wise
Governor

BW:mbm

® LEGCIU 328-C

STATE OF WEST VIRGINIA
WEST VIRGINIA DEVELOPMENT OFFICE
NOTICE OF GRANT AWARD CHANGE

Fiscal Year	Date	State Account #	Agreement Date	Grant Number
2005	9/1/2004	8746-2005-0307-096-128	4/15/2002	02-555

Grantee Name & Address

Wyoming County Commission
Post Office Box 309
Pineville, WV 24874

F.E.I.N. 556-000-421

Purpose of Change: Additional Funds

Program Name: SCBG

Project Name: Wyco Regional Water

Grant ID: B01DC540001, B02DC540001, B03DC540001, and B04DC540001

Project Number: 02SCBG0006X

Description of Change

Change Order # 4

Justification for Change

To correct scope of services.

Previous Total	$2,100,000.00
Increase	$900,000.00
Decrease	
New Total	$3,000,000.00

TERMS AND CONDITIONS OF ORIGINAL AGREEMENT ARE ON FILE IN THE WEST VIRGINIA DEVELOPMENT OFFICE AND AVAILABLE FOR INSPECTION. A COPY OF THE ORIGINAL AGREEMENT IS ATTACHED TO TRANSMITTAL _____.
PROCESSED ON OR ABOUT _____.
PAYMENT # _____.

Approved _____
Executive Director

Submitted By _____

9/3/04
Date

West Virginia USA
West Virginia Development Office

April 19, 2002

The Honorable H. R. Davis
President
Wyoming County Commission
Post Office Box 309
Pineville, West Virginia 24874

Dear Commissioner Davis:

RE: Small Cities Block Grant
Wyoming County Commission—Water

Enclosed is your copy of the executed grant award and state/local contract for the above-referenced project. You should retain this contract and grant award with your project files.

Sincerely,

Lisa Green
Community Development Specialist

LG:kd

Enclosure

cc: T. White

RECEIVED
MAY 06 2002
REGION I PDC
Dave-cvr
LeAnn

WEST VIRGINIA DEVELOPMENT OFFICE
GRANT AWARD

	Grant Number: 02-555
CFDA Number: 14.228	**State Acct. No.:** 8746-2002-0307-096-128
Fiscal Year: 2002	**Program Name:** SCBG

Grantee Name & Address:

Wyoming County Commission
Post Office Drawer 309
Pineville, West Virginia 24874

F.E.I.N. 556-000-421

Grant Period:
From: December 18,2001
To: December 18, 2004

Project Name: Water

Grant ID: B-01-DC-54-0001

Project Number: 01SCBG0006X

Project Description

Shall do, perform and carry out, in a satisfactory and proper manner all duties, tasks, and functions necessary for the development of a new regional water system for the Eastern Wyoming County Publice Service District and Mullens/Wyco water.

Change Orders

Number:	Date:	Purpose:

TERMS AND CONDITIONS ARE ON FILE IN THE WEST VIRGINIA DEVELOPMENT OFFICE AND AVAILABLE FOR INSPECTION. A COPY OF THE ORIGINAL AGREEMENT IS ATTACHED TO TRANSMITTAL _____, PROCESSED ON OR ABOUT _____.

PAYMENT NUMBER_____.

Submitted By: Lisa Green

TOTAL AMOUNT OF THIS GRANT $400,000

Authorized Signature: _____ for

Title: Executive Director

Date: _____

West Virginia USA West Virginia Development Office

March 20, 2002

The Honorable S. R. "Randy" Brewer
Mayor
City of Mullens
316 Moran Avenue
Mullens, West Virginia 25882

Dear Mayor Brewer:

RE: **FY2001 Small Cities Block Grant**
City of Mullens—Eastern Wyoming County Public Service District
Project Number: 01SCBG0006X

Thank you for your recent correspondence regarding the above-referenced project.

It is my understanding that the City of Mullens and the Wyoming County Commission have requested that the Small Cities Block Grant (SCBG) of $600,000, awarded to the City of Mullens, be transferred to the Wyoming County Commission. Since all SCBG funds will be utilized in areas outside of the City of Mullens, the county (by SCBG regulations) should serve as the lead entity in implementing these funds. It is important to note that with the creation of the Eastern Wyoming County Public Service District, which will own and operate the water system, the county is required to serve as the lead entity. Additionally, because this grant did not fund any activities within the City of Mullens, this transfer of ownership will have no adverse effect on the residents of the city.

Your request to transfer ownership of this grant is approved; however, this approval is contingent upon the grant retaining the original project activities as described in the grant application.

Please be advised that the transfer of this grant is without prejudice and in no way will affect the city of Mullens or the Wyoming County Commission as eligible applicants for future SCBG funds. Should you have any questions, please contact Ms. Lisa Green, your Community Development Representative, or me at (304) 558-4010.

Sincerely,

Bobby Lewis, Director
Community Development Division

BL:gd

cc: Region I Planning and Development Council
Marcie Baker, WVDO
T. White, WVDO

STATE OF WEST VIRGINIA
OFFICE OF THE GOVERNOR
CHARLESTON 25305

BOB WISE
GOVERNOR

December 18, 2001

The Honorable S. Randall Brewer
Mayor
City of Mullens
316 Moran Avenue
Mullens, West Virginia 25882

Dear Mayor Brewer:

Thank you for your application to the Small Cities Block Grant program.

Your request has been approved in the amount of $600,000. These funds will enable you to provide assistance in the development of a new regional water system for the Eastern Wyoming Public Service District and Mullens/Wyco water.

In order to effectively use the limited dollars available, I hereby commit $400,000 from our fiscal year 2001 allocation that will immediately be available to you. The remaining $200,000 necessary to complete this project will be evaluated and committed in the coming year. I strongly encourage you to expedite this project and reach its completion as quickly as possible with this funding strategy in mind.

Please contact Ms. Lisa Green of the West Virginia Development Office, at (304) 558-4010, to complete the necessary contract in order to proceed with your project.

The West Virginia Development Office reserves the right to withdraw funds if your project does not proceed on schedule. These funds would be replaced with a letter of intent for consideration from future allocations.

I am pleased to assist with these improvements for the citizens of the City of Mullens and eastern Wyoming County.

Very truly yours,

Bob Wise
Governor

BW:lgd

SMALL CITIES BLOCK GRANT CONTRACT
between the
WEST VIRGINIA DEVELOPMENT OFFICE
and the
WYOMING COUNTY COMMISSION

APR -8 2002

THIS AGREEMENT, entered into this 18th day of December, 2001 by the West Virginia Department of Finance and Administration on behalf of the West Virginia Development Office, hereinafter called the "State," and the Wyoming County Commission and its authorized officers, agents, and representatives, hereinafter called the "Grantee."

WITNESS THAT:

WHEREAS, the State has elected to administer the nonentitlement portion of the Community Development Block Grant Program as authorized by Title I of the Housing and Community Development Act of 1974 (Public Law 93-383), as amended, subject to the applicable regulations of the Department of Housing and Urban Development, including but not limited to 24 CFR Part 570, Sub-Part I, as amended or revised, and subject to the scope of the State of West Virginia's Grants Management Handbook and other Program Guidelines, receipt of which is hereby acknowledged by the Grantee.

WHEREAS, the Grantee has identified its housing and community development needs, including those of low- and moderate-income persons and the activities to be undertaken to meet such needs.

WHEREAS, the Grantee has prepared a written citizen's participation plan which provides opportunities for citizen participation, hearings, and access to information with respect to the proposed project statement in such a manner as to afford affected citizens an opportunity for examination and comment regarding the proposed project and on the community development performance of the Grantee, a Community Development Plan, and an Anti-displacement and Relocation Assistance Plan.

WHEREAS, for audit purposes, the Catalog of Federal Domestic Assistance number is 14.228, Community Development Block Grant/State's Program, funded by the Department of Housing and Urban Development.

WHEREAS, the Grantee has requested assistance from the State and has offered assurances that maximum feasible priority has been given to activities which will benefit low- and moderate-income families, or aid in the prevention or elimination of slums or blight, or to meet other community needs having a particular urgency because an existing condition poses a serious and immediate threat to the health and welfare of the community where other financial resources are not available to meet such needs.

NOW, THEREFORE, the parties hereto do mutually agree as follows:

1. **Assistance to Grantee**. The State shall obligate to the Grantee, from funds allocated to the State by Grant Agreement B-01-DC-54-0001, $400,000 to perform such tasks hereafter described in the Scope of Services.

2. **Scope of Services**. The Grantee, or its designated agent, in accordance with the Small Cities Block Grant Handbook other Program Guidelines to be used in administration of the Small Cities Block Grant, and in accordance with the approved application of the Grantee which is attached hereto and made a part hereof as Attachment A, shall do, perform, and carry out, in a satisfactory and proper manner all duties, tasks, and functions necessary for the development of a new regional water system for the Eastern Wyoming County Public Service District and Mullens/Wyco water.

3. **Changes**. The State and the Grantee, from time to time, may require changes in the Scope of the Services of the work to be performed hereunder. Such changes, including any increase or decrease in the amount of the Grantee's compensation and work to be performed which are mutually agreed upon by and between the State and the Grantee, shall be incorporated in written amendments to this Contract. Major changes in the Scope of Services which substantially deviate from that originally approved shall require the same citizen participation process as performed for the initial submission of the grant proposal.

The State reserves the right to make final determination on questions regarding changes in the Scope of Services.

4. **Time of Performance**. The Grantee will commence its duties under this Contract on December 18, 2001, and such duties shall be undertaken and completed in such sequences as to assure their expeditious completion in light of the purpose of the Contract; but, in any event, all of the services required hereunder shall be completed by December 18, 2004. Completion date of this Contract may only be extended by mutual written agreement of both parties.

5. **Performance Measures**. Performance measures establish that the Grantee should have all other funding in place and design and engineering completed within twelve months. Furthermore, construction should be started within eighteen months after the execution of this Agreement by both parties. These performance measures establish goals against which performance under this contract can be measured and evaluated during regular scheduled monitoring visits by the State. Failure to meet these performance measures can result in termination of this contract (see Provision 10 of this agreement).

6. **Administrative Requirements and Procedures**.

(A) *Personnel.* The Grantee represents that it has or will secure personnel with the necessary qualifications and experience required to perform the services under this Contract. Such personnel shall not be employees of, or have any contractual relationship with the State, consistent with the procedures identified in the Small Cities Block Grant Handbook.

(B) *Applicable Law.* The Grantee, its agents, and subrecipients shall comply with all the restrictions, conditions, policies, guidelines, and requirements of Title I of the Housing and Community Development Act of 1974 (Public Law 93-383), as amended; with all applicable State and Federal Laws and regulations including 24 CFR Part 570; 24 CFR Part 85; OMB Circulars A-87, A-110, A-122, and A-133, as applicable, in administering and distributing funds provided under this Agreement including, but not limited to, the following:

(1) P.L. 88-352: Refers to Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et. seq.) which provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. Implementing regulations are found in 24 CFR Part I.

(2) P.L. 90-284: Refers to Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601-20 et. seq.) popularly known as the Fair Housing Act which provides for fair housing throughout the United States and prohibits any person from discriminating in the sale or rental of housing, the financing of housing, or the provision of brokerage services, including otherwise making unavailable or denying a dwelling to any person, because of race, color, religion, sex, national origin, handicap, or familial status. The Grantee further certifies that it will take actions necessary to affirmatively further fair housing.

(3) Executive Order 11063, as amended by Executive Order 12259, requires that taking of all actions necessary and appropriate to prevent discrimination because of race, color, religion (creed), sex, or national origin, in the sale, leasing, rental, or other disposition of residential property and related facilities (including land to be developed for residential use), or in the use of occupancy thereof. Implementing regulations are contained in 24 CFR 107.

(4) Section 109 of P.L. 93-383 requires that no person in the United States shall, on the grounds of race, color, national origin or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with community development funds.

Section 109 of the Act further provides any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et. seq.) or with respect to an otherwise qualified handicapped person as provided in Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) shall also apply.

(5) Section 110 of P.L. 93-383 requires compliance with the Davis-Bacon Act, as amended (40 U.S.C. 276a - 276a-5). By reason of the foregoing requirement,

the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et. seq.) also applies. In addition , the West Virginia Act on Construction of Public Improvements, Article 5A, Chapter 21 of the West Virginia Code applies.

(6) Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701U) requiring that to the greatest extent feasible opportunities for employment and training be given to lower income persons residing within the unit of local government or metropolitan area or nonmetropolitan county in which the project is located, and that Contracts for work in connection with the project be awarded to eligible business concerns which are located in, or owned in substantial part by, persons residing in the same area.

(7) Executive Order 11246, as amended by Executive Order 12086 shall apply and provides that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of Federal or Federally assisted construction contracts.

(8) Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831b) prohibits the use, and requires the elimination and/or abatement of the hazards of lead-based paints in residential structures constructed or rehabilitated with Federal assistance to include notification of the hazards of lead-based paint. The Lead Safe Housing Regulation (24 CFR Part 35) established the requirements for notification, evaluation, and reduction of lead-based paint hazards in federally-owned residential property and housing that receives federal assistance.

(9) The Grantee agrees to assume all of the responsibilities for environmental review, decision making, and action as specified and required in regulations issued by the Secretary of Housing and Urban Development pursuant to Section 104(g) of the Act and published in 24 CFR Part 58. In addition to assuming responsibility for National Environmental Policy Act (P.L. 91-190), the Grantee must take into account, where applicable, the criteria, standards, policies, and regulations of the following: (a) Historic Preservation Act of 1966; (b) Executive Order 11593; (c) The Reservoir Salvage Act of 1960; (d) Flood Disaster Protection Act of 1973; (e) Executive Order 11988, Floodplain

Management; (f) Executive Order 11990, Protection of Wetlands, (g) Coastal Zone Management Act of 1972; (h) the Safe Drinking Water Act of 1974; (i) the Endangered Species Act of 1973; (j) the Wild and Scenic Rivers Act of 1968; (k) the Clean Air Act ; (l) Environmental Criteria and Standards (44 FR 40860-40866, July 12, 1979); (m) 24 CFR Part 51, Subpart B, Noise Abatement and Control; (n) Subpart C - Siting of HUD Projects Near Hazardous Operations Handling Conventional Fuels or Chemicals of an Explosive or Flammable Nature; (o) and Subpart D - Siting of HUD Projects in Runway Clear Zones and Accident Potential Zones at Military Airfields. Before committing any funds (other than for exempt activities), the Grantee must certify to the State that it has complied with all requirements and obligations that are set forth by 24 CFR Part 58. In addition, the Grantee must submit all requested Evidentiary Material to the State for approval prior to the obligation of any funds (other than for exempt activities).

(10) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4601) and HUD implementing regulations at 24 CFR Part 42 apply to the acquisition of real property for an activity assisted under this part and to the displacement of any family, individual, business, nonprofit organization or farm that results from such acquisition. The West Virginia Code, Chapter 54-3 also applies.

The Grantee must certify compliance with URA. Under Section 104(d) of the Act, each Grantee must adopt, make public and certify that it is following a residential anti-displacement and relocation assistance plan providing one-for-one replacement units and relocation assistance. The plan must also indicate the steps that will be taken to minimize the displacement of persons from their homes as a result of any activities assisted under this part all in accordance with 24 CFR Part 570.488(b).

(11) The State and the Grantee will comply with the provisions of the Department of Treasury Circular 1075 and/or the State's Small Cities Block Grant Handbook, as revised, in the process of requesting and administering funds from the State's Letter of Credit.

(12) Funds provided under this agreement shall not be expended for acquisition or construction purposes in an area that has been identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards unless the community in which the area is situated is participating in the National Flood Insurance Program; and flood insurance is obtained in accordance with Section 102(a) of the Flood Disaster Protection Act of 1973.

(C) *Accounting.* The Grantee will establish a separate account for the proper recording of project costs in accordance with generally accepted accounting principles and procedures so as to reflect all receipts and allowable expenditures, including program income in connection with the said project and the purpose thereof. PI generated prior to project closeout must be expended as received for project related activities in accordance with 24 CFR 570. If the Grantee received less that $25,000 per state fiscal year in program income after closeout, the dollars received are not subject to provision of 24 CFR 570 and may be used at the Grantees discretion. If program income exceeds $25,000 in any given state fiscal year after closeout, all program income earned must be expended in accordance with 24 CFR 570.489.

(D) *Audit.* Pursuant to provisions of Chapter 6, Article 9, Section 7 of the West Virginia Code, the Community Development Division has adopted the policy of accepting annual financial audits contracted or performed by the State Auditor's Office. The Grantee will include these funds to be audited with its yearly organization-wide audit. Audits shall be conducted in accordance with the provisions of the Office of Management and Budget (OMB) Circular A-133, and with standards established by the Comptroller General as specified in Standards for Audit of Governmental Organizations, Programs, Activities, and Functions. Units of local government will make audit reports available for public inspection within thirty (30) days after the completion of the audit.

(E) *Record Retention.* Financial records, supporting documents, statistical records, and all other records pertinent to the grant shall be retained for a period of three years, with the following qualifications:

(1) If any litigation, claim, or audit is started before the expiration of the three-year period, the records shall be retained until all litigations, claims, or audit findings involving the records have been resolved.

(2) Records for nonexpendable property acquired with Federal funds shall be retained for three years after its final disposition.

(3) Records for displacement shall be retained in accordance with the Small Cities Block Grant Handbook.

(4) The retention period starts from the date of the issuance of the final audit report.

(F) *Access to Records.* The Grantee shall, at any time during normal business hours and as often as the State or its designated representatives deem necessary, make available for examination all records, books, accounts, reports, files, and other papers, things or property of the Grantee with respect to the matters covered by this Contract. All negotiated contracts awarded by the Grantee shall include a provision that the Comptroller General or any duly authorized representative of the State or HUD shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to a specific grant program for the purpose of making audit, examination, excerpts, and transcriptions.

(G) *Repayment.* The Grantee shall refund to the State or Federal government any expenditures determined to be made for an ineligible purpose for which Federal funds were received.

(H) *Competitive Procurement Procedures.* All procurement transactions, including professional services, regardless of whether negotiated or advertised and without regard to dollar value, shall be conducted in a manner that provides maximum open and free competition consistent with procedures identified in the Small Cities Block Handbook, 24 CFR Part 85, and with applicable local or State law.

The Grantee shall procure architect/engineer services in accordance with Chapter 5G of the West Virginia State Code and be in compliance with 24 CFR Part 85.

The Grantee shall procure construction contracts in accordance with Chapter 5-22-1 of the West Virginia State Code and be in compliance with federal regulations 24 CFR Part 85.

The Grantee shall solicit sealed bids for all construction-related contracts or supplies related to their project which has an estimated value of over $25,000. All transactions under $25,000 whether construction-related contracts, supplies, or professional services should be procured in a manner that provides maximum open and free competition and files are to be maintained to document such activities. Any attempts by the Grantee to segregate the project into sections in order to circumvent competitive procurement may be cause for termination of this Agreement under the provisions of Paragraph 9. These bids shall be obtained by public notice as a Class II legal advertisement in compliance with the provisions of Article Three, Chapter Fifty-Nine of the Code of West Virginia. This notice shall be published by the Grantee in the newspaper with the largest circulation serving the general area within a period of fourteen consecutive days with at least an interval of six full days within such period between the date of the first publication and the date of the second publication preceding the final date of submitting bids. The Grantee shall also, where feasible, solicit sealed bids by listing the project in the F. W. Dodge Reports, sending requests by mail to prospective suppliers or contractors, sending notification to the State's Small Business Development Center Division, and by posting notice on a bulletin board in a public place. The Grantee shall have available upon request for review by the State or its designated representative, bid documents and other evidence of compliance with these procedures. The resolution of bid and contract disputes is the responsibility of the Grantee.

Grantees have the ability to procure professional and construction services, therefore, the design-build method (5-22A-1). Public agencies can only utilize design-build on building project. Highways, water, sewer, and all other public works projects are specifically prohibited from using the design-build method.

(l) *Bonding and Insurance.* As otherwise required by law, a grant that requires the contracting or subcontracting for construction or facility improvements under

$100,000 shall provide for the Grantee to follow local or State requirements relating to bid guarantees, performance bonds, and payment bonds provided that the Grantee's and State's interest is adequately protected and that such contracts can be executed in a timely manner; otherwise, bonding requirements shall be the same as for contracts exceeding $100,000. If the contracts or subcontracts exceeds $100,000, the minimum bonding and insurance requirements shall be as follows:

(1) A bid guarantee from each bidder equivalent to five percent of the bid price. This bid guarantee shall consist of a firm commitment such as bid bond, certified check, or other negotiable instrument accompanying a bid that the bidder will, upon acceptance of the bid, execute the contractual documents as may be required within the time specified.

(2) A performance bond on the part of the contractor for 100 percent of the contract price. This performance bond shall be executed by the successful contractor in connection with a contract to secure fulfillment of the contractor's obligations under such contract.

(3) A payment bond on the part of the contractor for 100 percent of the contract price. This payment bond shall be executed in connection with a contract to assure payment is required by law of all persons supplying labor or materials in the execution of the work provided for in the Contract.

(J) *Facilities Operation.* The Grantee shall operate and maintain all facilities to which the general public has right of access constructed under the auspices of this Contract in accordance with minimum standards as may be required or prescribed by the applicable Federal, State and local statute, law, ordinance, or regulation as to actual construction procedures. The Grantee shall be responsible for maintenance and operation of such facilities upon completion. The Grantee may not change the use or planned use of any such facility (including the beneficiaries of such use) from that purpose initially approved unless the Grantee provides affected citizens with reasonable notice thereof and opportunity to comment on any proposed change all in accordance with 24 CFR Part 570.489(j).

(K) *Conflict of Interest.* No officer, agent, consultant, employee, elected or appointed official of the State, the Grantee, or any public agency or subrecipient receiving Community Development Block Grant funds who exercises or has exercised any function or responsibilities with respect to activities assisted with Community Development Block Grant funds or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from such activity or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one (1) year thereafter. The conflict of interest provision of 24 CFR 85.36; 24 CFR 570.489 (g) and (h); and OMB Circular A-110 also apply as appropriate.

7. **Recovery of Capital Costs.** The Grantee will not attempt to recover any capital costs of public improvements assisted in whole or in part with funds from this program by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements unless: (a) funds received are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from other revenue sources; or (b) for purposes of assessing any amount against properties owned and occupied by persons of low and moderate income who are not persons of very low income, the Grantee certifies to the State of West Virginia that it lacks sufficient funds received under the program to comply with the requirements of clause (a).

8. **Method of Payment.** In order to receive any and all payments under the terms of this Agreement, the Grantee shall submit the following: (a) a Letter of Transmittal containing a progress report, and (b) a Request for Payment Financial Report. Upon receipt of said documents, the State shall review the same for reasonableness, appropriateness and eligibility and, if approved, will cause a warrant to be made on that sum to the Grantee for

authorized expenditures from the State's Letter of Credit with the Department of Housing and Urban Development.

9. **Cost Underuns**. The State reserves the right to recapture all SCBG funds remaining due to cost underuns. The amount to be recovered will be prorated and proportional to the percent of actual total project expenditures.

10. **Termination of Contract for Cause**. If, through any cause, the Grantee shall fail to fulfill in a necessary and proper manner its obligations under this Contract or if the Grantee shall violate any of the covenants, agreements, or stipulations of this Contract, the State shall thereupon have the right to terminate this Contract by giving written notice to the Grantee to such termination and specifying the effective date thereof, at least fifteen days before the effective date of such termination. The Grantee shall be entitled to receive just and equitable compensation for any satisfactory work completed on the described project.

Notwithstanding the above, the Grantee shall not be relieved of liability to the State for damages sustained by the State by virtue of any breach of the Contract by the Grantee, and the State may withhold any payments to the Grantee for the purpose of off-setting those damages until such time as the exact amount of damages due the State from the Grantee is determined.

11. **Termination for Convenience of the State**. The State may terminate this Contract at any time by giving written notice to the Grantee of such termination and specifying the effective date of termination. If the Contract is terminated by the State as provided herein, the Grantee will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the Grantee covered by this Contract, less payments of compensation previously made.

12. **Termination by the Grantee**. The Grantee may unilaterally rescind this Agreement at any time prior to the commencement of the project. After project commencement, this Agreement may be rescinded, modified, or amended only by mutual agreement. A project shall be deemed commenced when the State makes any expenditure or incurs any obligation with respect to the project.

13. **Reporting**. A Final Performance Report shall be submitted to the State with the final request for payment for project costs, excluding audit. Said Performance Report shall be made on the forms provided by the State and meet the requirements of said report as set forth in the appropriate Small Cities Block Grant Handbook of the State of West Virginia. Other reports may be requested by the State during the grant period as the State deems necessary and directs.

14. **Final Closeout**. Final Closeout shall be completed when the State: (a) is in receipt of a Final Performance Report; (b) has determined that all monitoring findings have been formally addressed and are resolved; and (c) has received a completed, final project audit and has determined that any findings have been resolved.

15. **Resolution of Disputes.** Resolution of disputes between the State and the Grantee concerning administrative and programmatic matters during the terms of this Agreement shall be initiated through consultation and discussion at the State's Administrative Offices with final decision on questions of policy or fact being determined by the Director of the Community Development Division of the West Virginia Development Office or his/her designated representative. Nothing in this Agreement shall be construed as making the final decision on a question of law, or to limit in any manner any remedies or recourses available under applicable laws. Citizen's complaints or disputes regarding Grantee performance or actions relative to the approved project are the responsibility of the Grantee.

16. **Notice**. The parties hereto agree that notice shall be served when mailed certified U.S. Mail to the following addresses:

West Virginia Development Office
Community Development Division
Capitol Complex
Building 6, Room 553
Charleston, West Virginia 25305-0311

GRANTEE Wyoming County Commission
100 Main Street
Pineville, West Virginia 24874

[WITNESSETH] that the parties hereto have entered their signatures hereafter with each representing to the other that the execution of this Agreement is done with full authority and that attached hereto and made a part hereof as Attachment B, is a certified copy of the resolution, motion, or similar action of the governing body of the Grantee directing and authorizing its official representative to act in connection with this Agreement.

STATE OF WEST VIRGINIA
WEST VIRGINIA DEVELOPMENT OFFICE

for
David C. Satterfield, Executive Director

WYOMING COUNTY COMMISSION

H. Russell Davis, President

FEDERAL EMPLOYER IDENTIFICATION NUMBER

55-6000491-001
F.E.I.N.

6. Activity Name:

Cost Category	SCBG Funds	Other Funds	Source of Other Funds	Available (Yes or No)	Total Cost
Administration	$ 86,000	$			$ 86,000 ✓
Arch/Engineer	$ 250,000	$ 1,302,000	LIDC, EDA, SDWF*	No	$ 1,552,000 ✓
Land Acquisition	$ 350,000	$			$ 350,000 ✓
Relocation	$	$			$
Demo/Clearance	$	$			$
Construction	$ 2,234,000	$ 9,655,000	LIDC,EDA, SDWF*	No	$ 11,889,000 ✓
Housing	$	$			$
Planning Only	$	$			$
LMI Assessments	$	$			$
Project Attorney	$ 80,000				$ 80,000 ✓
Other (Cost of Financing	$	$ 330,000	LIDC, EDA, SDWF*		$ 330,000 ✓
Project Cont.	$	$ 300,000 ✓	LIDC, EDA, SDWF*		$ 300,000 ✓
Total	$ 3,000,000 ✓	$ 11,587,000 ✓			$ 14,587,000 ✓

Attach Cost Estimates and documentation regarding the "Status" of other Funds. If other funds are not currently available for expenditure, list the milestones to be achieved to obtain the other funds and estimated dates when the milestones will be achieved.

MILESTONE ESTIMATED DATE

*Potential funding sources include COE, DEP-AML and Arc in addition to those listed in the columns above. No funds have been committed at this time.

LIST PRIMARY ACTIVITIES	SCBG DOLLARS	FOR STATE USE—IDIS			
Administration	$ 86,000	HUD Matrix Code	Amount		HUD Activity #
Water System Const.	$ 2,914,000				

SECTION 4

Assurances

Community Development Block Grant
Small Cities Program

The applicant hereby assures and certifies that:

A. It possesses legal authority to apply for the grant and to execute the proposed program.

B. Its governing body has duly adopted or passed as an official act a resolution, motion or similar action authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

C. Prior to submission of its application to the state, the applicant has met the citizen participation requirements of the Act.

D. It will not attempt to recover any capital costs of public improvements assisted in whole or in part with the Title I funds by assessing any amount against properties owned and occupied by persons of low-and moderate-income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless: (a) Title I funds are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than Title I funds; or (b) for purposes of assessing any amount against properties owned and occupied by persons of low-and moderate-income who are not persons of very low income, it certifies to the state that it lacks sufficient Title I funds to comply with the requirements of clause (a).

E. It is following a **written and detailed** citizen plan which:

1. provides for and encourages citizen participation, with particular emphasis on participation by persons of low-and moderate-income who are residents of slum and blight areas and of areas in which funds are proposed to be used and provides for participation of residents in low-and moderate-income neighborhoods as defined by the local jurisdiction.

2. provides citizens with reasonable and timely access to local meetings, information, and records relating to the grantee's proposed use of funds, as required by regulations of the Secretary of the
U. S. Department of Housing and Urban Development and relating to the actual use of funds under this title;

3. provides for technical assistance to groups representative of low-and moderate-income that request such assistance in developing proposals with the level and type of assistance to be determined by the grantee;

4. provides for public hearings to obtain citizen views and to respond to proposals and

questions at all stages of the community development program, including at least the development needs, the review of proposed activities, and review of program performance, the hearings which shall be held after adequate notice, at times and location convenient to potential or actual beneficiaries, and with accommodations for the handicapped.

5. provides for a timely written answer to written complaints and grievances within 15 working days where practicable; and

6. identifies how the needs of non-English speaking residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate.

F. The applicant further certifies that it has, prior to submitting its Final Statement to the state:

1. furnished citizens with information concerning the amount of funds available for proposed community development and housing activities and the range of activities that may be undertaken, including the estimated amount proposed to be used for activities that will benefit persons of low-and moderate-income and plans for minimizing displacement of persons as a result of activities assisted with such funds and to assist persons actually displaced as a result of activities;

2. developed a community development plan for the grant period that identifies community development and housing needs and specifies both short-and long-term community development objectives that have been developed in accordance with the primary objectives and requirements of the Act and, if the activities selected serve beneficiaries that are not residents of its jurisdiction, has determined that the activities selected are meeting its needs in accordance with section 106(d)(2)(D) of the Act;

3. published a proposed statement in such manner and in sufficient detail to afford affected citizens an opportunity to examine its content and to submit comments on the proposed statement and on the community development performance of the applicant;

4. provide adequate notice of public hearings;

5. held one or more public hearings to obtain the view of citizens on community development and housing needs;

6. considered all comments and views prior to completing the Final Statement; and

7. made the Final Statement available to the public.

G. Its chief executive officer or other officer.

1. Consents to assume the status of a responsible federal official under the National Environmental Policy Act of 1969; and

2. authorizes and consents on behalf of the applicant and himself/herself to accept the

jurisdiction of the federal courts for the purpose of enforcement of their responsibilities as such an official.

H. The Community Development Program has been developed so as to give maximum feasible priority to activities which will benefit low-and moderate-income families; meet other community development needs having particular urgency because an existing condition poses a serious immediate threat to the health and welfare of the community , and other financial resources are not available to meet such needs; or aid in the prevention or elimination of blighted or deteriorated areas.

I. It will comply with the regulations, policies, guidelines and requirements of the state as they relate to the application, and acceptance and use of funds to include Subpart I of 24 CFR 570 and supplemental parts of 24 CFR Part 570 as specifically made applicable by the state to the extent expressly referred to.

J. It will administer and enforce the labor standards requirement set forth in 24 CFR 570.603 and HUD regulations issued to implement such requirements.

K. It will comply with all requirements by the state and/or federal government concerning special requirements of law, program requirements and other administrative requirements.

L. It will comply with the provisions of Executive Order 11988 relating to evaluation of flood hazard and Executive Order 11990 relating to the prevention, control and abatement of water pollution.

M. Its notification, inspection, testing and abatement procedures concerning lead-based paint will comply with 24 VFR 570.487 and procedures adopted by the state.

N. It will require every building or facility (other than a privately-owned residential structure) designed, constructed, or altered with funds provided under this part, to comply with the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," Number A-117.1R-1971, subject to the exceptions contained in 41 CFR 101-19.604. The applicant will be responsible for conducting inspections to ensure compliance with these specification by the contractor.

O. It will comply with;

1. Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352) and the regulations issued pursuant thereto (24 CFR Part 601) which provides that no persons in the United States shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefit of, or be otherwise subjected to discrimination under any program or activity for which the applicant received federal financial assistance, and will immediately take any measures necessary to effectuate this assurance. If any real property or structure thereon is provided or improved with the aid of federal financial assistance extended to the applicant, this assurance shall obligate the applicant or, in the case of any transfer of such property, any transfer, for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits.

2. Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284), as amended, administering all programs and activities relating to housing and community development in a manner to affirmatively further fair housing; and will take action to affirmatively further fair housing in the sale or rental of housing, the financing of housing, and the provision of brokerage services.

3. Section 109 of the Housing and Community Development Act of 1974, and the regulations issued pursuant thereto (24 CFR Part 570.602), which provides that no persons in the united States shall, on the grounds of race, color, national origin, religion or sex, by subjected to discrimination under any program or activity funded in part with funds provided, including discrimination on the basis of age under the Age Discrimination Act of 1975, or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973 and the regulations issued pursuant thereto (24 CFR Part 8.)

4. Executive Order 11063 on equal opportunity in housing and nondiscrimination in the sale or rental of housing built with federal assistance.

5. Executive Order 11246 and the regulations issued pursuant thereto (24 CFR Part 130 and 41 CFR Chapter 60), which provides that no persons shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of federal or federally assisted construction contracts. Contractors and subcontractors on federal and federally assisted construction contracts shall take affirmative action to ensure fair treatment in employment upgrading, demotion or transfer; recruitment or recruiting; advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training and apprenticeship.

P. It will comply with Section 3 of the Housing and Urban Development Act of 1968, as amended, requiring that, to the greatest extent feasible, opportunities for training and employment be given to lower-income residents of the project area and contracts for work in connection with the project be awarded to eligible business concerns which are located in, or owned in substantial part by persons residing in, the area of the project.

Q. Will comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and Federal Implementing Regulation at 49 CFR Part 24, and the requirements of Section 570.488, and is following a residential anti-displacement and relocation assistance plan under section 104(d) of the Act, and will minimize displacement of persons as a result of activities assisted with CDBG funds.

R. It will establish safeguards to prohibit employees from using positions for a purpose that is, or gives the appearance of being, motivated by a desire for a private gain for themselves or others, particularly those with who, they have family, business, or other ties as required by State Law and 24 CFR 570.489(h).

S. It will comply with the provisions of the Hatch Act which limits the political activity of employees.

T. It will give the State of West Virginia, HUD, and the General Accounting Office, through any

authorized representative, access to and the right to examine all records, books, papers or documents related to the grant.

U. It will ensure that the facilities under its ownership, lease, or supervision which shall be utilized in the accomplishments of the program are not listed on the Environmental Protection Agency's (EPA) List of Violating Facilities, and it will notify the state of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project under construction for listing by EPA.

V. It will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973, P. L. 93-234, 97 Stat. 875, approved December 31, 1973. Section 103(a) required on and after March 2, 1974, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any federal assistance for construction or acquisition purposes for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards. The phrase "federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any form of director or indirect federal assistance.

W. It will, in connection with its performance of environmental assessments under the National Environmental Policy Act of 1969, comply with Section 106 of the National Historic Preservation Act of 1968 (16 U.S.C. 470), Executive Order 11593, and the Preservation of Archaeological and Historical Data Act of 1966 (16 U.S.C. 468a-11 et. Seq.) by:

1. Consulting with the State Historic Preservation Officer to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to adverse effects (see 26 CFR Part 800.8) by the proposed activity, and

2. Complying with all requirements by HUD to avoid or mitigate adverse effects upon such properties.

X. It will provide and maintain competent and adequate architectural engineering supervision and inspection at all construction sites to ensure that the complete work conforms to the approved plans and specifications and that all contract provisions have been complied with.

Y. It will not use funds directly or indirectly to employ, award contracts to, or otherwise engage the services of a debarred, suspended, or ineligible contractor or subcontractor.

Z. It will assume responsibility to ensure that all program funds are accounted for consistent with program objectives and all federal, state, and local laws and regulations.

AA. It will cause the project to be audited in accordance with OMB Circular A-133, and will promptly refund to the state any funds received that are not supported by audit.

BB. It certifies to the best of its knowledge and belief, that:

1. No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any persons for influencing or attempting to influence an officer or

employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

2. If any funds other than federal appropriated funds have been paid or will be paid to any persons for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit standard Form-LL, "Disclosure Form to Report Lobbying" in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontractors, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

CC. It has been adopted and is enforcing a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individual engaged in nonviolent civil rights demonstrations; and is enforcing applicable state and local laws against physical barring entrance to or exit from a facility or locations which is the subject of such non-violent civil rights demonstrations within its jurisdiction.

DD. It is in compliance with the provisions of Section 504 of the HUD Act, or will take appropriate steps to ensure compliance.

EE. It will comply with Section 102 of the HUD Reform Act of 1989, and CFR Part 12 in regard to the disclosure of interest in projects exceeding $200,000 in the aggregate.

S. Randall Brewer

Name

S. Randall Brewer, Mayor, City of Mullens
Chief Elected Official

City of Mullens

316 Moran Avenue
Mullens, WV 25882
(304) 294-7132

February 28, 2002

MAR 15 2002

William F. Spence, CCD
Small Cities Block Grant Coordinator
West Virginia Development Office
Building 6, Room B-553
State Capitol Complex
Charleston, WV 25305-0311

RE: EWPSD Water HUD SCBG
01SCBG0006X

Dear Mr. Spence:

This letter is to officially inform you that the City of Mullens agrees that the Wyoming County Commission act as lead entity for their project implementation.

As you know circumstances have changed since Mullens agreed to act as the lead entity. With the creation of the Eastern Wyoming Public Service District and their relation to the Commission it makes sense for this change.

We appreciate all of your efforts on helping us to realize their project. We wish that all agencies were as helpful as WVDO in matters such as this.

If you have any additional questions feel free to contact David Cole, Assistant Executive Director, with the Region I Planning and Development Council.

Sincerely,

Randy Brewer

Randy Brewer
Mayor

RB:

pc: Region I PDC

WestVirginia USA West Virginia Development Office

March 20, 2002

The Honorable H. Russell Davis
President
Wyoming County Commission
Drawer 309
Pineville, West Virginia 24874

Dear Commissioner Davis:

RE: **FY2001 Small Cities Block Grant**
City of Mullens—Eastern Wyoming County Public Service District
Project Number: 01SCBG0006X

Thank you for your recent correspondence regarding the above-referenced project.

It is my understanding that the City of Mullens and the Wyoming County Commission have requested that the Small Cities Block Grant (SCBG) of $600,000, awarded to the City of Mullens, be transferred to the Wyoming County Commission. Since all SCBG funds will be utilized in areas outside of the City of Mullens, the county (by SCBG regulations) should serve as the lead entity in implementing these funds. It is important to note that with the creation of the Eastern Wyoming County Public Service District, which will own and operate the water system, the county is required to serve as the lead entity. Additionally, because this grant did not fund any activities within the City of Mullens, this transfer of ownership will have no adverse effect on the residents of the city.

Your request to transfer ownership of this grant is approved; however, this approval is contingent upon the grant retaining the original project activities as described in the grant application.

Please be advised that the transfer of this grant is without prejudice and in no way will affect the City of Mullens or the Wyoming County Commission as eligible applicants for future SCBG funds. Should you have any questions, please contact Ms. Lisa Green, your Community Development Representative, or me at (304) 558-4010.

Sincerely,

Bobby Lewis, Director
Community Development Division

BL:ld

cc: Region I Planning and Development Council
Marcie Baker, WVDO
T. White, WVDO

Wyoming County Commission

Drawer 309
Pineville, West Virginia 24874
Telephone 304/732-8000
FAX 304/732-9659

MAR 1 1 2002

D. Michael Goode, Clerk

Members of County Commission

Ed Harless *H. R. Davis* *Harold Hayden*

February 28, 2002

William F. Spence, CCD
Small Cities Block Grant Coordinator
West Virginia Development Office
Building 6, Room B-553
State Capitol Complex
Charleston, WV 25305-0311

RE: EWPSD Water HUD SCBG
01SCBG0006X

Dear Mr. Spence:

After discussion with all parties involved with this project the Commission agrees to act as the lead entity for the HUD funds, on behalf of all involved parties, in the implementation of this project.

If you have any questions please feel free to contact David Cole, Assistant Executive Director, with the Region I Planning and Development Council.

Sincerely,

H. R. Davis
President

HRD:

pc: Region I PDC

Wyoming County Commission

Drawer 309
Pineville, West Virginia 24874
Telephone 304/732-8000
FAX 304/732-9659

APR - 8 2002

D. Michael Goode, Clerk

Members of County Commission

Ed Harless *H. R. Davis* *Harold Hayden*

RESOLUTION

WHEREAS, The Wyoming County Commission has recently received a Small Cities Block Grant award for the Eastern Wyoming Public Service District and the Mullens/Wyco Water Project.

AND WHEREAS, the Wyoming County Commission must enter into a written agreement with the West Virginia Development Office to implement this grant;

BE IT HEREBY RESOLVED that the Wyoming County Commission does hereby accept the conditions of the said contract and does hereby authorize their President, H. R. Davis, to sign all papers necessary for said grant.

Approved and signed this the 3rd day of April 2002..

/s/ H. R. Davis, President

/s/ Ed Harless, Commissioner

/s/ Harold Hayden, Commissioner

STATE OF WEST VIRGINIA
OFFICE OF THE GOVERNOR
CHARLESTON 25305

RECEIVED
FEB 0 3 2003
REGION I PDC

BOB WISE
GOVERNOR

January 28, 2003

Mr. Dallas Cecil
Chairman
Eastern Wyoming County Public Service District
Post Office Box 907
Mullens, West Virginia 25882

Dear Mr. Cecil:

I am pleased to inform you that I have reviewed the Eastern Wyoming County Public Service District project application in the amount of $1,000,000.00 for Appalachian Regional Commission assistance, and I am approving the project for the Commission's review.

This project, the WYCO/Mullens Water Extension, will assist the Eastern Wyoming PSD and the City of Mullens with the development of a new water supply and treatment system that will replace seven small private water systems in Wyoming County. The proposed upgraded system will serve 1,549 customers with quality potable water.

I must advise you that we will forward more projects for review than there are funds available. This ensures back-up projects in the event some cannot be funded for technical reasons. It also puts us in a position to obtain funds that may be unused by other states at the close of fiscal year 2003. Therefore, you must not proceed with this project until you have been officially notified that it has been approved by the Commission.

I am pleased to work with you to make this improvement a reality for the citizens of West Virginia.

Very truly yours,

Bob Wise
Governor

BW:tsh

cc: Region I

WEST VIRGINIA DEVELOPMENT OFFICE
GRANT AWARD

	Grant Number: 04-690
CFDA Number: 23.002	**State Acct. No.:** 8705-2004-0307-096-128
Fiscal Year: 2004	**Program Name:** ARC

Grantee Name & Address:

Wyoming County Commission
Post Office Box 309
Pineville, WV 24874

F.E.I.N. 556-000-421

Grant Period:
From: August 7, 2003
To: August 7, 2006

Project Name: Wyco Water

Grant ID: A-03-DC-54-0001

Project Number: 03ARCP14595

Project Description

Shall do, perform and carry out, in a satisfactory and proper manner all duties, tasks, and functions necessary to construct a regional water system for the Eastern Wyoming County Public Service District.

Change Orders

Number:	Date:	Purpose:

TERMS AND CONDITIONS ARE ON FILE IN THE WEST VIRGINIA DEVELOPMENT OFFICE AND AVAILABLE FOR INSPECTION. A COPY OF THE ORIGINAL AGREEMENT IS ATTACHED TO TRANSMITTAL _____, PROCESSED ON OR ABOUT _____.
PAYMENT NUMBER _____.

Submitted By: Michael Browning

TOTAL AMOUNT OF THIS GRANT $1,000,000.00

Authorized Signature: _____

Title: Executive Director

Date: 4/27/2004

West Virginia USA West Virginia Development Office

February 23, 2004

The Honorable H. Russell Davis
President
Wyoming County Commission
P.O. Box 309
Pineville, West Virginia 24874

Dear Commissioner Davis:

RE: **FY2003 Appalachian Regional Commission Grant Program**
Wyoming County Commission
Eastern Wyoming County Public Service District Water System
Project Number: WV-14595-03-I-214

Congratulations on Governor Wise's recent Appalachian Regional Commission award to the Wyoming County Commission for the construction of a regional water system for the Eastern Wyoming County Public Service District. The award letter was the first step in securing the State/Local Contract and Release of Funds for the project.

State/Local Contract Requirements

The enclosed contract is the grant agreement for this project. Please execute the agreement, and include a resolution accepting the conditions of this contract and authorizing your signature on the last page. The Community Development Division may cancel the grant and reallocate the grant funds if the grant agreement is not prepared, signed, and processed within 30 days of the date of this letter.

Release of Funds Requirements

Please note that at this time you may not incur costs to be reimbursed with ARC funds except for those costs relating to administration, engineering, and planning, as applicable. Otherwise, you may not obligate any other project funds until you have received a Notice of Approval of Evidentiary Materials and Release of Funds from the West Virginia Development Office. In order to secure the release of funds, you must first submit a Request for Approval of Evidentiary Materials and Release of Funds. We have enclosed a listing of all required documents that comprise this document.

All requested documentation must be submitted simultaneously with the request. You must complete these tasks within 120 days of the date of this letter. Failure to fulfill these requirements by the prescribed date may also lead to withdrawal of the ARC funds. An extension can only be granted through the submission of a letter from the grantee detailing the justification for the specific information that cannot be submitted within this time frame. The request for an extension must be submitted 30 days **prior** to the 120-day deadline date.

The SCBG Handbook provides a step-by-step guide on how to obtain release of funds, meet environmental requirements, meet all federal and state SCBG requirements, and successfully complete your project. Your project administrator will be provided with a copy of this handbook.

If you have any questions concerning the requirements of this letter, please contact Michael Browning or me at (304) 558-4010.

Sincerely,

Tracey Rowan, Manager
Project Development Section
Community Development Division

TR:mbs

Enclosures

cc: Region I PDC

EVIDENTIARY MATERIALS

PROJECT NAME:
Eastern Wyoming County Public Service District Water System

PROJECT NO.: WV-14595-03-I-214

(1) A detailed Project Performance Schedule which shows project completion within 36 months from the date of the grant agreement.

(2) Certification of Financial Management System Compliance with the "Common Rule," 24 CFR Part 85, requirements.

(3) Environmental certification (per 24 CFR Part 58) with all applicable forms and backup documentation.

(4) Certification of Commitments of Other Funds and copies of letters of commitment.

(5) Copy of approved Residential Anti-displacement and Relocation Assistance Plan.

(6) Disclosure Form Update.

(7) Copy of approved Procurement Standards.

(8) Insert other information specifically requested here.

APPALACHIAN REGIONAL COMMISSION GRANT CONTRACT
between the
WEST VIRGINIA DEVELOPMENT OFFICE
and the
WYOMING COUNTY COMMISSION

THIS AGREEMENT, entered into this fourth day of September, 2003 by the West Virginia Department of Finance and Administration on behalf of the West Virginia Development Office, hereinafter called the "State," and the Wyoming County Commission and its authorized officers, agents, and representatives, hereinafter called the "Grantee."

WITNESS THAT:

WHEREAS, the State has elected to administer an Appalachian Regional Commission Grant WV-14595-03-I-214, approved on August 7, 2003, under Section 214 of the Appalachian Region Commission Act of 1965, as amended, subject to the applicable regulations of the Department of Housing and Urban Development, including but not limited to 24 CFR Part 570, Sub-Part I, as amended or revised, and subject to the scope of the State of West Virginia's Grants Management Handbook and other Program Guidelines, receipt of which is hereby acknowledged by the Grantee.

WHEREAS, the Grantee has identified its housing and community development needs, including those of low- and moderate-income persons and the activities to be undertaken to meet such needs.

WHEREAS, the Grantee has prepared a written citizen's participation plan which provides opportunities for citizen participation, hearings, and access to information with respect to the proposed project statement in such a manner as to afford affected citizens an opportunity for examination and comment regarding the proposed project and on the community development performance of the Grantee, a Community Development Plan, and an Anti-displacement and Relocation Assistance Plan.

WHEREAS, for audit purposes, the Catalog of Federal Domestic Assistance number is 23.002, Appalachian Supplements to Federal Grant-in-Aid (Area Development), Appalachian Regional Commission, funded by the Appalachian Regional Commission.

WHEREAS, the Grantee has requested assistance from the State and has offered assurances that maximum feasible priority has been given to activities which will benefit low- and moderate-income families, or aid in the prevention or elimination of slums or blight, or to meet other community needs having a particular urgency because an existing condition poses a serious and immediate threat to the health and welfare of the community where other financial resources are not available to meet such needs.

NOW, THEREFORE, the parties hereto do mutually agree as follows:

1. **Assistance to Grantee**. The State shall obligate to the Grantee, from funds allocated to the State by Grant Agreement A-03-DC-54-0001; $1,000,000.00 to perform such tasks hereafter described in the Scope of Services.

2. **Scope of Services**. The Grantee, or its designated agent, in accordance with the Small Cities Block Grant Handbook other Program Guidelines to be used in administration of the Appalachian Regional Commission Grant, and in accordance with the approved application of the Grantee which is attached hereto and made a part hereof as Attachment A, shall do, perform, and carry out, in a satisfactory and proper manner all duties, tasks, and functions necessary to assist the Wyoming County Commission to construct a regional water system for the Eastern Wyoming County Public Service District.

3. **Changes**. The State and the Grantee, from time to time, may require changes in the Scope of the Services of the work to be performed hereunder. Such changes, including any increase or decrease in the amount of the Grantee's compensation and work to be performed which are mutually agreed upon by and between the State and the Grantee, shall be incorporated in written amendments to this Contract. Major changes in the Scope of Services which substantially deviate from that originally approved shall require the same citizen participation process as

performed for the initial submission of the grant proposal. The State reserves the right to make final determination on questions regarding changes in the Scope of Services.

4. **Time of Performance**. The Grantee will commence its duties under this Contract on August 7, 2003 and such duties shall be undertaken and completed in such sequences as to assure their expeditious completion in light of the purpose of the Contract; but, in any event, all of the services required hereunder shall be completed by August 7, 2006. Completion date of this Contract may only be extended by mutual written agreement of both parties.

5. **Performance Measures**. Performance measures establish that the Grantee should have all other funding in place and design and engineering completed within twelve months. Furthermore, construction should be started within eighteen months after the execution of this Agreement by both parties. These performance measures establish goals against which performance under this contract can be measured and evaluated during regular scheduled monitoring visits by the State. Failure to meet these performance measures can result in termination of this contract (see Provision 10 of this agreement).

6. **Administrative Requirements and Procedures**.

(A) *Personnel.* The Grantee represents that it has or will secure personnel with the necessary qualifications and experience required to perform the services under this Contract. Such personnel shall not be employees of, or have any contractual relationship with the State, consistent with the procedures identified in the Small Cities Block Grant Handbook.

(B) *Applicable Law.* The Grantee, its agents, and subrecipients shall comply with all the restrictions, conditions, policies, guidelines, and requirements of Title I of the Housing and Community Development Act of 1974 (Public Law 93-383), as amended; with all applicable State and Federal Laws and regulations including 24 CFR Part 570; 24 CFR Part 85; OMB Circulars A-87, A-110, A-122, and A-133, as applicable, in administering and distributing funds provided under this Agreement including, but not limited to, the following:

(1) P.L. 88-352: Refers to Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et. seq.) which provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. Implementing regulations are found in 24 CFR Part I.

(2) P.L. 90-284: Refers to Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601-20 et. seq.) popularly known as the Fair Housing Act which provides for fair housing throughout the United States and prohibits any person from discriminating in the sale or rental of housing, the financing of housing, or the provision of brokerage services, including otherwise making unavailable or denying a dwelling to any person, because of race, color, religion, sex, national origin, handicap, or familial status. The Grantee further certifies that it will take actions necessary to affirmatively further fair housing.

(3) Executive Order 11063, as amended by Executive Order 12259, requires that taking of all actions necessary and appropriate to prevent discrimination because of race, color, religion (creed), sex, or national origin, in the sale, leasing, rental, or other disposition of residential property and related facilities (including land to be developed for residential use), or in the use of occupancy thereof. Implementing regulations are contained in 24 CFR 107.

(4) Section 109 of P.L. 93-383 requires that no person in the United States shall, on the grounds of race, color, national origin or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with community development funds.

Section 109 of the Act further provides any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et. seq.) or with respect to an otherwise qualified handicapped person as provided in Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) shall also apply.

(5) Section 110 of P.L. 93-383 requires compliance with the Davis-Bacon Act, as amended (40 U.S.C. 276a - 276a-5). By reason of the foregoing requirement,

the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et. seq.) also applies. In addition , the West Virginia Act on Construction of Public Improvements, Article 5A, Chapter 21 of the West Virginia Code applies.

(6) Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701U) requiring that to the greatest extent feasible opportunities for employment and training be given to lower income persons residing within the unit of local government or metropolitan area or nonmetropolitan county in which the project is located, and that Contracts for work in connection with the project be awarded to eligible business concerns which are located in, or owned in substantial part by, persons residing in the same area.

(7) Executive Order 11246, as amended by Executive Order 12086 shall apply and provides that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of Federal or Federally assisted construction contracts.

(8) Lead-Based Paint Poisoning Prevention Act (42 U.S.C, 4831b) prohibits the use, and requires the elimination and/or abatement of the hazards of lead-based paints in residential structures constructed or rehabilitated with Federal assistance to include notification of the hazards of lead-based paint. The Lead Safe Housing Regulation (24 CFR Part 35) established the requirements for notification, evaluation, and reduction of lead-based paint hazards in federally-owned residential property and housing that receives federal assistance.

(9) The Grantee agrees to assume all of the responsibilities for environmental review, decision making, and action as specified and required in regulations issued by the Secretary of Housing and Urban Development pursuant to Section 104(g) of the Act and published in 24 CFR Part 58. In addition to assuming responsibility for National Environmental Policy Act (P.L. 91-190), the Grantee must take into account, where applicable, the criteria, standards, policies, and regulations of the following: (a) Historic Preservation Act of 1966; (b) Executive Order 11593; (c) The Reservoir Salvage Act of 1960; (d) Flood Disaster Protection Act of 1973; (e) Executive Order 11988, Floodplain

Management; (f) Executive Order 11990, Protection of Wetlands, (g) Coastal Zone Management Act of 1972; (h) the Safe Drinking Water Act of 1974; (i) the Endangered Species Act of 1973; (j) the Wild and Scenic Rivers Act of 1968; (k) the Clean Air Act ; (l) Environmental Criteria and Standards (44 FR 40860-40866, July 12, 1979); (m) 24 CFR Part 51, Subpart B, Noise Abatement and Control; (n) Subpart C - Siting of HUD Projects Near Hazardous Operations Handling Conventional Fuels or Chemicals of an Explosive or Flammable Nature; (o) and Subpart D - Siting of HUD Projects in Runway Clear Zones and Accident Potential Zones at Military Airfields. Before committing any funds (other than for exempt activities), the Grantee must certify to the State that it has complied with all requirements and obligations that are set forth by 24 CFR Part 58. In addition, the Grantee must submit all requested Evidentiary Material to the State for approval prior to the obligation of any funds (other than for exempt activities).

(10) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4601) and HUD implementing regulations at 24 CFR Part 42 apply to the acquisition of real property for an activity assisted under this part and to the displacement of any family, individual, business, nonprofit organization or farm that results from such acquisition. The West Virginia Code, Chapter 54-3 also applies.

The Grantee must certify compliance with URA. Under Section 104(d) of the Act, each Grantee must adopt, make public and certify that it is following a residential anti-displacement and relocation assistance plan providing one-for-one replacement units and relocation assistance. The plan must also indicate the steps that will be taken to minimize the displacement of persons from their homes as a result of any activities assisted under this part all in accordance with 24 CFR Part 570.488(b).

(11) The State and the Grantee will comply with the provisions of the Department of Treasury Circular 1075 and/or the State's Small Cities Block Grant Handbook, as revised, in the process of requesting and administering funds from the State's Letter of Credit.

(12) Funds provided under this agreement shall not be expended for acquisition or construction purposes in an area that has been identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards unless the community in which the area is situated is participating in the National Flood Insurance Program; and flood insurance is obtained in accordance with Section 102(a) of the Flood Disaster Protection Act of 1973.

(C) *Accounting.* The Grantee will establish a separate account for the proper recording of project costs in accordance with generally accepted accounting principles and procedures so as to reflect all receipts and allowable expenditures, including program income in connection with the said project and the purpose thereof. PI generated prior to project closeout must be expended as received for project related activities in accordance with 24 CFR 570. If the Grantee received less that $25,000 per state fiscal year in program income after closeout, the dollars received are not subject to provision of 24 CFR 570 and may be used at the Grantees discretion. If program income exceeds $25,000 in any given state fiscal year after closeout, all program income earned must be expended in accordance with 24 CFR 570.489.

(D) *Audit.* Pursuant to provisions of Chapter 6, Article 9, Section 7 of the West Virginia Code, the Community Development Division has adopted the policy of accepting annual financial audits contracted or performed by the State Auditor's Office. The Grantee will include these funds to be audited with its yearly organization-wide audit. Audits shall be conducted in accordance with the provisions of the Office of Management and Budget (OMB) Circular A-133, and with standards established by the Comptroller General as specified in Standards for Audit of Governmental Organizations, Programs, Activities, and Functions. Units of local government will make audit reports available for public inspection within thirty (30) days after the completion of the audit.

(E) *Record Retention.* Financial records, supporting documents, statistical records, and all other records pertinent to the grant shall be retained for a period of three years, with the following qualifications:

(1) If any litigation, claim, or audit is started before the expiration of the three-year period, the records shall be retained until all litigations, claims, or audit findings involving the records have been resolved.

(2) Records for nonexpendable property acquired with Federal funds shall be retained for three years after its final disposition.

(3) Records for displacement shall be retained in accordance with the Small Cities Block Grant Handbook.

(4) The retention period starts from the date of the issuance of the final audit report.

(F) *Access to Records.* The Grantee shall, at any time during normal business hours and as often as the State or its designated representatives deem necessary, make available for examination all records, books, accounts, reports, files, and other papers, things or property of the Grantee with respect to the matters covered by this Contract. All negotiated contracts awarded by the Grantee shall include a provision that the Comptroller General or any duly authorized representative of the State or HUD shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to a specific grant program for the purpose of making audit, examination, excerpts, and transcriptions.

(G) *Repayment.* The Grantee shall refund to the State or Federal government any expenditures determined to be made for an ineligible purpose for which Federal funds were received.

(H) *Competitive Procurement Procedures.* All procurement transactions, including professional services, regardless of whether negotiated or advertised and without regard to dollar value, shall be conducted in a manner that provides maximum open and free competition consistent with procedures identified in the Small Cities Block Handbook, 24 CFR Part 85, and with applicable local or State law.

The Grantee shall procure architect/engineer services in accordance with Chapter 5G of the West Virginia State Code and be in compliance with 24 CFR Part 85.

The Grantee shall procure construction contracts in accordance with Chapter 5-22-1 of the West Virginia State Code and be in compliance with federal regulations 24 CFR Part 85.

The Grantee shall solicit sealed bids for all construction-related contracts or supplies related to their project which has an estimated value of over $25,000. All transactions under $25,000 whether construction-related contracts, supplies, or professional services should be procured in a manner that provides maximum open and free competition and files are to be maintained to document such activities. Any attempts by the Grantee to segregate the project into sections in order to circumvent competitive procurement may be cause for termination of this Agreement under the provisions of Paragraph 9. These bids shall be obtained by public notice as a Class II legal advertisement in compliance with the provisions of Article Three, Chapter Fifty-Nine of the Code of West Virginia. This notice shall be published by the Grantee in the newspaper with the largest circulation serving the general area within a period of fourteen consecutive days with at least an interval of six full days within such period between the date of the first publication and the date of the second publication preceding the final date of submitting bids. The Grantee shall also, where feasible, solicit sealed bids by listing the project in the F. W. Dodge Reports, sending requests by mail to prospective suppliers or contractors, sending notification to the State's Small Business Development Center Division, and by posting notice on a bulletin board in a public place. The Grantee shall have available upon request for review by the State or its designated representative, bid documents and other evidence of compliance with these procedures. The resolution of bid and contract disputes is the responsibility of the Grantee.

Grantees have the ability to procure professional and construction services, therefore, the design-build method (5-22A-1). Public agencies can only utilize design-build on building project. Highways, water, sewer, and all other public works projects are specifically prohibited from using the design-build method.

(l) *Bonding and Insurance.* As otherwise required by law, a grant that requires the contracting or subcontracting for construction or facility improvements under

$100,000 shall provide for the Grantee to follow local or State requirements relating to bid guarantees, performance bonds, and payment bonds provided that the Grantee's and State's interest is adequately protected and that such contracts can be executed in a timely manner; otherwise, bonding requirements shall be the same as for contracts exceeding $100,000. If the contracts or subcontracts exceeds $100,000, the minimum bonding and insurance requirements shall be as follows:

(1) A bid guarantee from each bidder equivalent to five percent of the bid price. This bid guarantee shall consist of a firm commitment such as bid bond, certified check, or other negotiable instrument accompanying a bid that the bidder will, upon acceptance of the bid, execute the contractual documents as may be required within the time specified.

(2) A performance bond on the part of the contractor for 100 percent of the contract price. This performance bond shall be executed by the successful contractor in connection with a contract to secure fulfillment of the contractor's obligations under such contract.

(3) A payment bond on the part of the contractor for 100 percent of the contract price. This payment bond shall be executed in connection with a contract to assure payment is required by law of all persons supplying labor or materials in the execution of the work provided for in the Contract.

(J) *Facilities Operation.* The Grantee shall operate and maintain all facilities to which the general public has right of access constructed under the auspices of this Contract in accordance with minimum standards as may be required or prescribed by the applicable Federal, State and local statute, law, ordinance, or regulation as to actual construction procedures. The Grantee shall be responsible for maintenance and operation of such facilities upon completion. The Grantee may not change the use or planned use of any such facility (including the beneficiaries of such use) from that purpose initially approved unless the Grantee provides affected citizens with reasonable notice thereof and opportunity to comment on any proposed change all in accordance with 24 CFR Part 570.489(j).

(K) *Conflict of Interest.* No officer, agent, consultant, employee, elected or appointed official of the State, the Grantee, or any public agency or subrecipient receiving Community Development Block Grant funds who exercises or has exercised any function or responsibilities with respect to activities assisted with Community Development Block Grant funds or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from such activity or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one (1) year thereafter. The conflict of interest provision of 24 CFR 85.36; 24 CFR 570.489 (g) and (h); and OMB Circular A-110 also apply as appropriate.

7. **Recovery of Capital Costs.** The Grantee will not attempt to recover any capital costs of public improvements assisted in whole or in part with funds from this program by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements unless: (a) funds received are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from other revenue sources; or (b) for purposes of assessing any amount against properties owned and occupied by persons of low and moderate income who are not persons of very low income, the Grantee certifies to the State of West Virginia that it lacks sufficient funds received under the program to comply with the requirements of clause (a).

8. **Method of Payment.** In order to receive any and all payments under the terms of this Agreement, the Grantee shall submit the following: (a) a Letter of Transmittal containing a progress report, and (b) a Request for Payment Financial Report. Upon receipt of said documents, the State shall review the same for reasonableness, appropriateness and eligibility and, if approved, will cause a warrant to be made on that sum to the Grantee for

authorized expenditures from the State's Letter of Credit with the Department of Housing and Urban Development.

9. **Cost Underuns**. The State reserves the right to recapture all SCBG funds remaining due to cost underuns. The amount to be recovered will be prorated and proportional to the percent of actual total project expenditures.

10. **Termination of Contract for Cause**. If, through any cause, the Grantee shall fail to fulfill in a necessary and proper manner its obligations under this Contract or if the Grantee shall violate any of the covenants, agreements, or stipulations of this Contract, the State shall thereupon have the right to terminate this Contract by giving written notice to the Grantee to such termination and specifying the effective date thereof, at least fifteen days before the effective date of such termination. The Grantee shall be entitled to receive just and equitable compensation for any satisfactory work completed on the described project.

Notwithstanding the above, the Grantee shall not be relieved of liability to the State for damages sustained by the State by virtue of any breach of the Contract by the Grantee, and the State may withhold any payments to the Grantee for the purpose of off-setting those damages until such time as the exact amount of damages due the State from the Grantee is determined.

11. **Termination for Convenience of the State**. The State may terminate this Contract at any time by giving written notice to the Grantee of such termination and specifying the effective date of termination. If the Contract is terminated by the State as provided herein, the Grantee will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the Grantee covered by this Contract, less payments of compensation previously made.

12. **Termination by the Grantee**. The Grantee may unilaterally rescind this Agreement at any time prior to the commencement of the project. After project commencement, this Agreement may be rescinded, modified, or amended only by mutual agreement. A project shall be deemed commenced when the State makes any expenditure or incurs any obligation with respect to the project.

13. **Reporting**. A Final Performance Report shall be submitted to the State with the final request for payment for project costs, excluding audit. Said Performance Report shall be made on the forms provided by the State and meet the requirements of said report as set forth in the appropriate Small Cities Block Grant Handbook of the State of West Virginia. Other reports may be requested by the State during the grant period as the State deems necessary and directs.

14. **Final Closeout**. Final Closeout shall be completed when the State: (a) is in receipt of a Final Performance Report; (b) has determined that all monitoring findings have been formally addressed and are resolved; and (c) has received a completed, final project audit and has determined that any findings have been resolved.

15. **Resolution of Disputes.** Resolution of disputes between the State and the Grantee concerning administrative and programmatic matters during the terms of this Agreement shall be initiated through consultation and discussion at the State's Administrative Offices with final decision on questions of policy or fact being determined by the Director of the Community Development Division of the West Virginia Development Office or his/her designated representative. Nothing in this Agreement shall be construed as making the final decision on a question of law, or to limit in any manner any remedies or recourses available under applicable laws. Citizen's complaints or disputes regarding Grantee performance or actions relative to the approved project are the responsibility of the Grantee.

16. **Notice**. The parties hereto agree that notice shall be served when mailed certified U.S. Mail to the following addresses:

West Virginia Development Office
Community Development Division
Capitol Complex
Building 6, Room 553
Charleston, West Virginia 25305-0311

GRANTEE Wyoming County Commission
P.O. Box 309
Pineville, WV 24874

[WITNESSETH] that the parties hereto have entered their signatures hereafter with each representing to the other that the execution of this Agreement is done with full authority and that attached hereto and made a part hereof as Attachment B, is a certified copy of the resolution, motion, or similar action of the governing body of the Grantee directing and authorizing its official representative to act in connection with this Agreement.

STATE OF WEST VIRGINIA
WEST VIRGINIA DEVELOPMENT OFFICE

David C. Satterfield, Executive Director

Wyoming County Commission

By: H. Russell Davis, President

FEDERAL EMPLOYER IDENTIFICATION NUMBER

55-600-0421-001
F.E.I.N.

Wyoming County Commission

Drawer 309
Pineville, West Virginia 24874
Telephone 304/732-8000
FAX 304/732-9659

D. Michael Goode, Clerk

Members of County Commission

Ed Harless *H. R. Davis* *Harold Hayden*

REC'D APR 26 2004

RESOLUTION

WHEREAS, the Wyoming County Commission has recently received an Appalachian Regional Commission Grant award for the Eastern Wyoming Public Service District and the Mullens/Wyco Water Project.

AS WHEREAS, the Wyoming County Commission must enter into a written agreement with the West Virginia Development Office to implement this grant;

BE IT HEREBY RESOLVED that the Wyoming County Commission does hereby accept the conditions of the said contract and does hereby authorize their President, H. R. Davis, to sign all papers necessary for said grant.

Approved and signed this the 21st day of April 2004.

H. R. Davis, President

Ed Harless, Commissioner

Harold Hayden, Commissioner

IC-2
(7/30/01)

GRANT AGREEMENT

This Grant Agreement entered into by and between the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority"), on behalf of the WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL(the "Council") and EASTERN WYOMING PUBLIC SERVICE DISTRICT (the "Governmental Agency").

RECITALS

WHEREAS, the Council has authorized the Authority to make a grant to the Governmental Agency in the amount not to exceed $228,742 (the "Grant") for the purposes of the design, acquisition or construction of a project for which a preliminary application has been submitted and approved by the Council;

WHEREAS, the Governmental Agency wishes to accept the Grant upon such terms and conditions as are hereinafter set forth for the purposes of designing, acquiring or constructing the project described in Exhibit A attached hereto and incorporated herein by reference (the "Project");

WHEREAS, this Grant Agreement sets forth the Council, the Authority and the Governmental Agency's understandings and agreements with regard to the Grant.

NOW, THEREFORE, in consideration of the premises and the mutual agreements hereinafter contained, the Authority and the Governmental Agency hereby agree as follows:

TERMS

1. Prior to the distribution of the Grant, the Governmental Agency shall provide the Authority with a Project budget and an anticipated monthly draw schedule reflecting the receipt dates and amounts from other funding sources.

2. The Authority shall advance the Council's share of the Project costs from the Grant from time to time upon receipt of a requisition evidencing the costs incurred, which requisition must be satisfactory to the Authority.

3. The monthly requisition will also set forth (i) the amounts requested for that requisition period from all other funding agencies, and (ii) the amounts advanced for the Project to date from all other funding agencies.

4. The Governmental Agency will use the proceeds of the Grant only for the purposes specifically set forth in Exhibit A.

5. The Governmental Agency shall comply with and is bound by the Council's rules set forth as Title 167, Series 1 and more particularly Section 5.9 with respect to the sale of the Project.

6. The Governmental Agency acknowledges that the Grant may be reduced, from time to time, to reflect actual Project costs and availability of other funding.

7. The Governmental Agency shall list the Grant provided by the Authority and the Council in any press release, publication, program bulletin, sign or other public communication that references the Project, including but not limited to any program document distributed in conjunction with any groundbreaking or dedication of the Project.

8. This Grant Agreement shall be governed by the laws of the State of West Virginia.

IN WITNESS WHEREOF, the parties hereto have caused this Grant Agreement to be executed by the respective duly authorized officers as of the date executed below by the Authority.

EASTERN WYOMING PUBLIC SERVICE DISTRICT

By: _____
Its: Chairperson
Date: January 12, 2006

(SEAL)

Attest:

_____
Its: Secretary

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

By: _____
Its: Director
Date: January 12, 2006

(SEAL)

Attest:

_____
Its: Secretary-Treasurer

Exhibit A

Project Description

The Project consists of the construction of a new regional water treatment plant, three storage tanks, distribution lines and other necessary appurtenances to eliminate the existing inadequate and outdated water treatment plants located at Mullens, Nuriva, Welton, Wyco, Iroquois and Stephenson, West Virginia.

west virginia department of environmental protection

Division of Land Restoration
Office of Abandoned Mine Lands and Reclamation
601 57th Street, SE – Box 20
Charleston, West Virginia 25304-2345
Phone: 304-926-0499 / Fax: 304-926-0458

Joe Manchin III, Governor
Stephanie R. Timmermeyer, Cabinet Secretary
www.wvdep.org

August 15, 2005

Mr. Rick Roberts, P.E.
Managing Engineer
Eastern Wyoming Public Service District
P.O. Box 506
Logan, West Virginia 25601

Re: Mullens/Wyco Water Project
ID #218

Dear Mr. Roberts:

Eastern Wyoming PSD is authorized to take bids on the referenced project.

This office is still committed for $4, 465,920.00 to go towards the construction of the project. This amount reflects all of the money that we can commit and is based off of the feasibility study completed by Triad Engineering, Inc. in September of 2000.

I understand that a pre-bid meeting is scheduled for September 9, 2005 at 10:00 am and at 1:00 pm at the Mullens' City Hall. Also, it is my understanding that the bid opening will be on September 27, 2005 at 2:00 pm at the Mullens' City Hall.

Once bids are received, please forward a copy to our office for approval. Once a selection is made, we will complete our Memorandum of Understanding and process the appropriate documents for obtaining a Purchase Order.

Please be advised that a Notice to Proceed must be issued from this office prior to any construction work being started on the AML eligible sites.

If you have any questions, please feel free to contact me at 304-926-0499, ext. 1472.

Sincerely,

Charles J. Miller

Charles J. Miller, Assistant Director
Office of Abandoned Mine Lands
And Reclamation

CJM/db

Cc: David Beal
Danny Bess
Franci Engle

Mullens-Wyco Water Project – Phase 1
Wyoming County

MEMORANDUM OF UNDERSTANDING

between

WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF LAND RESTORATION
OFFICE OF ABANDONED MINE LANDS & RECLAMATION

and

EASTERN WYOMING PUBLIC SERVICE DISTRICT
WYOMING COUNTY, WEST VIRGINIA

WHEREAS, the West Virginia Department of Environmental Protection (WVDEP), Division of Land Restoration (DLS), Office of Abandoned Mine Lands and Reclamation (AML) is charged with the reclamation of lands and water affected by the adverse affects of coal mining activities which took place prior to August 3, 1977, pursuant to Title IV of Public Law 95-87, as amended, and West Virginia Code § 22-3-1 et seq.; and

WHEREAS, it has been determined that the degradation of the water supply in the Wyoming County unincorporated communities of Blackeagle, Corrine, Beechwood, Allen Junction, Wyco, Iroquois, and Stephenson in Wyoming County, West Virginia has been caused in part by coal mining activities which took place prior to August 3, 1977; and

WHEREAS, WVDEP is desirous of abating said effects by partially funding certain water supply line extension facilities to serve approximately 380 residences in the affected area; and

WHEREAS, the Eastern Wyoming Public Service District – Wyoming County (EWPSD) operates and maintains a public water supply system and agrees to upgrade and expand its water supply system to extend service to the unincorporated communities of Blackeagle, Corrine, Beechwood, Allen Junction, Iroquois, and Stephenson in Wyoming County, West Virginia, and

WHEREAS, WVDEP and EWPSD believes that providing for the construction and operation of water supply treatment, storage, and distribution systems within unserved areas of Wyoming County furthers the statutory purposes, for which WVDEP and EWPSD were created; and

WHEREAS, EWPSD has agreed to construct, own, operate and maintain and replace said water supply, treatment, storage, and distribution facilities; and

WHEREAS, WVDEP and EWPSD have funds available to assist in the construction, operation and maintenance of such water supply, treatment, storage and distribution facilities; and

WHEREAS, WVDEP, EWPSD are willing to cooperate in completing a project entitled "Mullens-Wyco Water Project – Phase 1" which will bring domestic water service to the unincorporated communities of Blackeagle, Corrine, Beechwood, Allen Junction, Iroquois, and Stephenson in Wyoming County, West Virginia, and

NOW, THEREFORE WVDEP and EWPSD enter into this Memorandum of Understanding (MOU) this _____ day of _____, 2005, setting forth the terms and conditions under which such project shall be accomplished, which it is agreed shall be as follows:

SECTION I
PROJECT LOCATION

The project area is located in the western part of Wyoming County. The study area is situated within the Mullens, West Virginia and Rhodell, West Virginia, 7.5 minute United States Geological Survey (USGS) topographic quadrangles.

The area will begin near the intersection of West Virginia Route 16 and West Virginia Route 54 at the City of Mullens, and generally follow West Virginia Route 16 North thru the unincorporated communities of Black Eagle, Corrine, Beechwood, Allen Junction, Wyco, Iroquois, and Stephenson to the Wyoming County line.

Water lines will follow generally along WV Route 16 north to serve the unincorporated community of Blackeagle.

Water lines will follow generally along WV Route 16 north and County Routes 12/7, 12/8, 12/9, and 16/23 to serve the unincorporated community of Corrine.

Water lines will follow generally along WV Route 16 north and County Route 12/7 to serve the unincorporated community of Beechwood.

Water lines will follow generally along WV Route 16 north and County Routes HARP 922 and HARP 974 to serve the unincorporated community of Allen Junction.

Water lines will follow generally along WV Route 16 north and County Route 12/1 to serve the unincorporated community of Wyco.

Water lines will follow generally along WV Route 16 north and County Routes 16/21, 901/10, 901/11 and HARP 966 to serve the unincorporated community of Iroquois.

Water lines will follow generally along WV Route 16 north andCounty Routes 16/2, 16/31, 16/32, and 16/33 to serve the unincorporated community of Stephenson.

A copy of the map of the eligible project area is attached as Attachment "A".

SECTION II
NEED FOR THE PROJECT

The primary source of water for domestic use in the residences in the Mullens-Wyco Water Project (Phase 1) project area is groundwater, the quality of which is very poor. Another source is abandoned coal mines; this source is often unreliable. Coal seams in the area have been extensively surface and deep mined. There has been an observed and measured adverse affect on the quality and quantity of groundwater that is consistent with coal mining. The water supply for the area poses a health hazard to the residents. Many residents in this area are compelled to buy and haul water.

Triad Engineering, Inc., St. Albans, West Virginia conducted an extensive study for WVDEP–AML to assess the pre-law mining impacts of the groundwater resources, determine the most cost-effective replacement of the water supply, and establish the eligibility for WVDEP/AML funding.

SECTION III
SCOPE OF WORK

1. The work will generally consist of the extension and upgrade of Eastern Wyoming Public Service District's water system . The work will include the construction and installation of a 1,400 gpm water treatment facility including raw water source development, three finished water storage tanks totaling 1,300,000 gallons, approximately 68,400 feet of waterline, 380 service connections, and 40 fire hydrants.

2. All construction plans and specifications shall be subject to the review and approval of WVDEP. Those plans and specifications are incorporated by reference into this MOU.

SECTION IV
CONTRACTING

1. EWPSD shall be the contracting authority and shall follow all state and federal laws regarding such contracting. EWPSD agrees to include bid documents as required by the West Virginia State Purchasing Division. EWPSD agrees to be responsible for design of the project, contract bidding, and awarding of the contract for the project. It is understood and agreed that contract bidding shall not be commenced until WVDEP notifies EWPSD to initiate such bidding.

2. EWPSD agrees to pay for and obtain the Certificate of Convenience and Necessity for the project through the Public Service Commission of West Virginia, and all other necessary permits required by law, except those which are required to be obtained by the Contractor in the project specifications. EWPSD further agrees that all permits, authorizations and other necessary approvals will be obtained to satisfy federal laws and regulations and copies of the same furnished to WVDEP.

3. EWPSD shall require of the Contractor(s) it hires Performance and Labor and Materials Payment Bonds, Liability and Property Insurance, and Workers Compensation coverage in amounts deemed sufficient by WVDEP to ensure Contractor's faithful fulfillment of all reclamation work specified herein. Performance Bonds and Payment Bonds shall be made payable to EWPSD.

4.

a. Prior to performing any work under this Contract, Contractor will deliver to WVDEP and EWPSD copies of the Performance Bonds, Liability and Property Insurance, and Workers Compensation Insurance it has obtained. In addition, Contractor shall be required to provide to EWPSD and WVDEP certificates issued by the insurance company or companies issuing insurance policies that are required by this MOU. The certificates shall show the type, amounts, class of operations covered, effective dates, and dates of expiration of such policies. Such certificates shall provide that written notice shall be given to WVDEP and EWPSD prior to expiration, cancellation, or modification of any such policy, and such certificates shall contain substantially the following representation: "The insurance covered by this certificate will not be cancelled, or materially modified or altered, except after thirty (30) days written notice of such cancellation or modification has been verified as received by the West Virginia Department of Environmental Protection (or its successor in interest) and the Eastern Wyoming Public Service District."

b. Bonds supplied by the Contractor shall be in the form of a surety, letter of credit, cash, CD or other form of acceptable Bond Instrument described in West Virginia Code of State Rules §38-2-11.3. If the bond is from a surety, the surety must be acceptable to WVDEP. Contractor will pay for all necessary bonds and insurance.

c. Attorneys-in-Fact who execute a surety bond satisfying the requirements of this Section must provide with each surety bond a certified and properly executed Power of Attorney.

d. In the event Contractor's liability insurer becomes insolvent, is placed in the hands of a receiver, or has its right to do business in West Virginia revoked, Contractor will be required to fully replace the insurance offered by that insurer within 30 days following the insurer's insolvency, placement into receivership, or revocation of license.

e. In the event that the surety on any letter of credit or bond given by Contractor becomes insolvent, is placed in the hands of a receiver, or has its right to do business in West Virginia revoked, Contractor will be required to fully replace the bond issued by that surety within 30 days following the surety's insolvency, placement into receivership, or the revocation of his license to do business in West Virginia or any other state. The failure of Contractor to replace a bond it holds with an incapacitated surety within this 30-day period shall constitute a breach of Contract.

5.

a. No later than the end of the scheduled performance period (or a longer time period if mutually agreed to by WVDEP and EWPSD), EWPSD shall inspect the relevant project area to determine if Contractor has fully performed all work contemplated by this Contract. If Contractor has not completed all such work by the end of the performance period, EWPSD shall provide Contractor with written notice of the deficiency and upon failure by Contractor to remedy such deficiency within thirty (30) days of the date upon which EWPSD notifies Contractor of the deficiency, EWPSD or WVDEP may declare Contractor to be in breach of the Contract and proceed immediately with contract termination, declaration of bond forfeiture, and collection of bond.

b. If Contractor has successfully completed its project activities by the end of the specified performance period, Contractor shall, at its own expense, monitor, maintain, and warrant all aspects of the project for a period of 12 months from the date that EWPSD certifies that all monitoring requirements of the project have been met. The maintenance of all seeded areas may include, as necessary, refilling, re-fertilizing, re-liming, re-seeding, and re-mulching all erosion gullies and bare areas.

c. Contractor shall be required to promptly correct, at its own expense, all defects in material, workmanship, and project work (including reclamation work) and all non-conformances with the Contract documents, as all of those things are identified by EWPSD or WVDEP. Contractor shall correct all non-conformance and defects identified

regardless of whether the non-conformance or the defects are observed before or after final Contract completion. All defective or non-conforming work shall be removed from the site if necessary and Contractor shall, at its sole expense, correct the unacceptable work in a fashion that allows for the terms of the Contract to be fully complied with.

d. If Contractor fails to properly monitor, maintain, and warrant the site for 12 months from the date that EWPSD certifies that the all non-reclamation monitoring requirements of the project have been met, EWPSD and/or WVDEP may declare Contractor to be in breach of the Contract.

e. Upon completion of project work, Contractor will be required to notify WVDEP and EWPSD of the need to inspect the site to determine whether Contractor has fulfilled his contractual responsibilities. Upon their determination that the work has been completed according to the project's plans and specifications, WVDEP and EWPSD will jointly execute and issue to Contractor a certificate of completion. Upon issuance of this certificate to Contractor, Contractor shall be released from its bonding obligations, Contractor's bond(s) shall be returned to it, and Contractor will be deemed to forever waive any claims it may have against EWPSD and WVDEP relative to the performance of this MOU. Notwithstanding the foregoing, WVDEP's and EWPSD's final acceptance of Contractor's performance shall not relieve Contractor of responsibility for its own negligence or provision of faulty materials.

6. Contractor shall be required to take all reasonable precautions for the safety of, and shall provide all reasonable protection, preventing damage, injury, or loss to: (a) all employees on the work, and all other persons who may be affected thereby, (b) other property on the site or adjacent thereto, including, but not limited to, paving, roadways, structures, utilities, and permanent property boundaries, monuments or markers not designated for removal, or relocation, or replacement in the course of construction, and (c) WVDEP and EWPSD's employees and agents. WVDEP and EWPSD may require Contractor to fix any damage to items it may cause; such repair must be accomplished at Contractor's own expense and to the satisfaction of WVDEP and EWPSD. Contractor shall be required to comply with all laws, ordinances, rules, orders and regulations relating to the performance of the work, and the protection of adjacent property.

7. Contractor shall be required to indemnify and hold harmless WVDEP and EWPSD for all liability for personal injury, including death resulting there-from, and against all liability for property damage sustained by any person or persons, including persons employed by Contractor and/or its subcontractor(s), which is caused in whole or in part by an act or omission, negligent or otherwise, of such Contractor and/or its agents, servants, or employees. Contractor shall assume the defense of any action brought by such persons against WVDEP or EWPSD to recover damages, and shall pay all costs and

expenses, including attorney's fees, incurred by WVDEP as result of the aforementioned actions. Notwithstanding the other provisions of this paragraph, EWPSD or its subcontractors shall not be liable for damages caused to WVDEP's employees solely by the negligence of those employees, WVDEP, or a party other than a subcontractor or Contractor.

8. Contractor shall be required to give all notices and comply with all applicable laws, ordinances, rules, regulations, and lawful orders of any public authority that bear on the safety of persons or property and their protection from damage, injury, or loss. In fulfilling these duties, Contractor shall post danger signs and provide other warnings as required against hazards and dangers to persons and property and shall maintain passageways, guard fences or other protective devices in a fashion to prevent potential trespassers from entering onto the project area and/or being injured.

SECTION V
CONSTRUCTION MONITORING

1. It is understood and agreed that the Notice to Proceed shall not be issued until WVDEP notifies EWPSD in writing to initiate the project.

2. EWPSD and WVDEP agrees to provide inspection expertise on and of the project as necessary to maintain sufficient surveillance of the construction operations and will be responsible for monitoring quantities, reviewing submitted construction invoices, as well as overseeing the initiation and processing of change orders (if accepted by WVDEP) in accordance with established WVDEP procedures. It is understood that WVDEP shall be contacted in advance of construction activity and shall have the right to oversee inspections of construction at WVDEP's convenience.

3. WVDEP and EWPSD shall work together to ensure that the project is constructed according to the approved design plans and specifications, and in accordance with the costs agreed to by the bidder awarded the project. EWPSD and WVDEP shall jointly review and approve minor field changes in the work to the extent that such field changes do not constitute a change in the scope of work. WVDEP shall be furnished for its review a copy of proposed change orders that would substantially increase construction costs or performance period. WVDEP must approve those proposed change orders before they may take effect.

4. Copies of all Contract Documents, Performance Reports, Shop Drawings, Plans and Specifications as well as other such construction related documents shall be provided in a timely fashion to WVDEP. Performance Reports shall be electronic in either Microsoft Word or Excel format. These reports should be received by the Office of AML monthly and should show detail of quantities used and work performed. Requests for construction cost reimbursement shall be on forms approved by WVDEP.

SECTION VI
MAINTENANCE OF SITE

1. Ground water or impounded water may be encountered at various locations within the proposed work areas. All water that emanates from the project site shall meet effluent limits and shall not violate state water quality standards. If necessary, Contractor shall be required to install and maintain treatment systems, at his own cost, that ensure that all water emanating from the site meets state water quality standards. It is the Contractor's responsibility to ensure that water quality standards are met through the duration of this MOU, although nothing in this MOU shall be deemed to make Contractor responsible for, or to treat beyond the term of this MOU, any surface or ground water discharges or seeps that do not meet applicable state water quality standards and which pre-existed the effective date of this MOU.

2. Contractor shall be responsible for the operation and maintenance of any required diversion or pumping facilities for removing ground water or impounded water from work areas during progress of the work under this Contract.

3. Contractor at all times shall keep the construction site free of accumulations of waste materials and rubbish caused by its operations. Periodically during the progress of the work, and also when directed to do so by WVDEP or EWPSD, Contractor shall be required to remove, or cause to be removed, accumulated waste materials, rubbish, and debris. Contractor shall be required to leave the project area in good order upon its completion of the project.

4. Contractor shall not put or spill materials into any drainage system that would pollute area streams or waterways. Contractor shall be liable for any stream pollution caused directly or indirectly by its own employees or those of its subcontractors.

5. Contractor shall be required to provide and pay for adequate temporary toilet facilities for personnel during the project construction period. Toilets shall be of types approved by WVDEP and the State Division of Health and shall be situated only in approved locations. Contractor shall be responsible for operation and sanitary maintenance of the temporary toilets and shall have them removed upon project completion.

SECTION VII
FUNDING

1. WVDEP agrees to pay the EWPSD eligible construction costs, on the condition that all other parts of this MOU are complied with, based upon a total estimated eligible construction cost of $5,815,000.00. WVDEP shall pay 76.8% as its actual contribution toward said eligible construction costs associated with this project.

2. EWPSD agrees to pay the remainder of the costs of the eligible construction costs, based upon a total estimated eligible construction cost of $5,815,000.00. The EWPSD shall pay 23.2% as its actual contribution toward said eligible construction costs associated with this project

3. In the event it appears the total costs of the construction will exceed the total estimated construction costs, the EWPSD shall notify WVDEP, and WVDEP will pay for such excess construction costs provided that prior to such excess costs being incurred, WVDEP approves such excess costs and by law may pay such costs paid with AML monies. EWPSD shall be responsible for paying for construction costs that WVDEP cannot or will not pay for such as touch or radio read meter-reading devices. WVDEP and EWPSD agree to pay for all actual construction costs if less than, equal to, or greater than the estimated construction costs in the percentages as follows: WVDEP share shall be 76.8% of actual, eligible AML construction costs; the EWPSD shall be responsible for all other costs.

4. EWPSD agrees to acquire and pay for all temporary construction easements, rights of way, and permanent easements associated with project in accordance with procedures established by federal, state and local laws. EWPSD or Contractor will provide a copy of the terms of all rights of entry and easements to WVDEP prior to Contractor's commencement of project work.

5. Costs that WVDEP assumes as a result of having to defend against citations and/or fines issued against EWPSD or Contractor shall be borne by the responsible party to the satisfaction of WVDEP. Nothing herein, however, shall prevent either EWPSD or Contractor from challenging in any appropriate forum the validity of any such citation or fine that may be issued against it.

SECTION VIII
PAYMENTS AND INVOICING

Contractors shall submit invoices to EWPSD. EWPSD shall submit Contractors' invoices to WVDEP along with a summary of the eligible construction costs and WVDEP's share of the construction costs. WVDEP will pay EWPSD 76.8% of the approved Contractor invoices and the EWPSD will pay 23.2% of the approved Contractor invoices. These Contractor invoices will be for eligible construction costs incurred and materials stored on site (as per Section V, Paragraphs 1,2 and 3 above). These invoices will be based off of the awarded Contract to Contractor for the AML eligible area. Contractor invoices shall be based on items as shown on the attached Bid Schedules labeled as Attachment "B", that is for the AML eligible project area. Payment requests shall be made on forms approved by WVDEP. Information provided shall include performance reports as specified by WVDEP.

SECTION IX
OWNERSHIP AND MAINTENANCE

Ownership and maintenance of the subject Mullens-Wyco Water Project-Phase 1, constructed pursuant to this MOU, is the sole responsibility of EWPSD. The EWPSD PSD shall operate and maintain said facilities under separate existing agreement and in accordance with Water Rules and Tariffs filed with the Public Service Commission of West Virginia.

SECTION X
EXTENSION AND TERMINATION

1. This MOU is entered into and is effective for the period beginning at the date of issuance of the purchase order and subsequent Notice to Proceed to be issued by the WVDEP to EWPSD. This agreement shall be in in effect for a period of one fiscal year, subject to annual renewal for any additional period of time needed to complete all phases of the project, each of which annual renewal periods shall be limited to one fiscal year. Contractor shall complete all contract work, including the twelve-month monitoring period spoken of elsewhere herein, within the effective dates of the contract purchase order. This MOU may be extended upon prior written approval of both parties, or may be terminated prior to commencement of construction, upon thirty (30) days prior written notice to the other parties.

2. This MOU and the Contractor's Contract may be terminated in whole or in part in writing by WVDEP without prejudice to any other right or remedy it may have in the event that EWPSD or Contractor is declared bankrupt, makes a general assignment for the benefit of its creditors, or a receiver is appointed on account of EWPSD's or Contractor's insolvency.

3. Contractor has full responsibility for ensuring its compliance and its subcontractors' compliance with the terms of its Contract. EWPSD and WVDEP have full responsibility for their compliance with this MOU. Should Contractor, its subcontractors, EWPSD, or WVDEP fail to comply with the terms of this MOU or the Contractor's Contract and any properly approved modifications those documents, the nonbreaching party may provide the breaching party with a written notice of default and should the breaching party fail to remedy the default within 30 days, the appropriate party may terminate its participation in this MOU or the Contract. Failure to comply with the terms of MOU or Contract performance shall not operate to extend the effective time period of this MOU or the Contract.

4. If the Contract is terminated and Contractor has not finished his work on the site, WVDEP and/or EWPSD may declare bond forfeiture and proceed to collect their respective share of the appropriate bond posted by Contractor. These actions shall not operate to prejudice any other right or remedy WVDEP may have against Contractor, its subcontractors.

5. Upon receipt of notice of whole or partial MOU or Contract termination, the party whose conduct or omission caused the termination shall promptly discontinue all affected work (unless the notice of termination directs otherwise), and shall deliver or otherwise make available to the other parties all data, drawings, specifications, reports, estimates, summaries, and other such information and materials as may have been accumulated by EWPSD or Contractor in performing this Contract irregardless of whether the records containing such information are complete or in progress.

6. Pursuant to West Virginia Code § 8-23-3(5), requiring provision for the disposition of project property upon termination of the agreement:

"If any party terminates this agreement in whole or in part, all work completed and uncompleted on this project will become the property of the Eastern Wyoming PSD and the disposition or completion of uncompleted work on the project will become the responsibility of the Eastern Wyoming PSD."

This project is subject to the approval of the Public Service Commission of West Virginia.

7. This project is subject to the approval of the Public Service Commission of West Virginia.

SECTION XI
CHOICE OF LAWS AND VENUE

This agreement shall be interpreted under the laws of the State of West Virginia. If any disputes arise concerning this MOU, this MOU shall be deemed to have been entered into in Kanawha County, West Virginia. Legal disputes concerning the MOU shall be brought in the Circuit Court of Kanawha County.

SECTION XII
AUTHORITY TO BIND

Each person executing this agreement on behalf of the respective party he represents has the authority to so bind his principle. This agreement represents the full agreement of the parties hereto and it may not be supplemented or modified except by documents specifically identified by the agreement.

(signatures and witnesses on following pages)

WITNESS THE FOLLOWING SIGNATURES:

WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: _____

Its: _____

STATE OF WEST VIRGINIA,
COUNTY OF KANAWHA, TO WIT

I, the undersigned Notary Public do certify that _____, for the West Virginia Department of Environmental Protection, an official agency of the State of West Virginia, has this day in my said county, before me, acknowledged the said writing to be the act and deed of said agency.

Given under my hand this the _____ day of _____, 2005.
My commission expires:_____.

_____
Notary Public

EASTERN WYOMING PUBLIC SERVICE DISTRICT – WYOMING COUNTY, WEST VIRGINIA

By: _____

Its: _____

STATE OF WEST VIRGINIA,
COUNTY OF WYOMING, TO WIT

I, the undersigned Notary Public do certify that _____, for the Eastern Wyoming Public Service District, has this day in my said county, before me, acknowledged the said writing to be the act and deed of said body.

Given under my hand this the _____ day of _____, 2005.

My commission expires:_____.

_____
Notary Public

west virginia department of environmental protection

Division of Land Restoration
Office Abandoned Mine Lands & Reclamation
601 57th St., SE – Box 20
Charleston, WV 25304-2345
Phone 304-926-0485 / Fax 304-926-0458

Joe Manchin III, Governor
Stephanie R. Timmermeyer, Cabinet Secretary
www.wvdep.org

January 9, 2006

Mr. Rick Roberts, P.E.
Eastern Wyoming Public Service District
P.O. Box 506
Logan, West Virginia 25601

Re: Mullens/Wyco Water System Upgrade
WVDEP ID# 218
Bid Recommendation

Dear Mr. Roberts:

This office has received and reviewed the Bid Tabulations and the Pentree Engineer's Recommendation for the referenced project. We are in agreement with the recommendation for award.

We also have received the MOU signed by the Eastern Wyoming Public Service District. Once this office has executed the MOU, three original copies will be mailed back to your office.

Please coordinate future activities such as the pre-construction meeting with Danny Bess and Dave Beal, Southern District Engineer for the WVDEP Office of Abandoned Mine Lands and Reclamation. His telephone number is 304-465-1911.

If you have any questions, please call Danny Bess or me at 304-926-0499.

Sincerely,

Charles J. Miller

Charles J. Miller, Assistant Director
Office of Abandoned Mine Lands
And Reclamation

CJM/dkb

Cc: Dave Beal
Danny Bess

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

CERTIFIED MAIL

SEP 6 2005

Mr. Kenneth W. McBride
Chairman
Eastern Wyoming PSD
P.O. Box 506
Logan, WV 25601

Re: XP-973216-01-0

Dear Mr. McBride:

The Agency has approved an assistance application and award of $487,242 in support of the project entitled Eastern Wyoming PSD Drinking Water Improvements.

This award is made subject to the terms and conditions of the enclosed assistance agreement. Three originals of the assistance agreement are enclosed. Please sign all of them. Return one to Kathleen M. Blinebury, Grants Management Officer, Grants and Audit Management Branch (3PM70), within twenty-one days of your receipt. The West Virginia Bureau for Public Health is assisting with the management of this project. Mail one to Mr. Patrick Taylor, Manager, Bureau for Public Health, One Davis Square, Suite 200, Charleston, WV 25301-1798 and retain one for your organization.

A Region III website is available to provide you with a better understanding of the requirements associated with your assistance agreement and with information that will help you to manage your grant. The website can be found at: **www.epa.gov/region3/grants/index.htm.**

Your contact at EPA is Mr. Bruce Smith. You can reach Mr. Smith at 215-814-5770.

Sincerely,

for James W. Newsom
Assistant Regional Administrator
for Policy and Management

Enclosures

cc: Patrick Taylor, WVBPH

U.S. ENVIRONMENTAL PROTECTION AGENCY

Grant Agreement

ASSISTANCE ID NO.			DATE OF AWARD
PRG	DOC ID	AMEND#	AUG 29 2005
XP -	97321601	- 0	
TYPE OF ACTION: New			MAILING DATE: SEP 6 2005
PAYMENT METHOD: Reimbursement			ACH#

RECIPIENT TYPE: Special District	Send Payment Request to: West Virginia Bureau for Public Health
RECIPIENT:	PAYEE:
Eastern Wyoming Public Service District PO Box 506 Logan, WV 25601 **EIN:** 55-0533909	Eastern Wyoming Public Service District PO Box 506 Logan, WV 25601

PROJECT MANAGER	EPA PROJECT OFFICER	EPA GRANT SPECIALIST
Mr. David N. Cole PO Box 506 Logan, WV 25601 **E-Mail:** davidcole@regiononepdc.org **Phone:** 304-431-7225	BruceA Smith 1650 Arch Street, 3WP21 Philadelphia, PA 19103-2029 **E-Mail:** Smith.Brucea@epamail.epa.gov **Phone:** 215-814-5770	Jill Garcia Grants and Audit Management Branch, 3PM70 **E-Mail:** Garcia.Jill@epamail.epa.gov **Phone:** 215-814-5402

PROJECT TITLE AND DESCRIPTION

Special Appropriations Project

The project consists of the construction of a new 1,400 gallon per minute water treatment plant, two 545,000-gallon water storage tanks, a 220,000-gallon water storage tank plus approximately 34,500 linear feet (LF) of 16" water transmission mains, 36,000 LF of 2" to 8" waterlines, and related appurtenances. The EPA-funded project includes all the tanks, basins, and related appurtenances at the plant. The project will serve the City of Mullens and the communities of Itmann, Nuriva, Wyco, Welton, Iroquios, Blackeagle, Beechwood, Allen Junction, Corrinne, and Stephenson.

BUDGET PERIOD	PROJECT PERIOD	TOTAL BUDGET PERIOD COST	TOTAL PROJECT PERIOD COST
08/31/2005 - 05/31/2007	08/31/2005 - 05/31/2007	$885,894.00	$885,894.00

NOTE: The Agreement must be completed in duplicate and the Original returned to the appropriate Grants Management Office listed below, within 3 calendar weeks after receipt or within any extension of time as may be granted by EPA. Receipt of a written refusal or failure to return the properly executed document within the prescribed time, may result in the withdrawal of the offer by the Agency. Any change to the Agreement by the Recipient subsequent to the document being signed by the EPA Award Official, which the Award Official determines to materially alter the Agreement, shall void the Agreement.

OFFER AND ACCEPTANCE

The United States, acting by and through the U.S. Environmental Protection Agency (EPA), hereby offers Assistance/Amendment to the Eastern Wyoming Public Service District for 55.00 % of all approved costs incurred up to and not exceeding $487,242 for the support of approved budget period effort described in application (including all application modifications) cited in the Project Title and Description above, signed 09/07/2004 included herein by reference.

ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)	AWARD APPROVAL OFFICE
ORGANIZATION / ADDRESS	ORGANIZATION / ADDRESS
US EPA Region 3, 3PM70 1650 Arch Street Philadelphia, PA 19103-2029	U.S. EPA, Region 3 Water Protection Division 3WP00 1650 Arch Street Philadelphia, PA 19103-2029

THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY

SIGNATURE OF AWARD OFFICIAL	TYPED NAME AND TITLE	DATE
Andrew Carlin for	James W. Newsom, ARA for Policy and Management	AUG 29 2005

This agreement is subject to applicable U.S. Environmental Protection Agency statutory provisions and assistance regulations. In accepting this award or amendment and any payments made pursuant thereto, (1) the undersigned represents that he is duly authorized to act on behalf of the recipient organization, and (2) the recipient agrees (a) that the award is subject to the applicable provisions of 40 CFR Chapter 1, Subchapter B and of the provisions of this agreement (and all attachments), and (b) that acceptance of any payments constitutes an agreement by the payee that the amounts, if any found by EPA to have been overpaid will be refunded or credited in full to EPA.

BY AND ON BEHALF OF THE DESIGNATED RECIPIENT ORGANIZATION

SIGNATURE	TYPED NAME AND TITLE	DATE
Kenneth W. McBride	Kenneth W. McBride Jr. Chairman	9/9/05

EPA Funding Information

FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTAL
EPA Amount This Action	$	$ 487,242	$ 487,242
EPA In-Kind Amount	$	$ 0	$ 0
Unexpended Prior Year Balance	$	$ 0	$ 0
Other Federal Funds	$	$ 0	$ 0
Recipient Contribution	$	$ 0	$ 0
State Contribution	$	$ 0	$ 0
Local Contribution	$	$ 398,652	$ 398,652
Other Contribution	$	$ 0	$ 0
Allowable Project Cost	$ 0	$ 885,894	$ 885,894

Assistance Program (CFDA)	Statutory Authority	Regulatory Authority
66.606 - Surveys - Studies - Investigations and Special Purpose Grants	Appropriations Act of 2000 (PL 106-74)	40 CFR PART 31

Fiscal

Site Name	DCN	FY	Approp. Code	Budget Organization	PRC	Object Class	Site/Project	Cost Organization	Obligation / Deobligation
-	LL0162	2005	E4C	0300AWP	201B51E	4183	-	-	487,242
									487,242

Approved Budget	
Program Element Classification (Construction)	Approved Allowable Budget Period Cost
1. Administration Expense	$0
2. Preliminary Expense	$0
3. Land Structure, Right Of Way	$0
4. Architectural Engineering Basic Fees	$0
5. Other Architectural Engineering Fees	$0
6. Project Inspection Fees	$0
7. Land Development	$0
8. Relocation Expenses	$0
9. Relocation Payments to Individuals & Bus.	$0
10. Demolition and Removal	$0
11. Construction and Project Improvement	$885,894
12. Equipment	$0
13. Miscellaneous	$0
14. Total (Lines 1 thru 13)	$885,894
15. Estimate Income	$0
16. Net Project Amount (Line 14 minus 15)	$885,894
17. Less: Ineligible Exclusions	$0
18. Add: Contingencies	$0
19. Total (Share: Recip 45.00% Fed 55.00%)	$885,894
20. TOTAL APPROVED ASSISTANCE AMOUNT	$487,242

Administrative Conditions

1. The recipient agrees to ensure that all conference, meeting, convention, or training space funded in whole or in part with Federal funds, complies with the Hotel and Motel Fire Safety Act of 1990.

2. Any State agency or agency of a political subdivision of a State which is using appropriated Federal funds shall comply with the requirements set forth in Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6962). Regulations issued under RCRA Section 6002 apply to any acquisition of an item where the purchase price exceeds $10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was $10,000 or more. RCRA Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by EPA. These guidelines are listed in 40 CFR 247.

3. The recipient shall fully comply with Subpart C of 40 CFR Part 32, entitled "Responsibilities of Participants Regarding Transactions." The recipient is responsible for ensuring that any lower tier covered transaction, as described in Subpart B of 40 CFR Part 32, entitled "Covered Transactions," includes a term or condition requiring compliance with Subpart C. The recipient is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. The recipient acknowledges that failing to disclose the information required under 40 CFR 32.335 may result in the delay or negation of this assistance agreement, or pursuance of legal remedies, including suspension and debarment.

The recipient may access the Excluded Parties List System at http://epls.arnet.gov. This term and condition supersedes EPA Form 5700-49, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters."

4. The recipient agrees to comply with Title 40 CFR Part 34, New Restrictions on Lobbying. The recipient shall include the language of this provision in award documents for all subawards exceeding $100,000, and require that subrecipients submit certification and disclosure forms accordingly.

In accordance with the Byrd Anti-Lobbying Amendment, any recipient who makes a prohibited expenditure under Title 40 CFR Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such expenditure.

5. Pursuant to EPA's annual Appropriations Act, the chief executive officer of this recipient agency shall require that no grant funds have been used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law. As mandated by this Act, the recipient agrees to provide certification to the award official via EPA Form 5700-53, Lobbying and Litigation Certificate, with the final payment request.

The recipient shall abide by its respective OMB Circular (A-21, A-87, or A-122), which prohibits the use of federal grant funds for litigation against the United States. Any Part 30 recipient shall abide by its respective OMB Circular (A-21 or A-122), which prohibits the use of Federal grant funds to participate in various forms of lobbying or other political activities.

6. In accordance with EPA Order 1000.25 and Executive Order 13101, *Greening the Government Through Waste Prevention, Recycling, and Federal Acquisition,* the recipient agrees to use recycled paper for all reports which are prepared as a part of this agreement and delivered to EPA. This requirement does not apply to reports prepared on forms supplied by EPA, or to Standard Forms, which are printed on recycled paper and are available through the General Services Administration. Please note that Section 901 of E.O. 13101, dated September 14, 1998, revoked E.O. 12873, *Federal Acquisition, Recycling, and Waste Prevention* in its entirety.

7. If a contract is awarded under this assistance agreement, the recipient agrees and is required to utilize the following affirmative steps:

a. placing Small Businesses in Rural Areas (SBRAs) on solicitation lists;

b. ensuring that SBRAs are solicited whenever they are potential sources;

c. dividing total requirements, when economically feasible, into small tasks or quantities to permit maximum participation by SBRAs;

d. establishing delivery schedules, where the requirements of work will permit, which would encourage participation by SBRAs;

e. using the services of the Small Business Administration (SBA), the Minority Business Development Agency (MBDA) of the U.S. Department of Commerce and the SBA PRO-Net Internet-based system http://pro-net.sba.gov, as appropriate; and

f. requiring the contractor to take the affirmative steps in subparagraphs a. through e. of this part if subcontracts are awarded.

8. The recipient agrees to comply with the requirements of EPA's Program for Utilization of Small, Minority and Women's Business Enterprises in procurement under assistance agreements:

a. The recipient accepts the applicable Minority Business Enterprise (MBE)/Women's Business Enterprise (WBE) "fair share" goals/objectives negotiated with EPA by the West Virginia Bureau for Public Health as follows:

	MBE%	WBE%
Construction	1.87	7.40
Equipment	1.26	12.19
Services	5.16	26.75
Supplies	2.85	41.65

b. The recipient agrees to ensure to the fullest extent possible, that at least the applicable "fair share" objectives of Federal funds for prime contracts or subcontracts for supplies, construction, equipment or services are made available to organizations owned or controlled by socially or economically disadvantaged individuals, women and historically black colleges and universities.

c. The recipient agrees to include in its bid documents the applicable "fair share" objectives and require all of its prime contractors to include in their bid documents for subcontracts the negotiated "fair share" percentages.

d. The recipient agrees to follow the six affirmative steps or positive efforts stated in 40 CFR 30.44(b), 40 CFR 31.36(e), or 40 CFR 35.6580, as appropriate, and retain records documenting compliance.

e. The recipient agrees to submit an EPA Form 5700-52A, "MBE/WBE Utilization Under Federal Grants, Cooperative Agreements and Interagency Agreements," beginning with the Federal fiscal year quarter the recipient receives the award and continuing until the project is completed. These reports must be submitted to R. Catherine King, Municipal Financial Assistance Branch (3WP21), within 30 days of the end of the Federal fiscal quarter (January 30, April 30, July 30, and October 30).

f. If race and/or gender neutral efforts prove inadequate to achieve a "fair share" objective, the recipient agrees to notify EPA in advance of any race and/or gender conscious action it plans to take to more closely achieve the "fair share" objective.

EPA may take corrective action under 40 CFR Parts 30, 31, and 35, as appropriate, if the recipient fails to comply with these terms and conditions.

9. In accordance with OMB Circular A-133, which implements the Single Audit Act, the recipient hereby agrees to obtain a single audit from an independent auditor if it expends $500,000 or more in total Federal funds in any fiscal year. Within nine months after the end of a recipient's fiscal year or 30 days after receiving the report from the auditor, the recipient shall submit a copy of the report to:

Federal Audit Clearinghouse
1201 East 10th Street
Jeffersonville, IN 47132

10. EPA participation in the salary rate (excluding overhead and travel) paid to individual consultants retained by recipients or by a recipient's contractors or subcontractors shall be limited to the maximum daily rate for Level IV of the Executive Schedule, to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. As of January 1, 2005, the limit is $539.60 per day and $67.45 per hour. The rate does not include overhead or travel costs and the recipient may pay these in accordance with its normal travel practices.

Subagreements with firms for services which are awarded using the procurement requirements in 40 CFR Parts 30 or 31, as applicable, are not affected by this limitation unless the terms of the contract provide the recipient with responsibility for the selection, direction, and control of the individuals who will be providing services under the contract at an hourly or daily rate of compensation. See 40 CFR 31.36(j)(2) or 30.27(b), as applicable.

Programmatic Conditions

1. Procurement

a. The recipient agrees to procure all services, supplies, and construction awarded under this grant in accordance with 40 CFR Part 31.

b. A copy of all proposed subagreements for services and supplies over $100,000 shall be submitted to the West Virginia Bureau for Public Health (WV BPH), for review and pre-award approval, as appropriate, under 40 CFR Part 31. The submittal of the proposed subagreements shall include procurement records. Also, the contract cost and price data shall be submitted on EPA Form 5700-41, or on a form which contains similar information.

c. A copy of all proposed subagreements for construction shall be submitted to the WV BPH, for review and pre-award approval, as appropriate, under 40 CFR Part 31. The submittal of the proposed subagreements shall include procurement records.

2. Grant Payments

The recipient agrees that:

a. Payments are on a reimbursable basis. Requests for payments should be submitted to the WV BPH, using Standard Form 271.

b. Payment for professional services and construction will be limited to the Federal share of EPA approved contracts.

3. Project Performance Certification

Prior to the release of the final payment on the grant, the recipient agrees to certify that the project is capable of meeting the objectives for which it was planned, designed, and built.

4. Project Changes

For any changes in the project which affect the grant amount, delay or accelerate the project or alter the project in other ways, the recipient must receive a formal grant amendment from EPA. Of particular interest is any change in completion of final design drawings and specifications, date of advertisement for bids, and the building completion date.

5. Land Acquisition

In the event the recipient procures land or relocates people, 49 CFR Part 24 applies.

6. Sites, Easements and Rights-of-Way

The recipient shall submit an acceptable legal opinion that the necessary sites and easements and/or rights-of-way have been obtained and that they are free of any restrictions or encumbrances that might restrict their use for the purpose intended. Said opinion shall be submitted to EPA no later than the time at which the recipient requests approval to award construction contracts.

7. Flood Insurance

The recipient agrees to acquire and maintain at his own cost any flood insurance made available to it under the National Flood Insurance Act of 1968, as amended, before the project is placed in operation. This condition shall not be applicable if, on the date of execution of this Grant Agreement by both parties, flood insurance was not available pursuant to the Flood Insurance Act of 1968, as amended, for property in the project location.

8. Review

The recipient recognizes that approval of any part of this grant, change orders, grant increase amendments, subagreements, any special items or allowableness of any other costs will be subject to final review, including project officer review, audit review, and final determination of the grant approving official.

9. Project Schedule

EPA's policy requires that projects be initiated, constructed, and placed in operation in a timely manner. For that reason, the schedule shown below, which was developed in conjunction with your grant application, is included as a condition.

Advertise for Bids	August 2005
Award Construction Contract	November 2005
Initiate Construction	December 2005
Complete Construction	March 2007
Request Final Payment	May 2007

10. Environmental Review

The recipient agrees not to begin the preparation of plans and specifications (design), or to initiate construction, until such time as EPA determines that the project complies with the National Environmental Policy Act, 42 USC Subsection 4321 et seq., CFR Parts 6 and 1500 et seq.

The recipient agrees that upon completion of the NEPA review, design and construction shall be undertaken in accordance with the results of that review. EPA reserves the right to unilaterally terminate this grant in the event the recipient fails to comply with this condition, in accordance with 40 CFR 31.43.

11. Initiation of Construction

It is agreed that the WV BPH must approve the design before contracts are advertised for bids. Bids will be submitted to the WV BPH for approval prior to contract award.

12. Open Competition and Government Neutrality

The assistance recipient agrees to comply with Executive Order 13202 (February 22, 2001, 66 Fed. Reg. 11225) of February 17, 2001, entitled "Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects," as amended by Executive Order 13208 (April 11, 2001, 66 Fed. Reg. 18717) of April 6, 2001, entitled "Amendment to Executive Order 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded

Construction Projects."

13. Performance Reports

In accordance with 40 C.F.R. § 31.40, the recipient agrees to submit performance reports that include brief information on each of the following areas; 1) a comparison of actual accomplishments to the outputs/outcomes established in the assistance agreement work plan for the period; 2) the reasons for slippage if established outputs/outcomes were not met; and 3) additional pertinent information, including, when appropriate, analysis and information of cost overruns or high unit costs.

In accordance with 40 C.F.R. § 31.40 (d), the recipient agrees to inform EPA as soon as problems, delays or adverse conditions become known which will materially impair the ability to meet the outputs/outcomes specified in the assistance agreement work plan.

14. Outputs and Outcomes

EPA Order 5700.7, Environmental Results under EPA Assistance Agreements, requires that the award of grant assistance is tied to the accomplishment of agreed-upon products/activities and the effect of those products/activities, referred to as environmental "outputs" and "outcomes." The outputs and outcomes must be measurable and identified in the application work plan. The award of grant assistance constitutes EPA agreement with the outputs and outcomes identified in the application work plan.

EPA Order 5700.7 further requires that following the award of grant assistance, grant recipients must report on their progress in achieving the accepted environmental outputs and outcomes. The preceding Performance Reporting condition highlights this obligation.

Pursuant to EPA regulation 40 CFR 31.40(c), *Construction performance reports*, for the purpose of this grant award the recipient may satisfy the above Performance Reporting obligation by providing information on the interim status or completion of the project to the WV BPH during the course of interim and final project inspections.

EASTERN WYOMING
PUBLIC SERVICE DISTRICT

P.O. Box 506
Logan, West Virginia 25601

Phone:(304) 946-2641
Fax: (304) 946-2645

March 10, 2003

Walter M. Ivey, P.E.
WV Bureau for Public Health
Environmental Engineering Division
815 Quarrier Street, Suite 418
Charleston, WV 25301-2616

Re: Mullens/Wyco Water Project
Project No. 2001W-625
01DWTRF002

Dear Mr. Ivey:

Enclosed are two (2) signed originals of the Binding Commitment Letter for a $2,570,000 loan from the DWTRF for the referenced project.

If you have any questions, please let us know.

Sincerely,

Rick Roberts, P.E.
Managing Engineer

EASTERN WYOMING PSD

CRR:mjg

Enclosures: as stated

cc: David Cole, Region I PDC
Bob Hazelwood, Pentree, Inc.

RECEIVED
MAR 11 2003
REGION I PDC

C:\My Documents\EstrnWyomCoBrd\Mtgs\Ivey\bindcomlet.let.doc

RECEIVED
MAR 0 4 2003
REGION I PDC

STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
BUREAU FOR PUBLIC HEALTH
OFFICE OF ENVIRONMENTAL HEALTH SERVICES

Bob Wise
Governor

Paul L. Nusbaum
Secretary

February 28, 2003

Rick Roberts, P.E., Managing Engineer
Logan County Public Service District
White & Browning Building, Suite 507
201 ½ Stratton Street
Logan, WV 25601

RE: Binding Commitment Letter
Eastern Wyoming Public Service District
Project No. 2001W-625 (formerly 95W-127)
01DWTRF002
Wyoming County

Dear Mr. Roberts:

The Bureau for Public Health (Bureau) provides this binding offer of a loan of approximately $2,570,000 for Eastern Wyoming Public Service District (District), to contribute to the funding for the proposed project identified as IJDC Project Number 2001W-625. This can include construction of the water treatment plant, installation of water transmission lines along with all necessary appurtenances to construct the proposed project. If necessary, $820,000 of this committed funding will be from "Second Round Funds". The source of funds for the loan will be from the Drinking Water Treatment Revolving Fund (DWTRF). The loan will be subject to the terms of 0% interest, 1% administrative fee for 30 years. The loan agreement will be between the District and West Virginia Water Development Authority (Authority), who is the administrator of the DWTRF, acting on behalf of the Bureau. This binding commitment will be reevaluated by September 1, 2003 and either be renewed or withdrawn.

This loan commitment is also contingent upon the following:

a. The project being submitted to the Public Service Commission for a formal Certificate of Convenience and Necessity by August 1, 2003.

b. Meeting with the staff of the DWTRF, reviewing and agreeing to the requirements of the program.

If the District becomes aware that it will not meet one or more of the requirements, they should immediately notify the Bureau of this fact and the circumstances which have caused the delay.

If you have any questions regarding this loan commitment, please contact me at (304) 558-6715.

Very truly yours,

Walter M. Ivey

Walter M. Ivey, P.E., Manager
Infrastructure and Capacity Development
Environmental Engineering Division

WMI:sec

pc: Ken McBride, EWPSD
Dallas J. Cecil, EWPSD
David Cole, Region I P&DC
Robert Hazelwood, P.E., Pentree
Katy Mallory, P.E., LJDC
Daniel "Bernie" Yonkosky, WDA
Charles Stover, AML
Samme L. Gee, Esquire
Tracy Rowan, Development Office
OEHS Beckley District Office
Victor R. Wilford, P.E., Director, OEHS, EED

NOTE: **This letter is sent in triplicate. Please acknowledge receipt on two copies and immediately return to the Bureau for Public Health, 815 Quarrier Street, Suite 418, Charleston, WV 25301, Attn: Walter M. Ivey, P.E.**

Eastern Wyoming Public Service District

By: Kenneth W. McBride

Title: CHAIRMAN

Date: 3/7/03

S:ENGCOMON\I & CD\SRF\PROJECTS\Eastern Wyoming\Funding\BC#3.wpd

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
EASTERN WYOMING PUBLIC SERVICE DISTRICT
WATER REVENUE BOND (WEST VIRGINIA DWTRF PROGRAM), 2006 SERIES A

SPECIMEN

No. AR-1 $2,570,000

KNOW ALL MEN BY THESE PRESENTS: That EASTERN WYOMING PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia in Wyoming County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the sources and in the manner provided therefor, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority") or registered assigns, the principal sum of TWO MILLION FIVE HUNDRED SEVENTY THOUSAND DOLLARS ($2,570,000) or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as Exhibit A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing December 1, 2007, as set forth on the "Debt Service Schedule" attached as Exhibit B hereto and incorporated herein by reference. The Administrative Fee (as defined in the hereinafter described Bond Resolution) shall also be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing December 1, 2007, as set forth on said Exhibit B.

This Bond shall bear no interest. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Bureau for Public Health (the "BPH"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and between the Issuer and the Authority, on behalf of the BPH, dated January 12, 2006.

This Bond is issued (i) to permanently finance the cost of construction of a new regional water treatment plant, two storage tanks, distribution lines and other necessary appurtenances by the Issuer (the "Project"); and (ii) to pay certain costs of issuance of this Bond and related costs. The existing public waterworks system of the Issuer, the Project and any further additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full

compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13A and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Resolution duly adopted by the Issuer on January 10, 2006 (the "Resolution"), and is subject to all the terms and conditions thereof. The Resolution provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for this Bond under the Resolution.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT WITH THE ISSUER'S (1) WATER REVENUE BONDS, SERIES 2001 A (WEST VIRGINIA DWTRF PROGRAM), DATED OCTOBER 16, 2001, ISSUED IN THE ORIGINAL AGGREGATE AMOUNT OF $360,000 AND (2) WATER REVENUE BONDS, SERIES 2004 A (WEST VIRGINIA DWTRF PROGRAM), DATED AUGUST 24, 2004, ISSUED IN THE ORIGINAL AGGREGATE AMOUNT OF $570,000 (COLLECTIVELY THE "PRIOR BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Resolution) to be derived from the operation of the System on a parity with the lien of the Prior Bonds, and from moneys in the reserve account created under the Bond Resolution for this Bond (the "Reserve Account") and unexpended proceeds of this Bond (the "Bond Proceeds"). Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act, and shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon, except from said special fund provided from the Net Revenues, the moneys in the Reserve Account and unexpended Bond Proceeds. Pursuant to the Bond Resolution, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount required in any year for debt service on this Bond, and all other obligations secured by a lien on or payable from such revenues on a parity with this Bond and the Prior Bonds, provided however, that so long as the Reserve Account is funded at an amount at least equal to the maximum amount of principal and interest which will come due on this Bond in the then current or any succeeding year, and the reserve accounts for any other obligations outstanding on a parity with this Bond, including the Prior Bonds, are funded at an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the Registered Owners of this Bond for the terms of which reference is made to the Resolution. Remedies provided the Registered Owners of

this Bond are exclusively as provided in the Resolution, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Resolution, only upon the books of the Registrar (as defined in the Resolution), by the Registered Owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

Subject to the registration requirements set forth herein, this Bond, under the provision of the Act is, and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Resolution, shall be applied solely to payment of the Costs of the Project and costs of issuance hereof described in the Resolution, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the registered owner of this Bond.

Under the Act, this Bond is exempt from taxation by the State of West Virginia and the other taxing bodies of the State.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and at issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the Net Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of this Bond.

All provisions of the Resolution and the statutes under which this Bond is issued shall be deemed to be part of the contract evidenced by this Bond to the same extent as if written fully herein.

This Bond shall not be valid or obligatory unless authenticated and registered by the Registrar by the execution of the Registrar's Certificate of Authentication and Registration attached hereto and incorporated herein.

IN WITNESS WHEREOF, EASTERN WYOMING PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairman and its corporate seal to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated January 12, 2006.

[SEAL]

EASTERN WYOMING PUBLIC SERVICE DISTRICT

SPECIMEN

Kenneth W. [illegible]

Chairman

Attest:

SPECIMEN

Dallas Cecil

Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This is to certify that this Bond is one of the 2006 Series A Bonds described in and issued under the provisions of the within mentioned Resolution and has been duly registered in the name of the registered owner set forth above.

Date: January 12, 2006.

UNITED BANK, INC., as Registrar

SPECIMEN

Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

	AMOUNT	DATE		AMOUNT	DATE
(1)	$64,250.00	1/12/2006	(19)		
(2)	$		(20)		
(3)	$		(21)		
(4)	$		(22)		
(5)	$		(23)		
(6)	$		(24)		
(7)	$		(25)		
(8)	$		(26)		
(9)	$		(27)		
(10)	$		(28)		
(11)	$		(29)		
(12)	$		(30)		
(13)	$		(31)		
(14)	$		(32)		
(15)	$		(33)		
(16)	$		(34)		
(17)	$		(35)		
(18)	$		(36)		

TOTAL $

EXHIBIT B

DEBT SERVICE SCHEDULE

$2,570,000

Eastern Wyoming PSD
0% Interest Rate, 1% Administrative Fee, 30 Years
Closing Date: January 12, 2006

Debt Service Schedule

Date	Principal	Coupon	Total P+I
03/01/2006	-	-	-
06/01/2006	-	-	-
09/01/2006	-	-	-
12/01/2006	-	-	-
03/01/2007	-	-	-
06/01/2007	-	-	-
09/01/2007	-	-	-
12/01/2007	21,417.00	-	21,417.00
03/01/2008	21,417.00	-	21,417.00
06/01/2008	21,417.00	-	21,417.00
09/01/2008	21,417.00	-	21,417.00
12/01/2008	21,417.00	-	21,417.00
03/01/2009	21,417.00	-	21,417.00
06/01/2009	21,417.00	-	21,417.00
09/01/2009	21,417.00	-	21,417.00
12/01/2009	21,417.00	-	21,417.00
03/01/2010	21,417.00	-	21,417.00
06/01/2010	21,417.00	-	21,417.00
09/01/2010	21,417.00	-	21,417.00
12/01/2010	21,417.00	-	21,417.00
03/01/2011	21,417.00	-	21,417.00
06/01/2011	21,417.00	-	21,417.00
09/01/2011	21,417.00	-	21,417.00
12/01/2011	21,417.00	-	21,417.00
03/01/2012	21,417.00	-	21,417.00
06/01/2012	21,417.00	-	21,417.00
09/01/2012	21,417.00	-	21,417.00
12/01/2012	21,417.00	-	21,417.00
03/01/2013	21,417.00	-	21,417.00
06/01/2013	21,417.00	-	21,417.00
09/01/2013	21,417.00	-	21,417.00
12/01/2013	21,417.00	-	21,417.00
03/01/2014	21,417.00	-	21,417.00
06/01/2014	21,417.00	-	21,417.00
09/01/2014	21,417.00	-	21,417.00
12/01/2014	21,417.00	-	21,417.00
03/01/2015	21,417.00	-	21,417.00
06/01/2015	21,417.00	-	21,417.00
09/01/2015	21,417.00	-	21,417.00
12/01/2015	21,417.00	-	21,417.00
03/01/2016	21,417.00	-	21,417.00
06/01/2016	21,417.00	-	21,417.00
09/01/2016	21,417.00	-	21,417.00
12/01/2016	21,417.00	-	21,417.00

$2,570,000

Eastern Wyoming PSD
0% Interest Rate, 1% Administrative Fee, 30 Years
Closing Date: January 12, 2006

Debt Service Schedule

Date	Principal	Coupon	Total P+I
03/01/2017	21,417.00	-	21,417.00
06/01/2017	21,417.00	-	21,417.00
09/01/2017	21,417.00	-	21,417.00
12/01/2017	21,417.00	-	21,417.00
03/01/2018	21,417.00	-	21,417.00
06/01/2018	21,417.00	-	21,417.00
09/01/2018	21,417.00	-	21,417.00
12/01/2018	21,417.00	-	21,417.00
03/01/2019	21,417.00	-	21,417.00
06/01/2019	21,417.00	-	21,417.00
09/01/2019	21,417.00	-	21,417.00
12/01/2019	21,417.00	-	21,417.00
03/01/2020	21,417.00	-	21,417.00
06/01/2020	21,417.00	-	21,417.00
09/01/2020	21,417.00	-	21,417.00
12/01/2020	21,417.00	-	21,417.00
03/01/2021	21,417.00	-	21,417.00
06/01/2021	21,417.00	-	21,417.00
09/01/2021	21,417.00	-	21,417.00
12/01/2021	21,417.00	-	21,417.00
03/01/2022	21,417.00	-	21,417.00
06/01/2022	21,417.00	-	21,417.00
09/01/2022	21,417.00	-	21,417.00
12/01/2022	21,417.00	-	21,417.00
03/01/2023	21,417.00	-	21,417.00
06/01/2023	21,417.00	-	21,417.00
09/01/2023	21,417.00	-	21,417.00
12/01/2023	21,417.00	-	21,417.00
03/01/2024	21,417.00	-	21,417.00
06/01/2024	21,417.00	-	21,417.00
09/01/2024	21,417.00	-	21,417.00
12/01/2024	21,417.00	-	21,417.00
03/01/2025	21,417.00	-	21,417.00
06/01/2025	21,417.00	-	21,417.00
09/01/2025	21,417.00	-	21,417.00
12/01/2025	21,417.00	-	21,417.00
03/01/2026	21,417.00	-	21,417.00
06/01/2026	21,417.00	-	21,417.00
09/01/2026	21,417.00	-	21,417.00
12/01/2026	21,417.00	-	21,417.00
03/01/2027	21,417.00	-	21,417.00
06/01/2027	21,417.00	-	21,417.00
09/01/2027	21,417.00	-	21,417.00
12/01/2027	21,416.00	-	21,416.00

$2,570,000

Eastern Wyoming PSD
0% Interest Rate, 1% Administrative Fee, 30 Years
Closing Date: January 12, 2006

Debt Service Schedule

Date	Principal	Coupon	Total P+I
03/01/2028	21,416.00	-	21,416.00
06/01/2028	21,416.00	-	21,416.00
09/01/2028	21,416.00	-	21,416.00
12/01/2028	21,416.00	-	21,416.00
03/01/2029	21,416.00	-	21,416.00
06/01/2029	21,416.00	-	21,416.00
09/01/2029	21,416.00	-	21,416.00
12/01/2029	21,416.00	-	21,416.00
03/01/2030	21,416.00	-	21,416.00
06/01/2030	21,416.00	-	21,416.00
09/01/2030	21,416.00	-	21,416.00
12/01/2030	21,416.00	-	21,416.00
03/01/2031	21,416.00	-	21,416.00
06/01/2031	21,416.00	-	21,416.00
09/01/2031	21,416.00	-	21,416.00
12/01/2031	21,416.00	-	21,416.00
03/01/2032	21,416.00	-	21,416.00
06/01/2032	21,416.00	-	21,416.00
09/01/2032	21,416.00	-	21,416.00
12/01/2032	21,416.00	-	21,416.00
03/01/2033	21,416.00	-	21,416.00
06/01/2033	21,416.00	-	21,416.00
09/01/2033	21,416.00	-	21,416.00
12/01/2033	21,416.00	-	21,416.00
03/01/2034	21,416.00	-	21,416.00
06/01/2034	21,416.00	-	21,416.00
09/01/2034	21,416.00	-	21,416.00
12/01/2034	21,416.00	-	21,416.00
03/01/2035	21,416.00	-	21,416.00
06/01/2035	21,416.00	-	21,416.00
09/01/2035	21,416.00	-	21,416.00
12/01/2035	21,416.00	-	21,416.00
03/01/2036	21,416.00	-	21,416.00
06/01/2036	21,416.00	-	21,416.00
09/01/2036	21,416.00	-	21,416.00
12/01/2036	21,416.00	-	21,416.00
03/01/2037	21,416.00	-	21,416.00
06/01/2037	21,416.00	-	21,416.00
09/01/2037	21,416.00	-	21,416.00
Total	**$2,570,000.00**	-	**$2,570,000.00** *

*Plus $3,239.24 one-percent administrative fee paid quarterly. Total fee over life of loan is $388,708.80.

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto _____, the within-mentioned Bond and does hereby irrevocably constitute and appoint _____, attorney, to transfer the said Bond on the books of the Registrar on behalf of said Issuer with full power of substitution in the premises.

Dated: _____

_____

IN THE PRESENCE OF:

_____

January 12, 2006

West Virginia Water Development Authority
180 Association Drive
Charleston, West Virginia 25311

West Virginia Bureau for Public Health
815 Quarrier Street, Suite 418
Charleston, WV 25301-2616

West Virginia Infrastructure and Jobs Development Council
300 Summers Street, Suite 980
Charleston, WV 25301

Eastern Wyoming Public Service District
Post Office Box 907
Mullens, West Virginia 25882

Re: Eastern Wyoming Public Service District Water Revenue Bonds (West Virginia DWTRF Program), 2006 Series A

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by the Public Service Board of Eastern Wyoming Public Service District in Wyoming County, West Virginia (the "Issuer"), a public service district, public corporation and political subdivision created and existing under the laws of the State of West Virginia, of its $2,570,000 Water Revenue Bonds (West Virginia DWTRF Program), 2006 Series A, dated the date hereof (the "Bonds").

The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 16, Article 13A and Chapter 16, Article 13C of the Code of West Virginia, 1931, as amended (collectively, the "Act"), and a Bond Resolution duly adopted by the Issuer on January 10, 2006 (the "Bond Resolution"), to pay the costs of acquisition and construction of a new regional water treatment plant, two storage tanks, distribution lines and other necessary appurtenances to eliminate inadequate and outdated water treatment plants located at Mullens, Nuriva, Welton, Wyco, Iroquois and Stephenson, West Virginia (collectively, the "Project"), and to pay the costs of issuance hereof and related costs. The existing water treatment and distribution system, the Project, and any further improvements or extensions thereto are herein called the "System".

We have examined the applicable provisions of the Act, the Bond Resolution, a Loan Agreement, dated January 12, 2006, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority") on behalf of the West Virginia Bureau for Public Health (the "BPH"), and the Bonds, which are to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Bonds are originally issued in the form of one Bond, registered as to principal to the Authority, bearing no interest with principal payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing December 1, 2007, and maturing on September 1, 2037, all as set forth in the Bonds and the Schedule Y attached to the Loan Agreement. The Bonds are subject to the Administrative Fee equal to 1% of the principal amount of the Bonds as set forth in the Schedule Y attached to the Loan Agreement. The Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Bond Resolution and the Loan Agreement. All capitalized items used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Resolution and the Loan Agreement when used herein.

Based upon the foregoing, and upon our examination of such other documents as we have deemed necessary, we are of the opinion, under existing law, that:

1. The Issuer is a duly created and validly existing public service district, public corporation and political subdivision of the State of West Virginia, with corporate power and authority to adopt the Bond Resolution, to acquire and construct the Project, to operate and maintain the System and to issue and sell the Bonds, all under the Act and other applicable provisions of law.

2. The Loan Agreement has been duly authorized, executed and delivered on behalf of the Issuer, and is a valid and binding special obligation of the Issuer enforceable in accordance with the terms thereof, and inures to the benefit of the Authority and the BPH and cannot be amended so as to adversely affect the rights of the Authority and the BPH or diminish the obligations of the Issuer without the written consent of the Authority and the BPH.

3. The Bond Resolution and all other necessary orders and resolutions have been duly and effectively adopted by the Issuer, are in full force and effect as of the date hereof and constitute valid and binding obligations of the Issuer enforceable upon the Issuer in accordance with their terms. The Bond Resolution contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

4. The Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding special obligations of the Issuer. The Bonds are payable from the Net Revenues of the System and secured by a first lien on and pledge of the Net Revenues of the System, on a parity with respect to liens, pledge and source of security for payment with the Prior Bonds, all in accordance with the terms of the Bonds and the Bond Resolution.

5. The Bonds have not been issued on the basis that the interest, if any, thereon is or will be excluded from the gross income of the owners thereof for federal income tax purposes. We express no opinion regarding the excludability of any such interest from the gross income of the owners thereof for federal income tax purposes or other federal tax consequences arising with respect to the Bonds.

6. The Bonds are, under the Act, exempt from taxation by the State of West Virginia, and the other taxing bodies of the State.

This opinion is rendered as of the date hereof. We are under no obligation to, nor will we, update or revise this opinion due to events occurring after the date hereof which change the facts or law upon which this opinion is based.

This opinion is rendered to the addressees set forth above solely for their use in connection with the transactions contemplated under the Bond Resolution, is solely for the benefit of those addressees, and their respective successors and assigns; and, except where we have given our prior written consent, may not be relied upon by anyone else or used for any purpose other than in connection with the consummation of the transactions contemplated in the Bond Resolution.

All counsel to the transaction may rely on this opinion as if expressly addressed to them.

We have examined the executed and authenticated Bond numbered AR-1, and in our opinion the form of said Bond and its execution and authentication are regular and proper.

Very truly yours,

Spilman Thomas & Battle, PLLC

Spilman Thomas & Battle, PLLC

391985

EASTERN WYOMING PUBLIC SERVICE DISTRICT

WATER REVENUE BONDS, SERIES 2001 A

(WEST VIRGINIA DWTRF PROGRAM)

BOND RESOLUTION

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EASTERN WYOMING PUBLIC SERVICE DISTRICT

RESOLUTION AUTHORIZING THE ACQUISITION, CONSTRUCTION AND IMPROVEMENTS OF WATER TREATMENT AND DISTRIBUTION FACILITIES BY EASTERN WYOMING PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COSTS, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN $360,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2001 A (WEST VIRGINIA DWTRF PROGRAM); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING AND RATIFYING A LOAN AGREEMENT WITH THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS; AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT ADOPTED BY THE PUBLIC SERVICE BOARD OF EASTERN WYOMING PUBLIC SERVICE DISTRICT:

ARTICLE I

DEFINITIONS, STATUTORY AUTHORITY AND FINDINGS

Section 1.01 Definitions. The following terms shall have the following meanings in this Resolution unless the context expressly requires otherwise.

"Act" or "Bond Act" means, collectively, Chapter 16, Article 13A and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended and in effect on the date of adoption of this Resolution.

"Administrative Fee" means any administrative fee required to be paid pursuant to the Loan Agreement for the Series 2001 A Bonds.

"Agreement of Sale" means the Agreement of Sale entered into prior to issuance of the Bonds, by and between MWW and the Issuer, as the same may be amended, pursuant to which MWW has sold to the Issuer certain water facility assets that constitute a portion of the Project.

"Application" means the application, with attachments and exhibits, filed by the Issuer with the BPH for a DWTRF loan.

"Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser and Registered Owner of the Bonds acting in its administrative capacity and upon authorization from the BPH under the Act.

"Authorized Officer" means the Chairman of the Governing Body of the Issuer or any other officer or person of the Issuer specifically designated by resolution of the Governing Body of the Issuer.

"Board" or "Governing Body" means the public service board of the Issuer as it may now or hereafter be constituted.

"Bondholders" "Holder of the Bonds," "Holder," "Registered Owner," "Owner" or any similar term, whenever used herein with respect to an Outstanding Bond or Bonds, means the person in whose name such Bond is registered.

"Bond Register" means the books of the Issuer as hereinafter defined, maintained by the Bond Registrar as hereinafter defined for the registration and transfer of the Bonds.

"Bond Registrar" or "Registrar" means the bank or other entity to be designated as such in the Supplemental Resolution and its successors and assigns.

"Bonds" means collectively the Series 2001 A Bonds originally authorized hereby, and any pari passu additional bonds hereafter issued within the terms, restrictions and conditions contained in this Resolution or another resolution of the Issuer.

"Bond Year" means the 12-month period beginning on the anniversary of the Closing Date in each year and ending on the day prior to the anniversary date of the Closing Date in the following year except that the first Bond Year shall begin on the Closing Date.

"BPH" means the West Virginia Bureau for Public Health, a division of the West Virginia Department of Health and Human Resources, or any successor thereto.

"Chairman" means the Chairman of the Governing Body of the Issuer.

"Closing Date" means the date upon which there is an exchange of the Bonds for all or a portion of the proceeds of the Bonds.

"Code" means the Internal Revenue Code of 1986, as amended, including the rules and regulations promulgated pursuant thereto or any predecessors or successors thereto.

"Commission" means the West Virginia Municipal Bond Commission or any other agency of the State of West Virginia that succeeds to the functions of the Commission.

"Construction Trust Fund" means the Series 2001 A Construction Trust Fund established by Section 5.01(3).

"Consulting Engineer" or "Consulting Engineers" means the Managing Engineer of the Logan County Public Service District, which entity, pursuant to that certain Agreement dated August 30, 2001 by and between the Logan County Public Service District and the Issuer, operates and maintains the Issuer's System.

"Costs" or "Costs of the Project" or any similar phrase means those costs described in Section 1.03 E hereof to be part of the cost of acquisition and construction of the Project.

"Council" means the West Virginia Infrastructure and Jobs Development Council or any successor thereto.

"Debt Service" means the scheduled amount of interest, if any, and amortization of principal payable on the Bonds, as hereinafter defined, during the period of computation, excluding amounts scheduled during such period which relate to principal which has been retired before the beginning of such period.

"Depository Bank" means the bank designated as such in the Supplemental Resolution, and its successors and assigns, which shall be a member of FDIC.

"DWTRF" means the West Virginia Drinking Water Treatment Revolving Fund.

"FDIC" means the Federal Deposit Insurance Corporation or any successor to the functions of the FDIC.

"Fiscal Year" means each 12-month period beginning on July 1 and ending on the succeeding June 30.

"Governmental Obligations" means direct obligations or, of obligations the timely payment of the principal of and interest on which is guaranteed by, the United States of America.

"Gross Revenues" means the aggregate gross operating and non-operating revenues of the System, as hereinafter defined, determined in accordance with generally accepted accounting principles, after deduction of prompt payment discounts, if any, and reasonable provision for uncollectible accounts; provided, that "Gross Revenues" does not include any gains from the sale or other disposition of, or from any increase in the value of, capital assets (including Qualified Investments, as hereinafter defined, or any Tap Fees, as hereinafter defined).

"Independent Certified Public Accountants" means any certified public accountant or firm of certified public accountants that shall at any time hereafter be retained by the Issuer to prepare an independent annual or special audit of the accounts of the System, or for

any other purpose except keeping the accounts of such System in the normal operation of its business and affairs.

"Investment Property" means any security (as said term is defined in Section 165(g)(2)(A) or (B) of the Code), obligation, annuity contract or investment-type property, excluding, however, obligations the interest on which is excluded from gross income under Section 103 of the Code for federal income tax purposes.

"Issuer" means Eastern Wyoming Public Service District, a public service district and political subdivision of the State of West Virginia, in Wyoming County, West Virginia, and, unless the context clearly indicates otherwise, includes the Board and any successor thereto.

"Loan Agreement" means the Loan Agreement heretofore entered into, or to be entered into, between the Issuer and the Authority, on behalf of the BPH providing for the purchase of the Series 2001 A Bonds from the Issuer by the Authority, the form of which shall be approved, and the execution and delivery by the Issuer authorized and directed or ratified by the Supplemental Resolution.

"LCPSD" means the Logan County Public Service District, or any successor thereto.

"MWW" means Mullens Water Works, a West Virginia corporation, which has sold to the Issuer, pursuant to the Agreement of Sale, certain water facility assets that constitute a portion of the Project.

"Net Proceeds" means the face amount of the Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds deposited in the Reserve Account. For purposes of the Private Business Use limitations set forth herein, the term Net Proceeds shall include any amounts resulting from the investment of proceeds of the Bonds, without regard to whether or not such investment is made in tax-exempt obligations.

"Net Revenues" means the balance of the Gross Revenues remaining after deduction of Operating Expenses, as hereinafter defined.

"Note" or "Notes" means the Issuer's Water System Notes, Series 2001 A (West Virginia Water Development Authority).

"Operating Expenses" means the reasonable, proper and necessary costs of repair, maintenance and operation of the System, as hereinafter described and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses, other than those capitalized as part of the Costs of Projects, fees and expenses of the Authority, fiscal agents, the Depository Bank, Registrar and Paying Agent, other than those capitalized as part of the Costs of Projects, payments to pension or retirement funds, taxes and such other reasonable operating costs and expenses as should normally and regularly be included under generally accepted accounting principles; provided, that "Operating Expenses" does not include payments on account of the principal of or redemption premium, if any, or interest on the

Bonds, charges for depreciation, losses from the sale or other disposition of, or from any decrease in the value, capital assets, amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

"Operation and Maintenance Agreement" means that certain Agreement dated August 30, 2001 by and between the Logan County Public Service District and the Issuer, pursuant to which the Logan County Public Service District operates and maintains the Issuer's System.

"Outstanding," when used with reference to Bonds and as of any particular date, describes all Bonds theretofore and thereupon being delivered except (a) any Bond for the payment of which moneys, equal to its principal amount, with interest to the date of maturity, shall be held in trust under this Resolution and set aside for such payment (whether upon or prior to maturity); and (b) any Bond deemed to have been paid as provided in Article VI hereof.

"Parity Bonds" means additional Bonds issued under the provisions and within the limitations prescribed by Section 7.07 hereof.

"Paying Agent" means the Commission or other entity to be designated as such in the Supplemental Resolution and its successors and assigns.

"Project" means the Project described in Section 1.03B hereof.

"PSC" means the Public Service Commission of West Virginia or any other agency of the State of West Virginia that succeeds to the functions of the Public Service Commission of West Virginia.

"PSC Order" means, collectively, the Commission Order of the Public Service Commission of West Virginia (the "PSC") entered on August 3, 2001, Case No. 01-1039-W-PWD-PC, which, among other things, approves the acquisition of certain assets of Mullens Water Works, Inc. ("MWW"), approves the charging of the existing rates of MWW, and approves the issuance of Bonds to evidence the Drinking Water Treatment Revolving Fund ("DWTRF") loan of $500,000, and the Further Commission Order of the PSC entered on August 14, 2001, Case No. 01-1039-W-PWD-PC, which approved the sale of the Issuer's Water System Notes, Series 2001 A (West Virginia Water Development Authority) as interim financing pending the issuance of Bonds to evidence the DWTRF loan.

"Qualified Investments" means and includes any of the following:

(a) Government Obligations;

(b) Government Obligations which have been stripped of their unmatured interest coupons, interest coupons stripped from Government Obligations, and receipts or certificates evidencing payments from Government Obligations or interest coupons stripped from Government Obligations;

(c) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Government National Mortgage Association; Tennessee Valley Authority; or Washington Metropolitan Area Transit Authority;

(d) Any bond, debenture, note, participation certificate or other similar obligations issued by the Federal National Mortgage Association to the extent such obligation is guaranteed by the Government National Mortgage Association or issued by any other federal agency and backed by the full faith and credit of the Unites States of America;

(e) Time accounts (including accounts evidenced by time certificates of deposit, time deposits or other similar banking arrangements) which, to the extent not insured by the FDIC or Federal Savings and Loan Insurance Corporation, shall be secured by a pledge of Government Obligations, provided, that said Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;

(f) Money market funds or similar funds whose only assets are investments of the type described in paragraphs (a) through (e) above;

(g) Repurchase agreements, fully secured by investments of the types described in paragraphs (a) through (e) above, with banks or national banking associations which are members of FDIC or with government bond dealers recognized as primary dealers by the Federal Reserve Bank of New York; provided, that said investments securing said repurchase agreements either must mature as nearly as practical coincident with the maturity of said repurchase agreements or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said repurchase agreements, and provided further that the holder of such repurchase agreement shall have a prior perfected security interest in the collateral therefor; must have (or its agent must have) possession of such collateral; and such collateral must be free of all claims by third parties;

(h) The West Virginia "consolidated fund" managed by the West Virginia Investment Management Board pursuant to Chapter 12, Article 6 of the West Virginia Code of 1931, as amended; and

(i) Obligations of States or political subdivisions or agencies thereof, the interest on which is exempt from federal income taxation, and which are rated at least "A" by Moody's Investors Service, Inc. or Standard & Poor's Corporation.

"Registrar" means the bank or other entity to be designated as such in the Supplemental Resolution and its successors and assigns.

"Renewal and Replacement Fund" means the Renewal and Replacement Fund referenced in Section 5.01(2).

"Resolution" means this resolution, as from time to time amended or supplemented.

"Revenue Fund" means the Revenue Fund created by Section 5.01(1).

"Secretary" means the Secretary of the Issuer.

"Series 2001 A Bonds" means the not more than $360,000 in aggregate principal amount of Eastern Wyoming Public Service District Water Revenue Bonds Series 2001 A (West Virginia DWTRF Program), of the Issuer originally authorized hereby.

"Series 2001 A Bonds Reserve Account" or "Reserve Account" means the Series 2001 A Bonds Reserve Account established in the Series 2001 A Bonds Sinking Fund pursuant to Section 5.02.

"Series 2001 A Bonds Reserve Requirement" means as of any date of calculation the maximum amount of principal and interest which will become due on the Series 2001 A Bonds in the then current or any succeeding year.

"Series 2001 A Bonds Sinking Fund" or "Sinking Fund" means the Series 2001 A Bonds Sinking Fund established by Section 5.02.

"State" means the State of West Virginia.

"Supplemental Resolution" means any resolution of the Issuer amending or supplementing this Resolution and, when preceded by the article "the," refers specifically to the Supplemental Resolution authorizing the sale of the Bonds, provided, that any matter intended by this Resolution to be included in the Supplemental Resolution with respect to the Bonds, and not so included may be included in another Supplemental Resolution.

"Surplus Revenues" means the Net Revenues not required by this Resolution to be set aside and held for the payment of or security for the Bonds, or any other obligations of the Issuer, including but not limited to the Renewal and Replacement Fund, the Reserve Account and the Sinking Fund, the proceeds of which Bonds or other obligations are to be used to pay Costs of the Project.

"System" means the complete waterworks system of the Issuer, including the Project, and any improvements and extensions thereto hereafter constructed or acquired from any sources whatsoever.

"Tap Fees" means the fees, if any, paid by prospective customers of the System in order to connect thereto.

"West Virginia DWTRF Program" means the West Virginia Drinking Water Treatment Revolving Fund program established by the State, administered by the BPH and funded by capitalization grants awarded to the State pursuant to the federal Safe Drinking Water Act, as amended, for the purpose of establishing and maintaining a permanent perpetual fund for the acquisition, construction and improvement of drinking water projects.

Additional terms and phrases are defined in this Resolution as they are used. Accounting terms not specifically defined herein shall be given meaning in accordance with generally accepted accounting principles.

Words importing singular number include the plural number in each case and vice versa; words importing the masculine gender include every other gender; and words importing persons include firms, partnerships, associations and corporations.

The terms "herein," "hereunder," "hereby," "hereto," "hereof" and any similar terms refer to this Resolution; and the term "hereafter" means after the date of adoption of this Resolution.

Articles, sections and subsections mentioned by number only are the respective articles, sections and subsections of this Resolution so numbered.

Section 1.02. Authority for this Resolution. This Resolution, together with any resolution supplemental hereto or amendatory hereof (the "Bond Legislation"), is adopted pursuant to the provisions of the Act and other applicable provisions of the law.

Section 1.03. Findings. It is hereby found, determined and declared as follows:

A. The Issuer is a public service district and a public corporation and political subdivision of the State, located in and near Mullens, Wyoming County, West Virginia, created pursuant to the Act by an order issued by The County Commission of Wyoming County, West Virginia.

B. It is deemed necessary and desirable for the health, welfare and safety of the inhabitants of the Issuer that the Issuer acquire, construct and improve a water development project, at the location and more particularly described in the Application and related documents, in accordance with plans, specifications and designs prepared for the Issuer (the "Project").

C. In order for the Issuer to permanently finance the cost of constructing, acquiring and improving the Project and to finance the costs of issuance of revenue bonds and related costs in connection with such financing for the Project, it is necessary for the Issuer to borrow from the Authority, which administers the West Virginia Drinking Water Treatment Revolving Fund pursuant to the Act, not more than $360,000 by issuing revenue bonds of the Issuer (the "Bonds" as defined hereinabove), in accordance with the Loan Agreement.

D. The Issuer, on August 23, 2001, issued its Water System Notes, Series 2001 A (West Virginia Water Development Authority) in the amount of $360,000 (the "Note") to (i) temporarily finance the acquisition, construction and improvement of the Project, and (ii) pay the costs of issuance and other related costs. The proceeds of the Bonds will repay in full the principal of and interest accrued on the Note and permanently finance the Project and other acquisitions, construction and improvements to serve the inhabitants of the Issuer.

E. It is deemed necessary for the Issuer to issue its Water Revenue Bonds, Series 2001 A (West Virginia DWTRF Program) in the aggregate principal amount of not more than $360,000 to permanently finance the cost of acquisition, construction and improvement of the Project. Said costs shall be deemed to include the repayment of the principal of and interest accrued on the Notes, cost of all property rights, easements and franchises deemed necessary or convenient therefor; engineering and legal expenses; expenses for estimates of costs and revenues and for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise; administrative expense, commitment fees, fees of the Authority, including the Administrative Fee (as defined above) for the Series 2001 A Bonds, discount, initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Bonds and such other expenses as may be necessary or incidental to the financing herein authorized and the placing of the same in operation, and the performance of the things herein required or permitted, in connection with any thereof; provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Bonds or the repayment of indebtedness, incurred by the Issuer for such purposes shall be deemed Costs of the Project.

F. The Issuer has no outstanding bonds or obligations which are secured by revenues or assets of the System.

G. The estimated revenues to be derived in each year after completion of the Project from the operation of the System will be sufficient to pay all the costs of the operation and maintenance of the System, the principal of the Series 2001 A Bonds and all sinking funds, reserve accounts and other payments provided for herein.

H. The period of usefulness of the System after completion of the Project is not less than 30 years.

I. It is in the best interests of the Issuer that the Series 2001 A Bonds be sold to the Authority pursuant to the terms and provisions of the Loan Agreement.

J. The Issuer has complied with all requirements of West Virginia law and the Loan Agreement relating to the authorization of the Project, operation of the System, and the issuance of the Bonds, or will have so complied prior to the issuance of the Bonds, including the obtaining of approval of the Project and the issuance of the Bonds from the PSC by a Commission Order entered on August 3, 2001, Case No. 01-1039-W-PWD-PC, which, among other things, approves the acquisition of certain assets of MWW, approves the charging of the existing rates of MWW, and approves the issuance of bonds to evidence the DWTRF loan of $500,000, and the Further Commission Order of the PSC entered on August 14, 2001, Case No. 01-1039-W-PWD-PC, which approved the sale of the Notes as interim financing pending the issuance of bonds to evidence the DWTRF loan. The time for appeal of the Commission Order and the Further Order have expired prior to the date hereof.

K. Pursuant to the Act, the Project has been approved by the Council, and the Authority, on behalf of DWTRF, has agreed to make the Loan to the Issuer.

L. The Issuer has determined that the acquisition and construction of the Project are the immediate result of, and necessary due to, flooding that created a disaster affecting public health and public safety, and hereby designates the Project as an emergency.

Section 1.04. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 2001 A Bonds by those who shall be Registered Owners of the same from time to time, this Bond Legislation shall be deemed to be and shall constitute a contract between the Issuer and such Registered Owners, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the benefit, protection and security of the Registered Owners of the Bonds.

ARTICLE II

AUTHORIZATION OF ACQUISITION, CONSTRUCTION AND IMPROVEMENT OF THE PROJECT; AUTHORIZATION OF OPERATION AND MAINTENANCE OF THE PROJECT

Section 2.01. Authorization of the Acquisition, Construction and Improvement of the Project. There is hereby authorized and ordered the acquisition, construction and improvement of the Project, at an estimated cost of not to exceed $360,000. The proceeds of the Series 2001 A Bonds hereby authorized shall be applied as provided in Article VI hereof. The Series 2001 A Bonds are issued to refund the Notes which were issued (i) to temporarily pay the costs of the acquisition, construction and improvement by the Issuer of the Project, and (ii) to pay the costs of issuance hereof and related costs. The Project has heretofore been or will be acquired in an amount and otherwise compatible with the plan of financing described in the application to the Authority and the BPH.

Section 2.02. Approval of Operation and Maintenance of the System. The Issuer hereby approves the operation and maintenance of the System by LCPSD, for and on behalf of the Issuer, along with any other assets of the Issuer that the Issuer may desire for LCPSD to operate and maintain, pursuant to the Operation and Maintenance Agreement.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF BONDS; AUTHORIZATION AND EXECUTION OF LOAN AGREEMENT

Section 3.01. Authorization of Bonds. For the purposes of paying the Notes in full, paying the costs of the Project and paying the costs of issuance of the Bonds and related costs, or any of such purposes as shall be specified in the Supplemental Resolution, there shall be and hereby are authorized to be issued negotiable bonds of the Issuer. Said Bonds shall be issued in one or more series, to be designated the "Eastern Wyoming Public Service District Water Revenue Bonds, Series 2001 A (West Virginia DWTRF Program), in the aggregate principal amount of not more than $360,000, and shall have such terms as are set forth hereinafter or in the Supplemental Resolution. The proceeds of the Bonds shall be deposited in the Construction Trust Fund established by Section 5.01 hereof.

Section 3.02. Term of Bonds. The Bonds shall be issued in such principal amounts; shall bear interest, if any, at such rate or rates, not exceeding the then legal maximum, payable quarterly on such dates; shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in the Supplemental Resolution. The Bonds shall be payable as to principal at the office of the Paying Agent in any coin or currency which, on the dates of payment of principal, is legal tender for the payment of public and private debts under the laws of the United States of America. Interest on the Bonds, if any, shall be paid by check or draft of the Paying Agent mailed to the Registered Owner thereof at the address as it appears on the books of the Bond Registrar, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner thereof.

Unless otherwise provided by this Resolution or the Supplemental Resolution, the Bonds shall be issued in the form of a single bond, fully registered to the Authority, with a debt service schedule attached, representing the aggregate principal amount of the series, and shall mature in principal installments, all as provided in this Resolution. The Bonds shall be exchangeable at the option and expense of the Holder for other fully registered Bonds in aggregate principal amount equal to the amount of said Bonds then Outstanding and being exchanged, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

Subsequent series of Bonds, if any, shall be issued in fully registered form and in denominations as determined by a Supplemental Resolution. The Bonds shall be dated and shall bear interest, if any, as specified in the Supplemental Resolution.

Section 3.03. Additional Terms of Bonds. In addition to the terms set forth in Sections 3.01 and 3.02 hereof and in anticipation of the sale of the Bonds to the Authority, the Issuer covenants that the Bonds shall comply in all respects with the provisions of the Loan Agreement and of any resolution of the Authority authorizing the issuance of Bonds.

Section 3.04. Execution of Bonds. The Bonds shall be executed in the name of the Issuer by the Chairman, and the seal of the Issuer shall be affixed thereto and attested by the Secretary of the Issuer. In case any one or more of the officers who shall have signed or sealed any of the Bonds shall cease to be such officer of the Issuer before the Bonds so signed and sealed shall have been actually sold or delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bonds shall hold the proper office of the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.05. Authentication and Registration. No Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Resolution unless and until the Certificate of Authentication and Registration on such Bond, substantially in the form set forth in Section 3.11 shall have been manually executed by the Bond Registrar. Any such executed Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Resolution. The Certificate of Authentication and Registration shall be deemed to have been executed by the Bond Registrar if signed by an authorized officer of the Bond Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Bonds issued hereunder.

Section 3.06. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Bonds shall be and have all the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State, and each successive Registered Owner, in accepting any of said Bonds, shall be conclusively deemed to have agreed that said Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State, and each successive Registered Owner shall further be conclusively deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide holder for value.

So long as any of the Bonds remain Outstanding, the Issuer, through the Bond Registrar, shall keep and maintain books for the registration and transfer of the Bonds.

The Bonds shall be transferrable only upon the books of the Bond Registrar, by the Registered Owner thereof in person or by his attorney duly authorized in writing, upon surrender thereto, together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the Registered Owner or his duly authorized attorney.

In all cases in which the privilege of exchanging the Bonds or transferring the Bonds is exercised, Bonds shall be delivered in accordance with the provisions of this Resolution. All Bonds surrendered in any such exchanges or transfers shall forthwith be canceled by the Bond Registrar. For every such exchange or transfer of Bonds, the Bond Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer and the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the Bond Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer. The Bond Registrar shall not be obligated to make any such exchange or transfer of Bonds during the period commencing on the 15th day of the month preceding an interest payment date on the Bonds or, in the case of any proposed redemption of Bonds, next preceding the date of the selection of Bonds to be redeemed, and ending on such interest payment date or redemption date.

Section 3.07. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Bond Registrar shall, if so advised by the Issuer, authenticate and deliver a new Bond of the same series and of like tenor of the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost and upon the Holder's furnishing the Issuer proof of ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and Bond Registrar may incur. All Bonds so surrendered shall be cancelled by the Bond Registrar and held for the account of the Issuer. If any such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

Section 3.08. Bonds Not to be Indebtedness of the Issuer. The Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided and amounts, if any, in the Reserve Account. No Holder or Holders of any of the Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer, if any, to pay the Bonds or the interest, if any, thereon.

Section 3.09. Bonds Secured by Pledge of Net Revenues. The payment of the debt service on all the Series 2001 A Bonds shall be secured forthwith by a

first lien on the Net Revenues derived from the System. Such Net Revenues in an amount sufficient to pay the principal of, and interest, if any, on and other payments for the Series 2001 A Bonds and to make the payments into the Sinking Fund, the Reserve Account therein and the Renewal and Replacement Fund hereinafter established, are hereby irrevocably pledged to the payment of the principal of and interest, if any, on the Series 2001 A Bonds as the same become due.

Section 3.10. Delivery of Bonds. The Issuer shall execute and deliver the Series 2001 A Bonds to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the Series 2001 A Bonds to the original purchasers upon receipt of the documents set forth below:

A. If other than the Authority, a list of the names in which the Series 2001 A Bonds are to be registered upon original issuance, together with such taxpayer identification and other information as the Bond Registrar may reasonably require;

B. A request and authorization to the Bond Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate and deliver the Series 2001 A Bonds to the original purchasers;

C. An executed and certified copy of the Bond Legislation;

D. An executed copy of the Loan Agreement; and

E. The unqualified approving opinion of bond counsel on the Series 2001 A Bonds.

Section 3.11. Form of Bonds. The text of the Series 2001 A Bonds shall be in substantially the following form, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted by this Resolution or by any Supplemental Resolution adopted prior to the issuance thereof:

(FORM OF BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
EASTERN WYOMING PUBLIC SERVICE DISTRICT
WATER REVENUE BOND, SERIES 2001 A
(WEST VIRGINIA DWTRF PROGRAM)

No. AR-1 $360,000

KNOW ALL MEN BY THESE PRESENTS: That EASTERN WYOMING PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia in Wyoming County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the sources and in the manner provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns, the principal sum of THREE HUNDRED SIXTY THOUSAND DOLLARS ($360,000.00) or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing March 1, 2002, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference. The Administrative Fee (as defined in the hereinafter described Bond Legislation) shall also be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing March 1, 2002, as set forth on said EXHIBIT B.

This Bond shall bear no interest. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Bureau for Public Health (the "BPH"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and between the Issuer and the Authority, on behalf of the BPH, dated October 16, 2001.

This Bond is issued to refund the Issuer's Water System Notes, Series 2001 A (West Virginia Water Development Authority) which were issued (i) to temporarily pay the costs of the acquisition, construction and improvement by the Issuer of a water development project (the "Project"), and (ii) to pay the costs of issuance hereof and related costs. The Project and any further improvements or extensions thereto are herein called

the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13A and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Resolution duly adopted by the Issuer on October 10, 2001, and a Supplemental Resolution duly adopted by the Issuer on October 10, 2001 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, and from moneys in the reserve account created under the Bond Legislation for the Bonds (the "Series 2001 A Bonds Reserve Account") and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest, if any, on all bonds which may be issued pursuant to the Act, and shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest, if any, hereon, except from said special fund provided from the Net Revenues, the moneys in the Series 2001 A Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds; provided however, that so long as there exists in the Series 2001 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or any succeeding year, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of the Registrar (as defined in the Bond Legislation), by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

Subject to the registration requirements set forth herein, this Bond, under the provision of the Act is, and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Legislation, shall be applied solely to payment of the costs of the Project and costs of issuance hereof described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the registered owner of this Bond.

Under the Act, this Bond is exempt from taxation by the State of West Virginia and the other taxing bodies of the State.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and at issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the Net Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of this Bond.

All provisions of the Bond Legislation and the statutes under which this Bond is issued shall be deemed to be part of the contract evidenced by this Bond to the same extent as if written fully herein.

This Bond shall not be valid or obligatory unless authenticated and registered by the Registrar by the execution of the Registrar's Certificate of Authentication and Registration attached hereto and incorporated herein.

IN WITNESS WHEREOF, EASTERN WYOMING PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairman and its corporate seal to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated October 16, 2001.

[SEAL]

EASTERN WYOMING PUBLIC SERVICE DISTRICT

_____

Chairman

Attest:

_____

Secretary

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This is to certify that this Bond is one of the Bonds described in and issued under the provisions of the within mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above.

Date: October 16, 2001.

UNITED NATIONAL BANK,
as Registrar

_____
Authorized officer

(Form of)

EXHIBIT A

RECORD OF ADVANCES

	AMOUNT	DATE		AMOUNT	DATE
(1)	$		(19)		
(2)	$		(20)		
(3)	$		(21)		
(4)	$		(22)		
(5)	$		(23)		
(6)	$		(24)		
(7)	$		(25)		
(8)	$		(26)		
(9)	$		(27)		
(10)	$		(28)		
(11)	$		(29)		
(12)	$		(30)		
(13)	$		(31)		
(14)	$		(32)		
(15)	$		(33)		
(16)	$		(34)		
(17)	$		(35)		
(18)	$		(36)		

TOTAL $_____

(Form of)

EXHIBIT B

DEBT SERVICE SCHEDULE

(Form of)

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto _____, the within-mentioned Bond and does hereby irrevocably constitute and appoint _____, attorney, to transfer the said Bond on the books of the Registrar on behalf of said Issuer with full power of substitution in the premises.

Dated: _____

_____

IN THE PRESENCE OF:

_____

Section 3.12. Sale of Bonds; Ratification and Execution of Loan Agreement. The Series 2001 A Bonds shall be sold to the Authority pursuant to the terms and conditions of the Loan Agreement. If not so authorized by previous resolution, the Chairman is specifically authorized and directed to execute the Loan Agreement and the Secretary is directed to affix the seal of the Issuer, attest the same and deliver the Loan Agreement to the Authority, and any such prior execution and delivery is hereby authorized, ratified and approved. The Loan Agreement, including all schedules and exhibits attached hereto, is hereby approved and incorporated into this Bond Legislation.

Section 3.13. "Amended Schedule Filing". Upon completion of acquisition and construction of the Project, the Issuer will file with the Authority and the BPH a schedule, the form of which will be provided by the BPH, setting forth the actual Costs of the Project and sources of funds therefor.

ARTICLE IV

[RESERVED]

ARTICLE V

FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF

Section 5.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are created with and shall be held by the Depository Bank separate and apart from all other funds or accounts of the Depository Bank:

(1) Revenue Fund;

(2) Renewal and Replacement Fund; and

(3) Series 2001 A Construction Trust Fund.

Section 5.02. Establishment of Funds and Accounts with Commission. The special funds or accounts hereby established with the Commission are the Series 2001 A Bonds Sinking Fund, and, within the Series 2001 A Bonds Sinking Fund, the Series 2001 A Bonds Reserve Account.

Section 5.03. System Revenues; Flow of Funds. A. The entire Gross Revenues derived from the operation of the System shall be deposited upon receipt in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in this Resolution and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner herein provided.

(1) The Issuer shall first, each month, pay from the Revenue Fund the current Operating Expenses of the System.

(2) The Issuer shall next, on the first day of each month, commencing 3 months prior to the first date of payment of principal of the Series 2001 A Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 2001 A Bonds Sinking Fund, a sum equal to $1/3^{rd}$ of the amount of principal which will mature and become due on said Series 2001 A Bonds on the next ensuing quarterly principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2001 A Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next quarterly principal payment date, the required amount of principal coming due on such date.

(3) The Issuer shall next, on the first day of each month, commencing 3 months prior to the first date of payment of principal of the Series 2001 A Bonds, if not fully funded upon issuance of the Series 2001 A Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 2001 A Reserve Account, an amount equal to 1/120 of the Series 2001 A Bonds Reserve Requirement; provided, that no further payments shall be made

into the Series 2001 A Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 2001 A Bonds Reserve Requirement.

(4) From the moneys remaining in the Revenue Fund, the Issuer shall next, on the first day of each month, commencing with the month succeeding the first full calendar month after commencement of operation of the Project, transfer to the Renewal and Replacement Fund a sum equal to 2 1/2 % of the Gross Revenues each month, exclusive of any payments for account of the Series 2001 A Bonds Reserve Account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, emergency repairs, improvements or extensions to the System; provided, that any deficiencies in the Series 2001 A Bonds Reserve Account, except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required, shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

Moneys in the Series 2001 A Bonds Sinking Fund shall be used only for the purposes of paying principal of the Bonds as the same shall become due. Moneys in the Series 2001 A Bonds Reserve Account shall be used only for the purpose of paying principal of the Bonds, as the same shall come due, when other moneys in the Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the Series 2001 A Bonds Reserve Account shall be transferred, not less than once each year, to the Construction Trust Fund prior to completion of the Project and thereafter to the Sinking Fund.

Any withdrawals from the Series 2001 A Bonds Reserve Account which result in a reduction in the balance of the Series 2001 A Bonds Reserve Account to fall below the Series 2001 A Bonds Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments to the Series 2001 A Bonds Sinking Fund, including deficiencies for prior payments, have been made in full.

As and when additional Bonds ranking on a parity with the Series 2001 A Bonds are issued, provision shall be made for additional payments into the respective sinking funds sufficient to pay any interest on such Parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the respective reserve accounts in an amount equal to the requirement therefor.

The Commission is hereby designated as the fiscal agent for the administration of the Sinking Fund and the Reserve Account created hereunder,

and all amounts required for said accounts shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein.

Moneys in the Reserve Accounts shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Sinking Fund, including the Reserve Account therein, shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Bonds and any Parity Bonds that may be issued and Outstanding under the conditions and restrictions hereinafter set forth.

B. The Issuer shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the required principal, interest and reserve account payments with respect to the Series 2001 A Bonds and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Bond Legislation. The Issuer shall also on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the Administrative Fee as set forth in the Schedule Y attached to the Loan Agreement.

C. The Issuer shall complete the "Monthly Payment Form," a form of which is attached to the Loan Agreement and submit a copy of said form along with a copy of its payment check to the Authority by the 5th day of such calendar month.

D. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinbefore provided, are current and there remains in the Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into such funds during the following month or such other period as required by law, such excess shall be considered Surplus Revenues. Surplus Revenues may be used for any lawful purpose of the System.

E. The Issuer shall remit from the Revenue Fund to the Commission, the Registrar, the Paying Agent, or the Depository Bank, on such dates as the Commission, the Registrar, the Paying Agent, or the Depository Bank as the case may be, shall require, such additional sums as shall be necessary to pay the charges and the fees then due. In the case of payments to the Commission under this paragraph, the Issuer shall, if required by the Authority at anytime, make the necessary arrangements whereby such required payments shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required.

F. The moneys in excess of the maximum amounts insured by FDIC in the Revenue Fund and the Renewal and Replacement Fund shall at all times be secured, to the full extent thereof in excess of such insured sum, by Qualified Investments as shall be eligible as security for deposits of state and municipal funds under the laws of the State.

G. If on any monthly payment date the revenues are insufficient to place the required amount in any of the funds and accounts as hereinabove provided, the deficiency shall be made up in the subsequent payments in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payment dates; provided, that all deposits, including on account of deficiencies, shall be made in the order of priority set forth in Paragraph (A), above, and no payment of lower priority shall be made if there exists a deficiency in a fund or account of higher priority. No such deficiency shall exist solely because the required payments into the Reserve Accounts have not, as of such date, funded such account to the requirement therefor.

H. All remittances made by the Issuer to the Commission or the Depository Bank shall clearly identify the fund or account into which each amount is to be deposited.

I. The Gross Revenues of the System shall only be used for purposes of the System.

J. All Tap Fees shall be deposited by the Issuer, as received, in the Construction Trust Fund, and following completion of the Project, shall be deposited in the Revenue Fund and used for any lawful purpose of the System.

ARTICLE VI

APPLICATION OF BONDS PROCEEDS

Section 6.01. Application of Bonds Proceeds; Pledge of Unexpended Bonds Proceeds. Moneys received from time to time from the sale of the Series 2001 A Bonds shall be deposited with the Depository Bank in the Series 2001 A Construction Trust Fund and applied solely to payment of costs of the Project, including paying the Notes in full in the manner set forth in Section 6.02 and until so expended are hereby pledged as additional security for the Series 2001 A Bonds.

The Depository Bank shall act as a trustee and fiduciary for the Bondholders with respect to the Construction Trust Fund and shall comply with all requirements with respect to the disposition of the Construction Trust Fund set forth in this Resolution.

Section 6.02. Disbursements From the Construction Trust Fund. On or before the Closing Date, the Issuer shall have delivered to the Authority and the BPH a report listing the specific purposes for which the proceeds of the Series 2001 A Bonds will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule.

Except as provided in Section 6.01 hereof, disbursements from the Series 2001 A Construction Trust Fund shall be made only after submission to the BPH of the following:

(1) a completed and signed "Payment Requisition Form," a form of which is attached to the Loan Agreement, in compliance with the construction schedule, and

(2) a certificate, signed by an Authorized Officer and the Consulting Engineers, stating that:

(A) None of the items for which the payment is proposed to be made has formed the basis for any disbursement theretofore made;

(B) Each item for which the payment is proposed to be made is or was necessary in connection with the Project and constitutes a Cost of the Project;

(C) Each of such costs has been otherwise properly incurred; and

(D) Payment for each of the items proposed is then due and owing.

Pending such application, moneys in the Series 2001 A Construction Trust Fund shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

Section 6.03. Excess Bond Proceeds. Upon completion of the Project, any Series 2001 A Bonds proceeds not required for the Project Costs shall be applied as directed by the BPH.

ARTICLE VII

ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this Resolution shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Holder or Holders of the Bonds. In addition to the other covenants, agreements and provisions of this Resolution, the Issuer hereby covenants and agrees with the Holders of the Bonds, as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of said Bonds is Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Bonds shall not be nor constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Resolution. No Holder or Holders of any Bonds shall ever have the right to compel the exercise of the taxing power, if any, of the Issuer to pay said Bonds.

Section 7.03. Bonds Secured by Pledge of Net Revenues; Lien Position. The payment of the debt service of the Series 2001 A Bonds issued hereunder shall be secured forthwith equally and ratably by a first lien on the Net Revenues derived from the operation of the System. The Net Revenues derived from the System, in an amount sufficient to pay the principal of the Bonds herein authorized and to make the payments into the Sinking Fund, including the Reserve Account therein, and all other payments provided for in this Resolution are hereby irrevocably pledged, in the manner provided herein, to the payment of the principal of the Bonds as the same become due, and for the other purposes provided in this Resolution.

Section 7.04. Initial Schedule of Rates and Charges. The Issuer has obtained any and all approvals of rates and charges required by State law and has taken any other action required to establish and impose such rates and charges, with all requisite appeal periods having expired without successful appeal. Such rates and charges are and shall be sufficient to comply with the requirements of the Loan Agreement. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth and approved and described in the Order of the Public Service Commission of West Virginia entered August 3, 2001 (Case No. 01-1039-W-PWD-PC), and such rates are hereby adopted.

So long as the Series 2001 A Bonds are outstanding, the Issuer covenants and agrees to fix and collect rates, fees and other charges for the use of the System and to take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Bond Legislation and in compliance with the Loan Agreement. In the event the schedule of rates and charges initially established for the System in connection with the Series 2001 A Bonds shall prove to be insufficient to produce the required sums set forth in this Bond Legislation and the Loan Agreement, the Issuer hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates and charges

and take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Bond Legislation and the Loan Agreement.

Section 7.05. Sale of the System. Except as otherwise required by law and with the consent of the Authority and the BPH, the System may not be sold, mortgaged, leased or otherwise disposed of except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to pay fully all the Bonds Outstanding in accordance with Article X hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall be immediately remitted to the Commission for deposit in the Series 2001 A Bonds Sinking Fund, and the Issuer shall direct the Commission to apply such proceeds to the payment of principal of the Series 2001 A Bonds. Any balance remaining after the payment of the Series 2001 A Bonds shall be remitted to the Issuer by the Commission unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of $10,000, the Issuer shall, by resolution duly adopted, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. If the amount to be received from such sale, lease or other disposition of said property, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of $10,000 but not in excess of $50,000, the Issuer shall first, in writing, determine upon consultation with the Consulting Engineer that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then, if it be so advised, by resolution duly adopted, authorize such sale, lease or other disposition of such property upon public bidding in accordance with the laws of the State. The proceeds derived from any such sale, lease or other disposition of such property, aggregating during such Fiscal Year in excess of $10,000 and not in excess of $50,000, shall be remitted by the Issuer to the Commission for deposit in the Sinking Fund and shall be applied only to the purchase of Bonds of the last maturities then Outstanding at prices not greater than par, then to the Renewal and Replacement Fund. The payment of such proceeds into the Sinking Fund or the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said funds by other provisions of this Resolution. No sale, lease or other disposition of the properties of the System shall be made by the Issuer if the proceeds to be derived therefrom, together with all other amounts received during the same Fiscal Year for such sales, leases, or other dispositions of such properties, shall be in excess of $50,000 and insufficient to pay all Bonds then Outstanding without the prior approval and consent in writing of the Holders of the Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then Holders of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. So long as any of the Bonds are Outstanding, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Bonds; provided, however, that Parity Bonds may be issued as provided for in Section 7.07 hereof. All obligations hereafter issued by the Issuer payable from the revenues of the System, except such Parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on and source of and security for payment from such revenues and in all other respects, to the Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts as set forth herein have been made and are current at the time of the issuance of such subordinate obligations.

Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or being on a parity with the liens of the Bonds, upon any of the income and revenues of the System pledged for payment of the Bonds in this Resolution, or upon the System or any part hereof.

The Issuer shall give the Authority and the BPH prior written notice of its issuance of any other obligations to be used for the System, payable from the revenues of the System or from any grants, or any other obligations related to the Project or the System.

Section 7.07. Parity Bonds. No Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of any Bonds pursuant to this Resolution, except under the conditions and in the manner herein provided.

All Parity Bonds issued hereunder shall be on a parity in all respects with the Series 2001 A Bonds. The prior written consent of the Authority and BPH must be received prior to the issuance of any Parity Bonds.

No such Parity Bonds shall be issued except for the purpose of financing the costs of the design, construction or acquisition of extensions or improvements to the System or refunding one or more series of Bonds issued pursuant hereto or both such purposes.

No Parity Bonds shall be issued at any time, however, unless there has been procured and filed with the Secretary a written statement by the Independent Certified Public Accountants, reciting the conclusion that the Net Revenues actually derived, subject to the adjustments hereinafter provided for, from the System during any 12 consecutive months within the 18 months immediately preceding the date of the actual issuance of such Parity Bonds, plus the estimated average increased annual Net Revenues to be received in each of the three succeeding years after the completion of the improvements to be financed by such Parity Bonds, if any, shall not be less than 115% of the largest aggregate amount that will mature and become due in any succeeding Fiscal Year for principal of and interest, if any, on the following:

(1) The Bonds then Outstanding;

(2) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Resolution then Outstanding; and

(3) The Parity Bonds then proposed to be issued.

The "estimated average increased annual Net Revenues to be received in each of the three succeeding years," as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from any improvements to be financed by the Parity Bonds and any increase in rates adopted by the Issuer and approved by the PSC, the period for appeal of which has expired prior to the date of delivery of such Parity Bonds including the revenues from new customers to be served, and shall not exceed the amount to be stated in a certificate of the Independent Certified Public Accountants, which shall be filed in the office of the Secretary prior to the issuance of such Parity Bonds.

The Net Revenues actually derived from the System during the 12-consecutive-month period hereinabove referred to may be adjusted by adding to such Net Revenues such additional Net Revenues which would have been received, in the opinion of the Independent Certified Public Accountants, as stated in a certificate made and signed by the Independent Certified Public Accountants, on account of increased rates, rentals, fees and charges for the System adopted by the Issuer and approved by the PSC, the period for appeal of which has expired prior to the issuance of such Parity Bonds.

Not later than simultaneously with the delivery of such Parity Bonds, the Issuer shall have entered into written contracts for the immediate construction or acquisition of such extensions or improvements, if any, to the System that are to be financed by such Parity Bonds.

All covenants and other provisions of this Resolution (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Holders of the Series 2001 A Bonds and the Holders of any Parity Bonds issued from time to time within the limitations of and in compliance with this section. Bonds issued on a parity, regardless of the time or times of their issuance, shall rank equally with respect to their respective liens on the revenues of the System and their respective source of and security for payment from said revenues, without preference of any Bond of one series over any other Bond of another series on a parity therewith. The Issuer shall comply fully with all the increased payments into the various funds and accounts created in this Resolution required for and on account of such Parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Resolution.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior liens of the Outstanding Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the Series 2001 A Bonds.

No Parity Bonds shall be issued any time, however, unless all the payments into the funds and accounts provided for in this Resolution with respect to the Bonds then Outstanding, and any other payments provided for in this Resolution, shall have been made in full as required to the date of delivery of such Parity Bonds, and the Issuer shall then be in full compliance with all the covenants, agreements and terms of this Resolution.

Section 7.08. Books; Records and Audit. The Issuer shall keep complete and accurate records of the cost of acquiring the Project sites and the costs of acquiring, constructing and improving the Project. The Issuer shall permit the Authority and the BPH, or their duly authorized agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System at any and all reasonable times for the purpose of audit and examination, and the Issuer shall submit to the Authority and the BPH such documents and information as they may reasonably require in connection with the acquisition, construction and improvement of the Project, the operation and maintenance of the System and the administration of the loan or any grants or other sources of financing for the Project.

The Issuer shall permit the Authority and the BPH, or their agents and representatives, to have access to the records pertaining to the operation and maintenance of the System at all reasonable times following completion of construction of the Project and commencement of operation thereof, or, if the Project is an improvement to an existing system, at any reasonable time following commencement of construction.

The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and any Holder of a Bond or Bonds issued pursuant to this Resolution shall have the right at all reasonable times to inspect the System and all parts thereof and all records, accounts and data of the Issuer relating thereto.

The accounting system for the System shall follow current generally accepted accounting principles and safeguards to the extent allowed by the Uniform System of Accounts promulgated by the PSC. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner and on the forms, books and other bookkeeping records as prescribed by the Governing Body. The Governing Body shall prescribe and initiate the manner by which subsidiary records of the accounting system, which may be installed remote from the direct supervision of the Governing Body, shall be reported to such agent of the Issuer as the Governing Body shall direct.

The Issuer shall file with the BPH, and the Authority, or any other original purchaser of the Bonds, and shall mail in each year to any Holder or Holders of Bonds requesting the same, an annual report containing the following:

(A) A statement of Gross Revenues, Operating Expenses, Net Revenues, and Surplus Revenues derived from and relating to the System.

(B) A balance sheet statement showing all deposits in all the funds and accounts provided for in this Resolution with respect to said Bonds and the status of all said funds and accounts.

(C) The amount of any Bonds, Notes or other obligations outstanding.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants in compliance with the applicable OMB Circular, or any successor thereof, and the Single Audit Act, or any successor thereof, to the extent legally required, and shall mail upon request, and make available generally, the report of said Independent Certified Public Accountants, or a summary thereof, to any Holder or Holders of Bonds and shall submit said report to the Authority and the BPH, or any other purchaser of the Bonds. Such audit report submitted to the Authority and the BPH shall include a statement that the Issuer is in compliance with the terms and provisions of the Act, the Loan Agreement and this Resolution and that the Issuer's revenues are adequate to meet its Operating Expenses and debt service and reserve requirements.

Subject to the terms, conditions and provisions of the Loan Agreement and the Act, the Issuer has acquired or leased, or shall do all things necessary to acquire or lease, the proposed site of the Project and shall do, is doing or has done all things necessary to construct the Project in accordance with the plans, specifications and designs prepared by the Consulting Engineers. All real estate and interests in real estate and all personal property constituting the Project and the Project site heretofore or hereafter acquired shall at all times be and remain the property of the Issuer.

The Issuer shall permit the Authority and the BPH, or their agents and representatives, to enter and inspect the Project sites and Project facilities at all reasonable times. Prior to, during and after completion of construction and commencement of operation of the Project, the Issuer shall also provide the Authority and the BPH, or their agents and representatives, with access to the System site and System facilities as may be reasonably necessary to accomplish all of the powers and rights of the Authority with respect to the System pursuant to the Act.

The Issuer shall provide the BPH with all appropriate documentation to comply with any special conditions established by federal and/or state regulations as set forth in the Loan Agreement for the Series 2001 A Bonds or as promulgated from time to time.

Section 7.09. Rates. Approvals of equitable rates or charges for the use of and service rendered by the System have been obtained all in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the Secretary, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from said System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder. Such schedule of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant, with a margin for

contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System (i) to provide for all Operating Expenses of the System, and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of the Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds; provided that, in the event that amounts equal to or in excess of the Reserve Requirement are on deposit in the Reserve Account and all reserve accounts for obligations on a parity with the Bonds are funded at least at the requirement therefor, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal of and interest, if any, on the Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds.

Section 7.10. Operating Budget and Monthly Financial Report. The Issuer shall annually, at least 30 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding Fiscal Year and shall submit a copy of such budget to the Authority and the BPH within thirty days of the adoption thereof. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by the Consulting Engineer, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Issuer shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the further certificate of the Consulting Engineer that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Authority and the BPH and to any Holder of any Bonds, within 30 days of adoption thereof, and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to the Authority and the BPH and to any Holder of any Bonds or anyone acting for and in behalf of such Holder of any Bonds.

Commencing on the date contracts are executed for the acquisition and construction of the Project and for two years following the completion of the Project, the Issuer shall each month complete a "Monthly Financial Report," a form of which is attached to the Loan Agreement, and forward a copy of such report to the Authority and the BPH by the 10th day of each month.

Section 7.11. No Competing Franchise. To the extent legally allowable, the Issuer will not grant or cause, consent to or allow the granting of, any franchise or permit to any person, firm, corporation, body, agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

Section 7.12. Enforcement of Collections. The Issuer will diligently enforce and collect all fees, rentals or other charges for the services and facilities of the System, and take all steps, actions and proceedings for the enforcement and collection of such fees, rentals or other

charges which shall become delinquent to the full extent permitted or authorized by the Act, the rules and regulations of the PSC and other laws of the State.

Whenever any fees, rates, rentals or other charges for the services and facilities of the System shall remain unpaid for a period of 30 days after the same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities, shall be delinquent until such time as all such rates and charges are fully paid. To the extent authorized by the laws of the State and the rules and regulations of the PSC, rates, rentals and other charges, if not paid when due, shall become a lien on the premises served by the System. The Issuer further covenants and agrees that it will, to the full extent permitted by law and the rules and regulations promulgated by the PSC, discontinue and shut off the services of the System to all users of the services of the System delinquent in payment of charges for the services of the System and will not restore such Services until all delinquent charges for the services of the System, plus reasonable interest and penalty charges for the restoration of service, have been fully paid and shall take all further actions to enforce collections to the maximum extent permitted by law.

Section 7.13. No Free Services. Except as required by law, the Issuer will not render or cause to be rendered any free services of any nature by the System, nor will any preferential rates be established for users of the same class; and in the event the Issuer, or any department, agency, instrumentality, officer or employee of the Issuer shall avail itself or themselves of the facilities or services provided by the System, or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the Issuer and any such department, agency, instrumentality, officer or employee. Such charges shall be paid as they accrue and the issuer shall transfer from its general funds sufficient sums to pay such charges for service to any of its departments or properties. The revenues so received shall be deemed to be revenues derived from the operation of the System, and shall be deposited and accounted for in the same manner as other revenues derived from such operation of the System.

Section 7.14. Connections to System. The Issuer will, to the extent authorized by the laws of the State and the rules and regulations of the PSC, require prospective users of the System to connect thereto.

Section 7.15. Insurance. The Issuer hereby covenants and agrees that so long as the Series 2001 A Bonds remain Outstanding, the Issuer will, as an Operating Expense, procure, carry and maintain insurance with a reputable insurance carrier or carriers as is customarily covered with respect to works and properties similar to the System. Such insurance shall initially cover the following risks and be in the following amounts:

(1) FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, on all above-ground insurable portions of the System in an amount equal to the actual cost thereof. In time of war the Issuer will also carry and maintain insurance to the extent available against the risks and hazards of war. The proceeds of all such insurance policies shall be placed in the Renewal and Replacement Fund and used only for the

repairs and restoration of the damaged or destroyed properties or for the other purposes provided herein for the Renewal and Replacement Fund.

(2) PUBLIC LIABILITY INSURANCE, with limits of not less than $1,000,000 per occurrence to protect the Issuer from claims for bodily injury and/or death and not less than $500,000 per occurrence from claims for damage to property of others which may arise from the operation of the System, and insurance with the same limits to protect the Issuer from claims arising out of operation or ownership of motor vehicles of or for the System.

(3) WORKERS' COMPENSATION COVERAGE FOR ALL EMPLOYEES OF OR FOR THE SYSTEM ELIGIBLE THEREFOR.

(4) FLOOD INSURANCE, if the facilities of the System are or will be located in designated special flood or mudslide-prone areas and to the extent available at reasonable cost to the Issuer.

(5) BUSINESS INTERRUPTION INSURANCE, to the extent available at reasonable cost to the Issuer.

(6) FIDELITY BONDS will be provided as to every officer, member and employee of the Issuer or the Governing Body having custody of the revenues or of any other funds of the System, in an amount at least equal to the total funds in the custody of any such person at any one time.

Section 7.16. Engineering Services and Operating Personnel. The Issuer will obtain a certificate of the Consulting Engineer in the form similar to that attached to the Loan Agreement, stating, among other things, that the Project has been or will be constructed in accordance with the approved plans, specifications and designs, the Project is adequate for the purposes for which it was designed, the funding plan as submitted to the Authority and the BPH is sufficient to pay the costs of acquisition and construction of the Project, and all permits required by federal and state laws for construction of the Project have been obtained.

The Issuer shall provide and maintain competent and adequate engineering services satisfactory to the BPH and the Authority covering the supervision and inspection of the development and construction of the Project and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared on behalf of the Consulting Engineers, which have been approved by all necessary governmental bodies. The Consulting Engineer shall certify to the Authority, the BPH and the Issuer at the completion of construction that construction of the Project is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies.

The Issuer agrees that qualified operating personnel properly certified by the State will be retained to operate the System during the entire term of the Loan Agreements.

Section 7.17. Completion of Project; Permits and Orders. The Issuer hereby covenants and agrees to complete the Project as promptly as possible and operate and maintain the System as a revenue-producing utility in good condition and in compliance with all applicable laws, rules and regulations issued by the BPH, the Authority or other State, federal or local bodies in regard to the construction of the Project and operation, maintenance and use of the System.

The Issuer has obtained all permits and approvals required by State and federal laws for the acquisition and construction of the Project and all orders and approvals from the Public Service Commission of West Virginia necessary for the acquisition and construction of the Project and the operation of the System and all approvals for issuance of the Bonds required by State law, with the appeal periods having expired without successful appeal.

Section 7.18. Statutory Mortgage Lien. For the further protection of the Holders of the Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding, and shall take effect immediately upon delivery of the Bonds and shall be for the benefit of all Registered Owners of Bonds.

Section 7.19. Compliance with Loan Agreement and Law. The Issuer agrees to perform, satisfy and comply with all terms and conditions of the Loan Agreement and the Act. The Issuer also agrees to comply with all applicable laws, rules and regulations issued by the Authority, the BPH or other state, federal or local bodies in regard to the construction and acquisition of the Project and the operation, maintenance and use of the System.

Section 7.20. PSC Order. The Issuer shall comply with the conditions of the PSC Order and any supplement or amendment thereto.

Section 7.21. Securities Law Compliance. The Issuer will provide the Authority, in a timely manner, with any and all information that may be requested of it (including its annual audit report, financial statements, related information and notices of changes in usage and customer base) so that the Authority may comply with the provisions of SEC Rule 15c2-12 (17 CFR Part 240).

Section 7.22. Public Releases. The Issuer shall list the funding provided by the BPH and the Authority in any press release, publication, program bulletin, sign or other public communication that references the Project, including but not limited to any program document distributed in conjunction with any groundbreaking or dedication of the Project.

ARTICLE VIII

INVESTMENT OF FUNDS

Section 8.01. Investments. Any moneys held as a part of the funds and accounts created by this Resolution, other than the Revenue Fund, shall be invested and reinvested by the Commission, the Depository Bank or such other bank or national banking association holding such fund or account, as the case may be, at the direction of the Issuer in any Qualified Investments to the fullest extent possible under applicable laws, this Resolution, the need for such moneys for the purposes set forth herein and the specific restrictions and provisions set forth in this Section 8.01.

Except as specifically provided herein, any investment shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The investments held for any fund or account shall be valued at the lower of cost or then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including the value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held in the "Consolidated Fund." The Commission, the Depository Bank or such other bank or national banking association, as the case may be, shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of the loss on such liquidation. The Depository Bank or such other bank or national banking association, as the case may be, may make any and all investments permitted by this section through its own bond department and shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

The Depository Bank shall keep complete and accurate records of all funds, accounts and investments, and shall distribute to the Issuer, at least once a year, a summary of such funds, accounts and investment earnings. The Issuer shall retain all such records and any additional records relating thereto so long as any of the Bonds are Outstanding.

Section 8.02. Certificate and Covenants as to Use of Proceeds. The Issuer shall deliver a certificate as to use of proceeds or other similar certificate to be prepared by nationally recognized bond counsel relating to restrictions on the use of proceeds of the Series 2001 A Bonds as a condition to issuance of the Series 2001 A Bonds.

ARTICLE IX

DEFAULTS AND REMEDIES

Section 9.01. Events of Default. Each of the following events shall constitute an "Event of Default" with respect to the Bonds:

(A) If default occurs in the due and punctual payment of the principal of or interest on any Bonds; or

(B) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the Bonds set forth in this Resolution, any Supplemental Resolution or in the Bonds, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Commission, the Depository Bank, the Bond Registrar, any Paying Agent or a Holder of a Bond; or

(C) If the Issuer files a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America.

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of a Bond may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding enforce all rights of such Registered Owners including the right to require the Issuer to perform its duties under the Act, the Loan Agreement, and this Resolution relating thereto, (iii) bring suit upon the Bonds, (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of any express trust for the Registered Owners of the Bonds, and (v) by action or bill in equity enjoin any acts in violation of the Resolution with respect to the Bonds, or the rights of such Registered Owners.

Section 9.03. Appointment of Receiver. Any Registered Owner of a Bond may, by proper legal action, compel the performance of the duties of the Issuer under this Resolution and the Act, including, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to the Bonds any Registered Owner of a Bond shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System or to complete the acquisition and construction of the Project, or both, on behalf of the Issuer, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the Bonds and interest and the deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Resolution and the Act.

The receiver so appointed shall forthwith, directly or by his agents and attorneys, enter into and upon and take possession of all facilities of said System and shall hold, operate

and maintain, manage and control such facilities, and each and every part thereof, and in the name of the Issuer exercise all the rights and powers of the Issuer with respect to said facilities as the Issuer itself might do.

Whenever all that is due upon the Bonds and interest thereon and under any covenants of this Resolution for Reserve, Sinking or other funds and upon any other obligations and interest thereon having a charge, lien or encumbrance upon the revenues of the System shall have been paid and made good, and all defaults under the provisions of this Resolution shall have been cured and made good, possession of the System shall be surrendered to the Issuer upon the entry of an order of the court to that effect. Upon any subsequent default, any Registered Owner of any Bonds shall have the same right to secure the further appointment of a receiver upon any such subsequent default.

Such receiver, in the performance of the powers hereinabove conferred upon him, shall be under the direction and supervision of the court making such appointment, shall at all times be subject to the orders and decrees of such court and may be removed thereby, and a successor receiver may be appointed in the discretion of such court. Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any function not specifically set forth herein.

Any receiver appointed as provided herein shall hold and operate the System in the name of the Issuer and for the joint protection and benefit of the Issuer and Registered Owners of the Bonds. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the possession, operation and maintenance of the System for the sole purpose of the protection of both the Issuer and Registered Owners of such Bonds and the curing and making good of any Event of Default with respect thereto under the provisions of this Resolution, and the title to and ownership of said System shall remain in the Issuer, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, assign, mortgage or otherwise dispose of any assets of the System.

ARTICLE X

PAYMENT OF BONDS

Section 10.01. Payment of Bonds. If the Issuer shall pay or there shall otherwise be paid, to the Holders of the Series 2001 A Bonds, the principal of and interest, if any, due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then the pledge of Net Revenues and other moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 2001 A Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Amendment or Modification of Resolution. No material modification or amendment of this Resolution, or of any resolution amendatory or supplemental hereto, that would materially and adversely affect the rights of Registered Owners of the Bonds shall be made without the consent in writing of the Registered Owners of the Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of any Bond or Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the funds herein pledged therefor without the consent of the Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of Bonds required for consent to the above-permitted amendments or modifications.

Section 11.02. Resolution Constitutes Contract. The provisions of the Resolution shall constitute a contract between the Issuer and the Holder of the Bonds, and no change, variation or alteration of any kind of the provisions of the Resolution shall be made in any manner, except as in this Resolution provided.

Section 11.03. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Resolution should be held invalid by any court of competent jurisdiction, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution, the Supplemental Resolution or the Bonds.

Section 11.04. Headings, Etc. The headings and catchlines of the articles, sections and subsections hereof are for convenience of reference only, and shall not affect in any way the meaning or interpretation of any provision hereof.

Section 11.05. Conflicting Provisions Repealed. All resolutions, indentures or orders, or parts thereof, in conflict with the provision of this Resolution are, to the extent of such conflict, hereby repealed.

Section 11.06. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption and passage of this Resolution do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State applicable thereto; and that the Chairman, Secretary and members of the Governing Body were at all times when any actions in connection with this Resolution occurred and are duly in office and duly qualified for such office.

Section 11.07. Effective Date. This Resolution shall take effect immediately upon adoption thereof.

Adopted this 10th day of October, 2001.

Chairman

CERTIFICATION

Certified a true copy of a Resolution duly adopted by the Public Service Board of EASTERN WYOMING PUBLIC SERVICE DISTRICT on the 10th day of October, 2001.

Dated: October 16, 2001.

[SEAL]

Dallas J. Cecil

Secretary

177577

BOND RESOLUTION

Authorizing

EASTERN WYOMING PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, 2004 SERIES A (WEST VIRGINIA DWTRF PROGRAM)

Adopted: August 23, 2004

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EASTERN WYOMING PUBLIC SERVICE DISTRICT

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN IMPROVEMENTS AND ADDITIONS TO THE EXISTING PUBLIC WATER TREATMENT AND DISTRIBUTION FACILITIES OF THE DISTRICT AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE DISTRICT OF $570,000 IN AGGREGATE PRINCIPAL AMOUNT OF EASTERN WYOMING PUBLIC SERVICE DISTRICT WATER REVENUE BONDS, 2004 SERIES A (WEST VIRGINIA DWTRF PROGRAM); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING AND RATIFYING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF EASTERN WYOMING PUBLIC SERVICE DISTRICT:

ARTICLE I

DEFINITIONS, STATUTORY AUTHORITY AND FINDINGS

Section 1.01 Definitions. The following terms shall have the following meanings in this Resolution unless the context expressly requires otherwise.

"Act" or "Bond Act" means, collectively, Chapter 16, Article 13A and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended and in effect on the date of adoption of this Resolution.

"Administrative Fee" means any administrative fee required to be paid pursuant to the Loan Agreement for the 2004 Series A Bonds.

"Application" means the application, with attachments and exhibits, filed by the Issuer with the BPH for a DWTRF loan.

"Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser and Registered Owner of the 2004 Series A Bonds acting in its administrative capacity and upon authorization from the BPH under the Act.

"Authorized Officer" means the Chairman of the Governing Body of the Issuer or any other officer or person of the Issuer specifically designated by resolution of the Governing Body of the Issuer.

"Board" or "Governing Body" means the public service board of the Issuer as it may now or hereafter be constituted.

"Bondholders" "Holder of the Bonds," "Holder," "Registered Owner," "Owner" or any similar term, whenever used herein with respect to an Outstanding Bond or Bonds, means the person in whose name such Bond is registered.

"Bond Register" means the books of the Issuer as hereinafter defined, maintained by the Bond Registrar as hereinafter defined for the registration and transfer of the Bonds.

"Bond Registrar" or "Registrar" means United Bank, Inc., Charleston, West Virginia, and its successors and assigns.

"Bonds" means, collectively, the 2004 Series A Bonds, the Prior Bonds and any additional Parity Bonds hereafter issued within the terms, restrictions and conditions contained in this Resolution or another resolution of the Issuer.

"Bond Year" means the 12-month period beginning on the anniversary of the Closing Date in each year and ending on the day prior to the anniversary date of the Closing Date in the following year except that the first Bond Year shall begin on the Closing Date.

"BPH" means the West Virginia Bureau for Public Health, a division of the West Virginia Department of Health and Human Resources, or any successor thereto.

"Chairman" means the Chairman of the Governing Body of the Issuer.

"Closing Date" means the date upon which there is an exchange of the 2004 Series A Bonds for all or a portion of the proceeds of the 2004 Series A Bonds.

"Code" means the Internal Revenue Code of 1986, as amended, including the rules and regulations promulgated pursuant thereto or any predecessors or successors thereto.

"Commission" means the West Virginia Municipal Bond Commission or any other agency of the State of West Virginia that succeeds to the functions of the Commission.

"Consulting Engineer" or "Consulting Engineers" means Pentree, Incorporated, Princeton, West Virginia, or any qualified engineer or firm of engineers licensed by the State, that shall at any time hereafter be procured by the Issuer as Consulting Engineers for the System in accordance with Chapter 5G, Article 1 of the Code of West Virginia, 1931, as amended.

"Costs" or "Costs of the Project" or any similar phrase means those costs described in Section 1.03 D hereof to be part of the cost of acquisition and construction of the Project.

"Council" means the West Virginia Infrastructure and Jobs Development Council or any successor thereto.

"Council Act" means Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended, and in effect on the date of the adoption of this Resolution.

"Debt Service" means the scheduled amount of interest and amortization of principal payable on the Bonds, as hereinafter defined, during the period of computation, excluding amounts scheduled during such period which relate to principal which has been retired before the beginning of such period.

"Depository Bank" means The Peoples Bank of Mullens, Mullens, West Virginia, and its successors and assigns.

"DWTRF Loan" means the West Virginia Drinking Water Treatment Revolving Fund Loan in the amount of $570,000.

"FDIC" means the Federal Deposit Insurance Corporation or any successor to the functions of the FDIC.

"Fiscal Year" means each 12-month period beginning on July 1 and ending on the succeeding June 30.

"Governmental Obligations" means direct obligations of, or obligations the timely payment of the principal of and interest on which is guaranteed by, the United States of America including (i) such obligations which have been stripped from their

unmatured interest coupons, interest coupons stripped from such obligations and receipts or certificates evidencing payments from such obligations or interest coupons stripped from such obligations, (ii) evidences of ownership of a proportionate interest in specified direct obligations of, or specified obligations which are unconditionally and fully guaranteed by, the United States of America, which obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity of custodian and (iii) obligations, the sole source of the payment of the principal of and interest on which are obligations of the nature of those described in clause (i), which are irrevocably pledged for such purposes.

"Grant Receipts" means all moneys received by the Issuer on account of any Grant to pay Costs of the Project.

"Gross Proceeds" means the sum of the following amounts:

(i) Original proceeds, namely, net amounts received by or for the Issuer as a result of the sale of the Bonds, excluding original proceeds which become transferred proceeds (determined in accordance with applicable Regulations) of obligations issued to refund in whole or in part the Bonds;

(ii) Investment proceeds, namely, amounts received at any time by or for the Issuer, such as interest and dividends, resulting from the investment of any original proceeds (as reference in clause (i) above) or investment proceeds (as referenced in this clause (ii)) in Nonpurpose Investments, increased by an profits and decreased (if necessary, below zero) by any losses on such investments, excluding investment proceeds which become transferred proceeds (determined in accordance with applicable Regulations) of obligations issued to refund in whole or in part the Bonds;

(iii) Transferred proceeds, namely, original proceeds of any prior obligations, and interest earnings and profits less losses resulting from investment of such original proceeds in Nonpurpose Investments, which are used to discharge the outstanding principal of any prior obligations and which are deemed to become proceeds of the Bonds ratably as original proceeds of the Bonds, and interest earnings and profits resulting from investment of such original proceeds in Nonpurpose Investments, which are used to discharge the outstanding principal of any such prior obligations, all on the date of such ratable discharge;

(iv) Sinking fund proceeds, namely, amounts, other than original proceeds, investment proceeds or transferred proceeds [as referenced in clauses (i) through (iii) above] of the Bonds, which are held in any fund to the extent that the Issuer reasonably expects to use such other fund to pay Debt Service;

(v) Amounts in the Bonds and in any other fund established as a reasonably required reserve or replacement fund;

(vi) Investment Property pledged by the Issuer as security for payment of Debt Service on the Bonds;

(viii) Amounts, other than as specified in this definition, used to pay Debt Service on the Bonds; and

(viii) Amounts received as a result of investing amounts described in this definition.

"Gross Revenues" means the aggregate gross operating and non-operating revenues of the System, as hereinafter defined, determined in accordance with generally accepted accounting principles, after deduction of prompt payment discounts, if any, and reasonable provision for uncollectible accounts; provided, that "Gross Revenues" does not include any gains from the sale or other disposition of, or from any increase in the value of, capital assets (including Qualified Investments, as hereinafter defined, or any Tap Fees, as hereinafter defined).

"Independent Certified Public Accountants" means any certified public accountant or firm of certified public accountants that shall at any time hereafter be retained by the Issuer to prepare an independent annual or special audit of the accounts of the System, or for any other purpose except keeping the accounts of such System in the normal operation of its business and affairs.

"Investment Property" means any security (as said term is defined in Section 165(g)(2)(A) or (B) of the Code), obligation, annuity contract or investment-type property, excluding, however, obligations the interest on which is excluded from gross income under Section 103 of the Code for federal income tax purposes.

"Issuer" means Eastern Wyoming Public Service District, a public service district and political subdivision of the State of West Virginia, in Wyoming County, West Virginia, and, unless the context clearly indicates otherwise, includes the Board and any successor thereto.

"Loan Agreement" means the Loan Agreement heretofore entered into, or to be entered into, between the Issuer and the Authority, on behalf of the BPH providing for the purchase of the 2004 Series A Bonds from the Issuer by the Authority, the form of which shall be approved, and the execution and delivery by the Issuer authorized and directed or ratified by this Resolution.

"LCPSD" means the Logan County Public Service District, or any successor thereto, which operates and maintains the System for the Issuer pursuant to an agreement dated August 30, 2001, by and between the Issuer and LCPSD.

"Managing Engineer" means the managing engineer of the Issuer or any successor thereto.

"Net Proceeds" means the face amount of the 2004 Series A Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds deposited in the 2004 Series A Bonds Reserve Account. For purposes of the Private Business Use limitations set forth herein, the term Net Proceeds shall include any amounts resulting from the investment of proceeds of the 2004 Series A Bonds, without regard to whether or not such investment is made in tax-exempt obligations.

"Net Revenues" means the balance of the Gross Revenues remaining after deduction of Operating Expenses, as hereinafter defined.

"Nonpurpose Investment" means any Investment Property which is acquired with the Gross Proceeds of the Bonds and is not acquired in order to carry out the governmental purpose of the Bonds.

"Notes" means the Eastern Wyoming Public Service District Water System Design Notes, 2002 Series A (West Virginia Infrastructure Fund) dated June 4, 2002, issued in the original principal amount of $200,000.

"Operating Expenses" means the reasonable, proper and necessary costs of repair, maintenance and operation of the System, as hereinafter described and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses, other than those capitalized as part of the Costs of the Project, fees and expenses of the Authority, fiscal agents, the Depository Bank, Registrar and Paying Agent, other than those capitalized as part of the Costs of the Project, payments to pension or retirement funds, taxes and such other reasonable operating costs and expenses as should normally and regularly be included under generally accepted accounting principles; provided, that "Operating Expenses" does not include payments on account of the principal of or redemption premium, if any, or interest on the Bonds, charges for depreciation, losses from the sale or other disposition of, or from any decrease in the value, capital assets, amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

"Operation and Maintenance Agreement" means that certain Agreement dated August 30, 2001 by and between the LCPSD and the Issuer, pursuant to which the LCPSD operates and maintains the Issuer's System.

"Outstanding," when used with reference to Bonds and as of any particular date, describes all Bonds theretofore and thereupon being delivered except (a) any Bond for the payment of which moneys, equal to its principal amount, with interest to the date of maturity, shall be held in trust under this Resolution and set aside for such payment

(whether upon or prior to maturity); and (b) any Bond deemed to have been paid as provided in Article VI hereof.

"Parity Bonds" means additional Bonds issued under the provisions and within the limitations prescribed by Section 7.07 hereof.

"Paying Agent" means the West Virginia Municipal Bond Commission and its successors and assigns.

"Prior Bonds" means the Eastern Wyoming Public Service District Water Revenue Bonds, Series 2001 A (West Virginia DWTRF Program), dated October 16, 2001, issued in the original principal amount of $360,000.

"Prior Resolution" means resolution of the Issuer authorizing the Prior Bonds adopted on October 10, 2001.

"Private Business Use" means use directly or indirectly in a trade or business carried on by a natural person, including all persons "related" to such person within the meaning of Section 144(a)(3) of the Code, or in any activity carried on by a person other than a natural person, including all persons "related" to such person within the meaning of Section 144(a)(3) of the Code, excluding, however, use by a state or local governmental unit by a member of the general public. All of the foregoing shall be determined in accordance with the Code, including, without limitation, giving due regard to "incidental use," if any, of the proceeds of the issue and/or proceeds used for "qualified improvements" if any.

"Project" means the Project described in Section 1.03B hereof.

"PSC" means the Public Service Commission of West Virginia or any other agency of the State of West Virginia that succeeds to the functions of the Public Service Commission of West Virginia.

"PSC Order" means the Recommended Decision entered April 16, 2004, which became a Final Order of the Public Service Commission of West Virginia (the "PSC") on May 6, 2004, with all requisite appeal periods having expired without successful appeal, and a Commission Order entered August 16, 2004, in Case No. 03-0980-PWD-CN, among other things, approving the rates and charges for the services of the System, and has adopted a resolution prescribing such rates and charges. The time for appeal of the August 16, 2004 Commission Order has not expired prior to the date hereof. However, the Issuer hereby states it will not appeal the August 16, 2004 Commission Order, and the only other party to Case No. 03-0980-PWD-CN, the Commission Staff, has stated that it does not intend to appeal the August 16, 2004 Commission Order. Both orders are in full force and effect.

"Qualified Investments" means and includes any of the following:

(a) Government Obligations;

(b) Government Obligations which have been stripped of their unmatured interest coupons, interest coupons stripped from Government Obligations, and receipts or certificates evidencing payments from Government Obligations or interest coupons stripped from Government Obligations;

(c) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Government National Mortgage Association; Tennessee Valley Authority; or Washington Metropolitan Area Transit Authority;

(d) Any bond, debenture, note, participation certificate or other similar obligations issued by the Federal National Mortgage Association to the extent such obligation is guaranteed by the Government National Mortgage Association or issued by any other federal agency and backed by the full faith and credit of the Unites States of America;

(e) Time accounts (including accounts evidenced by time certificates of deposit, time deposits or other similar banking arrangements) which, to the extent not insured by the FDIC or Federal Savings and Loan Insurance Corporation, shall be secured by a pledge of Government Obligations, provided, that said Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;

(f) Money market funds or similar funds whose only assets are investments of the type described in paragraphs (a) through (e) above;

(g) Repurchase agreements, fully secured by investments of the types described in paragraphs (a) through (e) above, with banks or national banking associations which are members of FDIC or with government bond dealers recognized as primary dealers by the Federal Reserve Bank of New York; provided, that said investments securing said repurchase agreements either must mature as nearly as practical coincident with the maturity of said repurchase agreements or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said repurchase agreements, and provided further that the holder of such repurchase agreement shall have a prior perfected security interest in the collateral therefor; must have (or its agent must have) possession of such collateral; and such collateral must be free of all claims by third parties;

(h) The West Virginia "consolidated fund" managed by the West Virginia Investment Management Board pursuant to Chapter 12, Article 6 of the West Virginia Code of 1931, as amended; and

(i) Obligations of States or political subdivisions or agencies thereof, the interest on which is exempt from federal income taxation, and which are rated at least "A" by Moody's Investors Service, Inc. or Standard & Poor's Corporation.

"Renewal and Replacement Fund" means the Renewal and Replacement Fund established by the Prior Resolution and continued by Section 5.01(2) hereof.

"Reserve Accounts" means, collectively, the respective reserve accounts established for the 2004 Series A Bonds and the Prior Bonds.

"Resolution" means this resolution, as from time to time amended or supplemented.

"Revenue Fund" means the Revenue Fund established by the Prior Resolution and continued by Section 5.01(1) hereof.

"Secretary" means the Secretary of the Issuer.

"Sinking Funds" shall mean, collectively, the respective Sinking Funds established for the 2004 Series A Bonds and the Prior Bonds.

"State" means the State of West Virginia.

"Supplemental Resolution" means any resolution or order of the Issuer, amending or supplementing this Resolution and when preceded by the article "the" refers specifically to the Supplemental Resolution authorizing the sale of the 2004 Series A Bonds to the original purchaser, provided, that any matter intended by this Resolution to be included in the Supplemental Resolution with respect to the 2004 Series A Bonds, and not so included may be included in another Supplemental Resolution.

"Surplus Revenues" means the Net Revenues not required by this Resolution to be set aside and held for the payment of or security for the 2004 Series A Bonds, the Prior Bonds or any other obligations of the Issuer, including but not limited to the Renewal and Replacement Fund, the Reserve Accounts and Sinking Funds.

"System" means the complete existing waterworks system of the Issuer, including the Project, and any improvements and extensions thereto hereafter constructed or acquired from any sources whatsoever.

"Tap Fees" means the fees, if any, paid by prospective customers of the System in order to connect thereto.

"USEDA Grant" means the United States Economic Development Administration Grant in the amount of $1,800,000.

"USEDA Grant Agreement" means a written commitment for the payment of the United States Economic Development Administration Grant which specifies the amount of such Grant, the terms and conditions upon which such Grant is made and the date or dates or event or events upon which such Grant is to be paid to the Issuer.

"West Virginia DWTRF Program" means the West Virginia Drinking Water Treatment Revolving Fund Program established by the State, administered by the BPH and funded by capitalization grants awarded to the State pursuant to the Federal Safe Drinking Water Act, as amended, for the purpose of providing, establishing and maintaining a permanent perpetual fund for the acquisition, construction and improvement of drinking water projects.

"WVIJDC Grant" means the West Virginia Infrastructure and Jobs Development Council Grant in the amount of $592,338.

"WVIJDC Grant Agreement" means a written commitment for the payment of the West Virginia Infrastructure and Jobs Development Council Grant which specifies the amount of such Grant, the terms and conditions upon which such Grant is made and the date or dates or event or events upon which such Grant is to be paid to the Issuer.

"2004 Series A Bonds" means the $570,000 in aggregate principal amount of Eastern Wyoming Public Service District Water Revenue Bonds, 2004 Series A (West Virginia DWTRF Program), of the Issuer originally authorized hereby.

"2004 Series A Bonds Construction Trust Fund" means the 2004 Series A Bonds Construction Trust Fund created by Section 5.01 hereof.

"2004 Series A Bonds Reserve Account" or "Reserve Account" means the Reserve Account established in the 2004 Series A Bonds Sinking Fund pursuant to Section 5.02.

"2004 Series A Bonds Reserve Requirement" or "Reserve Requirement" means as of any date of calculation the maximum amount of principal and interest which will become due on the 2004 Series A Bonds in the then current or any succeeding year.

"2004 Series A Bonds Sinking Fund" or "Sinking Fund" means the 2004 Series A Bonds Sinking Fund established by Section 5.02.

Additional terms and phrases are defined in this Resolution as they are used. Accounting terms not specifically defined herein shall be given meaning in accordance with generally accepted accounting principles.

Words importing singular number include the plural number in each case and vice versa; words importing the masculine gender include every other gender; and words importing persons include firms, partnerships, associations and corporations.

The terms "herein," "hereunder," "hereby," "hereto," "hereof" and any similar terms refer to this Resolution; and the term "hereafter" means after the date of adoption of this Resolution.

Articles, sections and subsections mentioned by number only are the respective articles, sections and subsections of this Resolution so numbered.

Section 1.02. Authority for this Resolution. This Resolution, together with any resolution supplemental hereto or amendatory hereof (the "Bond Legislation"), is adopted pursuant to the provisions of the Act and other applicable provisions of the law.

Section 1.03. Findings. It is hereby found, determined and declared as follows:

A. The Issuer is a public service district and a public corporation and political subdivision of the State, located in and near Mullens, Wyoming County, West

Virginia, created pursuant to the Act by an order issued by The County Commission of Wyoming County, West Virginia.

B. The Issuer presently owns and operates a public water system. However, it is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that the Issuer acquire and construct certain additions, improvements and extensions to the existing public water facilities of the Issuer, consisting of improvements to the Issuer's water system, and replacement of portions of the water distribution system in Wyoming County, together with all appurtenant facilities (collectively, the "Project"), which constitute properties for the treatment and distribution of potable water (the existing public water system of the Issuer, the Project and any further additions, betterments and improvements thereto or extensions thereof are herein called the "System"), in accordance with the plans and specifications prepared by the Consulting Engineer, which plans and specifications have heretofore been filed with the Issuer and to pay the cost of issuance hereof and related costs,.

C. The estimated maximum cost of the construction and acquisition of the Project is approximately $2,962,338, of which approximately $570,000 will be permanently financed by the 2004 Series A Bonds herein authorized. The remaining cost will be funded with a $1,800,000 USEDA Grant and a $592,338 WVIJDC Grant. The Issuer has heretofore issued the Notes to temporarily finance a portion of the costs of design of the Project. The Issuer hereby determines that it is in its best interest to pay the entire outstanding principal of and all administrative fees on the Notes with proceeds of the WVIJDC Grant on the Closing Date.

D. It is necessary for the Issuer to issue its Water Revenue Bonds, 2004 Series A (West Virginia DWTRF Program), in the aggregate principal amount of $570,000 to permanently finance in part the cost of acquisition and construction of the Project, and to pay the cost of issuance thereof. Said costs shall be deemed to include the repayment of the principal of and administrative fee on the Notes, the cost of all property rights, easements and franchises deemed necessary or convenient therefor; engineering and legal expenses; expenses for estimates of costs and revenues and for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise; administrative expense, commitment fees, fees of the Authority, initial fees for the services of registrars, and the placing of the Project in operation, and the performance of the things herein required or permitted, in connection with any thereof; provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the 2004 Series A Bonds or the repayment of indebtedness, incurred by the Issuer for such purposes shall be deemed part of the Costs of the Project.

E. The estimated revenues to be derived in each year after completion of the Project from the operation of the System will be sufficient to pay all the Operating Expenses of the System, the principal of and interest on the Prior Bonds, the 2004 Series A

Bonds and all sinking funds, reserve accounts and other payments provided for herein, and in the Prior Resolution.

F. The period of usefulness of the System after completion of the Project is not less than 30 years.

G. There are outstanding obligations of the Issuer which will rank on parity with the 2004 Series A Bonds as to liens, pledge, and source of and security for payment, which obligations are designated and have the lien positions with respect to the 2004 Series A Bonds as follows:

Designation	Lien Position
Water Revenue Bonds, Series 2001 A (West Virginia DWTRF Program), dated October 16, 2001, in the original principal amount of $360,000 (the "Prior Bonds")	First Lien

The 2004 Series A Bonds shall be issued on a parity with the Prior Bonds with respect to liens, pledge and source of and security for payment and in all other respects. The Issuer has met the parity and coverage requirements for issuance of bonds on a parity with the Prior Bonds and the resolution authorizing the Prior Bonds and has substantially complied with all other parity requirements, except to the extent that noncompliance with any such other parity requirements is not of a material nature. Prior to the issuance of the 2004 Series A Bonds, the Issuer will obtain (i) a certificate of an Independent Certified Public Accountant stating that the parity and coverage tests of the Prior Bonds have been met and (ii) the written consent of the Registered Owners of the Prior Bonds to the issuance of the 2004 Series A Bonds on a parity with the Prior Bonds. Other than the Prior Bonds, there are no outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System.

H. It is in the best interests of the Issuer that the 2004 Series A Bonds be sold to the Authority pursuant to the terms and provisions of the Loan Agreement.

I. The Issuer has complied with all requirements of West Virginia law and the Loan Agreement relating to the authorization of the Project, operation of the System, and the issuance of the 2004 Series A Bonds, or will have so complied prior to the issuance of the 2004 Series A Bonds, including, among other things, the obtaining of the PSC Order.

J. The Project has been approved by the Council, and the Authority, on behalf of BPH, has agreed to make the DWTRF Loan to the Issuer.

K. The Issuer shall not permit at any time or times any of the proceeds of the Bonds or any other funds of the Issuer to be used directly or indirectly in a manner

which would result in the exclusion of the Bonds from the treatment afforded by Section 103(a) of the Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder or under any predecessor thereto (the "Code"), by reason of the classification of the Bonds as "private activity bonds" within the meaning of the Code. The Issuer will take all actions necessary to comply with the Code and Treasury Regulations to be promulgated thereunder.

Section 1.04. Bond Legislation Constitutes Contract. In consideration of the acceptance of the 2004 Series A Bonds by those who shall be Registered Owners of the same from time to time, this Bond Legislation shall be deemed to be and shall constitute a contract between the Issuer and such Registered Owners, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the benefit, protection and security of the Registered Owners of the 2004 Series A Bonds.

ARTICLE II

AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT; AUTHORIZATION OF OPERATION AND MAINTENANCE OF THE PROJECT

Section 2.01. Authorization of the Acquisition and Construction of the Project. There is hereby authorized and ordered the acquisition and construction of the Project at an estimated cost of $2,962,338 in accordance with the plans and specifications which have been prepared by the Consulting Engineers and heretofore filed in the office of the Governing Body. The proceeds of the 2004 Series A Bonds hereby authorized shall be applied as provided in Article VI hereof. The Issuer has received bids and will enter into contracts for the acquisition and construction of the Project in an amount and otherwise compatible with the plan of financing described in the application to the Authority, the BPH and the Council.

Section 2.02. Approval of Operation and Maintenance of the System. The Issuer hereby approves the operation and maintenance of the System by LCPSD, for and on behalf of the Issuer, along with any other assets of the Issuer that the Issuer may desire for LCPSD to operate and maintain, pursuant to the Operation and Maintenance Agreement.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF BONDS; AUTHORIZATION AND EXECUTION OF LOAN AGREEMENT

Section 3.01. Authorization of Bonds. For the purposes of paying the Costs of the Project and paying certain costs of issuance and related costs, there shall be and hereby are authorized to be issued negotiable bonds of the Issuer. Said 2004 Series

A Bonds shall be issued as a single bond, to be designated the "Eastern Wyoming Public Service District Water Revenue Bonds, 2004 Series A (West Virginia DWTRF Program),", in the aggregate principal amount of $570,000, and shall have such terms as are set forth hereinafter in this Resolution or any Supplemental Resolution thereto. The proceeds of the 2004 Series A Bonds shall be deposited in the 2004 Series A Bonds Construction Trust Fund established by Section 5.01 hereof.

Section 3.02. Term of Bonds. The 2004 Series A Bonds shall be issued in such principal amounts; shall bear interest at such rate or rates, not exceeding the then legal maximum, payable quarterly on such dates; shall mature on such dates and in such amounts and at such times as shall be set forth in Schedule Y to the Loan Agreement; the terms of which are incorporated herein by reference. In the event of an inconsistency between the terms hereof and said Loan Agreement, the terms of the Loan Agreement shall apply; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in this Resolution. The repayment of principal, interest and the Administrative Fee on the 2004 Series A Bonds shall be as set forth in Schedule Y to the Loan Agreement. The 2004 Series A Bonds shall be payable as to principal at the office of the Paying Agent in any coin or currency which, on the dates of payment of principal, is legal tender for the payment of public and private debts under the laws of the United States of America. Interest on the 2004 Series A Bonds, if any, shall be paid by check or draft of the Paying Agent mailed to the Registered Owner thereof at the address as it appears on the books of the Bond Registrar, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner thereof.

Unless otherwise provided by this Resolution or any Supplemental Resolution thereto, the 2004 Series A Bonds shall be issued in the form of a single bond, fully registered to the Authority, with a debt service schedule and a record of advances attached, representing the aggregate principal amount of the 2004 Series A Bonds. The 2004 Series A Bonds shall be exchangeable at the option and expense of the Holder for another fully registered bond in aggregate principal amount equal to the amount of said bonds then Outstanding and being exchanged, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said bond; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

Section 3.03. Execution of Bonds. The 2004 Series A Bonds shall be executed in the name of the Issuer by the Chairman, and the seal of the Issuer shall be affixed thereto and attested by the Secretary of the Issuer. In case any one or more of the officers who shall have signed or sealed any of the 2004 Series A Bonds shall cease to be such officer of the Issuer before the 2004 Series A Bonds so signed and sealed shall have been actually sold or delivered, such 2004 Series A Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such 2004 Series A Bonds had not ceased to hold such office. Any 2004 Series A Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such 2004 Series A Bonds shall hold the proper office of the Issuer, although

at the date of such 2004 Series A Bonds such person may not have held such office or may not have been so authorized.

Section 3.04. Authentication and Registration. No 2004 Series A Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Resolution unless and until the Certificate of Authentication and Registration on such Bond, substantially in the form set forth in Section 3.10 shall have been manually executed by the Bond Registrar. Any such executed Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Resolution. The Certificate of Authentication and Registration shall be deemed to have been executed by the Bond Registrar if signed by an authorized officer of the Bond Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the 2004 Series A Bonds issued hereunder.

Section 3.05. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the 2004 Series A Bonds shall be and have all the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State, and each successive Registered Owner, in accepting any of said 2004 Series A Bonds, shall be conclusively deemed to have agreed that said 2004 Series A Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State, and each successive Registered Owner shall further be conclusively deemed to have agreed that said 2004 Series A Bonds shall be incontestable in the hands of a bona fide holder for value.

So long as any of the 2004 Series A Bonds remain Outstanding, the Issuer, through the Bond Registrar, shall keep and maintain books for the registration and transfer of the 2004 Series A Bonds.

The 2004 Series A Bonds shall be transferrable only upon the books of the Bond Registrar, by the Registered Owner thereof in person or by his attorney duly authorized in writing, upon surrender thereto, together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the Registered Owner or his duly authorized attorney.

In all cases in which the privilege of exchanging the 2004 Series A Bonds or transferring the 2004 Series A Bonds is exercised, such Bonds shall be delivered in accordance with the provisions of this Resolution. All 2004 Series A Bonds surrendered in any such exchanges or transfers shall forthwith be canceled by the Bond Registrar. For every such exchange or transfer of 2004 Series A Bonds, the Bond Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer and the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the Bond Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer. The Bond Registrar

shall not be obligated to make any such exchange or transfer of 2004 Series A Bonds during the period commencing on the 15th day of the month preceding an interest payment date on the 2004 Series A Bonds or, in the case of any proposed redemption of 2004 Series A Bonds, next preceding the date of the selection of 2004 Series A Bonds to be redeemed, and ending on such interest payment date or redemption date.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case any bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Bond Registrar shall, if so advised by the Issuer, authenticate and deliver a new Bond of the same series and of like tenor of the 2004 Series A Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated bond, upon surrender and cancellation of such mutilated bond, or in lieu of and substitution for the bond destroyed, stolen or lost and upon the Holder's furnishing the Issuer proof of ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and Bond Registrar may incur. All 2004 Series A Bonds so surrendered shall be cancelled by the Bond Registrar and held for the account of the Issuer. If any such bond shall have matured or be about to mature, instead of issuing a substitute bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such bond be lost, stolen or destroyed, without surrender thereof.

Section 3.07. Bonds Not to be Indebtedness of the Issuer. The 2004 Series A Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided and amounts in the 2004 Series A Bonds Reserve Account. No Holder of any of the 2004 Series A Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer, if any, to pay the 2004 Series A Bonds or the interest thereon.

Section 3.08. Bonds Secured by Pledge of Net Revenues. The payment of the debt service on all the 2004 Series A Bonds shall be secured forthwith by a first lien on the Net Revenues derived from the System, on parity with the lien on the Net Revenues in favor of the holders of the Prior Bonds. Such Net Revenues in an amount sufficient to pay the principal of, and interest on and other payments for the 2004 Series A Bonds and the Prior Bonds and to make the payments into the Sinking Funds, the Reserve Accounts and the Renewal and Replacement Fund hereinafter established, and established in the Prior Resolution, are hereby irrevocably pledged to the payment of the principal of and interest on the Prior Bonds and the 2004 Series A Bonds as the same become due.

Section 3.09. Delivery of Bonds. The Issuer shall execute and deliver the 2004 Series A Bonds to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the 2004 Series A Bonds to the original purchasers upon receipt of the documents set forth below:

A. If other than the Authority, a list of the names in which the 2004 Series A Bonds are to be registered upon original issuance, together with such taxpayer identification and other information as the Bond Registrar may reasonably require;

B. A request and authorization to the Bond Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate and deliver the 2004 Series A Bonds to the original purchasers;

C. An executed and certified copy of the Bond Legislation;

D. An executed copy of the Loan Agreement; and

E. The unqualified approving opinion of bond counsel on the 2004 Series A Bonds.

Section 3.10. Form of Bonds. The text of the 2004 Series A Bonds shall be in substantially the form attached hereto as Exhibit A, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted by this Resolution or by any Supplemental Resolution thereto adopted prior to the issuance thereof.

Section 3.11. Sale of Bonds; Ratification and Execution of Loan Agreement. The 2004 Series A Bonds shall be sold to the Authority pursuant to the terms and conditions of the Loan Agreement. If not so authorized by previous resolution, the Chairman is specifically authorized and directed to execute the Loan Agreement and the Secretary is directed to affix the seal of the Issuer, attest the same and deliver the Loan Agreement to the Authority, and any such prior execution and delivery is hereby authorized, ratified and approved. The Loan Agreement, including all schedules and exhibits attached hereto, is hereby approved and incorporated into this Bond Legislation.

Section 3.12. Amended Schedule Filing. Upon completion of acquisition and construction of the Project, the Issuer will file with the Authority, the BPH and the Council a schedule, the form of which will be provided by the BPH, setting forth the actual Costs of the Project and sources of funds therefor.

ARTICLE IV

[RESERVED]

ARTICLE V

FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF

Section 5.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are created with (or continued if previously established by the Prior Resolution) and shall be held by the Depository Bank separate and apart from all other funds or accounts of the Depository Bank:

(1) Revenue Fund (established by Prior Resolution);

(2) Renewal and Replacement Fund (established by Prior Resolution); and

(3) 2004 Series A Bonds Construction Trust Fund.

The Issuer hereby appoints and designates The Peoples Bank of Mullens, located in Mullens, West Virginia, as the Depository Bank under the Resolution.

Section 5.02. Establishment of Funds and Accounts with Commission. The special funds or accounts hereby established with the Commission are the 2004 Series A Bonds Sinking Fund, and the 2004 Series A Bonds Reserve Account.

Section 5.03. System Revenues; Flow of Funds. A. The entire Gross Revenues derived from the operation of the System shall be deposited upon receipt in the Revenue Fund created pursuant to the Prior Resolution. The Revenue Fund shall constitute a trust fund for the purposes provided in this Resolution and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner herein provided.

(1) The Issuer shall first, each month, pay from the Revenue Fund the current Operating Expenses of the System.

(2) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission (i) the principal payment for the Prior Bonds required by the Prior Resolution, and (ii) commencing 3 months prior to the first date of payment of principal of the 2004 Series A Bonds, for deposit in the 2004 Series A Bonds Sinking Fund, a sum equal to $1/3^{rd}$ of the amount of principal which will mature and become due on the 2004 Series A Bonds on the next ensuing quarterly principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the 2004 Series A Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payment shall be increased proportionately to provide,

one month prior to the next quarterly principal payment date, the required amount of principal coming due on such date.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission (i) for deposit in the Reserve Account for the Prior Bonds, the amount required by the Prior Resolution, and (ii) commencing 3 months prior to the first date of payment of principal of the 2004 Series A Bonds, if not fully funded upon issuance of the 2004 Series A Bonds, for deposit in the 2004 Series A Bonds Reserve Account, an amount equal to 1/120 of the 2004 Series A Bonds Reserve Requirement; provided, that no further payments shall be made into the 2004 Series A Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the 2004 Series A Bonds Reserve Requirement.

(4) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Depository Bank for deposit in the Renewal and Replacement Fund a sum equal to 2 1/2 % of the Gross Revenues each month (as required in the Prior Resolution and not in addition thereto), exclusive of any payments for account of any Reserve Account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, emergency repairs, improvements or extensions to the System; provided that, any deficiencies in any Reserve Account, except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required, shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

Moneys in the 2004 Series A Bonds Sinking Fund shall be used only for the purpose of paying principal of, and interest, if any, on the 2004 Series A Bonds as the same shall become due. Moneys in the 2004 Series A Bonds Reserve Account shall be used only for the purpose of paying principal of, and interest, if any, on the 2004 Series A Bonds, as the same shall come due, when other moneys in the 2004 Series A Bonds Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the 2004 Series A Bonds Reserve Account shall be transferred, not less than once each year, to the 2004 Series A Bonds Construction Trust Fund prior to completion of the Project and thereafter to the 2004 Series A Bonds Sinking Fund.

Any withdrawals from the 2004 Series A Bonds Reserve Account which result in a reduction in the balance of such account to below the 2004 Series A Bonds Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments have been made in full in the order set forth above.

As and when additional Bonds ranking on a parity with the 2004 Series A Bonds are issued, provision shall be made for additional payments into the respective sinking funds sufficient to pay any interest on and principal of such Parity Bonds and to accumulate a balance in the respective reserve accounts in an amount equal to the requirement therefor.

The Commission is hereby designated as the fiscal agent for the administration of the 2004 Series A Bonds Sinking Fund and the 2004 Series A Bonds Reserve Account created hereunder, and all amounts required for said accounts shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein. If required by the Authority, the Issuer shall make the necessary arrangements whereby required payments into such accounts are automatically debited from the Revenue Fund and electronically transferred to the Commission on the required date.

Moneys in the 2004 Series A Bonds Reserve Account and 2004 Series A Bonds Sinking Fund shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The 2004 Series A Bonds Sinking Fund and the 2004 Series A Bonds Reserve Account shall be used solely and only for, and are hereby pledged for, the purpose of servicing the 2004 Series A Bonds under the conditions and restrictions hereinafter set forth.

Interest, principal or reserve account payments, whether made for a deficiency or otherwise, shall be made on a parity and pro rata, with respect to the 2004 Series A Bonds and the Prior Bonds in accordance with the respective principal amounts then outstanding.

B. The Issuer shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the required principal, interest and reserve account payments with respect to the 2004 Series A Bonds and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Bond Legislation. The Issuer shall also on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the

Commission the Administrative Fee as set forth in the Schedule Y attached to the Loan Agreement.

C. The Issuer shall complete the "Monthly Payment Form," a form of which is attached to the Loan Agreement and submit a copy of said form along with a copy of its payment check to the Authority by the 5th day of such calendar month.

D. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinbefore provided, are current and there remains in the Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into such funds during the following month or such other period as required by law, such excess shall be considered Surplus Revenues. Surplus Revenues may be used for any lawful purpose of the System.

E. The Issuer shall remit from the Revenue Fund to the Commission, the Registrar, the Paying Agent, or the Depository Bank, on such dates as the Commission, the Registrar, the Paying Agent, or the Depository Bank as the case may be, shall require, such additional sums as shall be necessary to pay the charges and the fees then due. In the case of payments to the Commission under this paragraph, the Issuer shall, if required by the Authority at anytime, make the necessary arrangements whereby such required payments shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required.

F. The moneys in excess of the maximum amounts insured by FDIC in the Revenue Fund and the Renewal and Replacement Fund shall at all times be secured, to the full extent thereof in excess of such insured sum, by Qualified Investments as shall be eligible as security for deposits of state and municipal funds under the laws of the State.

G. If on any monthly payment date the revenues are insufficient to place the required amount in any of the funds and accounts as hereinabove provided, the deficiency shall be made up in the subsequent payments in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payment dates; provided, that all deposits, including on account of deficiencies, shall be made in the order of priority set forth in Paragraph (A), above, and no payment of lower priority shall be made if there exists a deficiency in a fund or account of higher priority. No such deficiency shall exist solely because the required payments into the 2004 Series A Bonds Reserve Account have not, as of such date, funded such account to the requirement therefor.

H. All remittances made by the Issuer to the Commission or the Depository Bank shall clearly identify the fund or account into which each amount is to be deposited.

I. The Gross Revenues of the System shall only be used for purposes of the System.

J. All Tap Fees shall be deposited by the Issuer, as received, in the 2004 Series A Bonds Construction Trust Fund, and following completion of the Project, shall be deposited in the Revenue Fund and used for any lawful purpose of the System.

ARTICLE VI

APPLICATION OF BONDS PROCEEDS

Section 6.01. Application of Bonds Proceeds; Pledge of Unexpended Bonds Proceeds. Moneys received from time to time from the sale of the 2004 Series A Bonds shall be deposited with the Depository Bank in the 2004 Series A Bonds Construction Trust Fund and applied solely to payment of Costs of the Project and until so expended are hereby pledged as additional security for the 2004 Series A Bonds.

Section 6.02. Disbursements From the Construction Trust Fund. On or before the Closing Date, the Issuer shall have delivered to the Authority, the BPH and the Council a report listing the specific purposes for which the proceeds of the 2004 Series A Bonds will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule. Payments for Costs of the Project shall be made monthly.

Except as provided in Section 6.01 hereof, disbursements from the 2004 Series A Bonds Construction Trust Fund shall be made only after submission to the BPH of the following:

(1) a completed and signed "Payment Requisition Form," a form of which is attached to the Loan Agreement, in compliance with the construction schedule, and

(2) a certificate, signed by an Authorized Officer and the Consulting Engineers, stating that:

(A) None of the items for which the payment is proposed to be made has formed the basis for any disbursement theretofore made;

(B) Each item for which the payment is proposed to be made is or was necessary in connection with the Project and constitutes a Costs of the Project;

(C) Each of such costs has been otherwise properly incurred; and

(D) Payment for each of the items proposed is then due and owing.

Pending such application, moneys in the 2004 Series A Bonds Construction Trust Fund shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

Section 6.03. Excess Bond Proceeds. Upon completion of the Project, as certified by the Consulting Engineers, and all costs have been paid, any remaining proceeds of the 2004 Series A Bonds shall be applied as directed by the BPH.

ARTICLE VII

ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this Resolution shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Holder of the 2004 Series A Bonds. In addition to the other covenants, agreements and provisions of this Resolution, the Issuer hereby covenants and agrees with the Holder of the 2004 Series A Bonds, as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of said 2004 Series A Bonds is Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The 2004 Series A Bonds shall not be nor constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Resolution. No Holder of any 2004 Series A Bonds shall ever have the right to compel the exercise of the taxing power, if any, of the Issuer to pay said 2004 Series A Bonds.

Section 7.03. Bonds Secured by Pledge of Net Revenues; Lien Position. The payment of the debt service of the 2004 Series A Bonds issued hereunder shall be secured forthwith equally and ratably by a first lien on the Net Revenues derived from the operation of the System on parity with the lien on said Net Revenues in favor of the holders of the Prior Bonds. The Net Revenues derived from the System, in an amount sufficient to pay the principal of the Prior Bonds and the 2004 Series A Bonds herein authorized and to make the payments into the all funds and accounts, and all other payments provided for in this Resolution and the Prior Resolution are hereby irrevocably pledgedto such payments as the same become due, and for the other purposes provided in this Resolution.

Section 7.04. Initial Schedule of Rates and Charges. The Issuer has obtained any and all approvals of rates and charges required by State law and has taken any other action required to establish and impose such rates and charges, with all requisite appeal periods having expired without successful appeal. Such rates and charges are and shall be sufficient to comply with the requirements of the Loan Agreement. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth and approved and described in the Recommended Decision entered April 16, 2004, which became a Final Order of the Public Service Commission of West Virginia (the "PSC") on May 6, 2004, with all requisite appeal periods having expired without successful appeal, and a Commission Order entered August 16, 2004, in Case No. 03-0980-PWD-CN, among other things, approving the rates and charges for the services of the System, and has adopted a resolution prescribing such rates and charges. The time for appeal of the August 16, 2004 Commission Order has not expired prior to the date hereof. However, the Issuer hereby states it will not appeal the August 16, 2004 Commission Order, and the only other party to Case No. 03-0980-PWD-CN, the Commission Staff, has stated that it does not intend to appeal the August 16, 2004 Commission Order. Both orders are in full force and effect.

So long as the 2004 Series A Bonds are outstanding, the Issuer covenants and agrees to fix and collect rates, fees and other charges for the use of the System and to take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Bond Legislation and in compliance with the requirements of the Loan Agreement. In the event the schedule of rates and charges initially established for the System in connection with the 2004 Series A Bonds shall prove to be insufficient to produce the required sums set forth in this Bond Legislation and the Loan Agreement, the Issuer hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates and charges and take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Bond Legislation and the Loan Agreement.

Section 7.05. Sale of the System. So long as the Prior Bonds are outstanding, the Issuer shall not sell, mortgage, lease or otherwise dispose of the System, except as provided in the Prior Resolution. Additionally, so long as the 2004 Series A Bonds are outstanding and except as otherwise required by law and with the written consent of the Authority and the BPH, the System may not be sold, mortgaged, leased or otherwise disposed of except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to pay fully all the 2004 Series A Bonds Outstanding in accordance with Article X hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall be immediately remitted to the Commission for deposit in the 2004 Series A Bonds Sinking Fund, and the Issuer shall direct the Commission to apply such proceeds to the payment of principal of and the Administrative Fee on the 2004 Series A Bonds. Any balance remaining after the payment of the 2004 Series A Bonds shall be remitted to the Issuer by the Commission unless

necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of $10,000, the Issuer shall, by resolution duly adopted, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. If the amount to be received from such sale, lease or other disposition of said property, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of $10,000 but not in excess of $50,000, the Issuer shall first, in writing, determine upon consultation with the Managing Engineer that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then, if it be so advised, by resolution duly adopted, authorize such sale, lease or other disposition of such property upon public bidding in accordance with the laws of the State. The proceeds derived from any such sale, lease or other disposition of such property, aggregating during such Fiscal Year in excess of $10,000 and not in excess of $50,000, shall be remitted by the Issuer to the Commission for deposit in the Sinking Funds and shall be applied only to the purchase of Bonds of the last maturities then Outstanding at prices not greater than par, then to the Renewal and Replacement Fund. The payment of such proceeds into the Sinking Funds or the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said funds by other provisions of this Resolution. No sale, lease or other disposition of the properties of the System shall be made by the Issuer if the proceeds to be derived therefrom, together with all other amounts received during the same Fiscal Year for such sales, leases, or other dispositions of such properties, shall be in excess of $50,000 and insufficient to pay all Bonds then Outstanding without the prior approval and consent in writing of the Holders of the Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then Holder of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. So long as any of the 2004 Series A Bonds are Outstanding, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the 2004 Series A Bonds; provided, however, that Parity Bonds may be issued as provided for in Section 7.07 hereof and in the Prior Resolution (as long as the Prior Bonds are Outstanding). All obligations hereafter

issued by the Issuer payable from the revenues of the System, except such Parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on and source of and security for payment from such revenues and in all other respects, to the 2004 Series A Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts set forth herein and in the Prior Resolution have been made and are current at the time of the issuance of such subordinate obligations.

Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or being on a parity with the liens of the 2004 Series A Bonds, upon any of the income and revenues of the System pledged for payment of the 2004 Series A Bonds and the interest thereon in this Resolution, or upon the System or any part hereof.

The Issuer shall give the Authority, the BPH and the Council prior written notice of its issuance of any other obligations to be used for the System, payable from the revenues of the System or from any grants, or any other obligations related to the Project or the System.

Section 7.07. Parity Bonds. So long as the Prior Bonds are outstanding, the limitations on the issuance of parity obligations set forth in the Prior Resolution shall be applicable. Additionally, no Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of the 2004 Series A Bonds pursuant to this Resolution, except under the conditions and in the manner herein provided and in the Prior Resolution so long as the Prior Bonds are outstanding.

All Parity Bonds issued hereunder shall be on a parity in all respects with the 2004 Series A Bonds. The prior written consent of the Authority and BPH must be received prior to the issuance of any Parity Bonds.

No such Parity Bonds shall be issued except for the purposes of financing the costs of the design, construction or acquisition of extensions, additions, betterments or improvements to the System or refunding any outstanding Bonds or both such purposes.

No Parity Bonds shall be issued at any time, however, unless there has been procured and filed with the Secretary a written statement by the Independent Certified Public Accountants, reciting the conclusion that the Net Revenues actually derived, subject to the adjustments hereinafter provided for, from the System during any 12 consecutive months within the 18 months immediately preceding the date of the actual issuance of such Parity Bonds, plus the estimated average increased annual Net Revenues to be received in each of the three succeeding years after the completion of the improvements to be financed by such Parity Bonds, if any, shall not be less than 115% of the largest aggregate amount that will mature and become due in any succeeding Fiscal Year for principal of and interest on the following:

(1) The Bonds then Outstanding;

(2) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Resolution then Outstanding; and

(3) The Parity Bonds then proposed to be issued.

The "estimated average increased annual Net Revenues to be received in each of the three succeeding years," as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from any improvements to be financed by the Parity Bonds and any increase in rates adopted by the Issuer and approved by the PSC, the period for appeal of which has expired prior to the date of delivery of such Parity Bonds including the revenues from new customers to be served, and shall not exceed the amount to be stated in a certificate of the Independent Certified Public Accountants, which shall be filed in the office of the Secretary prior to the issuance of such Parity Bonds.

The Net Revenues actually derived from the System during the 12-consecutive-month period hereinabove referred to may be adjusted by adding to such Net Revenues such additional Net Revenues which would have been received, in the opinion of the Independent Certified Public Accountants, as stated in a certificate jointly made and signed by the Independent Certified Public Accountants, on account of increased rates, rentals, fees and charges for the System adopted by the Issuer and approved by the PSC, the period for appeal of which has expired prior to the issuance of such Parity Bonds.

All covenants and other provisions of this Resolution (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Holder of the 2004 Series A Bonds and the Holders of any Parity Bonds issued from time to time within the limitations of and in compliance with this section. Any Bonds issued on a parity, regardless of the time or times of their issuance, shall rank equally with respect to their respective liens on the revenues of the System and their respective source of and security for payment from said revenues, without preference of any Bond of one series over any other Bond of another series on a parity therewith. The Issuer shall comply fully with all the increased payments into the various funds and accounts created in this Resolution required for and on account of such Parity Bonds, in addition to the payments required for 2004 Series A Bonds theretofore issued pursuant to this Resolution.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior liens of the Outstanding Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions

provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the 2004 Series A Bonds.

No Parity Bonds shall be issued any time, however, unless all the payments into the funds and accounts provided for in this Resolution with respect to the Bonds then Outstanding, and any other payments provided for in this Resolution, shall have been made in full as required to the date of delivery of such Parity Bonds, and the Issuer shall then be in full compliance with all the covenants, agreements and terms of this Resolution.

Section 7.08. Books; Records and Audit. The Issuer shall keep complete and accurate records of the cost of acquiring the Project sites and the costs of acquiring, constructing and installing the Project. The Issuer shall permit the Authority, the BPH and the Council, or their duly authorized agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System at any and all reasonable times for the purpose of audit and examination. The Issuer shall submit to the Authority, the BPH and the Council such documents and information as they may reasonably require in connection with the acquisition, construction and installation of the Project, the operation and maintenance of the System and the administration of the loan or any state and federal grants or other sources of financing for the Project.

The Issuer shall permit the Authority, the BPH and the Council, or their agents and representatives, to have access to the records pertaining to the operation and maintenance of the System at all reasonable times following completion of construction of the Project and commencement of operation thereof, or, if the Project is an improvement to an existing system, at any reasonable time following commencement of construction.

The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and any Holder of 2004 Series A Bonds issued pursuant to this Resolution shall have the right at all reasonable times to inspect the System and all parts thereof and all records, accounts and data of the Issuer relating thereto.

The accounting system for the System shall follow current generally accepted accounting principles and safeguards to the extent allowed by the Uniform System of Accounts promulgated by the PSC. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner and on the forms, books and other bookkeeping records as prescribed by the Governing Body. The Governing Body shall prescribe and initiate the manner by which subsidiary records of the accounting system, which may be installed remote from the direct supervision of the Governing Body, shall be reported to such agent of the Issuer as the Governing Body shall direct.

The Issuer shall file with the BPH, and the Authority, or any other original purchaser of the 2004 Series A Bonds, and shall mail in each year to any Holder of 2004 Series A Bonds requesting the same, an annual report containing the following:

(A) A statement of Gross Revenues, Operating Expenses, Net Revenues, and Surplus Revenues derived from and relating to the System.

(B) A balance sheet statement showing all deposits in all the funds and accounts provided for in this Resolution and the status of all said funds and accounts.

(C) The amount of any Bonds, notes or other obligations outstanding.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants in compliance with the applicable OMB Circular, or any successor thereof, and the Single Audit Act, or any successor thereof, to the extent legally required, and shall mail upon request, and make available generally, the report of said Independent Certified Public Accountants, or a summary thereof, to any Holder of 2004 Series A Bonds and shall submit said report to the Authority, the BPH and the Council, or any other purchaser of the 2004 Series A Bonds. Such audit report submitted to the Authority, the BPH and the Council shall include a statement that the Issuer is in compliance with the terms and provisions of the Act, the Loan Agreement and this Resolution and that the Issuer's revenues are adequate to meet its Operating Expenses and debt service and reserve requirements.

Subject to the terms, conditions and provisions of the Loan Agreement and the Act, the Issuer has acquired , or shall do all things necessary to acquire, the proposed site of the Project and shall do, is doing or has done all things necessary to construct the Project in accordance with the plans, specifications and designs prepared by the Consulting Engineers. All real estate and interests in real estate and all personal property constituting the Project and the Project site heretofore or hereafter acquired shall at all times be and remain the property of the Issuer.

The Issuer shall permit the Authority, the BPH and the Council, or their agents and representatives, to enter and inspect the Project sites and Project facilities at all reasonable times. Prior to, during and after completion of construction and commencement of operation of the Project, the Issuer shall also provide the Authority, the BPH and the Council, or their agents and representatives, with access to the System site and System facilities as may be reasonably necessary to accomplish all of the powers and rights of the Authority, the BPH and the Council with respect to the System pursuant to the Act.

The Issuer shall provide the BPH with all appropriate documentation to comply with any special conditions established by federal and/or state regulations as set forth in the Loan Agreement or as promulgated from time to time.

Section 7.09. Rates. Approvals of equitable rates or charges for the use of and service rendered by the System have been obtained all in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the Secretary, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from said System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder. Such schedule of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System (i) to provide for all Operating Expenses of the System, and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest on the 2004 Series A Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the 2004 Series A Bonds, including the Prior Bonds; provided that, in the event that amounts equal to or in excess of the 2004 Series A Bonds Reserve Requirement are on deposit in the 2004 Series A Bonds Reserve Account and all reserve accounts for obligations on a parity with the 2004 Series A Bonds, including the Prior Bonds, are funded at least at the requirement therefor, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal of, and interest on the 2004 Series A Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the 2004 Series A Bonds.

Section 7.10. Operating Budget and Monthly Financial Report. The Issuer shall annually, at least 30 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding Fiscal Year and shall submit a copy of such budget to the Authority, the BPH and the Council within thirty days of the adoption thereof. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by the Managing Engineer, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Issuer shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the further certificate of the Managing Engineer that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all

resolutions authorizing increased expenditures for operation and maintenance to the Authority, the BPH and the Council and to any Holder of any 2004 Series A Bonds, within 30 days of adoption thereof, and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to the Authority, the BPH and the Council and to any Holder of any 2004 Series A Bonds or anyone acting for and in behalf of such Holder of any 2004 Series A Bonds.

Commencing on the date contracts are executed for the acquisition and construction of the Project and for two years following the completion of the Project, the Issuer shall each month complete a "Monthly Financial Report," a form of which is attached to the Loan Agreement, and forward a copy of such report to the Authority, the BPH and the Council by the 10th day of each month.

Section 7.11. No Competing Franchise. To the extent legally allowable, the Issuer will not grant or cause, consent to or allow the granting of, any franchise or permit to any person, firm, corporation, body, agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

Section 7.12. Enforcement of Collections. The Issuer will diligently enforce and collect all fees, rentals or other charges for the services and facilities of the System, and take all steps, actions and proceedings for the enforcement and collection of such fees, rentals or other charges which shall become delinquent to the full extent permitted or authorized by the Act, the rules and regulations of the PSC and other laws of the State.

Whenever any rates, fees, rentals or other charges for the services or facilities of the System remain unpaid for a period of 20 days after the same shall become due and payable, the user of the services and facilities provided, is delinquent and the user is liable at law until such time as all such rates, fees and charges are fully paid. To the extent authorized by the laws of the State and the rules and regulations of the PSC, rates, rentals and other charges, if not paid when due, shall become a lien on the premises served by the System. The Issuer further covenants and agrees that it will, to the full extent permitted by law and the rules promulgated by the PSC, discontinue and shut off the services of the System to all users of the services of the System delinquent in payment of charges for the services of the System and will not restore such services until all delinquent charges for the services of the System, plus reasonable interest and penalty charges for the restoration of service, have been fully paid and shall take all further actions to enforce collections to the maximum extent permitted by law.

Section 7.13. No Free Services. The Issuer will not render or cause to be rendered any free services of any nature by the System, nor will any preferential rates be established for users of the same class; and in the event the Issuer, or any department, agency, instrumentality, officer or employee of the Issuer shall avail itself or themselves of

the facilities or services provided by the System, or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the Issuer and any such department, agency, instrumentality, officer or employee. Such charges shall be paid as they accrue and the Issuer shall transfer from its general funds sufficient sums to pay such charges for service to any of its departments or properties. The revenues so received shall be deemed to be revenues derived from the operation of the System, and shall be deposited and accounted for in the same manner as other revenues derived from such operation of the System.

Section 7.14. Connections to System. The Issuer will, to the extent authorized by the laws of the State and the rules and regulations of the PSC, require prospective users of the System to connect thereto.

Section 7.15. Insurance. The Issuer hereby covenants and agrees that so long as the 2004 Series A Bonds remain Outstanding, the Issuer will, as an Operating Expense, procure, carry and maintain insurance with a reputable insurance carrier or carriers as is customarily covered with respect to works and properties similar to the System. Such insurance shall initially cover the following risks and be in the following amounts:

(1) FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, on all above-ground insurable portions of the System in an amount equal to the actual cost thereof. In time of war the Issuer will also carry and maintain insurance to the extent available against the risks and hazards of war. The proceeds of all such insurance policies shall be placed in the Renewal and Replacement Fund and used only for the repairs and restoration of the damaged or destroyed properties or for the other purposes provided herein for the Renewal and Replacement Fund. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) to protect the interests of the Issuer, the Authority, the prime contractor and all subcontractors as their respective interests may appear, in accordance with the Loan Agreement, during construction of the Project on a 100% basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Issuer, the contractors and subcontractors, as their interests may appear.

(2) PUBLIC LIABILITY INSURANCE, with limits of not less than $1,000,000 per occurrence to protect the Issuer from claims for bodily injury and/or death and not less than $500,000 per occurrence from claims for damage to property of others which may arise from the operation of the System, and insurance with the same limits to protect the Issuer from claims

arising out of operation or ownership of motor vehicles of or for the System.

(3) WORKERS' COMPENSATION COVERAGE FOR ALL EMPLOYEES OF OR FOR THE SYSTEM ELIGIBLE THEREFOR, such bonds to be in the amounts of not less than 100% of the amount of any construction contract and to be required of each contractor dealing directly with the Issuer and such payment bonds will be filed with the Clerk of the County Commission of the County in which such work is to be performed prior to commencement of construction of the Project in compliance with West Virginia Code, Section 38-2-39.

(4) FLOOD INSURANCE, if the facilities of the System are or will be located in designated special flood or mudslide-prone areas and to the extent available at reasonable cost to the Issuer.

(5) BUSINESS INTERRUPTION INSURANCE, to the extent available at reasonable cost to the Issuer.

(6) FIDELITY BONDS will be provided as to every officer, member and employee of the Issuer or the Governing Body having custody of the revenues or of any other funds of the System, in an amount at least equal to the total funds in the custody of any such person at any one time.

(7) PERFORMANCE AND PAYMENT OR COMPLETION BONDS, (A) The Issuer shall require all contractors engaged in the construction of the Project to furnish a performance bond and a payment bond, each in an amount equal to 100% of the contract price of the portion of the Project covered by the particular contract as security for the faithful performance of such contract. The Issuer shall verify such bonds prior to commencement of construction of the Project.

(B) The Issuer shall also require all contractors engaged in the construction of the Project to carry such worker's compensation coverage for all employees working on the Project and public liability insurance, vehicular liability insurance and property damage insurance in amounts adequate for such purposes and as is customarily carried with respect to works and properties similar to the Project; provided that the amounts and terms of such coverage are satisfactory to the Authority, the BPH and the Council. In the event the Loan Agreement so requires, such insurance shall be made payable to the order of the Authority, the Issuer, the prime contractor and all subcontractors, as their interests may appear. The Issuer shall verify such insurance prior to commencement of construction of the Project.

Section 7.16. Engineering Services and Operating Personnel. The Issuer will obtain a certificate of the Consulting Engineer in the form similar to that attached to the Loan Agreement, stating, among other things, that the Project has been or will be constructed in accordance with the approved plans, specifications and designs as submitted to the BPH, the Project is adequate for the purposes for which it was designed, the funding plan as submitted to the Authority, the BPH and the Council is sufficient to pay the costs of acquisition and construction of the Project, and all permits required by federal and state laws for construction of the Project have been obtained.

The Issuer shall provide and maintain competent and adequate engineering services satisfactory to the BPH and the Authority covering the supervision and inspection of the development and construction of the Project and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. The Consulting Engineer shall certify to the Authority, the BPH and the Issuer at the completion of construction that construction of the Project is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies.

The Issuer shall require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the DWTRF Regulations, to the Issuer within 60 days of the completion of the Project. The Issuer shall notify the BPH in writing of such receipt.

The Issuer shall require the Consulting Engineers to submit a final Operation and Maintenance Manual, as defined in the DWTRF Regulations, to the Issuer when the Project is 90% completed. The Issuer shall, at all times, provide operation and maintenance of the System in compliance with any and all State and Federal standards. The Issuer shall employ qualified operating personnel, properly certified by the State, before the Project is 50% complete and shall retain such a certified operator to operate the System during the entire term of the Loan Agreement. The Issuer shall notify the BPH in writing of the certified operator employed at the 50% completion stage.

Section 7.17. Completion of Project; Permits and Orders. The Issuer hereby covenants and agrees to complete the Project as promptly as possible and operate and maintain the System as a revenue-producing utility in good condition and in compliance with all applicable laws, rules and regulations issued by the BPH, the Authority or other State, federal or local bodies in regard to the construction of the Project and operation, maintenance and use of the System.

The Issuer has obtained all permits and approvals required by State and federal laws for the acquisition and construction of the Project and all orders and approvals from the PSC and the Council necessary for the acquisition and construction of the Project

and the operation of the System and all approvals for issuance of the 2004 Series A Bonds required by State law.

Section 7.18. Statutory Mortgage Lien. For the further protection of the Holder of the 2004 Series A Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding, shall take effect immediately upon delivery of the 2004 Series A Bonds, shall be for the benefit of all Registered Owners of 2004 Series A Bonds and shall be on a parity with the statutory mortgage lien of the Prior Bonds.

Section 7.19. Compliance with Loan Agreement and Law. The Issuer agrees to perform, satisfy and comply with all terms and conditions of the Loan Agreement and the Act. The Issuer also agrees to comply with all applicable laws, rules and regulations issued by the Authority, the BPH or other state, federal or local bodies in regard to the construction and acquisition of the Project and the operation, maintenance and use of the System.

Section 7.20. PSC Order. The Issuer shall comply with the conditions of the PSC Order and any supplement or amendment thereto.

Section 7.21. Securities Law Compliance. The Issuer will provide the Authority, in a timely manner, with any and all information that may be requested of it (including its annual audit report, financial statements, related information and notices of changes in usage and customer base) so that the Authority may comply with the provisions of SEC Rule 15c2-12 (17 CFR Part 240).

Section 7.22. Public Releases. The Issuer shall list the funding provided by the BPH and the Authority in any press release, publication, program bulletin, sign or other public communication that references the Project, including but not limited to any program document distributed in conjunction with any groundbreaking or dedication of the Project.

Section 7.23. Contracts. A. The Issuer shall, simultaneously with the delivery of the 2004 Series A Bonds or immediately thereafter, enter into written contracts for the immediate acquisition or construction of the Project.

B. The Issuer shall submit all proposed change orders to the BPH for written approval. The Issuer shall obtain the written approval of the BPH before expending any proceeds of the 2004 Series A Bonds held in "contingency" as set forth in the Schedule B attached to the Certificate of the Consulting Engineer. The Issuer shall also obtain the written approval of the BPH before expending any proceeds of the 2004 Series A Bonds made available due to bid or construction or project underruns.

ARTICLE VIII

INVESTMENT OF FUNDS

Section 8.01. Investments. Any moneys held as a part of the funds and accounts created by this Resolution, other than the Revenue Fund, shall be invested and reinvested by the Commission, the Depository Bank or such other bank or national banking association holding such fund or account, as the case may be, at the direction of the Issuer in any Qualified Investments to the fullest extent possible under applicable laws, this Resolution, the need for such moneys for the purposes set forth herein and the specific restrictions and provisions set forth in this Section 8.01.

Except as specifically provided herein, any investment shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The investments held for any fund or account shall be valued at the lower of cost or then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including the value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held in the "Consolidated Fund." The Commission, the Depository Bank or such other bank or national banking association, as the case may be, shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of the loss on such liquidation. The Depository Bank or such other bank or national banking association, as the case may be, may make any and all investments permitted by this section through its own bond department and shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

The Depository Bank shall keep complete and accurate records of all funds, accounts and investments, and shall distribute to the Issuer, at least once a year, a summary of such funds, accounts and investment earnings. The Issuer shall retain all such records and any additional records relating thereto so long as any of the 2004 Series A Bonds are Outstanding.

Section 8.02. Certificate and Covenants as to Use of Proceeds. The Issuer shall deliver a certificate as to use of proceeds or other similar certificate to be prepared by nationally recognized bond counsel relating to restrictions on the use of proceeds of the 2004 Series A Bonds as a condition to issuance of the 2004 Series A Bonds. In addition, the Issuer covenants (i) to comply with the Code and all Regulations from time to time in effect and applicable to the 2004 Series A Bonds as may be necessary in order to maintain the status of the 2004 Series A Bonds as governmental bonds; (ii) that it shall not take, or permit to suffer to be taken, any action with respect to the Issuer's use of the proceeds of the 2004 Series A Bonds which would cause any bonds, the interest on which is exempt

from federal income taxation under Section 103(a) of the Code, issued by the Authority, the Council or the BPH, as the case may be, from which the proceeds of the 2004 Series A Bonds are derived, to lose their status as tax-exempt bonds; and (iii) to take such action, or refrain from taking such action, as shall be deemed necessary by the Issuer, or requested by the Authority, the Council or the BPH, to ensure compliance with the covenants and agreements set forth in this Section 8.02, regardless of whether such actions may be contrary to any of the provisions of this Resolution.

The Issuer shall annually furnish to the Authority, information with respect to the Issuer's use of the proceeds of the 2004 Series A Bonds and any additional information requested by the Authority.

ARTICLE IX

DEFAULTS AND REMEDIES

Section 9.01. Events of Default. Each of the following events shall constitute an "Event of Default" with respect to the 2004 Series A Bonds:

(A) If default occurs in the due and punctual payment of the principal of or interest on any 2004 Series A Bonds; or

(B) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the 2004 Series A Bonds set forth in this Resolution or by any Supplemental Resolution thereto, or in the 2004 Series A Bonds, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Commission, the Depository Bank, the Bond Registrar, any Paying Agent or a Holder of a Bond; or

(C) If a default occurs with respect to the Prior Bonds or the Prior Resolution; or

(D) If the Issuer files a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America.

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of a Bond may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding enforce all rights of such Registered Owners including the right to require the Issuer to perform its duties under the Act, the Loan Agreement, and this Resolution relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon the 2004 Series A Bonds, (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of any express trust for the Registered Owners of the 2004 Series A Bonds, and (v) by action at law or bill in equity enjoin any acts in violation of the Resolution with respect to the 2004 Series A Bonds, or the rights of such Registered Owners, provided however, that all rights and remedies of the Registered Owners shall be on a parity with those of the Registered Owners of the Prior Bonds.

Section 9.03. Appointment of Receiver. Any Registered Owner of a Bond may, by proper legal action, compel the performance of the duties of the Issuer under this Resolution and the Act, including, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the

application thereof. If there be any Event of Default with respect to the 2004 Series A Bonds any Registered Owner of a Bond shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System or to complete the acquisition and construction of the Project, or both, on behalf of the Issuer, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the 2004 Series A Bonds and interest and the deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Resolution and the Act.

The receiver so appointed shall forthwith, directly or by his agents and attorneys, enter into and upon and take possession of all facilities of said System and shall hold, operate and maintain, manage and control such facilities, and each and every part thereof, and in the name of the Issuer exercise all the rights and powers of the Issuer with respect to said facilities as the Issuer itself might do.

Whenever all that is due upon the 2004 Series A Bonds and interest thereon and under any covenants of this Resolution for Reserve, Sinking or other funds and upon any other obligations and interest thereon having a charge, lien or encumbrance upon the revenues of the System shall have been paid and made good, and all defaults under the provisions of this Resolution shall have been cured and made good, possession of the System shall be surrendered to the Issuer upon the entry of an order of the court to that effect. Upon any subsequent default, any Registered Owner of any 2004 Series A Bonds shall have the same right to secure the further appointment of a receiver upon any such subsequent default.

Such receiver, in the performance of the powers hereinabove conferred upon him, shall be under the direction and supervision of the court making such appointment, shall at all times be subject to the orders and decrees of such court and may be removed thereby, and a successor receiver may be appointed in the discretion of such court. Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any function not specifically set forth herein.

Any receiver appointed as provided herein shall hold and operate the System in the name of the Issuer and for the joint protection and benefit of the Issuer and Registered Owners of the 2004 Series A Bonds. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the possession, operation and maintenance of the System for the sole purpose of the protection of both the Issuer and Registered Owners of such 2004 Series A Bonds and the curing and making good of any Event of Default with respect thereto under the provisions of this Resolution, and the title to and ownership of said System shall remain in the Issuer, and no

court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, assign, mortgage or otherwise dispose of any assets of the System.

ARTICLE X

PAYMENT OF BONDS

Section 10.01. Payment of Bonds. If the Issuer shall pay or there shall otherwise be paid, to the Holder of the 2004 Series A Bonds, the principal of, and interest, if any, due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then the pledge of Net Revenues and other moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the 2004 Series A Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Amendment or Modification of Resolution. Prior to the issuance of the 2004 Series A Bonds, this Resolution may be amended or supplemented in any way by a Supplemental Resolution. Following the issuance of the 2004 Series A Bonds, no material modification or amendment of this Resolution, or of any resolution amendatory or supplemental hereto, that would materially and adversely affect the rights of Registered Owners of the 2004 Series A Bonds shall be made without the consent in writing of the Registered Owners of the 2004 Series A Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of the 2004 Series A Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the funds herein pledged therefor without the consent of the Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of 2004 Series A Bonds required for consent to the above-permitted amendments or modifications.

Section 11.02. Resolution Constitutes Contract. The provisions of the Resolution shall constitute a contract between the Issuer and the Holder of the 2004 Series A Bonds, and no change, variation or alteration of any kind of the provisions of the Resolution shall be made in any manner, except as in this Resolution provided.

Section 11.03. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Resolution, or any Supplemental Resolution thereto, should be held invalid by any court of competent jurisdiction, the invalidity of such

section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution, or the 2004 Series A Bonds.

Section 11.04. Headings, Etc. The headings and catchlines of the articles, sections and subsections hereof are for convenience of reference only, and shall not affect in any way the meaning or interpretation of any provision hereof.

Section 11.05. Conflicting Provisions Repealed; Prior Resolution. Except for the Prior Resolution, all orders or resolution and parts thereof in conflict with the provisions of this Resolution are, to the extent of such conflict, hereby repealed; provided that, in the event of any conflict between the Resolution and the Prior Resolution, the Prior Resolution shall control (unless less restrictive), so long as the Prior Bonds are outstanding.

Section 11.06. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption and passage of this Resolution do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State applicable thereto; and that the Chairman, Secretary and members of the Governing Body were at all times when any actions in connection with this Resolution occurred and are duly in office and duly qualified for such office.

Section 11.07. Effective Date. This Resolution shall take effect immediately upon adoption thereof.

Adopted this 23rd day of August, 2004.

EASTERN WYOMING PUBLIC SERVICE DISTRICT

By: _____
Chairman

By: _____
Member

By: _____
Member

CERTIFICATION

Certified a true copy of a Resolution duly adopted by the Public Service Board of EASTERN WYOMING PUBLIC SERVICE DISTRICT on the 23rd day of August, 2004.

Dated: August 23, 2004.

[SEAL]

Dallas J. Cecil

Secretary

Exhibit A

(FORM OF BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
EASTERN WYOMING PUBLIC SERVICE DISTRICT
WATER REVENUE BOND 2004 SERIES A (WEST VIRGINIA DWTRF PROGRAM),

No. AR-1 $570,000

KNOW ALL MEN BY THESE PRESENTS: That EASTERN WYOMING PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia in Wyoming County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the sources and in the manner provided therefor, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority") or registered assigns, the principal sum of FIVE HUNDRED SEVENTY THOUSAND DOLLARS ($570,000) or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as Exhibit A hereto and incorporated herein by reference, in quarterly installments on March 1, Junel, September 1 and December 1 of each year, commencing _____ 1, 200__, as set forth on the "Debt Service Schedule" attached as Exhibit B hereto and incorporated herein by reference. The Administrative Fee (as defined in the hereinafter described Bond Resolution) shall also be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing March 1, 2006, as set forth on said Exhibit B.

This Bond shall bear no interest. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Bureau for Public Health (the "BPH"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and between the Issuer and the Authority, on behalf of the BPH, dated August 24, 2004.

This Bond is issued (i) to permanently finance the cost of acquisition and construction of certain improvements and extensions to the existing water facilities of the

Issuer (the "Project"); and (ii) to pay certain costs of issuance of this Bond and related costs. This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13A and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Resolution duly adopted by the Issuer on August 23, 2004, (the "Resolution"), and is subject to all the terms and conditions thereof. The Resolution provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for this Bond under the Resolution.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT WITH THE ISSUER'S WATER REVENUE BONDS, SERIES 2001 A (WEST VIRGINIA DWTRF PROGRAM), ISSUED IN THE ORIGINAL AGGREGATE AMOUNT OF $360,000 (THE "PRIOR BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Resolution) to be derived from the operation of the System on a parity with the lien of the Prior Bonds, and from moneys in the reserve account created under the Bond Resolution for this Bond (the "Reserve Account") and unexpended proceeds of this Bond (the "Bond Proceeds"). Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act, and shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon, except from said special fund provided from the Net Revenues, the moneys in the Reserve Account and unexpended Bond Proceeds. Pursuant to the Bond Resolution, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount required in any year for debt service on this Bond, and all other obligations secured by a lien on or payable from such revenues on a parity with this Bond and the Prior Bonds, provided however, that so long as the Reserve Account is funded at an amount at least equal to the maximum amount of principal and interest which will come due on this Bond in the then current or any succeeding year, and the reserve accounts for any other obligations outstanding on a parity with this Bond, including the Prior Bonds, are funded at an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the Registered Owners of this Bond for the terms of which reference is made to the Resolution. Remedies provided the Registered Owners of this Bond are exclusively as provided in the Resolution, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Resolution, only upon the books of the Registrar (as defined in the Resolution), by the Registered Owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

Subject to the registration requirements set forth herein, this Bond, under the provision of the Act is, and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Resolution, shall be applied solely to payment of the Costs of the Project and costs of issuance hereof described in the Resolution, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the registered owner of this Bond.

Under the Act, this Bond is exempt from taxation by the State of West Virginia and the other taxing bodies of the State.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and at issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the Net Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of this Bond.

All provisions of the Resolution and the statutes under which this Bond is issued shall be deemed to be part of the contract evidenced by this Bond to the same extent as if written fully herein.

This Bond shall not be valid or obligatory unless authenticated and registered by the Registrar by the execution of the Registrar's Certificate of Authentication and Registration attached hereto and incorporated herein.

IN WITNESS WHEREOF, EASTERN WYOMING PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairman and its corporate seal to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated August ____, 2004.

[SEAL]

EASTERN WYOMING PUBLIC SERVICE DISTRICT

_____
Chairman

Attest:

_____
Secretary

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This is to certify that this Bond is one of the 2004 Series A Bonds described in and issued under the provisions of the within mentioned Resolution and has been duly registered in the name of the registered owner set forth above.

Date: August ____, 2004.

UNITED BANK, INC.,
as Registrar

_____
Authorized officer

(Form of)

EXHIBIT A

RECORD OF ADVANCES

	AMOUNT	DATE		AMOUNT	DATE
(1)	$		(19)		
(2)	$		(20)		
(3)	$		(21)		
(4)	$		(22)		
(5)	$		(23)		
(6)	$		(24)		
(7)	$		(25)		
(8)	$		(26)		
(9)	$		(27)		
(10)	$		(28)		
(11)	$		(29)		
(12)	$		(30)		
(13)	$		(31)		
(14)	$		(32)		
(15)	$		(33)		
(16)	$		(34)		
(17)	$		(35)		
(18)	$		(36)		

TOTAL $_____

(Form of)

EXHIBIT B

DEBT SERVICE SCHEDULE

$570,000

Eastern Wyoming Public Service District
30 Years, 0% Interest Rate, 1.0% Administrative Fee
Closing Date: August 24, 2004

Debt Service Schedule

Part 1 of 4

Date	Principal	Coupon	Total P+I
09/01/2004	-	-	-
12/01/2004	-	-	-
03/01/2005	-	-	-
06/01/2005	-	-	-
09/01/2005	-	-	-
12/01/2005	-	-	-
03/01/2006	4,750.00	-	4,750.00
06/01/2006	4,750.00	-	4,750.00
09/01/2006	4,750.00	-	4,750.00
12/01/2006	4,750.00	-	4,750.00
03/01/2007	4,750.00	-	4,750.00
06/01/2007	4,750.00	-	4,750.00
09/01/2007	4,750.00	-	4,750.00
12/01/2007	4,750.00	-	4,750.00
03/01/2008	4,750.00	-	4,750.00
06/01/2008	4,750.00	-	4,750.00
09/01/2008	4,750.00	-	4,750.00
12/01/2008	4,750.00	-	4,750.00
03/01/2009	4,750.00	-	4,750.00
06/01/2009	4,750.00	-	4,750.00
09/01/2009	4,750.00	-	4,750.00
12/01/2009	4,750.00	-	4,750.00
03/01/2010	4,750.00	-	4,750.00
06/01/2010	4,750.00	-	4,750.00
09/01/2010	4,750.00	-	4,750.00
12/01/2010	4,750.00	-	4,750.00
03/01/2011	4,750.00	-	4,750.00
06/01/2011	4,750.00	-	4,750.00
09/01/2011	4,750.00	-	4,750.00
12/01/2011	4,750.00	-	4,750.00
03/01/2012	4,750.00	-	4,750.00
06/01/2012	4,750.00	-	4,750.00
09/01/2012	4,750.00	-	4,750.00
12/01/2012	4,750.00	-	4,750.00
03/01/2013	4,750.00	-	4,750.00
06/01/2013	4,750.00	-	4,750.00
09/01/2013	4,750.00	-	4,750.00
12/01/2013	4,750.00	-	4,750.00
03/01/2014	4,750.00	-	4,750.00
06/01/2014	4,750.00	-	4,750.00
09/01/2014	4,750.00	-	4,750.00
12/01/2014	4,750.00	-	4,750.00
03/01/2015	4,750.00	-	4,750.00
06/01/2015	4,750.00	-	4,750.00

$570,000

Eastern Wyoming Public Service District
30 Years, 0% Interest Rate, 1.0% Administrative Fee
Closing Date: August 24, 2004

Debt Service Schedule

Part 3 of 4

Date	Principal	Coupon	Total P+I
09/01/2026	4,750.00	-	4,750.00
12/01/2026	4,750.00	-	4,750.00
03/01/2027	4,750.00	-	4,750.00
06/01/2027	4,750.00	-	4,750.00
09/01/2027	4,750.00	-	4,750.00
12/01/2027	4,750.00	-	4,750.00
03/01/2028	4,750.00	-	4,750.00
06/01/2028	4,750.00	-	4,750.00
09/01/2028	4,750.00	-	4,750.00
12/01/2028	4,750.00	-	4,750.00
03/01/2029	4,750.00	-	4,750.00
06/01/2029	4,750.00	-	4,750.00
09/01/2029	4,750.00	-	4,750.00
12/01/2029	4,750.00	-	4,750.00
03/01/2030	4,750.00	-	4,750.00
06/01/2030	4,750.00	-	4,750.00
09/01/2030	4,750.00	-	4,750.00
12/01/2030	4,750.00	-	4,750.00
03/01/2031	4,750.00	-	4,750.00
06/01/2031	4,750.00	-	4,750.00
09/01/2031	4,750.00	-	4,750.00
12/01/2031	4,750.00	-	4,750.00
03/01/2032	4,750.00	-	4,750.00
06/01/2032	4,750.00	-	4,750.00
09/01/2032	4,750.00	-	4,750.00
12/01/2032	4,750.00	-	4,750.00
03/01/2033	4,750.00	-	4,750.00
06/01/2033	4,750.00	-	4,750.00
09/01/2033	4,750.00	-	4,750.00
12/01/2033	4,750.00	-	4,750.00
03/01/2034	4,750.00	-	4,750.00
06/01/2034	4,750.00	-	4,750.00
09/01/2034	4,750.00	-	4,750.00
12/01/2034	4,750.00	-	4,750.00
03/01/2035	4,750.00	-	4,750.00
06/01/2035	4,750.00	-	4,750.00
09/01/2035	4,750.00	-	4,750.00
12/01/2035	4,750.00	-	4,750.00
Total	**$570,000.00**	-	**$570,000.00** *

***Plus $718.44 one-percent administrative fee paid quarterly. Total fee over life of loan is $86,212.80.**

(Form of)

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto _____, the within-mentioned Bond and does hereby irrevocably constitute and appoint _____, attorney, to transfer the said Bond on the books of the Registrar on behalf of said Issuer with full power of substitution in the premises.

Dated: _____

_____

IN THE PRESENCE OF:

_____

WEST VIRGINIA
Water Development Authority

Celebrating 31 Years of Service 1974 - 2005

$2,570,000
EASTERN WYOMING PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS (WEST VIRGINIA DWTRF PROGRAM), 2006 SERIES A

CONSENT TO ISSUANCE OF PARITY BONDS

In reliance upon a certificate of Michael D. Griffith, an independent certified public accountant, stating that the coverage and parity requirements have been met (a copy of which is attached hereto), the undersigned duly authorized representative of the West Virginia Water Development Authority, the registered owner of the Prior Bonds, hereinafter defined and described, hereby consents to the issuance of the Water Revenue Bonds (West Virginia DWTRF Program), 2006 Series A (the "Bonds"), in the original principal amount of $2,570,000, by the Eastern Wyoming Public Service District (the "Issuer"), under the terms of the Bond Resolution authorizing the Bonds, on a parity with respect to liens, pledge and source of and security for payment with the Issuer's Water Revenue Bonds, Series 2001 A (West Virginia DWTRF Program) and Water Revenue Bonds, Series 2004 A (West Virginia DWTRF Program).

WITNESS my signature on this 12th day of January, 2006.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

By: _____
Its: Authorized Representative

180 Association Drive, Charleston, WV 25311-1217
phone (304) 558-3612 / fax (304) 558-0299
www.wvwda.org

WEST VIRGINIA
Water Development Authority
Celebrating 31 Years of Service 1974 - 2005

$2,570,000
EASTERN WYOMING PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS
(WEST VIRGINIA DWTRF PROGRAM), 2006 SERIES A

CONSENT TO ACQUISITION OF WATER SYSTEMS

The undersigned duly authorized representative of the West Virginia Water Development Authority, the registered owner of the Eastern Wyoming Public Service District Water Revenue Bonds, Series 2001 A (West Virginia DWTRF Program), dated October 16, 2001, issued in the original principal amount of $360,000 and the Eastern Wyoming Public Service District Water Revenue Bonds, Series 2004 A (West Virginia DWTRF Program), dated August 24, 2004, issued in the original principal amount of $570,000, hereby consents to the acquisition of the Water Systems by the Eastern Wyoming Public Service District (the "Issuer"), pursuant to the terms of the Agreement of Sale by and between the Issuer and Welton Water System, the Agreement of Sale by and between the Issuer and Buckeye Waterworks, Inc., and the Release and Settlement Agreement by and between the Issuer and Corinne Water System.

WITNESS my signature on this 12th day of January, 2006.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

By: _____
Its: Authorized Representative

180 Association Drive, Charleston, WV 25311-1217
phone (304) 558-3612 / fax (304) 558-0299
www.wvwda.org

$2,570,000
EASTERN WYOMING PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS (WEST VIRGINIA DWTRF PROGRAM),
2006 SERIES A

GENERAL CERTIFICATE OF ISSUER AND ATTORNEY ON:

1. TERMS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS AND BIDDING
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
5. CERTIFICATION OF COPIES OF DOCUMENTS
6. INCUMBENCY AND OFFICIAL NAME
7. LAND AND RIGHTS-OF-WAY
8. MEETINGS, ETC.
9. CONTRACTORS' INSURANCE, ETC.
10. LOAN AGREEMENT
11. RATES
12. PUBLIC SERVICE COMMISSION ORDER
13. SIGNATURES AND DELIVERY
14. BOND PROCEEDS
15. PUBLICATION OF NOTICE OF FILING
16. SPECIMEN BONDS
17. CONFLICT OF INTEREST
18. GRANTS AND LOANS
19. EXECUTION OF COUNTERPARTS

We, the undersigned Chairman and Secretary of the Public Service Board of Eastern Wyoming Public Service District in Wyoming County, West Virginia (the "Issuer"), and the undersigned counsel to the Issuer hereby certify in connection with the Issuer's Water Revenue Bonds (West Virginia DWTRF Program), 2006 Series A, dated the date hereof (the "Bonds"), as follows:

1. TERMS: All capitalized words and terms used in this General Certificate and not otherwise defined herein shall have the same meaning set forth in the Bond Resolution of the Issuer duly adopted January 10, 2006 (the "Bond Resolution").

2. NO LITIGATION: No controversy or litigation of any nature is now pending or threatened, restraining, enjoining or affecting in any manner the issuance, sale or delivery of the Bonds, the acquisition and construction of the Project, the operation of the System, the receipt of Gross Revenues, the pledge of Net Revenues, or in any way contesting or affecting the validity of the Bonds, or any proceedings of the Issuer taken with respect to the issuance or sale of the Bonds, the pledge or security

provided for the payment of the Bonds or the existence or the powers of the Issuer insofar as they relate to the authorization, sale and issuance of the Bonds, the acquisition and construction of the Project, the operation of the System, or the pledge or security provided for the payment of the Bonds.

3. GOVERNMENTAL APPROVALS AND BIDDING: All applicable and necessary approvals, permits, licenses, orders, authorizations, registrations, exemptions, consents and certificates required by law for the creation and existence of the Issuer, the acquisition and construction of the Project, the operation of the System, the imposition of rates and charges and the issuance of the Bonds have been duly and timely obtained and remain in full force and effect. Competitive bids for the acquisition and construction of the Project have been solicited in accordance with Chapter 5, Article 22, Section 1 of the West Virginia Code of 1931, as amended, which bids remain in full force and effect.

4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS: There has been no adverse change in the financial condition of the Issuer since the approval, execution and delivery by the Issuer of the Loan Agreement, and the Issuer has met all conditions prescribed in the Loan Agreement. The Issuer has or can provide the financial, institutional, legal and managerial capabilities necessary to construct and operate the Project.

The Bonds are issued on a parity with the Prior Bonds with respect to liens, pledge and source of and security for payment and in all other respects. The Issuer has obtained a certificate of an Independent Certified Public Accountant stating that the coverage and parity tests of the Prior Bonds are met and the written consent of the Registered Owners of the Prior Bonds to the issuance of the Bonds on a parity with the Prior Bonds. Other than the Prior Bonds, there are no outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System. The Issuer is in compliance with all the covenants of the Prior Bonds and the Prior Resolution.

5. CERTIFICATION OF COPIES OF DOCUMENTS: The copies of the below-listed documents hereto attached or delivered herewith or heretofore delivered are true, correct and complete copies of the originals of the documents of which they purport to be copies, and such original documents are in full force and effect and have not been repealed, rescinded, amended or changed in any way unless modification appears from later documents also listed below:

Bond Resolution

Loan Agreement

Public Service Commission Order(s)

West Virginia Infrastructure and Jobs Development Council Approval Letter

County Commission Orders and Public Service Commission Order regarding the Creation of District

County Commission Orders Appointing Current Boardmembers

Oaths of Office of Current Boardmembers

Rules of Procedure

Minutes of Current Year Organizational Meeting

Affidavits of Publication of Notice of Filing and Notice of Special Meeting

Excerpts of Minutes of Board Special Meeting on Adoption of the Bond Resolution

2001 Bond Resolution and Supplemental Resolution

2004 Bond Resolution

WDA Consent to Issuance of Parity Bonds

WDA Consent to Acquisition of Water Systems

Environmental Health Services Permit

Insurance Certificates

Small Cities Block Grant Commitment Letter

Appalachian Regional Commission Grant Commitment Letter

WV Infrastructure and Jobs Development Council Grant Commitment Letter and Grant Agreement

West Virginia Department of Environmental Protection Abandoned Mine Lands Grant Commitment Letter

Emergency Wartime Supplemental Appropriation Act Grant Commitment Letter

6. INCUMBENCY AND OFFICIAL NAME: The proper corporate title of the Issuer is "Eastern Wyoming Public Service District." The Issuer is a public service district duly created by The County Commission of Wyoming County, West Virginia and is presently existing under the laws of, and is a public corporation and political subdivision of, the State of West Virginia. The governing body of the Issuer is its Public Service Board, consisting of 3 duly appointed, qualified and acting members, whose names and dates of commencement and termination of current terms of office are as follows:

Name	Date of Commencement of Office	Date of Termination of Office
Kenneth W. McBride, Jr.	February 6, 2002	January 1, 2007
Dallas J. Cecil	January 5, 2005	January 1, 2011
Mart Lane	January 1, 2003	January 1, 2009

The duly elected, qualified and acting officers of the Public Service Board of the Issuer are as follows:

Chairman – Kenneth W. McBride, Jr.
Treasurer – Mart Lane
Secretary – Dallas J. Cecil

The duly appointed and acting Counsel to the Issuer is W. Richard Staton, of Moler & Staton, L.C., Mullens, West Virginia.

7. LAND AND RIGHTS-OF-WAY: All land in fee simple and all rights-of-way and easements necessary for the acquisition and construction of the Project and the operation and maintenance of the System have been acquired or can and will be acquired by purchase, or, if necessary, by condemnation by the Issuer and are adequate for such purposes and are not or will not be subject to any liens, encumbrances, reservations or exceptions which would adversely affect or interfere in any way with the use thereof for such purposes. The costs thereof, including costs of any properties which may have to be acquired by condemnation, are, in the opinion of all the undersigned, within the ability of the Issuer to pay for the same without jeopardizing the security of or payments on the Bonds.

8. MEETINGS, ETC.: All actions, resolutions, orders and agreements taken by and entered into by or on behalf of the Issuer in any way connected with the issuance of the Bonds and the acquisition, construction, operation and financing of the Project and the System were authorized or adopted at regular or special meetings of the Governing Body of the Issuer duly and regularly called and held pursuant to the Rules of Procedure of the Governing Body and all applicable statutes, including, particularly and without limitation, Chapter 6, Article 9A of the Code of West Virginia, 1931, as amended, and a quorum of duly elected or appointed, as applicable, qualified and acting members of the Governing Body was present and acting at all times during all such meetings. All notices required to be posted and/or published were so posted and/or published.

9. CONTRACTORS' INSURANCE, ETC.: All contractors have been required to maintain Worker's Compensation, public liability insurance, vehicular liability insurance and property damage insurance, and builder's risk insurance where applicable in accordance with the Bond Resolution and the Loan Agreement. All insurance for the System required by the Bond Resolution and the Loan Agreement is in full force and effect.

10. LOAN AGREEMENT: As of the date hereof, (i) the representations of the Issuer contained in the Loan Agreement are true and correct in all material respects as if made on the date hereof; (ii) the Loan Agreement does not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; (iii) to the best knowledge of the undersigned, no event affecting the Issuer has occurred since the date of the Loan Agreement which should be disclosed for the purpose for which it is to be used or which it is necessary to disclose therein in order to make the statements and information in the Loan Agreement not misleading; and (iv) the Issuer is in compliance with the Loan Agreement.

11. RATES: The Issuer has received a Recommended Decision entered January 31, 2005 in Case No. 04-0023-PWD-PC-CN, which became a Final Order of the Public Service Commission of West Virginia (the "PSC") on February 20, 2005, with all requisite appeal periods having expired without successful appeal, and a Commission Order entered January 4, 2006, in Case No. 04-0023-PWD-PC-CN, together, among other things, approving the rates and charges for the services of the System, and has adopted a resolution prescribing such rates and charges. The time for appeal of the January 4, 2006 Commission Order has not expired prior to the date hereof. However, the Issuer hereby states it will not appeal the January 4, 2006 Commission Order, and the only other party to Case No. 04-0023-PWD-PC-CN, the Commission Staff, has stated that it does not intend to appeal the January 4, 2006 Commission Order. Both orders are in full force and effect. Such rates will become effective upon substantial completion of the Project.

12. PUBLIC SERVICE COMMISSION ORDER: The Issuer has received a Recommended Decision entered January 31, 2005 in Case No. 04-0023-PWD-PC-CN, which became a Final Order of the PSC on February 20, 2005, with all requisite appeal periods having expired without successful appeal, and a Commission Order entered January 4, 2006, in Case No. 04-0023-PWD-PC-CN, together, among other things, granting to the Issuer a certificate of public convenience and necessity for the Project and approving the financing of the Project. The time for appeal of the January 4, 2006 Commission Order has not expired prior to the date hereof. However, the Issuer hereby states it will not appeal the January 4, 2006 Commission Order, and the only other party to Case No. 04-0023-PWD-PC-CN, the Commission Staff, has stated that it does not intend to appeal the January 4, 2006 Commission Order. Both orders are in full force and effect.

13. SIGNATURES AND DELIVERY: On the date hereof, the undersigned Chairman did officially sign all of the Bonds of the aforesaid issue, consisting upon original issuance of a single Bond, dated the date hereof, by his manual signature, and the undersigned Secretary did officially cause the official seal of the Issuer to be affixed upon the Bonds and to be attested by his manual signature. The seal impressed upon the Bonds and this certificate is the duly authorized, proper and only seal of the Issuer. The Registrar did officially authenticate and deliver the Bonds to the Authority.

14. BOND PROCEEDS: On the date hereof, the Issuer received $64,250.00 from the Authority and the BPH, being a portion of the principal amount of the Bonds. The balance of the principal amount of the Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

15. PUBLICATION OF NOTICE OF FILING: The Issuer has published the notice of filing required by the PSC.

16. SPECIMEN BONDS: The Specimen Bond delivered concurrently herewith is a true and accurate specimen of the Bonds.

17. CONFLICT OF INTEREST: No member, officer or employee of the Issuer has a substantial financial interest, direct, indirect or by reason of ownership of stock in any corporation, in any contract with the Issuer or in the sale of any land, materials, supplies or services to the Issuer or to any contractor supplying the Issuer, relating to the Bonds, the Bond Resolution and/or the Project, including, without limitation, with respect to the Depository Bank. For purposes of this paragraph, a "substantial financial interest" shall include, without limitation, an interest amounting to more than 5% of the particular business enterprise or contract.

18. GRANTS AND LOANS: As of the date hereof, the Small Cities Block Grant in the amount of $3,000,000; the grant from the Appalachian Regional

Commission in the amount of $1,000,000; the $228,742 grant from the West Virginia Infrastructure and Jobs Development Council; the $4,465,920 grant from the West Virginia Department of Environment Protection Abandoned Mine Lands fund; the $487,242 grant from the Emergency Wartime Supplemental Appropriation Act; and the $2,570,000 loan from the Drinking Water Treatment Revolving Fund are committed for the Project and are in full force and effect.

19. EXECUTION OF COUNTERPARTS: This document may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same document.

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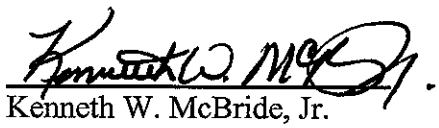
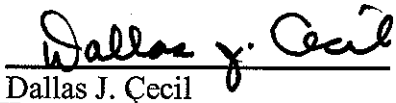
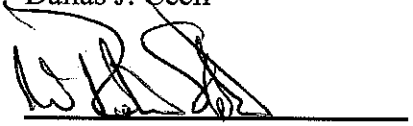
IN WITNESS WHEREOF, we have hereunto set our hands this 12th day of January, 2006.

[SEAL]

SIGNATURE	OFFICIAL TITLE
 Kenneth W. McBride, Jr.	Chairman
 Dallas J. Cecil	Secretary
 Moler & Staton, L.C.	Counsel to Issuer

391975

$2,570,000
EASTERN WYOMING PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS
(WEST VIRGINIA DWTRF PROGRAM), 2006 SERIES A

CERTIFICATE OF ENGINEER

I, Robert D. Hazelwood, P.E., Registered Professional Engineer, West Virginia License No. 8452 of Pentree, Incorporated, Princeton, West Virginia, hereby certify as follows:

1. My firm is engineer for certain additions, improvements and extensions to the existing public water facilities (the "System") of the Eastern Wyoming Public Service District (the "Issuer"), consisting of the construction of a new regional water treatment plant, two storage tanks, distribution lines and other necessary appurtenances to eliminate the existing inadequate and outdated water treatment plants located at Mullens, Nuriva, Welton, Wyco, Iroquois and Stephenson, West Virginia (the "Project"), to be constructed primarily in Wyoming County, West Virginia, which Project is being financed in part by the proceeds of the $2,570,000 Eastern Wyoming Public Service District Water Revenue Bonds (West Virginia DWTRF Program), 2006 Series A (the "Bonds") of the Issuer. Capitalized terms used herein which are not defined herein shall have the same meanings set forth in the Bond Resolution adopted by the Issuer on January 10, 2006, and the Loan Agreement dated January 12, 2006 (the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority") on behalf of the West Virginia Bureau for Public Health ("BPH").

2. The Bonds are being issued for the purposes of paying a portion of the costs of construction of the Project and paying the costs of issuance hereof and related costs.

3. To the best of my knowledge, information and belief, (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed in general accordance with the approved plans, specifications and designs prepared by my firm and approved by the BPH and any change orders approved by the Issuer, the BPH and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and has a useful life of at least 35 years, if properly constructed, operated and maintained, excepting anticipated replacements due to normal wear and tear; (iii) the Issuer has received bids for the acquisition and construction of the Project which are in an amount and otherwise compatible with the plan of financing set forth in the Schedule B attached hereto as Exhibit A and in reliance upon the opinion of the Issuer's counsel, Moler & Staton, L.C., of even date herewith, all successful bidders will be required to comply with the required provisions for all insurance and payment and performance bonds and such insurance policies or binders and such bonds will be verified for accuracy; (iv) the successful bidders received any and all addenda to the original bid documents; (v) the bid documents relating to the Project reflect the Project as approved by the BPH and the bid forms provided to the bidders contain the critical operational components of the Project; (vi) the successful bids include prices for every item on such bid forms; (vii) the uniform bid procedures were followed; (viii) the Issuer has obtained all permits required by the laws of the State of West Virginia and

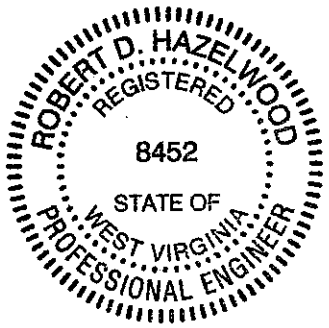
the United States necessary for the acquisition and construction of the Project and the operation of the System; (ix) in reliance upon the certificate of Michael D. Griffith, CPA, an independent certified public accountant, as of the effective date thereof, the rates and charges for the System as adopted by the Issuer and approved by the Public Service Commission of West Virginia will be sufficient to comply with the provisions of the Loan Agreement; (x) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto, and the proceeds of the grants irrevocably committed therefor, are sufficient to pay the costs of the construction of the Project approved by BPH, and (xi) attached hereto as Exhibit A is the final amended "Schedule B – Total Cost of Project, Sources of Funds and Cost of Financing" for the Project.

[The Remainder of Page Intentionally Left Blank]

WITNESS my signature and seal on this 12th day of January, 2006.

PENTREE, INCORPORATED

[SEAL]



Robert D. Hazelwood, P.E.
West Virginia License No. 8452

393375

EXHIBIT A

Schedule B
Total Cost of Project, Sources of Funds and Cost of Financing

EASTERN WYOMING PSD SCHEDULE B
IJDC NO. 95W-127
BUREAU FOR PUBLIC HEALTH #01DWTRF002

A. COST OF PROJECT	Total	SCBG	ARC	SDWTRF (Federal)	SDWTRF (State)	AML Grant	IJDC Grant	EPA-SAP Grant
1 **Construction**								
Contract 1 - Schedule A	2,145,000.00	847,600.00	1,000,000.00	270,335.00		27,065.00		
Contract 1 - Schedule B	1,510,055.00	300,000.00		238,296.00	484,517.00			487,242.00
Contract 2 (tanks)	470,030.00			109,047.00		360,983.00		
Contract 4 (distribution)	3,063,300.00			710,686.00		2,352,614.00		
Contract 5 (distribution)	2,246,430.00			521,172.00		1,725,258.00		
Equipment	0.00							
2 **Technical Services**								
a. Planning Phase	0.00							
b. Basic Services	571,400.00	571,400.00						
c. Inspection/Post Const. Services	495,000.00	445,000.00					50,000.00	
d. Additional Services	132,500.00	132,500.00						
3 **Legal & Fiscal**								
a. Legal	30,000.00	30,000.00						
b. Accounting	7,500.00	7,500.00						
4 **Administrative**	136,000.00	136,000.00						
5 **Sites & Other Lands**								
a. Land acquisition / ROW	185,000.00	185,000.00						
b. Water System Acquisitions	215,000.00	215,000.00						
c. Permits	130,000.00	130,000.00						
6 **Interim Financing**	17,000.00			17,000.00				
7 **Misc.**								
8 **Contingency**	377,189.00			198,447.00			178,742.00	
9 **TOTAL of Lines 1 through 8**	11,731,404.00	3,000,000.00	1,000,000.00	2,064,983.00	484,517.00	4,465,920.00	228,742.00	487,242.00
B. **COST OF FINANCING**								
10 **Funded Reserve**	0.00							
11 **Other Costs**								
a. Registrar fees	500.00			500.00				
b. Bond Counsel	20,000.00			20,000.00				
12 **Cost of Issuance**	20,500.00			20,500.00				
13 **TOTAL PROJECT COST(Line 9 plus Line 12)**	11,751,904.00	3,000,000.00	1,000,000.00	2,085,483.00	484,517.00	4,465,920.00	228,742.00	487,242.00
C. **SOURCES OFOTHER FUNDS**								
14 Federal Grants	1,487,242.00		1,000,000.00					487,242.00
15 State Grants	7,694,662.00	3,000,000.00				4,465,920.00	228,742.00	
16 Other Grants	0.00							
17 Any Other Source								
18 TOTAL GRANTS (Lines 14 through 17)	9,181,904.00							
19 **Size of Bond Issue**	**2,570,000.00**			2,085,483.00	484,517.00			

Eastern Wyoming Public Service District — 12/27/05 Date

Robert D. Hazlewood, P.E. Pentree, Inc. — 12-22-2005 Date

$2,570,000
EASTERN WYOMING PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS (WEST VIRGINIA DWTRF PROGRAM), 2006 SERIES A

January 12, 2006

West Virginia Water Development Authority
180 Association Drive
Charleston, West Virginia 25311

West Virginia Bureau for Public Health
815 Quarrier Street, Suite 418
Charleston, West Virginia 25301-2616

Eastern Wyoming Public Service District
Post Office Box 907
Mullens, West Virginia 25882

Ladies and Gentlemen:

Based upon the water rates and charges set forth in the Recommended Decision of the Public Service Commission of West Virginia (the "PSC"), entered January 31, 2005 in Case No. 04-0023-PWD-PC-CN, which became a Final Order of the PSC on February 20, 2005, and a Commission Order entered January 4, 2006, in Case No. 04-0023-PWD-PC-CN, together, among other things, approving the rates and charges for the services of the System, and the projected operation and maintenance expenses and customer usage as furnished to us by Pentree, Incorporated, the Consulting Engineer of the Eastern Wyoming County Public Service District (the "Issuer"), it is our opinion that such rates and charges will be sufficient, together with other revenues of the water system (the "System") of the Issuer (i) to provide all operating expenses of the System and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of debt service on the Issuer's Water Revenue Bonds, Series 2001 A (West Virginia DWTRF Program) (the "2001 Series A Bonds"); the Issuer's Water Revenue Bonds, 2004 Series A (West Virginia DWTRF Program) (the "2004 Series A Bonds" and, collectively with the 2001 Series A Bonds, the "Prior Bonds"), and the Issuer's Water Revenue Bonds (West Virginia DWTRF Program), 2006 Series A (the "2006 Series A Bonds") to be issued in the aggregate principal amount of $2,570,000 to the West Virginia Water Development Authority on the date hereof, as defined and described in the Bond Resolution of the Issuer adopted January 10, 2006, authorizing the 2006 Series A Bonds. It is our further opinion that the Net Revenues actually derived from the System during any 12 consecutive months, within the 18 months immediately preceding the date of the actual issuance of the 2006 Series A Bonds, plus the estimated average increased annual Net Revenues to be received in each of the 3 succeeding years after the completion of the improvements to be financed by the 2006 Series A Bonds, are not less than 115% of the largest aggregate amount that will mature and become due in any succeeding fiscal year for the principal of and interest on the 2006 Series A Bonds and the Prior Bonds.

Very truly yours,

Michael D. Griffith, CPA

Michael D. Griffith, CPA
michaelgriffithcpa@msn.com
950 Little Coal River Road Alum Creek, WV 25003
Phone: (304) 756.3600 Facsimile: (304) 756.2911

$2,570,000
EASTERN WYOMING PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS (WEST VIRGINIA DWTRF PROGRAM),
2006 SERIES A

CROSS-RECEIPT FOR BONDS AND BOND PROCEEDS

On this 12th day of January, 2006, the undersigned authorized representative of the West Virginia Water Development Authority (the "Authority"), and the undersigned Chairman of the Public Service Board of Eastern Wyoming Public Service District in Wyoming County, West Virginia (the "Issuer"), hereby certify as follows:

(1) On the date hereof, the Authority received the entire original issue of Eastern Wyoming Public Service District Water Revenue Bonds (West Virginia DWTRF Program), 2006 Series A, issued as a single, fully registered Bond, in the principal amount of $2,570,000, dated January 12, 2006 (the "Bonds").

(2) At the time of such receipt, the Bonds have been executed and sealed by the designated officials of the Issuer.

(3) The Issuer has received and hereby acknowledges receipt from the Authority the sum of $64,250.00, being a portion of the principal amount of the Bonds. The undersigned mutually acknowledge that the balance of such principal amount will be advanced to the Issuer as requested by the Issuer from time to time as acquisition and construction of the Project proceeds to completion.

WITNESS our signatures on this 12th day of January, 2006.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

By: _____
Its: Authorized Representative

EASTERN WYOMING PUBLIC SERVICE DISTRICT

By: _____
Its: Chairman

391979

$2,570,000
EASTERN WYOMING PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS (WEST VIRGINIA DWTRF PROGRAM),
2006 SERIES A

DIRECTION TO AUTHENTICATE AND DELIVER BONDS

United Bank, Inc. as Registrar
Charleston, West Virginia

Ladies and Gentlemen:

On this 12th day of January, 2006, there are delivered to you herewith as Registrar for the above-captioned Bonds:

(1) Bond No. AR-1, constituting the entire original issue of the Eastern Wyoming Public Service District Water Revenue Bonds (West Virginia DWTRF Program), 2006 Series A, in the principal amount of $2,570,000, dated January 12, 2006 (the "Bonds"), executed by the Chairman and the Secretary of Eastern Wyoming Public Service District (the "Issuer") and bearing the official seal of the Issuer. The Bonds are authorized to be issued under and pursuant to a Bond Resolution duly adopted by the Issuer on January 10, 2006 (the "Bond Resolution");

(2) A copy of the Bond Resolution authorizing the above-captioned Bonds, duly certified by the Secretary of the Issuer;

(3) Executed counterparts of the loan agreement dated January 12, 2006 (the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health (the "BPH") (the "Loan Agreement"); and

(4) An executed opinion of nationally recognized bond counsel regarding the validity of the Loan Agreement and the Bonds.

You are hereby requested and authorized to deliver the Bonds to the Authority, upon payment to the Issuer of the sum of $64,250.00, representing a portion of the principal amount of the Bonds. Prior to such delivery of the Bonds, you will please cause the Bonds to be authenticated and registered by an authorized officer, as Bond Registrar, in accordance with the form of Certificate of Authentication and Registration thereon.

Dated this 12th day of January, 2006.

EASTERN WYOMING PUBLIC
SERVICE DISTRICT

Chairman

391980

$2,570,000
EASTERN WYOMING PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS (WEST VIRGINIA DWTRF PROGRAM),
2006 SERIES A

ACCEPTANCE OF DUTIES AS REGISTRAR

UNITED BANK, INC., Charleston, West Virginia, hereby accepts appointment as Registrar in connection with the Eastern Wyoming Public Service District Water Revenue Bonds (West Virginia DWTRF Program), 2006 Series A, dated January 12, 2006, in the principal amount of $2,570,000 (the "Bonds"), and agrees to perform all duties of Registrar in connection with the Bonds, all as set forth in the Bond Resolution authorizing issuance of the Bonds.

WITNESS my signature on this 12th day of January, 2006.

UNITED BANK, INC.

Its: Vice President

391982

$2,570,000
EASTERN WYOMING PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS (WEST VIRGINIA DWTRF PROGRAM),
2006 SERIES A

CERTIFICATE OF REGISTRATION OF BONDS

UNITED BANK, INC., Charleston, West Virginia, as Registrar under the Bond Resolution, providing for the above-captioned bond issue of Eastern Wyoming Public Service District (the "Issuer"), hereby certifies that on the date hereof, the single, fully registered, Eastern Wyoming Public Service District Water Revenue Bond (West Virginia DWTRF Program), 2006 Series A, of the Issuer, dated January 12, 2006, in the principal amount of $2,570,000, numbered AR-1, was registered as to principal only in the name of "West Virginia Water Development Authority" in the books of the Issuer kept for that purpose at our office, by a duly authorized officer on behalf of, United Bank, Inc., as Registrar.

WITNESS my signature on this 12th day of January, 2006.

UNITED BANK, INC.

Its: Vice President

391983

$2,570,000
EASTERN WYOMING PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS (WEST VIRGINIA DWTRF PROGRAM),
2006 SERIES A

ACCEPTANCE OF APPOINTMENT AS DEPOSITORY BANK

The Peoples Bank of Mullens, Mullens, West Virginia, hereby accepts appointment as Depository Bank in connection with the Bond Resolution of the Public Service Board of Eastern Wyoming Public Service District in Wyoming County, West Virginia (the "Issuer"), adopted on January 10, 2006, authorizing the issuance of the Issuer's Water Revenue Bonds (West Virginia DWTRF Program), 2006 Series A, dated January 12, 2006, in the principal amount of $2,570,000, all as set forth in the Bond Resolution.

WITNESS my signature on this 12th day of January, 2006.

The Peoples Bank of Mullens

By: _____
Its: Authorized Officer

391981

WV MUNICIPAL BOND COMMISSION
8 Capitol Street
Suite 500
Charleston, WV 25301
(304) 558-3971

NEW ISSUE REPORT FORM

Date of Report: January 12, 2006

ISSUE: Eastern Wyoming Public Service District Water Revenue Bonds (West Virginia DWTRF Program), 2006 Series A

ADDRESS: 316 Moran Avenue, Mullens, West Virginia 25882 COUNTY: Wyoming

PURPOSE OF ISSUE: New Money: X
Refunding: _____

REFUND ISSUE(S) DATED: NA

ISSUE DATE: January 12, 2006

CLOSING DATE: January 12, 2006

ISSUE AMOUNT: $2,570,000

RATE: 0%; Administrative Fee 1%

1ST DEBT SERVICE DUE: December 1, 2007

1ST PRINCIPAL DUE: December 1, 2007

1ST DEBT SERVICE AMOUNT: $21,417.00

PAYING AGENT: Municipal Bond Commission

BOND COUNSEL: Spilman Thomas & Battle, PLLC
Contact Person: Susan J. Riggs, Esq.
Phone: 304/340-3867

UNDERWRITERS COUNSEL: Jackson Kelly PLLC
Contact Person: Samme L. Gee, Esq.
Phone: 304/340-1318

CLOSING BANK: Peoples Bank of Mullens
Contact Person: Ron Bowling
Phone: 304/294-7115

ESCROW TRUSTEE: _____
Contact Person: _____
Phone: _____

KNOWLEDGEABLE ISSUER CONTACT
Contact Person: Ken McBride
Position: Chairman
Phone: 304/294-5046

OTHER: West Virginia Bureau for Public Health
Contact Person: Walter M. Ivey, P.E.
Function: Manager
Phone: 304/558-2981

DEPOSITS TO MBC AT CLOSE:
By: _____ Wire
_____ Check

_____ Accrued Interest: $_____
_____ Capitalized Interest: $_____
_____ Reserve Account: $_____
_____ Other:

REFUNDS & TRANSFERS BY MBC AT CLOSE:
By: _____ Wire
_____ Check
_____ IGT

_____ To Escrow Trustee: $_____
_____ To Issuer: $_____
_____ To Cons. Invest. Fund $_____
_____ To Other $_____

NOTES: The 2006 Series A Bonds Reserve Account will be funded over 10 years.

FOR MUNICIPAL BOND COMMISSION USE ONLY:
DOCUMENTS REQUIRED: _____
TRANSFERS REQUIRED: _____

RECEIVED
JAN 17 2006
MBC

PWSID WV3305514

State of West Virginia

OFFICE OF ENVIRONMENTAL HEALTH SERVICES

CAPITOL AND WASHINGTON STREETS 1 DAVIS SQUARE, SUITE 200 CHARLESTON, WEST VIRGINIA 25301
TELEPHONE 304-558-2981

PERMIT

(Water)

PROJECT: Eastern Wyoming PSD, Phase 1
New Water Treatment Plant
Mullins-Wyco Water System
Contract No. 1

PERMIT NO.: 16,833

LOCATION: Mullens COUNTY: Wyoming DATE: 11-28-2005

THIS IS TO CERTIFY that after reviewing plans, specifications, application forms, and other essential information that

Eastern Wyoming Public Service District
P. O. Box 907
Mullens, West Virginia 25882

is hereby granted approval to: amend and modify Permit No. 15,759, is sued Aug ust 26, 2003 f or the E astern Wyoming Public Service District new water treatment plant. Major modifications will be the phase development of the water treatment plant from a groundwater plant (base bid) to a surface water plant. Initially, the plant will be designed as a groundwater plant treating water from an abandoned mine source at Stephenson. The originally approved raw water pump station will be modified to: add a chlorine room; chemical feed room; influent meter/static mixer room; replace the two (2) raw water pumps with two (2) 1,400 G.P.M. and one (1) 700 G.P.M. high service pumps; and all necessary piping, valves, controls and appurtenances. The 280,000 gallon raw water tank will be roofed and will become the finished water/clearwell for the groundwater phase.

The Environmental Engineering Division of the OEHS-Beckley District Office, telephone (304) 256-6666, is to be notified when construction begins.

Validity of this permit is contingent upon conformity with plans, specifications, application forms, and other information submitted to the West Virginia Bureau for Public Health.

FOR THE DIRECTOR

William S. Herold, Jr., P.E., Assistant Manager
Infrastructure and Capacity Development
Environmental Engineering Division

WSH:bms

pc: Pentree, Inc.
Katy Mallory, P.E., WVIJDC
James W. Ellars, P.E.
Amy Swann, PSC
Wyoming County Health Department
OEHS-EED Beckley District Office

ACORD CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 12/8/2005

PRODUCER
CHARLES T FELLER
C V FELLER INSURANCE AGENCY, INC
P O BOX 295
MULLENS, WV 25882

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED
EASTERN WYOMING PSD
P O BOX 506
LOGAN, WV 25601

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: National Union Fire Insurance Co. of Pittsburgh	
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A		GENERAL LIABILITY X COMMERCIAL GENERAL LIABILITY CLAIMS MADE [X] OCCUR X WRONGFUL ACTS X PROFESSIONAL GEN'L AGGREGATE LIMIT APPLIES PER: POLICY [ ] PRO-JECT [ ] LOC	GL5743286	July 1, 2005	July 1, 2006	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG Fire Legal	$ 1,000,000 $ $ Not Applicable $ $ No Aggregate $ No Aggregate 100,000
A		AUTOMOBILE LIABILITY X ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS X HIRED AUTOS X NON-OWNED AUTOS	CA2713242	July 1, 2005	July 1, 2006	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
A		GARAGE LIABILITY X ANY AUTO	CA2713242	July 1, 2005	July 1, 2006	AUTO ONLY - EA ACCIDENT OTHER THAN AUTO ONLY: EA ACC AGG	$ 1,000,000 $ 1,000,000 $ Not Applicable
		EXCESS/UMBRELLA LIABILITY OCCUR CLAIMS MADE DEDUCTIBLE RETENTION $				EACH OCCURRENCE AGGREGATE	$ $
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				WC STATU-TORY LIMITS [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ $ $
A		OTHER Automobile Physical Damage	CA2713242	July 1, 2005	July 1, 2006	ACV Less $1,000 deductible	
A		Stop Gap	GL5743286	July 1, 2005	July 1, 2006	1,000,000	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

A $2500 per occurence deductible applies to all liability coverage.

WATER UTILITY COMPANY OPERATING IN EASTERN WYOMING COUNTY, WEST VIRGINIA

CERTIFICATE HOLDER

ADDITIONAL INSURED & CERTIFICATE HOLDER
WEST VIRGINIA WATER DEVELOPMENT AUTHORITY
180 ASSOCIATION DRIVE
CHARLESTON, WV 25311

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED AGENT Charles T. Feller

AUTHORIZED REPRESENTATIVE Tom Mills

ACORD 25 (2001/08)

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IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

ACORD™ CERTIFICATE OF PROPERTY INSURANCE

DATE 12/8/2005

PRODUCER
CHARLES T FELLER
C V FELLER INSURANCE AGENCY, INC
P O BOX 295
MULLENS, WV 25882

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

COMPANIES AFFORDING COVERAGE

INSURED
EASTERN WYOMING PSD
P O BOX 506
LOGAN, WV 25601

COMPANY A: Westchester Fire Insurance Company
COMPANY B: The Hartford Steam Boiler Inspection and Insurance Co.
COMPANY C:
COMPANY D:

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	COVERED PROPERTY	LIMITS
A	[X] PROPERTY CAUSES OF LOSS [ ] BASIC [ ] BROAD [X] SPECIAL Manuscript [ ] EARTHQUAKE [ ] FLOOD	P2761	July 1, 2005	July 1, 2006	[ ] BUILDING [ ] PERSONAL PROPERTY [X] BUSINESS INCOME [X] EXTRA EXPENSE [ ] BLANKET BUILDING [ ] BLANKET PERS PROP [X] BLANKET BLDG & PP	$ $ $ 12 Months $ 12 Months $ $ $ *
	[ ] INLAND MARINE TYPE OF POLICY CAUSES OF LOSS [ ] NAMED PERILS [ ] OTHER		July 1, 2005	July 1, 2006		$ $ $ $ $ $
A	[X] CRIME TYPE OF POLICY Employee Dishonesty	P2761	July 1, 2005	July 1, 2006		$ 2,000,000.00 $ $
B	[X] BOILER & MACHINERY	P2761	July 1, 2005	July 1, 2006		$ $ 1,000,000.00
	[ ] OTHER					

LOCATION OF PREMISES/DESCRIPTION OF PROPERTY
VARIOUS BUILDINGS AND THEIR CONTENTS COMPRISING THE EXISTING PROPERTY OF EASTERN WYOMING PSD, TOTALING $850.000

SPECIAL CONDITIONS/OTHER COVERAGES
* Coverage is written on replacement cost subject to values reported to the Board of Risk and Insurance Managment.
* A $2500 per occurence deductible applies to each loss.

CERTIFICATE HOLDER

ADDITIONAL INSURED & CERTIFICATE HOLDER:
WEST VIRGINIA WATER DEVELOPMENT AUTHORITY
180 ASSOCIATION DRIVE
CHARLESTON, WV 25311

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED AGENT Mark T. Feller

AUTHORIZED REPRESENTATIVE Bob Mitz

ACORD 24 (1/95)

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$2,570,000
EASTERN WYOMING PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS (WEST VIRGINIA DWTRF PROGRAM),
2006 SERIES A

CLOSING MEMORANDUM

To: Financing Team

From: Susan J. Riggs, Esquire

Date: January 12, 2006

DISBURSEMENT TO EASTERN WYOMING PUBLIC SERVICE DISTRICT

Payor:	West Virginia Water Development Authority/West Virginia Bureau for Public Health
Source:	2006 Series A Bonds Proceeds
Amount:	$64,250.00
Date:	January 12, 2006
Form:	Wire Transfer
Payee:	Eastern Wyoming Public Service District
Bank:	Peoples Bank of Mullens
Routing #:	051503556
Account #:	11-301-8
Account:	Eastern Wyoming Public Service District Mullens/Wyco Water Project
Contact:	Ron Bowling, Vice President and CEO

391984

AGREEMENT OF SALE

THIS AGREEMENT OF SALE, made and entered into on this 5th day of February, 2004 by and between **WELTON WATER SYSTEM**, _____, party of the first part, Seller, sometimes hereinafter referred to as **"WELTON"** and the **EASTERN WYOMING PUBLIC SERVICE DISTRICT**, a political subdivision of the State of West Virginia, with offices at Logan, WV, party of the second part, Buyer, sometimes hereinafter referred to as **"EWPSD"**.

WHEREAS, WELTON is the owner and operator of certain water treatment, storage and distribution systems in and around the Allen Junction and Beechwood areas of Wyoming County, West Virginia, ("the Water Systems"); and,

WHEREAS, WELTON is also the owner of certain inventory and pieces of equipment used in conjunction with the operation and maintenance of the Water Systems; and,

WHEREAS, EWPSD is desirous of buying and WELTON is desirous of selling certain assets utilized by it in connection with the Water System, all as more particularly set forth herein, subject to the following terms and conditions.

WITNESSETH:

That for and in consideration of the mutual covenants, agreements, representations, warranties and other good and valuable considerations, the receipt and sufficiency of all of which are hereby acknowledged, the parties do hereby **AGREE** as follows:

1. WELTON **AGREES** to grant, bargain, sell, transfer, convey, assign and deliver to EWPSD, and EWPSD **AGREES** to purchase from WELTON, the following assets, sometimes

hereinafter collectively referred to as "the Assets":

a. All treatment facilities, storage facilities, water mains, service and distribution lines, meters, valves, fittings and equipment owned by WELTON and used in connection with the Water Systems.

b. All residential, commercial and resale customer accounts receivable of WELTON as of the closing. WELTON acknowledges due to the receivership with Logan County Public Service District it does not have access to records adequate to quantify the accounts receivable balance.

c. All maintenance materials, and replacement parts used in the upkeep of the Water Systems, including, but not limited to, pipes, valves, meters, meter yokes, meter boxes and lids and miscellaneous fittings in WELTON's inventory as of the closing, ("the Inventory").

d. Copies of all current customer records, meter books, and maintenance and testing records of WELTON, ("the Business Records").

e. All of the right, title and interest of whatever nature of WELTON in and to all easements, rights-of-way, deeds of easement, licenses and such other rights of ingress and egress relating to the Water Systems. There is excluded from this sale a tract containing 2.1 acres of land, more or less, in the Slab Fork District, Wyoming County, West Virginia of record in the office of the Clerk of the County Commission of Wyoming County, West Virginia in Deed Book 352, at page 664. EWPSD shall retain the right and use of the property until such time as a new water system and delivery system are completed. Within 60 days of the completion of this system EWPSD shall transfer the property or waive any claim to the property over to WELTON or its designee

f. All additional estate owned by WELTON, if any, except as listed above

2. In consideration of all of the aforesaid Assets to be conveyed and transferred to EWPSD by WELTON, EWPSD agrees to pay to WELTON in cash at closing, and WELTON agrees to accept from EWPSD, the sum of $14,000.00.

3. WELTON agrees to transfer and deliver to EWPSD all sums of money owed by WELTON to customers as of closing for customer security deposits, including all appropriate customer deposit records and receipts on the date of closing, set forth below.

4. WELTON warrants and respects unto EWPSD that all of the Assets to be sold and delivered to EWPSD pursuant to the provisions of Paragraph No. 1 herein are located in Wyoming County, West Virginia. WELTON agrees that it will not remove or dispose of any of such property from such locations without the express written consent of EWPSD, except as may be required in the ordinary course of business up to the date of delivery of possession of the Assets to EWPSD. WELTON, to the extent it has the right to do so, shall grant, transfer, convey and assign to EWPSD all warranties, express or implied, relating to the Tangible Personal Property and Inventory to be transferred to EWPSD, hereunder, and will provide to EWPSD all written documentation of said warranties and guarantees, if any.

5. WELTON warrants and represents to EWPSD as follows:

a. WELTON is a sole proprietorship, validly existing and in good standing under the laws of the State of West Virginia.

b. Earl Sweeney is the sole owner of WELTON and has the full right, power and authority to enter into this Agreement of Sale on behalf of WELTON, to sell the Assets on behalf of WELTON and to execute on behalf of WELTON any and all other documents as may

be necessary to consummate this transaction.

c. WELTON has or will have good and marketable title, by the date of closing, to all of the Tangible Personal Property, Inventory and Accounts Receivable to be transferred hereunder, subject to no liens, restrictions, encumbrances or security interests except as may be specifically set forth herein.

6. EWPSD represents and warrants to WELTON as follows:

a. EWPSD is a political subdivision of the State of West Virginia.

b. Kenneth W. McBride, Jr. is the duly elected and current Chairperson of EWPSD and has the full right, power and authority from EWPSD to enter into this agreement on behalf of EWPSD, to purchase the Assets on behalf of EWPSD and to execute on behalf of EWPSD any and all other documents as may be necessary to consummate this transaction.

c. The purchase of the Assets of WELTON by EWPSD hereunder will not conflict with or result in a breach of the terms of any agreement of other instrument to which EWPSD is party or by which it is, or may be, bound or which would constitute a default thereunder; and

d. The members of the board of EWPSD have duly adopted resolutions authorizing and approving the execution, delivery and performance of this Agreement by EWPSD and certified copies of such resolutions will be delivered by EWPSD to WELTON at closing.

7. WELTON warrants that the sale of the Assets of WELTON hereunder will not conflict with or result in breach of the terms of any agreement or other instrument to which WELTON is a party of by which it is, or may be, bound or which would constitute a default thereunder, or

result in the creation or imposition of lien, charge or encumbrance on, or to give to any third party any interest or right of any of the aforesaid Assets of WELTON.

8. WELTON warrants that there are no present or anticipated filings of any mechanic's liens or materialman's liens against any of the Assets of WELTON to be transferred hereunder and that WELTON agrees to indemnify and hold harmless EWPSD as a result of any expenses, or costs, including reasonable attorney fees, as may be necessary in order to remove any such liens imposed upon the Assets transferred herein, by reason of any matter occurring prior to closing.

9. The parties agree that WELTON will retain the same risk number for purposes of worker's compensation coverage, benefits and obligations for all of its past and present employees, up to the date of closing. Any claim made for worker's compensation coverage or benefits by such employees in respect to matters occurring prior to closing, whether for temporary total disability, permanent total disability, death, reopenings or otherwise shall be the sole and exclusive responsibility of WELTON, and WELTON agrees to hold harmless and indemnify EWPSD as a result of any such claims by past or present employees of WELTON.

10. The parties agree that WELTON will be solely responsible for all retirement and/or pension related funds maintained by it for its employees, past and present, and EWPSD will have no obligation or responsibility in any manner with regard to the maintenance, investment, distribution or payment of any such pension or employees retirement funds.

11. WELTON warrants that there are no present actions, suits, claims or other proceedings, litigation or investigations pending or threatened against WELTON, its properties and assets, by any person, firm, corporation or governmental entity which would have a material

adverse effect upon the business of WELTON or the consummation of the transaction contemplated herein.

12. WELTON warrants that it possesses all of the permits and licenses necessary for the operation of the Water Systems, and that all of said permits and licenses are in full force and effect, without any material violations thereof except as effected by Civil Action Number _____ (receivorship).

13. WELTON warrants that the assets, liabilities and financial condition of its operations are, to the best of its knowledge, accurately reflected upon that certain Annual Report submitted by WELTON to the Public Service Commission of West Virginia ("PSC") for its tax year ended December 31, 2002, a copy of which is attached hereto as Exhibit "A", in respect to the period covered by such Report, and there has not been a material adverse change in the financial condition of WELTON since December 31, 2002.

14. The parties specifically agree that all warranties and representations contained herein shall survive the closing of this transaction for a period of six (6) months.

15. The parties specifically agree that EWPSD will assume only those obligations, debts or liabilities of WELTON as expressly set forth herein. All other obligations, debts and liabilities of WELTON that are not set forth herein shall remain the sole obligation of WELTON and shall not be binding in any manner or enforceable against EWPSD.

16. WELTON agrees to indemnify and hold harmless EWPSD and its directors, agents and employees from any and all claims, demands, damages, costs and expenses arising out of any act or omission relating to the use, condition or operation of any Tangible Personal Property or Inventory to be transferred pursuant tot his Agreement of Sale and which occurs prior to the

closing, for a period of thirty (30) days from and after the date of closing of this transaction. It is agreed that all Tangible Personal Property and Inventory to be sold hereunder will be transferred "as is" and "where is" without any express or implied warranties of any kind, including without limitation, warranties of merchantability or fitness for any particular purpose by WELTON.

17. WELTON and EWPSD each represent to the other that neither has dealt with any broker in such a manner as to incur any liability for any commission, fee or compensation whatsoever in connection with this transaction, and each agrees to indemnify the other against any loss, cost or expense resulting from any such claim as any result from dealing with a broker.

18. WELTON and EWPSD agree that there are no covenants, conditions or restrictions with would impair or interfere in any way with the sale contemplated herein by WELTON and purchase contemplated herein by EWPSD.

19. All Assets to be sold hereunder by WELTON are sold as part of the consideration for the total price hereinabove stated, and are to be sold without encumbrances of any type or kind whatsoever. WELTON shall provide a full and complete statement of all Uniform Commercial Code (UCC) indexing statements on any of the subject personal property upon execution of this Agreement of Sale, if any. In the event that there are encumbrances of any type or kind on any of said personal property to be transferred herein, WELTON shall remove the same prior to closing of the transaction, or EWPSD may remove the same at the expense of WELTON.

20. WELTON warrants and represents to EWPSD that, to the best of its knowledge, there are no eminent domain or condemnation proceedings pending, proposed or known to WELTON, in which any portion of the Assets hereunder shall or may be taken except for Civil

21. WELTON agrees that the EWPSD and the PSC shall have the right to inspect the business records at the office of WELTON during normal business hours prior to consummation of the transaction and will further represent that, to the best of its knowledge, the same are true, accurate and correct.

22. WELTON agrees to cooperate fully in seeking the dismissal of the pending condemnation action as well as the pending action or receivership WELTON or its duly representative or attorney shall execute all documents EWPSD deems necessary or proper to complete this action. WELTON further agrees the appointment of a Special Commission from the Circuit Court of Wyoming County, West Virginia in the event WELTON fails or refuses to execute any such documents.

23. WELTON agrees to cooperate fully with the Public Service Commission of West Virginia to seek the transfer contracted, the dismissal of the pending receivership case and the transfer of any certificate of authority from WELTON to EWPSD. WELTON or its duly representative or attorney shall execute all documents EWPSD deems necessary or proper to complete this action. WELTON further agrees to the appointment of a Special Commissioner with the Circuit Court of Wyoming County, West Virginia in the event WELTON fails or refuses to execute any such documents.

24. The parties agree that WELTON will be solely responsible for any taxes that may be imposed upon it as a result of the sale of the Assets, and any other taxes including, but not limited to, state, federal and municipal taxes, withholding taxes, employment taxes, social security taxes (FICA), licenses and fees lawfully imposed upon it and attributable to any period through closing. All personal property taxes imposed or assessed upon the Assets shall be

prorated as of closing on a calendar year basis.

25. All notices and other communications hereunder shall be in writing and shall be deemed to be duly given if mailed by first class, registered or certified mail, return receipt requested, addressed to the parties at the respective addresses as set forth in the first page of this Agreement of Sale, or at such other address as any party may from time to time designate for such purpose by written notice.

26. This Agreement of Sale, and the terms and conditions hereof, shall inure to the benefit of an be binding upon the respective successors and assigns of each of the respective parties hereto.

27. This Agreement of Sale contains the entire agreement between the parties. No promise, representation, warranty or covenant not included in this Agreement of Sale has been or is being relied upon by either party. Each party has relied upon its own examination of the full Agreement of Sale and provisions hereof, and the counsel of its own advisors, and the warranties, representations and covenants expressly contained in the Agreement of Sale itself. No modification or amendment of this Agreement of sale shall be of any force or effect unless in writing duly executed by both parties.

28. Each party fully and completely acknowledges, understands and agrees that this Agreement of Sale and the transfer of the Assets as contemplated herein is expressly subject to approval of the PSC. Any condition, modification or restriction of any part of this transaction, imposed or requested by the PSC as a condition of its approval of the sale, must be agreed to in writing by both parties before it becomes binding on either party. Failure by either party to agree to any such condition, modification or restriction shall not be considered a default under, or

breach of, this Agreement of sale and either party may, upon notice to either other party, terminate this agreement if such party should not agree with such condition, modification or restriction. WELTON further acknowledges and understands that the transfer as contemplated herein will also be subject to the ability of EWPSD to obtain reasonable and adequate financing in order to properly fund the purchase of the Assets. EWPSD agrees with WELTON that it will use its best efforts to secure such financing.

29. In the event that this transaction fails to close due to a refusal or default on the part of WELTON, then and in such event, at the option of EWPSD, EWPSD may pursue its rights against WELTON, by virtue of the refusal and default of WELTON, either at law or in equity, including, but not limited to, the right of specific performance.

30. In the event that this transaction fails to close due to a refusal or default on the part of EWPSD, then and in such event, at the option of WELTON, WELTON may pursue its rights against EWPSD, by virtue of the refusal and default of WELTON, either at law or in equity, including, but not limited to, the right of specific performance.

31. Both parties specifically acknowledge, understand and agree that it shall not be considered an act of default by EWPSD or WELTON if the PSC does not authorize and approve the sale as contemplated herein, nor shall it be considered a default by EWPSD if after using its best efforts to secure the necessary financing that such financing does not develop.

32. It is the intent of both parties herein for WELTON to sell, and EWPSD to buy, the Assets, and, in that regard, both parties agree to cooperate fully and completely with each other to achieve this desired result.

33. The parties specifically agree that the sale of the Assets of WELTON is specifically

not a sale or purchase of any shares of stock of WELTON.

34. The date of closing of this transaction shall be on a date to be set by mutual agreement, but not more than Ninety (90) days from the date an Order of the PSC approving this transfer becomes final.

35. Either party may, upon notice to the other party, terminate this Agreement in the event the PSC should not approve this Agreement and the transaction contemplated herein on or before December 31, 2004. Further, WELTON may, upon notice to EWPSD, terminate this Agreement in the event EWPSD shall not have secured the financing described in paragraph 29 hereof prior to December 31, 2004.

WITNESS the following signatures and seals.

WELTON WATER SYSTEM,

BY: Earl Sweeney
Earl Sweeney, sole proprietor and owner

EASTERN WYOMING PUBLIC SERVICE DISTRICT,
A political subdivision of the State of West Virginia.

CORPORATE SEAL

BY: Kenneth W. McBride
Its Chairman

STATE OF WEST VIRGINIA,

COUNTY OF WYOMING, TO-WIT:

I, Lisa M. Brown, a Notary Public in and for the County and State aforesaid, do hereby certify that Earl Sweeney, sole proprietor and owner, of WELTON WATER SYSTEM, whose name is signed to the foregoing Agreement of Sale, dated this 5th day of February, 2004, has this day acknowledged the same before me in my said county on behalf of said corporation.

Given under my hand this 5th day of February, 2004.

My commission expires: April 22, 2008.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
LISA M. BROWN
P O. BOX 1725
PINEVILLE, WV 24874
My commission expires April 22, 2008

Lisa M. Brown
Notary Public

STATE OF WEST VIRGINIA,

COUNTY OF WYOMING, TO-WIT:

I, Lisa M. Brown, a Notary Public in an for the County and State aforesaid, do hereby certify that Kenneth W. McBride chairman of EASTERN WYOMING PUBLIC SERVICE DISTRICT, whose name is signed to the foregoing Agreement of Sale, dated the 5th day of February, 2004 has this day acknowledged the same before me in my said county on behalf of said district.

Given under my hand this 5th day of February, 2004

My commission expires: April 22, 2008

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
LISA M. BROWN
P O. BOX 1725
PINEVILLE, WV 24874
My commission expires April 22, 2008

Lisa M. Brown
Notary Public

H:\W&S\Eastern Wyoming PSD\Welton Water System\Agreement of Sale (revised).wpd

AGREEMENT OF SALE

THIS AGREEMENT OF SALE, made and entered into on this 5th day of February, 2007, by and between **BUCKEYE WATERWORKS, INC.**, _____, party of the first part, Seller, sometimes hereinafter referred to as **"BUCKEYE"** and the **EASTERN WYOMING PUBLIC SERVICE DISTRICT**, a political subdivision of the State of West Virginia, with offices at 316 Moran Avenue, Mullens, West Virginia 25882, party of the second part, Buyer, sometimes hereinafter referred to as **"EWPSD"**.

WHEREAS, BUCKEYE is the owner and operator of certain water treatment, storage and distribution systems in and around the Stephenson and Iroquois areas of Wyoming County, West Virginia, ("the Water Systems"); and,

WHEREAS, BUCKEYE is also the owner of certain inventory and pieces of equipment used in conjunction with the operation and maintenance of the Water Systems; and,

WHEREAS, EWPSD is desirous of buying and BUCKEYE is desirous of selling certain assets utilized by it in connection with the Water System, all as more particularly set forth herein, subject to the following terms and conditions.

W I T N E S S E T H :

That for and in consideration of the mutual covenants, agreements, representations, warranties and other good and valuable considerations, the receipt and sufficiency of all of which are hereby acknowledged, the parties do hereby **AGREE** as follows:

1. BUCKEYE **AGREES** to grant, bargain, sell, transfer, convey, assign and deliver to EWPSD, and EWPSD **AGREES** to purchase from BUCKEYE, the following assets, sometimes

hereinafter collectively referred to as "the Assets":

a. All treatment facilities, storage facilities, water mains, service and distribution lines, meters, valves, fittings and equipment owned by BUCKEYE and used in connection with the Water Systems.

b. All customer accounts receivable of BUCKEYE as of the closing. BUCKEYE acknowledges due to the receivership with Logan County Public Service District, it does not have access to records adequate to quantity the accounts receivable balance.

c. All maintenance materials, and replacement parts used in the upkeep of the Water Systems, including, but not limited to, pipes, valves, meters, meter yokes, meter boxes and lids and miscellaneous fittings in BUCKEYE's inventory as of the closing, ("the Inventory").

d. Copies of all current customer records, meter books, and maintenance and testing records of BUCKEYE, ("the Business Records").

e. All of the right, title and interest of whatever nature of BUCKEYE in and to all easements, rights-of-way, deeds of easement, licenses and such other rights of ingress and egress relating to the Water Systems.

2. In consideration of all of the aforesaid Assets to be conveyed and transferred to EWPSD by BUCKEYE, EWPSD agrees to pay to BUCKEYE in cash at closing, and BUCKEYE agrees to accept from EWPSD, the sum of $13,790.00 payable as follows:

a. The first payment in the amount of $12,608.00 payable upon execution of this agreement.

b The second payment in the amount of $1,182.00 to be issued to the parties of the first part upon receipt of the execution of this agreement and upon the process of the check.

3. BUCKEYE agrees to transfer and deliver to EWPSD all sums of money owed by BUCKEYE to customers as of closing for customer security deposits, including all appropriate customer deposit records and receipts on the date of closing, set forth below.

4. BUCKEYE warrants and respects unto EWPSD that all of the Assets to be sold and delivered to EWPSD pursuant to the provisions of Paragraph No. 1 herein are located in Wyoming County, West Virginia. BUCKEYE agrees that it will not remove or dispose of any of such property from such locations without the express written consent of EWPSD, except as may be required in the ordinary course of business up to the date of delivery of possession of the Assets to EWPSD. BUCKEYE, to the extent it has the right to do so, shall grant, transfer, convey and assign to EWPSD all warranties, express or implied, relating to the Tangible Personal Property and Inventory to be transferred to EWPSD, hereunder, and will provide to EWPSD all written documentation of said warranties and guarantees.

5. BUCKEYE warrants and represents to EWPSD as follows:

a. BUCKEYE is a duly organized corporation, validly existing and in good standing under the laws of the State of West Virginia.

b. Earl Sweeney is the duly elected and current President of BUCKEYE and has the full right, power and authority from said corporation to enter into this Agreement of Sale on behalf of BUCKEYE, to sell the Assets on behalf of BUCKEYE and to execute on behalf of BUCKEYE any and all other documents as may be necessary to consummate this transaction.

c. BUCKEYE has or will have good and marketable title, by the date of closing, to all of the Tangible Personal Property, Inventory and Accounts Receivable to be transferred hereunder, subject to no liens, restrictions, encumbrances or security interests except as may be

specifically set forth herein.

6. EWPSD represents and warrants to BUCKEYE as follows:

a. EWPSD is a political subdivision of the State of West Virginia.

b. Kenneth W. McBride, Jr. the duly elected and current Chairperson of EWPSD and has the full right, power and authority from EWPSD to enter into this agreement on behalf of EWPSD, to purchase the Assets on behalf of EWPSD and to execute on behalf of EWPSD any and all other documents as may be necessary to consummate this transaction.

c. The purchase of the Assets of BUCKEYE by EWPSD hereunder will not conflict with or result in a breach of the terms of any agreement of other instrument to which EWPSD is party or by which it is, or may be, bound or which would constitute a default thereunder; and

d. The members of the board of EWPSD have duly adopted resolutions authorizing and approving the execution, delivery and performance of this Agreement by EWPSD and certified copies of such resolutions will be delivered by EWPSD to BUCKEYE at closing.

7. BUCKEYE warrants that the sale of the Assets of BUCKEYE hereunder will not conflict with or result in breach of the terms of any agreement or other instrument to which BUCKEYE is a party of by which it is, or may be, bound or which would constitute a default thereunder, or result in the creation or imposition of lien, charge or encumbrance on, or to give to any third party any interest or right of any of the aforesaid Assets of BUCKEYE.

8. The board of directors and stockholders of BUCKEYE have duly adopted resolutions authorizing and approving the execution, delivery and performance of this agreement by

BUCKEYE and certified copies of such resolutions will be delivered by BUCKEYE to EWPSD at closing.

9. BUCKEYE warrants that there are no present or anticipated filings of any mechanic's liens or materialman's liens against any of the Assets of BUCKEYE to be transferred hereunder and that BUCKEYE agrees to indemnify and hold harmless EWPSD as a result of any expenses, or costs, including reasonable attorney fees, as may be necessary in order to remove any such liens imposed upon the Assets transferred herein, by reason of any matter occurring prior to closing.

10. The parties agree that BUCKEYE will retain the same risk number for purposes of worker's compensation coverage, benefits and obligations for all of its past and present employees, up to the date of closing. Any claim made for worker's compensation coverage or benefits by such employees in respect to matters occurring prior to closing, whether for temporary total disability, permanent total disability, death, reopenings or otherwise shall be the sole and exclusive responsibility of BUCKEYE, and BUCKEYE agrees to hold harmless and indemnify EWPSD as a result of any such claims by past or present employees of BUCKEYE.

11. The parties agree that BUCKEYE will be solely responsible for all retirement and/or pension related funds maintained by it for its employees, past and present, and EWPSD will have no obligation or responsibility in any manner with regard to the maintenance, investment, distribution or payment of any such pension or employees retirement funds.

12. BUCKEYE warrants that there are no present actions, suits, claims or other proceedings, litigation or investigations pending or threatened against BUCKEYE, its properties and assets, by any person, firm, corporation or governmental entity which would have a material

adverse effect upon the business of BUCKEYE or the consummation of the transaction contemplated herein.

13. BUCKEYE warrants that it possesses all of the permits and licenses necessary for the operation of the Water Systems, and that all of said permits and licenses are in full force and effect, without any material violations there.

14. BUCKEYE warrants that the assets, liabilities and financial condition of its operations are, to the best of its knowledge, accurately reflected upon that certain Annual Report submitted by BUCKEYE to the Public Service Commission of West Virginia ("PSC") for its tax year ended December 31, 2002, a copy of which is attached hereto as Exhibit "A", in respect to the period covered by such Report, and there has not been a material adverse change in the financial condition of BUCKEYE since December 31, 2002.

15. The parties specifically agree that all warranties and representations contained herein shall survive the closing of this transaction for a period of six (6) months.

16. The parties specifically agree that EWPSD will assume only those obligations, debts or liabilities of BUCKEYE as expressly set forth herein. All other obligations, debts and liabilities of BUCKEYE that are not set forth herein shall remain the sole obligation of BUCKEYE and shall not be binding in any manner or enforceable against EWPSD.

17. BUCKEYE agrees to indemnify and hold harmless EWPSD and its directors, agents and employees from any and all claims, demands, damages, costs and expenses arising out of any act or omission relating to the use, condition or operation of any Tangible Personal Property or Inventory to be transferred pursuant tot his Agreement of Sale and which occurs prior to the closing, for a period of thirty (30) days from and after the date of closing of this transaction. It is

agreed that all Tangible Personal Property and Inventory to be sold hereunder will be transferred "as is" and "where is" without any express or implied warranties of any kind, including without limitation, warranties of merchantability or fitness for any particular purpose by BUCKEYE.

18. BUCKEYE and EWPSD each represent to the other that neither has dealt with any broker in such a manner as to incur any liability for any commission, fee or compensation whatsoever in connection with this transaction, and each agrees to indemnify the other against any loss, cost or expense resulting from any such claim as any result from dealing with a broker.

19. BUCKEYE and EWPSD agree that there are no covenants, conditions or restrictions with would impair or interfere in any way with the sale contemplated herein by BUCKEYE and purchase contemplated herein by EWPSD.

20. All Assets to be sold hereunder by BUCKEYE are sold as part of the consideration for the total price hereinabove stated, and are to be sold without encumbrances of any type or kind whatsoever. BUCKEYE shall provide a full and complete statement of all Uniform Commercial Code (UCC) indexing statements on any of the subject personal property upon execution of this Agreement of Sale, if any. In the event that there are encumbrances of any type or kind on any of said personal property to be transferred herein, BUCKEYE shall remove the same prior to closing of the transaction, or EWPSD may remove the same at the expense of BUCKEYE.

21. BUCKEYE warrants and represents to EWPSD that, to the best of its knowledge, there are no eminent domain or condemnation proceedings pending, proposed or known to BUCKEYE, in which any portion of the Assets hereunder shall or may be taken.

22 BUCKEYE agrees that the EWPSD and the PSC shall have the right to inspect the

business records at the office of BUCKEYE during normal business hours prior to consummation of the transaction and will further represent that, to the best of its knowledge, the same are true, accurate and correct.

23. BUCKEYE agrees to cooperate fully in seeking the dismissal of the pending condemnation action as well as the pending action or receivership. BUCKEYE or its duly representative or attorney shall execute all documents EWPSD deems necessary or property to complete this action. BUCKEYE further agrees the appointment of a Special Commissioner of the Circuit Court of Wyoming County, West Virginia in the event BUCKEYE fails or refuses to execute any such documents.

24. BUCKEYE agrees to cooperate fully with the Public Service District of West Virginia ("PSC") to seek the transfer contracted, the dismissal of the pending receivership case and the transfer of any certificate of authority from BUCKEYE to EWPSD. BUCKEYE or its duly representatives or attorney shall execute all documents EWPSD deems necessary or proper to complete this action. BUCKEYE further agrees to the appointment of a Special Commissioner from the Circuit Court of Wyoming County, West Virginia in the event BUCKEYE fails or refuses to execute any such documents.

25. The parties agree that BUCKEYE will be solely responsible for any taxes that may be imposed upon it as a result of the sale of the Assets, and any other taxes including, but not limited to, state, federal and municipal taxes, withholding taxes, employment taxes, social security taxes (FICA), licenses and fees lawfully imposed upon it and attributable to any period through closing. All personal property taxes imposed or assessed upon the Assets shall be prorated as of closing on a calendar year basis.

26. All notices and other communications hereunder shall be in writing and shall be deemed to be duly given if mailed by first class, registered or certified mail, return receipt requested, addressed to the parties at the respective addresses as set forth in the first page of this Agreement of Sale, or at such other address as any party may from time to time designate for such purpose by written notice.

27. This Agreement of Sale, and the terms and conditions hereof, shall inure to the benefit of an be binding upon the respective successors and assigns of each of the respective parties hereto.

28. This Agreement of Sale contains the entire agreement between the parties. No promise, representation, warranty or covenant not included in this Agreement of Sale has been or is being relied upon by either party. Each party has relied upon its own examination of the full Agreement of Sale and provisions hereof, and the counsel of its own advisors, and the warranties, representations and covenants expressly contained in the Agreement of Sale itself. No modification or amendment of this Agreement of sale shall be of any force or effect unless in writing duly executed by both parties.

29. Each party fully and completely acknowledges, understands and agrees that this Agreement of Sale and the transfer of the Assets as contemplated herein is expressly subject to approval of the PSC. Any condition, modification or restriction of any part of this transaction, imposed or requested by the PSC as a condition of its approval of the sale, must be agreed to in writing by both parties before it becomes binding on either party. Failure by either party to agree to any such condition, modification or restriction shall not be considered a default under, or breach of, this Agreement of sale and either party may, upon notice to either other party,

terminate this agreement if such party should not agree with such condition, modification or restriction. BUCKEYE further acknowledges and understands that the transfer as contemplated herein will also be subject to the ability of EWPSD to obtain reasonable and adequate financing in order to properly fund the purchase of the Assets. EWPSD agrees with BUCKEYE that it will use its best efforts to secure such financing.

30. In the event that this transaction fails to close due to a refusal or default on the part of BUCKEYE, then and in such event, at the option of EWPSD, EWPSD may pursue its rights against BUCKEYE, by virtue of the refusal and default of BUCKEYE, either at law or in equity, including, but not limited to, the right of specific performance.

31. In the event that this transaction fails to close due to a refusal or default on the part of EWPSD, then and in such event, at the option of BUCKEYE, BUCKEYE may pursue its rights against EWPSD, by virtue of the refusal and default of BUCKEYE, either at law or in equity, including, but not limited to, the right of specific performance.

32. Both parties specifically acknowledge, understand and agree that it shall not be considered an act of default by EWPSD or BUCKEYE if the PSC does not authorize and approve the sale as contemplated herein, nor shall it be considered a default by EWPSD if after using its best efforts to secure the necessary financing that such financing does not develop.

33. It is the intent of both parties herein for BUCKEYE to sell, and EWPSD to buy, the Assets, and, in that regard, both parties agree to cooperate fully and completely with each other to achieve this desired result.

34. The parties specifically agree that the sale of the Assets of BUCKEYE is specifically not a sale or purchase of any shares of stock of BUCKEYE.

35. The date of closing of this transaction shall be on a date to be set by mutual

agreement, but not more than Ninety (90) days from the date an Order of the PSC approving this transfer becomes final.

36. Either party may, upon notice to the other party, terminate this Agreement in the event the PSC should not approve this Agreement and the transaction contemplated herein on or before December 31, 2004. Further, BUCKEYE may, upon notice to EWPSD, terminate this Agreement in the event EWPSD shall not have secured the financing described in paragraph 29 hereof prior to December 31, 2004.

WITNESS the following signatures and seals.

BUCKEYE WATERWORKS, INC,
a West Virginia corporation,

CORPORATE SEAL

BY: Earl Sweeney
Earl Sweeney, President

Debbie Lester
DEBBIE LESTER

Tommy R Lester
TOMMY LESTER

EASTERN WYOMING PUBLIC SERVICE DISTRICT,
A political subdivision of the State of West Virginia.

CORPORATE SEAL

BY. Kenneth M Buck Jr.
Its Chairman

STATE OF WEST VIRGINIA,

COUNTY OF WYOMING, TO-WIT:

I, Lisa M. Brown, a Notary Public in and for the County and State aforesaid, do hereby certify that Earl Sweeney, of BUCKEYE WATERWORKS, whose name is signed to the foregoing Agreement of Sale, dated this 5th day of February, 2004, has this day acknowledged the same before me in my said county on behalf of said corporation.

Given under my hand this 5th day of February, 2004.

My commission expires: April 22, 2008.

Lisa M. Brown
Notary Public

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
LISA M. BROWN
P O BOX 1725
PINEVILLE, WV 24874
My commission expires April 22, 2008

STATE OF WEST VIRGINIA

COUNTY OF WYOMING, TO-WIT:

I, Lisa M. Brown, a Notary Public in and for the State and County aforesaid, hereby certify that **DEBBIE LESTER,** whose name is signed to the foregoing writing, bearing date the 5th day of February, 2004, has, this day, acknowledged the same before me in my said State and County.

Given under my hand this 5th day of February, 2004.

My commission expires: April 22, 2008.

Lisa M. Brown
NOTARY PUBLIC

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
LISA M BROWN
P. O. BOX 1725
PINEVILLE, WV 24874
My commission expires April 22, 2008

STATE OF WEST VIRGINIA,

COUNTY OF WYOMING, TO-WIT:

I, LISA M. BROWN, a Notary Public in and for the State and County aforesaid, hereby certify that **TOMMY LESTER**, whose name is signed to the foregoing writing, bearing date the 5th day of February, 2004, has, this day, acknowledged the same before me in my said State and County.

Given under my hand this 5th day of February, 2004.

My commission expires: April 22, 2008.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
LISA M BROWN
P O BOX 1725
PINEVILLE, WV 24874
My commission expires April 22, 2008

Lisa M. Brown
NOTARY PUBLIC

STATE OF WEST VIRGINIA,

COUNTY OF WYOMING, TO-WIT:

I, LISA M. BROWN, a Notary Public in an for the County and State aforesaid, do hereby certify that Kenneth W. McBride, Jr. chairman of EASTERN WYOMING PUBLIC SERVICE DISTRICT, whose name is signed to the foregoing Agreement of Sale, dated the 5th day of February, 2004, has this day acknowledged the same before me in my said county on behalf of said district.

Given under my hand this 5th day of February, 2004.

My commission expires: April 22, 2008.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
LISA M BROWN
P O
PINEVILLE WV 24874
My commission expires April 22, 2008

Lisa M. Brown
Notary Public

RELEASE and AGREEMENT OF SALE

THIS RELEASE AND AGREEMENT OF SALE, made and entered into by triplicate originals this 1st day of November, 2005, by and between **JAMES R. MILAM,** individually and doing business as **CORINNE WATER SYSTEM,** parties of the first part, hereinafter sometimes collectively referred to as, "Seller," or "Milam/Corinne," **EASTERN WYOMING PUBLIC SERVICE DISTRICT,** a public utility and political subdivision of the State of West Virginia, party of the second part, hereinafter sometimes referred to as, "Buyer," or "EWPSD," and **LOGAN COUNTY PUBLIC SERVICE DISTRICT,** a public utility and political subdivision of the State of West Virginia, party of the third part, hereinafter sometimes referred to as "LCPSD."

WHEREAS, Milam/Corinne is the owner and operator of a certain water treatment, storage and distribution system in and around the Corinne and adjacent areas of Wyoming County, West Virginia; and,

WHEREAS, Milam/Corinne is also the owner of certain inventory and pieces of equipment used in conjunction with the operation and maintenance of the water systems; and,

WHEREAS, Milam/Corinne wishes to sell, and EWPSD wishes to buy certain assets utilized by Milam/Corinne in connection with the water systems, as more fully set forth within this Release and Agreement of Sale; and,

WHEREAS, this sale would fully compromise and settle certain actions pending in the Circuit Court of Wyoming County, West Virginia, entitled, "Eastern Wyoming Public Service District v. Corinne Water System, Case No. 03-C-42;" and a receivership action in the Circuit Court of Wyoming County, West Virginia, Case No. 00-C-11 now, therefore,

WITNESSETH:

THAT for and in consideration of the mutual covenants, agreements, representations, warranties and other good and valuable considerations, the receipt and sufficiency of all of which are hereby expressly acknowledged, the parties do hereby agree as follows:

1. Milam/Corinne agrees to grant, bargain, sell, transfer, convey, assign and deliver to EWPSD, and EWPSD agrees to purchase from Milam/Corinne, the following assets, sometimes hereinafter collectively referred to as "the Assets."

   a. All treatment facilities, pump house and storage facilities, water mains, service and distribution lines, meters, valves, fittings, and equipment owned by Milam/Corinne and used in connection with the water systems. A list or schedule of these assets is attached to this Release and Agreement of Sale, and incorporated herein by reference.

   b. All customer accounts receivable of Milam/Corinne as collected by Logan County Public Service District (LCPSD). The parties acknowledge that LCPSD has been receiving and utilizing these accounts since it became the appointed receiver of Milam/Corinne.

   c. All maintenance materials and replacement parts used in the upkeep of the water systems, including, but not limited to, pipes, valves, meters, meter yokes, meter boxes, and lids and miscellaneous fittings in Milam/Corinne's, EWPSD's, or LCPSD's for the Corinne Water System inventory.

   d. Copies of all customer records, meter books, and maintenance and testing records of the water systems.

   e. All of the right, title and interest of whatever nature of Milam/Corinne in and to

all easements, rights-of-way, deeds of easement, licenses, and such other rights of ingress and egress relating to the water systems.

f. All rights, authority, franchise area, or public service area, now and in the future, for the customer boundaries of Corinne Water System, as they exist on the date of execution of this Release and Agreement of Sale, or authorized by the Public Service Commission of West Virginia.

2. In consideration of all of the aforesaid assets to be conveyed and transferred to EWPSD by Milam/Corinne, EWPSD agrees to pay to Milam/Corinne the sum of Forty-Five Thousand Dollars ($45,000.00), to be paid upon execution of settlement and transfer documents, or upon closing. If there exists any indebtedness of Milam/Corinne on any of the assets to be conveyed to EWPSD, Milam/Corinne agrees to disclose documentation of all such indebtedness and keep current all debt principal and interest. Milam/Corinne will be responsible for the indebtedness, and will convey the assets to EWPSD free and clear of any lien or encumbrance.

3. If requested or necessary, Milam/Corinne will provide appropriate documentation of interim water collections to EWPSD, and, additionally, Milam/Corinne agrees to make all accounts receivable records and customer repayment agreements available for inspection by EWPSD during normal business hours.

4. Milam/Corinne agrees to transfer and deliver to EWPSD all sums of money owed by Milam/Corinne to customers as of the execution of these agreements or closing for customer security deposits, including all appropriate customer deposit records and receipts on the date of closing or execution of these documents.

5. Milam/Corinne agrees that it will not purchase any vehicles or equipment nor execute any

contracts for the water systems without the express written consent of EWPSD, except as may be required in the ordinary course of business, which consent shall not be unreasonably withheld. Because the water systems are in receivership operated by the LCPSD, no such purchases or contracts are contemplated.

6. Milam/Corinne warrants and represents unto EWPSD that all of the assets to be sold and delivered to EWPSD pursuant to this Release and Agreement of Sale are located in Wyoming County, West Virginia. Milam/Corinne agrees that it will not remove nor dispose of any of such property from such locations without the express written consent of EWPSD, except as may be required in the ordinary course of business up to the date of the delivery of the possession of the assets to EWPSD. Milam/Corinne, to the extent it has the right to do so, shall grant, transfer, convey and assign to EWPSD all warranties, express or implied, relating to the tangible personal property and inventory to be transferred to EWPSD, and will provide to EWPSD all written documentation of said warranties and guarantees.

7. Milam/Corinne warrants and represents:

   a. Milam/Corinne is duly organized, validly and existing in good standing pursuant to the laws of the State of West Virginia, and has the ownership, control, and authority to transfer these assets and to execute such further documents as are necessary to effectuate this transfer, subject to approval of the Circuit Court of Wyoming County, West Virginia and the Public Service Commission of West Virginia.

   b. James. R. Milam has the full right, power and authority to enter into this Release and Agreement of Sale on behalf of himself and Corrine Water System, and to

execute on behalf of Milam/Corinne any and all other documents as may be necessary to consummate this transaction.

c. Milam/Corinne has or will have good and marketable title by the date of Execution or the date of closing, to all of the tangible personal property, inventory and accounts receivable to be transferred hereunder, subject to no liens, restrictions, encumbrances or security interests except as may be specifically set forth herein.

8. EWPSD represents and warrants:

a. EWPSD is a public utility and political subdivision of the State of West Virginia.

b. Kenneth W. McBride, Jr. is the duly elected and current Chairman of EWPSD. He has the full right, power and authority from EWPSD to enter into this Release and Agreement of Sale on behalf of EWPSD, to purchase the assets on behalf of EWPSD and to execute on behalf of EWPSD any and all other documents as may be necessary to consummate this transaction.

c. The purchase of the assets of Milam/Corinne by EWPSD will not conflict with nor result in a breach of the terms of any agreement or other instrument to which Milam/Corinne is a party or by which is it, or may be, bound or which would constitute a default hereunder; and,

d. The members of the board of EWPSD and LCPSD have duly adopted resolutions authorizing and approving the execution, delivery and performance of this Release and Agreement of Sale by EWPSD and certified copies of such resolutions will be delivered by EWPSD and LCPSD to Milam/Corinne upon request.

9. Milam/Corinne warrants that the sale of the assets hereunder will not conflict with nor

result in a breach of the terms of any agreement or other instrument to which EWPSD is a party or by which is it, or may be, bound or which would constitute a default thereunder, or result in the creation or imposition of lien, charge or encumbrance on, or to give to any third party any interest or right of any of the aforesaid assets of Milam/Corinne.

10. The owners and officers of Milam/Corinne, if necessary or required to do so, have or will adopt resolutions authorizing and approving the execution, delivery and performance of this Release and Agreement of Sale by Milam/Corinne. Certified copies of the resolutions will be delivered to EWPSD upon request.

11. Milam/Corinne warrants that there are no present or anticipated filings of any mechanic's liens or materialman's liens against any of the assets of Milam/Corinne to be transferred hereunder. Milam/Corinne agrees to indemnify and hold harmless EWPSD as a result of any expenses, or costs, including reasonable attorney fees, as may be necessary in order to remove any such liens imposed upon the assets transferred herein, by reason of any matter occurring prior to closing or transfer.

12. Milam/Corinne warrants that there are no present actions, suits, claims or other proceedings, litigation or investigations pending of threatened against Milam/Corinne, its properties and assets, by any person, firm, corporation or governmental entity which would have a material adverse effect upon the business of Milam/Corinne or the consummation of the transaction contemplated herein. The parties acknowledge the existence of a receivership action in the Circuit Court of Wyoming County, West Virginia, Case No. 00-C-11, and a condemnation action in the Circuit Court of Wyoming County, West Virginia, Case No. 03-C-42.

13. Milam/Corinne warrants that it possesses all of the permits and licenses necessary for the

operation of the systems, to the extent they have not been turned over or superceded by the receivership by LCPSD, and that all of said permits and licenses are in full force and effect, without any material violations. To the extent necessary, all such permits and licenses will be transferred to EWPSD, or terminated by Milam/Corinne, or both.

14. Milam/Corinne warrants that the assets, liabilities and financial condition of its operations are, to the best of its knowledge, accurately reflected upon the 2004 Annual Report submitted to the Public Service Commission of West Virginia by LCPSD on behalf of the water system owned by Milam/Corinne.

15. The parties agree that all warranties and representations contained herein shall survive the closing date or date of execution and transfer pursuant to this Release and Agreement of Sale for a period of six (6) months from the date of execution of this Release and Agreement of Sale.

16. The parties specifically agree that EWPSD will assume only those obligations, debts or liabilities of Milam/Corinne as expressly set forth herein. All other obligations, debts and liabilities of Milam/Corinne that are not set forth herein shall remain the sole obligation of Milam/Corinne, and shall not be binding in any manner nor enforceable against EWPSD.

17. Milam/Corinne agrees to indemnify and hold harmless EWPSD and its directors, agents and employees from any and all claims, demands, damages, costs and expenses arising out of any act or omission relating to the use, condition or operation of any Tangible Personal Property or Inventory to be transferred pursuant to this Release and Agreement of Sale and which occurs prior to the closing, for a period of thirty (30) days from and after the date of closing of the transaction. It is agreed that all Tangible Personal Property

and Inventory to be sold hereunder will be transferred "as is" and "where is," without any express or implied warranties of any kind, including without limitation, warranties by Milam/Corinne of merchantability or fitness for any particular purpose.

18. EWPSD and Milam/Corinne each represent to the other that neither has dealt with any broker in such a manner as to incur any liability for any commission, fee or compensation whatsoever in connection with this transaction, and each agrees to indemnify the other against any loss, cost or expense resulting from any such claim as any result from the dealing with a broker.

19. All assets to be sold hereunder by Milam/Corinne are sold as part of the consideration for the total price hereinabove stated, and are to be sold without encumbrances of any type or kind whatsoever. Milam/Corinne shall provide a full and complete statement of all Uniform Commercial Code (UCC) indexing statements on any of the subject personal property upon execution of the Release and Agreement. In the event that there are encumbrances of any type or kind on any of said property to be transferred herein, Milam/Corinne shall remove the same within thirty (30) days of the date of execution of this Release and Agreement of Sale, and EWPSD may remove the same at the expense of Milam/Corinne thereafter.

20. Milam/Corinne represents and warrants to EWPSD that, to the best of its knowledge, there are no eminent domain nor other proceedings pending, proposed or known to Milam/Corinne, in which any portion of the assets hereunder shall or may be taken, except the pending actions cited above, to which all the parties to this Release and Agreement of Sale are parties.

21. Milam/Corinne agrees that EWPSD and the Public Service Commission of West Virginia

shall have the right to inspect the business records of Milam/Corinne during normal business hours prior to consummation of this Release and Agreement of Sale, and further represents that, to the best of its knowledge, the same are true, accurate and correct.

22. The parties agree that Milam/Corinne will be solely responsible for any taxes that may be imposed upon it as a result of the sale of the assets, and any other taxes, including, but not limited to, state, federal, and municipal taxes, withholding taxes, employment taxes, social security taxes (FICA), licenses and fees lawfully imposed upon it through the date the Corinne Water System was placed into receivership. Milam/Corinne shall also be responsible for any tax obligations, capital or other obligations accruing to him or Corinne Water Works on account of this Release and Agreement of Sale. All personal property taxes imposed or assessed upon the assets shall be prorated as of closing on a calendar year basis, if necessary.

23. EWPSD shall be responsible any taxes that may be imposed upon it as a result of the sale of the assets, and any other taxes, including, but not limited to, state, federal, and municipal taxes, withholding taxes, employment taxes, social security taxes (FICA), licenses and fees lawfully imposed upon it after the date the Corinne Water System was placed into receivership.

24. All notices and other communications hereunder shall be in writing and shall be deemed to be duly given if mailed by first class, registered or certified mail, return receipt requested, addressed to the parties at the respective address as set forth in this Release and Agreement of Sale, or to the counsel of record for the parties, or at such other address as any party may from time to time designate for such purpose by written notice.

25. This Release and Agreement of Sale, and the terms and conditions hereof, shall be

binding upon and inure to the benefit of the parties hereto, their respective successors in interest, heirs and assigns.

26. The parties agree that LCPSD will continue to operate the Corinne Water System pursuant to the receivership, and pending the completion of the transaction contemplated by this Release and Agreement of Sale.

27. EWPSD and LCPSD shall have the right, without charge, to exclusive possession, use and control of the real estate of Milam/Corinne which is used for purposes of water delivery, maintenance or storage for a period up to one (1) year after EWPSD completes the construction and installation of new waterlines and a plant and pump facility in the area served by the operating permits of Milam/Corinne as placed into receivership with LCPSD.

28. This Release and Agreement of Sale contains the entire agreement between the parties. No promise, representation, warranty or covenant not included in this Release and Agreement of Sale has been or is being relied upon by either party. Each party has relied upon its own examination of the full Release and Agreement of Sale and provisions hereof, and the counsel of its own advisors, and the warranties, representations and covenants expressly contained in the Release and Agreement of Sale itself. No modification or amendment of this Release and Agreement of Sale shall be of any force or effect unless in writing and duly executed by the parties to this Release and Agreement of Sale.

29. Each party fully and completely acknowledges, understands and agrees that this Release and Agreement of Sale and the transfer of the assets as contemplated herein is expressly subject to the approval of the Circuit Court of Wyoming County, West Virginia and the

Public Service Commission of West Virginia. Any condition, modification or restriction of any part of this transaction, imposed or requested by the Circuit Court of Wyoming County, West Virginia or the Public Service Commission of West Virginia as a condition of its approval of the sale must be agreed to in writing by both parties before it becomes binding on either party. Failure by either party to agree to any such condition, modification or restriction shall not be considered a default under, or breach of, this Release and Agreement of Sale. Either party may, upon notice to either other party, terminate this Release and Agreement of Sale if such party should not agree with such condition, modification or restriction. The parties agree and covenant, however, not to unreasonably withhold their agreement to any such condition, modification or restriction.

30. Each party specifically agrees to execute such further titles, licenses, agreements, transfers, use or lease agreements, or documents required or necessary to effectuate this transfer.

31. In the event this transaction fails to close due to a refusal or default on the part of Milam/Corinne, then, and in such event, at the option of EWPSD, EWPSD may pursue its rights against Milam/Corinne, by virtue of the refusal and default of Milam/Corinne, either at law or in equity, including, but not necessarily limited to, the right of specific performance.

32. In the event this transaction fails to close due to a refusal or default on the part of EWPSD, then, and in such event, at the option of Milam/Corinne, Milam/Corinne may pursue its rights against EWPSD, by virtue of the refusal and default of EWPSD, either at law or in equity, including, but not necessarily limited to, the right of specific performance.

33. Both parties specifically acknowledge, understand and agree that it shall not be considered an act of default by EWPSD or Milam/Corinne if the Public Service Commission of West Virginia or the Circuit Court of Wyoming County, West Virginia does not authorize and approve the sale as contemplated herein.

34. It is the intent of both parties herein for Milam/Corinne to sell, and EWPSD to buy, the assets. In that regard, all parties agree to cooperate fully and completely with each other to achieve the desired result.

35. The parties specifically agree that the sale of the assets of Milam/Corinne is specifically not a sale or purchase of any shares of stock or equity of Milam/Corinne.

36. This matter shall be considered closed not more than ninety (90) days from the date an Order of the Circuit Court of Wyoming County, West Virginia or the Public Service Commission of West Virginia approving this transfer becomes final, whatever shall last occur.

37. Either party may, upon notice to the other party, terminate this Release and Agreement of Sale in the event the Public Service Commission of West Virginia or the Circuit Court of Wyoming County, West Virginia, should not approve this Release and Agreement of Sale.

38. Upon the completion of this Release and Agreement of Sale and the transfers and approvals contemplated herein, the parties hereto do hereby release and forever discharge each other from any and all obligations, causes of actions or liabilities arising from the negotiation and transfer of the assets of Milam/Corinne. The parties mutually agree that they shall, by their respective counsel, release and dismiss with prejudice any matters or cases pending before the Public Service Commission of West Virginia, or any court of competent jurisdiction in the State of West Virginia.

We do hereby agree to this **RELEASE AND AGREEMENT OF SALE,** made and entered into on the day and date first written above.

WITNESS the following signatures and seals.

_____(SEAL)
JAMES R. MILAM

_____(SEAL)
JAMES R. MILAM, doing business as
CORINNE WATER SYSTEM

"SELLERS" or "MILAM/CORINNE"

EASTERN WYOMING PUBLIC SERVICE DISTRICT

BY: _____(SEAL)
KENNETH W. MCBRIDE, JR.
Its Chairman

"BUYER" or "EWPSD"

LOGAN COUNTY PUBLIC SERVICE DISTRICT

BY: _____(SEAL)
JAMES R. JEFFREY
Its Chair

"LCPSD"

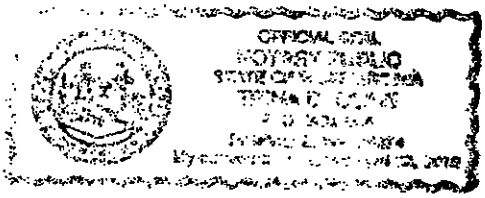
STATE OF WEST VIRGINIA,

COUNTY OF WYOMING, TO-WIT:

I, Irina D. Cline, a Notary Public in and for the State and County aforesaid, hereby certify that **JAMES R. MILAM,** whose name is signed to the foregoing writing, bearing date the 4 day of January, 2005, has, this day, acknowledged the same before me in my said State and County.

Given under my hand this 4 day of January, 2005.

My commission expires: April 22, 2012.



Irina D. Cline
NOTARY PUBLIC

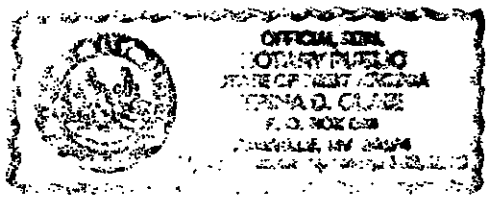
STATE OF WEST VIRGINIA,

COUNTY OF WYOMING, TO-WIT:

I, Irina D. Cline, a Notary Public in and for the State and County aforesaid, hereby certify that **JAMES R. MILAM, doing business as CORINNE WATER SYSTEM,** whose name signed to the foregoing writing, bearing date the 4 day of January, 2005, has, this day, acknowledged the same before me in my said State and County.

Given under my hand this 4 day of January, 2005.

My commission expires: April 22, 2012.



Irina D. Cline
NOTARY PUBLIC

STATE OF WEST VIRGINIA,

COUNTY OF WYOMING, TO-WIT:

I, Charles R. Roberts, Jr., a Notary Public in and for the State and County aforesaid, hereby certify that **KENNETH W. MCBRIDE, JR.,** who signed the foregoing writing, bearing date the 4th day of January, 2006 ~~2005~~, on behalf of **EASTERN WYOMING PUBLIC SERVICE DISTRICT,** has, this day, acknowledged the same before me in my said State and County to be the act and deed of the said public utility.

Given under my hand this 10th day of January, 2006 ~~2005~~.

My commission expires: October 26, 2009.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
CHARLES R. ROBERTS JR.
P. O. BOX 158
MAN, WV 25635
My Commission Expires October 26, 2009

Charles R. Roberts, Jr.
NOTARY PUBLIC

STATE OF WEST VIRGINIA,

COUNTY OF LOGAN, TO-WIT:

I, Charles R. Roberts, Jr., a Notary Public in and for the State and County aforesaid, hereby certify that **JAMES R. JEFFREY,** who signed the foregoing writing, bearing date the 1st day of November, 2005, on behalf of **LOGAN COUNTY PUBLIC SERVICE DISTRICT,** has, this day, acknowledged the same before me in my said State and County to be the act and deed of the said public utility.

Given under my hand this 11th day of January, ~~2005.~~ 2006

My commission expires: October 26, 2009.

Charles R. Roberts, Jr.
NOTARY PUBLIC

This instrument was prepared by:

W. Richard Staton
Moler & Staton, L. C.
P O Box 357
Mullens, WV 25882-0357
304.294.7313
304.294.7324 (fax)
www.statonlaw.com

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IN THE CIRCUIT COURT OF WYOMING COUNTY, WEST VIRGINIA

EASTERN WYOMING PUBLIC SERVICE DISTRICT, PETITIONER,

v. CIVIL ACTION NO: 03-C-41

WELTON WATER SYSTEM, RESPONDENT.

FINAL ORDER

On this day came W. Richard Staton, attorney for the Petitioner, and informed the Court that all matters in contention between the parties had been resolved through the condemnation hearings and through subsequent agreements with the Respondents. Counsel informed the Court that this case could now be dismissed.

It is, therefore, **ORDERED:**

1. That the actions of the condemnation commissioners previously appointed, and the settlement agreements, are hereby approved.

2. That the water systems known as Welton Water System is hereby transferred to Eastern Wyoming Public Service District.

3. That the title to the water system and its assets are hereby vested in Eastern Wyoming Public Service District

4. That all further claims among the parties arising out of this action are hereby dismissed.

5. That the Clerk of this Court is directed to send attested copies of this order to counsel of record.

Nothing further to be done in this matter, the Clerk is directed to place it among the matters completed.

Enter this AUG 12 2004.

COPY
For Your Information

ENTER:

/S/ JOHN S. HRKO

JUDGE

Prepared and Presented by:

Attorney for Petitioner
C:\Staton\Eastern Wyoming PSD\Condemnations\Welton Water System\welton final order.wpd

A TRUE COPY. ATTEST.
JACK LAMBERT, CLERK
This the 24 day of Aug., 2004.
By: _____
Deputy.

IN THE CIRCUIT COURT OF WYOMING COUNTY, WEST VIRGINIA

EASTERN WYOMING PUBLIC SERVICE DISTRICT,

PETITIONER,

v. CASE NO. 03-C-40

BUCKEYE WATERWORKS, INC.
d/b/a IROQUOIS WATER SYSTEM,
and d/b/a STEPHENSON WATER SYSTEM,

RESPONDENTS.

FINAL ORDER

On this day came W. Richard Staton, attorney for the Petitioner, and informed the Court that all matters in contention between the parties had been resolved through the condemnation hearings and through subsequent agreements with the Respondents. Counsel informed the Court that this case could now be dismissed.

It is, therefore, **ORDERED:**

1. That the actions of the condemnation commissioners previously appointed, and the settlement agreements, are hereby approved.

2. That the water systems known as Buckeye Waterworks, Inc. d/b/a Iroquois WaterSystem and d/b/a Stephenson Water System, are hereby transferred to Eastern Wyoming Public Service District.

3. That the title to the water systems and their assets are hereby vested in Eastern Wyoming Public Service District

4. That all further claims among the parties arising out of this action are hereby dismissed.

5. That the Clerk of this Court is directed to send attested copies of this order to counsel of record.

Nothing further to be done in this matter, the Clerk is directed to place it among the matters completed.

Enter this AUG 12 2004.

COPY
For Your Information

ENTER:

/S/ JOHN S. HRKO

JUDGE

Prepared and Presented by:

Attorney for Petitioner
H:\W&S\Staton\Eastern Wyoming PSD\Condemnations\Buckeye Waterworks, Inc\buckeye final order.wpd

TRUE COPY. ATTEST.
JACK LAMBERT, CLERK
This the 24 day of Aug, 2004.
By: _____ Deputy.

WRS

IN THE CIRCUIT COURT OF WYOMING COUNTY, WEST VIRGINIA

EASTERN WYOMING PUBLIC SERVICE DISTRICT,

PETITIONER,

v. **CASE NO. 03-C-42**

CORINNE WATER SYSTEM, **RESPONDENT.**

DISMISSAL ORDER

On this day came the parties by their respective counsel, and confirmed the Court they had entered into a Release and Settlement Agreement, which reports to resolve all matters in content between the parties on account of this action.

Thereafter, counsel jointly moved the court to dismiss the action with prejudice. There being good cause shown, the motion is granted.

It is therefore, **ORDERED** that this case, and all claims by and between the parties are hereby **DISMISSED WITH PREJUDICE.** Each party shall bear its own costs and expenses.

The Clerk is directed to send a copy of this order to counsel of record, the delivery of which shall be deemed sufficient notice of the things allowed and required herein.

Nothing further to be done in this matter, the Clerk is ordered to place it among the matters completed.

Enter this January 9, 2006.

A TRUE COPY, ATTEST.
DAVID "BUGS" STOVER, CLERK
This the 9th day of Jan., 20 06
By: J M Miller
Deputy.

ENTER:

John A. Hrko
JUDGE

MOLER & STATON, L. C.

By: W. Richard Staton
W. Richard Staton (3579)
Attorney for Petitioner

RUNDLE LAW OFFICE

By: Joni Cooper Rundle
Attorney for Respondent

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January 12, 2006

West Virginia Water Development Authority
180 Association Drive
Charleston, West Virginia 25311

West Virginia Bureau for Public Health
815 Quarrier Street, Suite 418
Charleston, WV 25301-2616

West Virginia Infrastructure and Jobs Development Council
300 Summers Street, Suite 980
Charleston, WV 25301

Eastern Wyoming Public Service District
Post Office Box 907
Mullens, West Virginia 25882

Re: Eastern Wyoming Public Service District Water Revenue Bonds (West Virginia DWTRF Program), 2006 Series A

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by the Public Service Board of Eastern Wyoming Public Service District in Wyoming County, West Virginia (the "Issuer"), a public service district, public corporation and political subdivision created and existing under the laws of the State of West Virginia, of its $2,570,000 Water Revenue Bonds (West Virginia DWTRF Program), 2006 Series A, dated the date hereof (the "Bonds").

The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 16, Article 13A and Chapter 16, Article 13C of the Code of West Virginia, 1931, as amended (collectively, the "Act"), and a Bond Resolution duly adopted by the Issuer on January 10, 2006 (the "Bond Resolution"), to pay the costs of acquisition and construction of a new regional water treatment plant, two storage tanks, distribution lines and other necessary appurtenances to eliminate inadequate and outdated water treatment plants located at Mullens, Nuriva, Welton, Wyco, Iroquois and Stephenson, West Virginia (collectively, the "Project"), and to pay the costs of issuance hereof and related costs. The existing water treatment and distribution system, the Project, and any further improvements or extensions thereto are herein called the "System".

We have examined the applicable provisions of the Act, the Bond Resolution, a Loan Agreement, dated January 12, 2006, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority") on behalf of the West Virginia Bureau for Public Health (the "BPH"), and the Bonds, which are to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Bonds are originally issued in the form of one Bond, registered as to principal to the Authority, bearing no interest with principal payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing December 1, 2007, and maturing on September 1, 2037, all as set forth in the Bonds and the Schedule Y attached to the Loan Agreement. The Bonds are subject to the Administrative Fee equal to 1% of the principal amount of the Bonds as set forth in the Schedule Y attached to the Loan Agreement. The Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Bond Resolution and the Loan Agreement. All capitalized items used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Resolution and the Loan Agreement when used herein.

Based upon the foregoing, and upon our examination of such other documents as we have deemed necessary, we are of the opinion, under existing law, that:

1. The Issuer is a duly created and validly existing public service district, public corporation and political subdivision of the State of West Virginia, with corporate power and authority to adopt the Bond Resolution, to acquire and construct the Project, to operate and maintain the System and to issue and sell the Bonds, all under the Act and other applicable provisions of law.

2. The Loan Agreement has been duly authorized, executed and delivered on behalf of the Issuer, and is a valid and binding special obligation of the Issuer enforceable in accordance with the terms thereof, and inures to the benefit of the Authority and the BPH and cannot be amended so as to adversely affect the rights of the Authority and the BPH or diminish the obligations of the Issuer without the written consent of the Authority and the BPH.

3. The Bond Resolution and all other necessary orders and resolutions have been duly and effectively adopted by the Issuer, are in full force and effect as of the date hereof and constitute valid and binding obligations of the Issuer enforceable upon the Issuer in accordance with their terms. The Bond Resolution contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

4. The Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding special obligations of the Issuer. The Bonds are payable from the Net Revenues of the System and secured by a first lien on and pledge of the Net Revenues of the System, on a parity with respect to liens, pledge and source of security for payment with the Prior Bonds, all in accordance with the terms of the Bonds and the Bond Resolution.

5. The Bonds have not been issued on the basis that the interest, if any, thereon is or will be excluded from the gross income of the owners thereof for federal income tax purposes. We express no opinion regarding the excludability of any such interest from the gross income of the owners thereof for federal income tax purposes or other federal tax consequences arising with respect to the Bonds.

6. The Bonds are, under the Act, exempt from taxation by the State of West Virginia, and the other taxing bodies of the State.

This opinion is rendered as of the date hereof. We are under no obligation to, nor will we, update or revise this opinion due to events occurring after the date hereof which change the facts or law upon which this opinion is based.

This opinion is rendered to the addressees set forth above solely for their use in connection with the transactions contemplated under the Bond Resolution, is solely for the benefit of those addressees, and their respective successors and assigns; and, except where we have given our prior written consent, may not be relied upon by anyone else or used for any purpose other than in connection with the consummation of the transactions contemplated in the Bond Resolution.

All counsel to the transaction may rely on this opinion as if expressly addressed to them.

We have examined the executed and authenticated Bond numbered AR-1, and in our opinion the form of said Bond and its execution and authentication are regular and proper.

Very truly yours,

Spilman Thomas & Battle, PLLC

Spilman Thomas & Battle, PLLC

391985

Law Offices

MOLER & STATON, L. C.

D. Grove Moler (Retired)
W. Richard Staton

January 12, 2006

Writer's Direct E-mail:
rickstaton@verizon.net

West Virginia Water Development Authority
180 Association Dr
Charleston, WV 25311-1571

West Virginia Bureau for Public Health
815 Quarrier St Ste 418
Charleston, WV 25301-2616

West Virginia Infrastructure and Jobs Development Council
300 Summers St Ste 980
Charleston, WV 25301-1632

Eastern Wyoming Public Service District
316 Moran Ave
Mullens, WV 25882-1429

Spilman Thomas & Battle, PLLC
P O Box 273
Charleston, WV 25321-0273

Re: Eastern Wyoming Public Service District
Water Revenue Bonds (West Virginia DWTRF Program), 2006 Series A

Ladies and Gentlemen:

We are counsel to Eastern Wyoming Public Service District, a public service district in Wyoming County, West Virginia (the "Issuer"), in connection with the issuance and sale of the Eastern Wyoming Public Service District Water Revenue Bonds (West Virginia DWTRF Program), 2006 Series A (the "Bonds"). As such counsel, we have reviewed copies of the approving opinion of Spilman Thomas & Battle, PLLC, as bond counsel, a loan agreement dated January 12, 2006, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health (the "BPH"), the Bond Resolution duly adopted by the Issuer on January 10, 2006 (the "Bond Resolution"), and other documents, papers, agreements, instruments and certificates relating to the Bonds and orders of The County Commission of Wyoming County relating to the Issuer and the appointment of members of the Public Service Board of the Issuer. All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Bond Resolution and the Loan Agreement when used herein.

We are of the opinion that:

1. The Issuer is duly created and validly existing as a public service district and as a

public corporation and political subdivision of the State of West Virginia.

2. The members and officers of the Public Service Board of the Issuer have been duly, lawfully and properly appointed and elected, as applicable, have taken the requisite oaths, and are authorized to act in their respective capacities on behalf of the Issuer.

3. The Bond Resolution has been duly adopted by the Issuer and is in full force and effect as of the date hereof and constitutes a valid and binding obligation of the Issuer enforceable in accordance with its terms.

4. The Loan Agreement has been duly authorized, executed and delivered by the Issuer and, assuming due authorization, execution and delivery by the Authority, constitutes a valid and binding agreement of the Issuer enforceable in accordance with its terms.

5. The execution and delivery of the Bonds and the Loan Agreement and the consummation of the transactions contemplated by the Bonds, the Loan Agreement and the Bond Resolution, and the carrying out of the terms thereof, do not and will not, in any material respect, conflict with or constitute, on the part of the Issuer, a breach of or default under any agreement, document or instrument to which the Issuer is a party or by which the Issuer or its properties are bound or any existing law, regulation, rule, order or decree to which the Issuer is subject.

6. The Issuer has received all permits, licenses, approvals, consents, exemptions, orders, certificates and authorizations required by law for the creation and existence of the Issuer, the issuance of the Bonds, the acquisition, construction and improvement of the Project, the acquisition of the Welton Water System, Buckeye Waterworks, Inc., and the Corrine Water System, the operation of the System and the imposition of rates and charges for use of the System, including, without limitation, all requisite orders, certificates and approvals from The County Commission of Wyoming County, the Wyoming County Circuit Court, the West Virginia Infrastructure and Jobs Development Council, the West Virginia Bureau for Public Health, and the Public Service Commission of West Virginia. The Issuer has received the Recommended Decision entered January 31, 2005 in Case No. 04-0023-PWD-PC-CN, which became a Final Order of the Public Service Commission of West Virginia (the "PSC") on February 20, 2005, with all requisite appeal periods having expired without successful appeal, and a Commission Order entered January 4, 2006, in Case No. 04-0023-PWD-PC-CN, among other things, granting to the Issuer a certificate of public convenience and necessity for the Project and approving the financing for the Project and the rates and charges for the services of the System, and has adopted a resolution prescribing such rates and charges. The time for appeal of the January 4, 2006 Commission Order has not expired prior to the date hereof. However, the Issuer has stated that it will not appeal the January 4, 2006 Commission Order, and the only other party to Case No. 04-0023-PWD-PC-CN, the Commission Staff, has stated that it does not intend to appeal such Commission Order. Both orders are in full force and effect.

7. We have ascertained that the successful bidder has made the required provisions for all insurance and payment and performance bonds and verified such insurance policies and bonds for accuracy. Based upon our review of the contracts, the surety bonds and the policies or other evidence of insurance coverage in connection with the Project, we are of the opinion that such surety bonds and policies (i) are in compliance with the contracts; (ii) are adequate in form, substance and amount to protect the various interests of the Issuer; (iii) have been executed by duly authorized representatives of the proper parties; (iv) meet the requirements of the Act, the Loan Agreement and the Resolution; and (v) all such documents constitute valid and legally binding obligations of the parties thereto in accordance with the terms, conditions and provisions thereof.

8. To the best of our knowledge, there is no litigation, action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or threatened, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the Bonds and the Bond Resolution, the Loan Agreement, the acquisition, construction and improvement of the Project, the operation of the System, the validity of the Bonds or pledge of the Net Revenues set forth in the Bond Resolution.

All counsel to this transaction may rely upon this opinion.

Sincerely,
MOLER & STATON, L. C.

W. Richard Staton

WRS/lmb
391986

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Law Offices

MOLER & STATON, L. C.

D. Grove Moler (Retired)
W. Richard Staton

January 12, 2006

Writer's Direct E-mail:
rickstaton@verizon.net

Walter M. Ivey, P.E., Manager
Infrastructure & Capacity Development
Environmental Engineering Division
Bureau for Public Health
815 Quarrier St Ste 418
Charleston, WV 25301-2616

Jefferson E. Brady, PE, Executive Secretary
West Virginia Infrastructure and Jobs Development Council
300 Summers St Ste 980
Charleston, WV 25301-1632

RE: Eastern Wyoming Public Service District
Water Revenue Bonds, 2006 Series A
(West Virginia DWTRF Program)

Dear Mr. Ivey and Mr. Brady:

This firm represents Eastern Wyoming Public Service District (the "District") with regard to a proposed project to acquire and construct certain additions, improvements and extensions to the existing public water facilities of the District, consisting of improvements to the District's water system, and replacement of portions of the water distribution system in Wyoming County together with all appurtenant facilities (the "Project"), and provides this final title opinion on behalf of the District to satisfy the requirements of the West Virginia Drinking Water Treatment Revolving Fund program ("DWTRF") and the West Virginia Infrastructure and Jobs Development Council with regard to the DWTRF and the Infrastructure Fund financing proposed for the Project. Please be advised of the following:

1. That I am of the opinion that the District is a duly created and existing public service district possessed with all the powers and authority granted to public service districts under the laws of the State of West Virginia and has the full power and authority to construct, operate and maintain the Project as approved by the Bureau for Public Health.

2. That the District has obtained approval for all necessary permits and approvals for the construction of the Project.

3. That I have investigated and ascertained the location of and am familiar with the legal description of the necessary sites, including easements and/or rights of way, required for the Project as set forth in the plans for the Project prepared by Pentree, Incorporated, the consulting engineers for the Project.

4. That I have examined the records on file in the Office of the Clerk of the County

Walter M. Ivey, P.E., Manager
Infrastructure & Capacity Development
Environmental Engineering Division
Bureau for Public Health

Jefferson E. Brady, PE
Katy Mallory, Executive Secretary
West Virginia Infrastructure and Jobs Development Council
January 12, 2006
Page 2

Re: Eastern Wyoming Public Service District
Water Revenue Bonds, 2006 Series A
(West Virginia DWTRF Program)

Commission of Wyoming County, West Virginia, the county in which the Project is to be located, and, in my opinion, the District has acquired legal title or such other estate or interest in the necessary site components for the Project sufficient to assure undisturbed use and possession for the purpose of construction, operation and maintenance for the estimated life of the facilities to be constructed [, except and subject to the following:

The following listed properties are being acquired by eminent domain and the necessary filings have been made in the Offices of the Clerk of the County Commission of Wyoming County, West Virginia, and the Circuit Court of Wyoming County, West Virginia, to permit the District a right-of-entry for the purpose of construction, operation and maintenance of the subject facilities on the subject properties. The District's title thereto is defeasible in the event the District does not satisfy any resulting judgment and/or award in the proceedings for acquisition of said properties, and our certification is subject to the pending litigation:

PROPERTY OWNER	TAX MAP	PARCEL NUMBER
Bell Childers	16	34
Dewanna Farley, Christopher Johnson, Jennifer Hoover and Kayla Farley	138	24
Wanda Patrick Cantrell	138	20

5. That all deeds or other documents which have been acquired to date by the District have been duly recorded in the aforesaid Clerk's Office in order to protect the legal title to and interest of the District.

Please contact me if you have any questions.

Sincerely,
MOLER & STATON, L. C.

W. Richard Staton

WRS/lmb

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